

# Legislative Council

Wednesday, 22 September 1993

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

## PETITION - ESPERANCE IRON ORE PORT FACILITY

The following petition bearing the signatures of 151 citizens and ratepayers of the Shire of Esperance was presented by Hon B.K. Donaldson -

We, the undersigned:

Do not support the export of iron ore through the Esperance Port unless the proponent can guarantee that absolutely no iron ore dust will escape the boundaries of the port facility, and no iron ore will contaminate the sea. We stress that no dust, implies no airborne dust. Not the accepted health standard of dust laid down by the Environmental Protection Authority, being 260 ug/m<sup>3</sup> High Alert & 90 ug/m<sup>3</sup> Low Normal.

[See paper No 590.]

## MOTION - URGENCY

*North City Bypass Proposal*

**THE PRESIDENT** (Hon Clive Griffiths): I received this morning the following letter -

Dear Mr President

Pursuant to SO 72, it is my intention at today's sitting to move that the House at its rising adjourn until 9.00 am on December 25 1993 in order to discuss concerns relating to recent proposals released by the Minister for Planning for the North City Bypass and the likely impact of those proposals on Northbridge and contiguous areas as well as the longer term planning consequences of such a strategy.

Yours sincerely

Alannah MacTiernan MLC  
Member for East Metropolitan Region  
September 22, 1993

Before approval can be given to introduce this motion, it requires the support of at least four members.

[At least four members rose in their places.]

**HON A.J.G. MacTIERNAN** (East Metropolitan) [2.36 pm]: I move -

That the House at its rising adjourn until 9.00 am on 25 December 1993.

The north city bypass proposal was released this afternoon by the Minister for Planning, although members know that it was leaked some time over the weekend and has since been the subject of some media debate. The bypass proposal - it has been around for some 30 years - basically involves a road running from the Swan River to the Hamilton interchange in Leederville. In fact, the proposal was formed as part of the original Stephenson metropolitan region scheme plan, although some segments have entailed a different alignment. From time to time the road has been characterised as having a variety of functions. At one stage it was described as forming part of a ring road system, and in the past 20 years it seems to have developed into a bypass for the city for traffic travelling north-south and east-west. In some of its manifestations the interchange has the role of an additional access route into the city from the south and the south east.

The justifications for the need to develop this road have been varied. Perhaps the two reasons one hears most often - those which tend to form the official justification - involve, firstly, the size and expansion of Perth and, secondly, the increase in commerce

which necessitates further access across the river. It has been said that the model indicates that, even with some optimistic scenarios about increases in the rate of public transport usage, the Causeway will be unmanageable in 10 years. At the moment it is said that we have half-hour peak periods in which traffic is basically at a standstill; in 10 years the prospect is a similar peak situation lasting for two or two and a half hours. It is also said that sort of congestion in the future with that lack of access has the potential to hamper the growth of the south east corridor. In making an assessment, not only the Opposition but also the general community could quite properly ask to have access to the modelling and the data that is said to give rise to those projections. Obviously, as they are the justification for this they must be open to independent scrutiny. If these models turn out to be correct, where it will end? Is it going to be the case that in another 10 years, when that road is fully congested, we will start planning for another road for further access across the river? We have one at Garrett Road and we have Tonkin Highway. Presumably we would be looking at a road somewhere across Mt Lawley and Maylands.

We must determine whether we continue to respond to growth by providing more roads in those inner city areas or whether we say that perhaps there is another strategy. This matter needs to be considered more thoroughly in terms of the subregional policy and nodal development that is an integral part of that Stephenson plan, and perhaps it is the case that growth in the metropolitan area of Perth does not necessarily necessitate an expansion of commerce from north to south at that point of the city. There is also the larger issue of decentralisation from the metropolitan area of Perth itself. Perhaps it will be the limits to growth in Perth that will foster the development of our provincial cities, such as Bunbury, Albany and Geraldton. If we continue to carve up Perth it is possible that we are deflecting from those centres developing.

This justification, that there is this expanding demand for roads we must meet or otherwise we will create great difficulties in the south east corridor, we need to examine extremely carefully. We need to examine whether those models are taking into account the growing body of opinion that the CBD will not grow even with the end of the recession. Quite a number of planning studies have been undertaken, not only in academic institutions but also within industry bodies, which indicate that changes in the technology of computing, telecommunications, facsimiles, remote imaging and videophones will continue to erode the need for geographic proximity. We have seen this process of devolution going on.

It is not simply the recession that is the cause of many of the vacancies in the business centre, but that many businesses have decided to move further out both for convenience and cheaper prices. At the same time, we find that the cost inherent in the construction and maintenance of high rise buildings will add to that increasing devolution away from the central business district. As a commercial centre the CBD will obviously need to retain and develop a complex character. It certainly has retail and commercial businesses now, but perhaps what it needs to do to compensate for what will be the lack of expansion in that commercial area is promote residential and entertainment activities within the capital CBD. In any event, if these models on which the demand is based fail to take into account these real changes that are going on in the nature of our cities and the demand for capital CBD properties, they are not a good guide for our spending in excess of \$200m in installing a road to cope with the growth which they project. We ask that that matter be looked at. It will certainly be our intention to develop those sorts of concerns over the next few months.

The second major justification for the northern city bypass has been the need to reduce traffic in Riverside Drive and St George's Terrace and thereby improve the amenity of the central city area. That in itself is a worthy aim. However, it is quite incompatible with the first justification that is given, which is the provision of more space for motor vehicles to cope with future demand. If we are saying, on the one hand, we have to provide the northern city bypass because there is too much demand of traffic coming into the city and, on the other hand, we want to reduce the number of vehicles coming into the city, we must accept that those ideas are really incompatible. We must make up our

minds, after assessing whether this road is really needed, whether we are trying to take the cars out of the city or trying to create more space for future demand, so that we will have the cars currently passing through the city plus the future demand catered for by way of the northern city bypass. This second justification has more legs than the first, because the first justification has some very deep flaws, particularly because we do not believe the demand will grow in the way the models predict.

The second justification is perhaps the one we should focus on. If the Government is going to proceed with a bypass for those reasons, it will not be sufficient to build this new road and hope that by some natural process vehicles are going to be moving off Riverside Drive, the Causeway and St George's Terrace and going down the bypass. That might happen in the very short term, but it is certainly quite well established that the amount of vehicles using roads expands to fill the amount of roads there are to be used. If we are to implement a bypass to solve the question of amenity in the city, we will have to take some very, very positive and deliberate steps, not just as an incidental, but as an integral part of any such proposal to limit the amount or the nature of the traffic using the Causeway, St George's Terrace and Riverside Drive. Any bypass proposal must include as an integral part some things such as light rail travelling down the Causeway or St George's Terrace; also a narrowing of Riverside Drive, and a sinking of that road at the very least at Barrack Street. If the aim is to improve the amenity in the city it will not happen by itself; there must be firm, positive and quite creative steps to ensure that that happens.

The final factor I would like us to consider today is the impact on the area where this new road is to be located. We must think long and hard about the issue of amenity in the city versus the amenity in Northbridge, because there can be no doubt that this road will reduce in many respects the amenity in the area of Northbridge and East Perth, and there will have to be some very hard thinking whether that is justified by the increase in the amenity in areas such as Riverside Drive and St George's Terrace. We must work out where the maximum good is. Certainly this latest trench proposal, which I understand has been worked on for the past year and a half, represents some improvement over the last effort made public by the interdepartmental steering committee. This proposed trench in the Northbridge area reduces the negative impact in relation to noise and streetscape in both the Northbridge commercial and entertainment sectors, and the adjoining residential areas. It also has confined its role as an access road into the city to two points, whereas the previous plans allowed a range of accesses, through streets such as Lord Street and William Street and, possibly, even Lake Street, into the city. That was clearly unacceptable. This proposal limits the access of vehicles into the city from this road and in that way is more truly a bypass than were its predecessors.

Notwithstanding those improvements, we still cannot deny it will have a substantial impact. In a sizeable area the trench will not be covered and that will result in a gaping hole full of traffic whizzing by. There are many residents still in the western end of Aberdeen Street whose normal activities in their backyards and at the backs of their houses will be compromised by the construction of this trench, even if it were to be covered. No doubt a number of heritage buildings will also be threatened, particularly along William Street. I understand no detailed analysis has been carried out, notwithstanding the number of years that the interdepartmental steering committee has been working on this. I understand no detailed study has been made of how the plans will affect the various existing buildings. That should be done as a matter of priority.

The areas that will be most negatively affected are East Perth and Mt Lawley. The existing residential areas in the Joel Terrace enclave will be seriously and adversely affected by the flyover bridge at the river, which will be some five metres higher than the existing Bunbury bridge. The noise generated from that bridge will be a massive problem in that area and it certainly must be taken into account in balancing the equation between the improvement in the amenity elsewhere and the reduction in the amenity in that area. Certainly more studies and modelling will be needed on the impact of that noise, and the Government must look at the possibility of some engineering works that may reduce the impact. Clearly, there will also be an impact on the proposed residential

areas to the south, in that area that forms part of the East Perth redevelopment project. There will be consequences in terms of noise and reduction of access in and out of the area.

I recap the points I have made: We must look very carefully at the models that have been used to justify this proposal. We must ensure those models take into account the latest information, data and thought available on the future of central business districts and the likely demand for property in those areas. We certainly need to ensure, if we are to proceed with these proposals on the basis that we shall improve the amenity in Riverside Drive and St George's Terrace, that we take some very direct and progressive action to reduce the traffic in those areas and do not just hope for a redirection of traffic by itself. We must look in more detail at the impact it will have on Northbridge and, particularly, on East Perth and Mt Lawley. We must very carefully balance whether the advantages that will be obtained from this structure will outweigh those disadvantages that will definitely be experienced by people, businesses and residents in that region.

**HON E.J. CHARLTON** (Agricultural - Minister for Transport) [2.56 pm]: Having listened to the honourable member's comments, I am not sure whether she and the Opposition are in favour of the proposed bypass. She made some comments about the bypass and I suppose that was to highlight the fact that the member, as a Perth City councillor, was in a privileged position and heard the details before anybody else. She took advantage of that to give her opinions on the matter on ABC radio this morning. Having had that extra briefing time, she was able to hit the air waves. I wonder what her position is and whether she is in favour of the proposal. Prior to the 1993 State election, the Premier at the time, Dr Carmen Lawrence, made the following statement -

This will include the establishment of heavy vehicle routes and the construction of the Northern By-pass, to facilitate the flow of traffic efficiently from one point to another, without the need to funnel it through suburban streets or through the city.

Obviously, the previous Government, now the Labor Opposition, which instigated this report, saw the need for a bypass around the northern part of the city.

**Hon Tom Helm:** Do you agree with that?

**Hon E.J. CHARLTON:** Yes, I do. However, at the end of the day the people of Perth will decide whether they want it. They have three months during the consultation period in which to make an input and to give their opinions on the proposal.

I was interested in the member's comment that we should stop the Perth city and metropolitan area from growing. I fully endorse that. She also said we need to keep traffic out of the city area and that, as a result of the recession, there had been a reduction in activity in the Perth central business district. That is quite correct. It must be recognised that if people are diverted from the city, they will travel somewhere else. If they are to do that, a road must be constructed for them. The drivers can either be forced to travel through the city - as happens now along Riverside Drive - using other parts of the city road mechanism or be sent elsewhere. The plan contains two options: The first is for part of the road to be built underground at a considerable cost of \$235m. The second option is for a totally above ground road costing \$155m.

**Hon John Halden:** We could have a fuel tax levy to pay for this.

**Hon E.J. CHARLTON:** Yes. I think that Hon John Halden must dig into his big bank account to pay for it. He will probably advise us whether he thinks it should be done now or whether we should put it aside and finish off the Roe and Reid Highways, the freeway and so on with the income.

**Hon John Halden:** Those will be your decisions, as you did this year in the Main Roads Department budget.

**Hon E.J. CHARLTON:** Obviously the Opposition will simply leave it to the Government to ensure that we keep directing more funds to roads, as we have done in this year's Budget and at the same time have not affected any other services by directing that money away from the public transport system.

Hon John Halden interjected.

Hon E.J. CHARLTON: Transperth has increased fares, which members opposite opposed, yet three weeks later it has increased patronage. The reason it has increased patronage is that it is offering a better service because it has rearranged some of its management. If members opposite think that is something, they have not seen anything yet because Transperth will make massive improvements to its operation.

Hon T.G. Butler: When you get the tunnel, will you drive road trains through it?

Hon E.J. CHARLTON: The member would be able to climb up onto the back of one!

The plan will be on show at various positions around the city and obviously also in the Northbridge area so that interested people can look at it. Members opposite, rather than take a totally negative attitude, as they feel they are obliged to do because they are in Opposition, would be better placed to come up with something constructive and to say that they prefer another option, and it would then be a matter of judgment for us and the people of Western Australia. If members opposite have any good ideas, I am sure the people of Perth would be interested to hear them. I am interested to know whether Hon John Halden and other Opposition members want to leave Riverside Drive as it is or want to see some changes. The former Government spent a lot of money to engage a consultant to draw up a plan but it did not get to the point of coming up with a plan.

Hon John Halden: What is your view?

Hon E.J. CHARLTON: Riverside Drive is a magnificent area adjacent to the river, and whether it should be the main thoroughfare from one side of the city to the other is not the issue. We should get traffic away from that area. We will come up with some options to do that. Obviously in this life one can have what one likes if one is prepared to pay for it.

Hon John Halden: What would be the cost of a tunnel compared with what has been proposed?

Hon E.J. CHARLTON: There is no specific figure. The committee did not investigate that option because it knew that the ballpark figure for the tunnel option was significantly higher than for the sunken option. A tunnel would have to be wider than the proposed trench and would obviously require more air activity and exit areas. The soil type in that area is not like a rock formation where a tunnel could be put straight through it, so it would have to go down a lot lower, which would mean that there would be a steep decline because of the length of the proposed route. It was considered pointless to research that option because of the planning and cost problems that would be associated with it. The other option was to have a cutaway that was covered to ensure that one maximised the benefit that could be achieved for Northbridge.

Hon John Halden: How long will it take to construct that trench?

Hon E.J. CHARLTON: I have had some discussions with the Main Roads Department about that, and it will depend upon how specific it wants to be in a particular area. When the Main Roads Department lets a contract, it wants to maximise the benefits and keep the costs to a minimum. It is intended that work will start at each end, through to completion, and that the bridge will be constructed at the same time. The proposed bridge will be of a similar design to the railway bridge that will be constructed over the river at the same spot, and that will be completed next year and cost about \$15m. The committee considered whether to have one bridge to cater for both rail and road use but it was considered better to have a separate bridge because different engineering tasks are required.

Hon John Halden: Will the bridge take priority over the trench?

Hon E.J. CHARLTON: No. The cutaway will be done first and the concrete top will be put over it. All of the buildings adjacent to the cutting will remain. A wall will be built around them and the cutting will be taken through.

Hon A.J.G. MacTiernan: You need to understand that that is certainly not the case for

the crossroads. Also, there has not been a survey of where the buildings are located on the lot, so you cannot say that that will be the case.

Hon E.J. CHARLTON: I have been told that the buildings adjacent to the cutting will remain. The difference between the underground option and the above ground option is that intersections like William Street will not provide access into the city if it is underground.

Hon John Halden: Do you mean the trench?

Hon E.J. CHARLTON: Yes. Obviously there will be a lot of comment from members of the public about this proposal; some people will be in favour of it and other people will be opposed to it. However, at the end of the day a judgment must be made about whether we want it. I guess it is only a matter of time. We need look only at some of the prints of the Swan River 40 years ago to see how the course of the river has changed and the dead water area which is now part of the freeway approaches to the Narrows Bridge. Those members who are old enough to remember will know that there was significant opposition to that bridge at that time. The same situation applies to the Dawesville Cut. A lot of people were opposed to it, and some people are now saying that it will work and others are saying that it will not work. It was decided to go ahead with the cut, and at the end of the day it is a matter for judgment.

Hon John Halden: Was there a consideration to take the route of the trench further north?

Hon E.J. CHARLTON: Initially, the road was intended to be in Roe Street, and as time has gone by it has moved a bit further north each year. I guess if a decision is not made now to do this, opposition to it will build up and the next time we consider this in five years it may be in Vincent Street.

Hon Graham Edwards: In three and a half years we will have to do it in Government.

Hon E.J. CHARLTON: We will make the decision and leave members opposite to fund it.

Hon Graham Edwards: At least we funded the northern suburbs railway for you.

Hon E.J. CHARLTON: Is that so? The member forgot to leave the cheque in the till. The motion has brought the matter to the notice of other people. That is what this place is all about. The Government is in favour of that. It favours the principle and design as well as the options for the trench but the question is how to fund it. People will have to make that judgment as negotiations continue. The mover of the motion will take appropriate action.

HON J.A. SCOTT (South Metropolitan) [3.10 pm]: I was not prepared to contribute to this motion, but a number of areas concern me relating to the proposal for the freeway through Northbridge. My first concern is whether we should be proceeding at this stage to provide large freeways through the city, when only another 30 years' oil production remains in the world -

Hon E.J. Charlton: The member does not believe that!

Hon J.A. SCOTT: I do.

Hon E.J. Charlton: I hope the member does not drive a car down the freeway.

Hon J.A. SCOTT: I do not do that very often. We should be considering options to save energy and to keep traffic to a minimum in Perth city, for a number of reasons. One is the energy question and the other is the huge costs placed on society by continuing the city sprawl, as well as the funds expended on environmental health and accidents as a result. Also we should consider the amount of disturbance to businesses in Northbridge if the project means cutting deeply into the surface to create a trench, because many firms will be put out of business for a long time. Also, many people will not be able to use the area for recreation purposes as they do today.

We already have a very good system of moving people from the south east to the north west of the city via the rail system which we seem to want to wind down rather than build

up. We should consider how we can use the railway system more efficiently to move people between the south east and the north west rather than building additional freeways which are incredibly disruptive to the lives of people in areas that the freeways cut across. I repeat that we should be looking to the future not extrapolating from the past because the situation will change a great deal without the availability of cheap petrol for cars to move around the city.

Hon E.J. Charlton: The Federal Government keeps putting up the price of petrol.

Hon J.A. SCOTT: It is not a matter of the Federal Government putting up the price of petrol; we have gone beyond peak petrol production. That is on the decline and the only continuing source of supply is the Middle East. When those areas run out, we will face problems. We should be looking further ahead than the Government is looking at the moment with its freeway system. I know that we need to move people away from Riverside Drive as much as possible but we need also to consider more innovative and far reaching solutions to the problems rather than extrapolating problems of the past and making our city a worse place in which to live as a result.

HON A.J.G. MacTIERNAN (East Metropolitan) [3.14 pm]: I wish to respond to some of the comments by the Minister for Transport. I am interested, as always, in the comments by Hon Jim Scott. He has taken perhaps a broader brush approach than I and we should be mindful of that.

I wish to explain the issue of my speaking this morning on the radio. As I said before, this matter has been the subject of extensive leaks from various Government departments, and the *Sunday Times* - traditionally a journal favourable to the Government - so I do not think we can suggest leaks have come from parties friendly to this side of the House. Information was leaked. There was considerable comment both by the Minister for Transport and by the Premier on the matter. It has been the subject of map after map in the newspaper and comments on the radio. I have been approached on several occasions because of my longstanding involvement in the issue going back some 10 years on the question of the wisdom or otherwise of the northern city bypass. I declined to comment until I had more information about what was going on. As I said when I went on the ABC program this morning, I acknowledge that the Minister had provided a briefing to the Perth City Council, and we were very grateful for that. Under normal circumstances, had this matter not already been the subject over the last three days of extensive debate in the public domain, and comments by the Minister and the Premier, it may not have been appropriate to address the issue. In this different circumstance it was my judgment it was perfectly proper to take up the issue.

The second matter, and what absolutely surprises me about the comments of the Minister for Transport, is that somehow we were being negative and should declare our hand. We are very conscious - I am particularly conscious - that the two proposals being put forward have emanated from the interdepartmental steering committee. I appreciate that the Government has not endorsed either proposal. What we were seeking to do was to perhaps go to some of the issues that needed to be taken into account by this side of the House and by the Government side in making those determinations. I was very keen to ensure and to make the point that we should continue to update our information and knowledge upon which we make such assessments. Again, in particular, on what has come to light with greater frequency over the last six months - I refer to the changing nature of the central business district and the changing expectations of the CBD growth and usage - it is silly for the Minister to say that we are being negative and that we are not making a commitment. The Government has not made a commitment, quite properly, because these matters are open for public consideration for three months.

We seek to highlight the concerns and complexities, perhaps to talk about the inconsistencies in the two different justifications for the project, and to put the view that if we are to proceed we must take other action in respect of central city areas to ensure that at least there is an upside to counterbalance the very clear negatives that will be incurred in the East Perth, Mt Lawley and Northbridge areas. We do not have a firm position. We are waiting to see the detailed proposals. We are waiting, as the

Government is waiting, to look more fully at the modelling, to look at the data that has informed the bureaucracy in putting forward the proposals, and indeed to participate in the public debate over the next three months.

We realise that the construction of new roads is a difficult issue for all Governments. There are always sensitivities. We want to participate in a constructive manner in that debate and in community discussions.

Motion, by leave, withdrawn.

## SELECT COMMITTEE ON PROFESSIONAL AND OCCUPATIONAL LIABILITY

### *Interim Report Tabling - Extension of Time*

Hon Max Evans (Minister for Finance) presented a report in which the select committee sought an extension of time within which to report to Tuesday, 30 November 1993.

On motion by Hon Max Evans (Minister for Finance), resolved -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 591.]

## MOTION - URGENCY

### *Industrial Relations Legislation*

Debate resumed from 21 September.

**HON KIM CHANCE** (Agricultural) [3.20 pm]: Before the debate was adjourned because we ran out of time yesterday, I was referring to the fact that one of the people from whom I had learnt the processes of Parliament and democracy in the past year and a half is the Minister who has carriage of the Bill in this House, Hon Peter Foss. I retract nothing of what I have said about Hon Peter Foss in the past. I regard him very highly as a Minister and as a man of great integrity. Hon Peter Foss must be critically embarrassed about the manner in which the Government has handled this industrial relations legislation and the part that he has had to play as an apologist for the Government in the conduct of the legislation. These three industrial relations Bills and their promotion are deceitful in nature and the sheer incompetence of the way in which the Government has presented the Bills is appalling. The Minister who has the conduct of these Bills in this House must be extremely embarrassed by that fact.

This is the House of Review. Hon Peter Foss reminded me of that point at some length last year. How are we expected to review this trilogy of Bills unless we know what they contain? The Workplace Agreements Bill has now passed through its second reading stage. The Minimum Conditions of Employment Bill is now advanced in the second reading process. Yet the Minister who is in charge of the legislation in the other place, the Minister for Labour Relations, tells us that there may well be substantial parts of these Bills that must be amended. If that does not embarrass Hon Peter Foss, particularly in view of what I know he believes about the necessary processes of Government, what can embarrass the him? We are in a House of Review dealing with Bills when we do not even know what is contained in them. I recall that towards the end of last year when we were dealing with a Bill - I believe it was the Financial Institutions Bill but I may be wrong - the then Opposition, the now Government, castigated us roundly as a Government, quite rightly I believe -

Hon Peter Foss: Of course.

Hon KIM CHANCE: - for asking the then Opposition to deal with a Bill that it had not seen.

Hon Peter Foss: You have seen this Bill.

Hon John Halden: We hope we have.

Hon Tom Helm: We have not seen the Bill with the amendments.

Hon KIM CHANCE: The Minister says that we have seen the Bill. We have seen a Bill.



I can pick up one copy of the Workplace Agreements Bill from the Table and I can pick up a second copy of it, each of which is different from the other. I know that only one of them is current; but they are different. We do not know what the final copy of the Bill will look like. The Minister for Labour Relations tells us that amendments are still to come.

Hon Peter Foss interjected.

Hon Graham Edwards: He called a press conference to say that there are still amendments to come.

Hon KIM CHANCE: Quite. I take the Minister for Health's point of view that one of the functions of a House of Review is to amend legislation as necessary. Here we have the Minister in the other House, who did not allow debate - I know I am not permitted to refer to debate in the other House -

Hon Peter Foss: But you are going to anyway.

Hon KIM CHANCE: From the press reports I have seen, the debate could have been longer.

Hon John Halden: That is an understatement.

Hon KIM CHANCE: The Minister for Labour Relations had the opportunity to fix the problems that he could see and that he believes have unintended consequences. That sounds to me like jargon from the American military when it talks about people having been killed by friendly fire and so on.

Hon Tom Helm: Like bad collateral damage.

Hon KIM CHANCE: The Minister for Labour Relations had the opportunity to debate the issue properly in the other House and to find out before the legislation came to this House of Review that the legislation had real problems. It carried some pretty severe handicaps. Before it came to the House of Review it could have been revised in the other House.

Hon Peter Foss: Then we would not have had to review it.

Hon KIM CHANCE: The errors that have been pointed out by the Minister for Labour Relations are serious. Before the legislation came here, those problems would have been substantially fixed had sufficient debate been allowed to take place. A Bill is the sum of its clauses, as an act of legislation is.

Hon Peter Foss: You are not too good at sums about safety.

Hon KIM CHANCE: The Minister for Health has cast aspersions on my mathematics, which is quite proper. It was never my strong point. I do not see the relevance of the interjection to the debate. What kind of process is it that asks us to consider a document when its own proponent has yet to make up his mind what it should contain? The Minister for Labour Relations has talked about unintended consequences. That is simply another phrase for lousy legislation. The presentation of this legislation has been amateurish, unprofessional and ill-considered. The Minister who has carriage of this Bill in this House has bravely soldiered on. It is a dubious task and I can only hand it to him for the way he has shown some resilience in overcoming his embarrassment - but embarrassed he must feel.

Hon Peter Foss: I do not.

Hon KIM CHANCE: The Minister should. The Minister for Health can only do so much. The Government's much heralded industrial relations legislation has fallen on its face in this Chamber, as it has in public forums. The Government has had 10 years to prepare this legislation. It has had 10 years to represent its viewpoint on this matter. Does the Government need another 10 years to get it right? I have spoken to senior lay Liberals about their view on how these Bills have been handled. I have to tell the Minister for Health that those views are not terribly complimentary. I do my best to defend him.

Hon Tom Helm: Hear, hear!

Hon John Halden: That is a bad mark against you.

Hon KIM CHANCE: I am not sure that it will help the Minister in any way; nonetheless, I do what I think is right. We have seen in this House the full charade of this Government's indecision on Wednesday night last week when the Minister for Health could not tell us from one minute to the next whether we would be dealing with the Committee stage of the Workplace Agreements Bill.

Hon Peter Foss: I knew exactly what the situation was.

Hon KIM CHANCE: I did not say that the Minister did not know; I said that he could not tell us.

Hon Peter Foss: Nobody asked.

Hon KIM CHANCE: The Minister could not tell us whether we would be dealing with the Committee stage of the Workplace Agreements Bill or with the second reading stage of the Minimum Conditions of Employment Bill, whether we would be staying here or going home, or any of a range of options.

Debate adjourned, pursuant to Standing Order No 195.

## MINIMUM CONDITIONS OF EMPLOYMENT BILL

### *Second Reading*

Debate resumed from 21 September.

HON KIM CHANCE (Agricultural) [3.31 pm]: Mr President -

Hon Peter Foss: The beat goes on.

Hon KIM CHANCE: I do not often get an opportunity to speak other than at 2.00 am, Mr President, so I am making the most of the opportunity.

Hon Peter Foss: Pity the Press are not there.

Hon KIM CHANCE: I was looking at the clock. It is very pleasant to be speaking at this time.

Hon Peter Foss: For you maybe.

The PRESIDENT: Let us get the ground rules straight and we will go through this with a minimum of fuss. I suggest the members on their feet speak to the Bill as it is in the House and that everybody else confine themselves to listening to what the member has to say about the Bill's provisions.

Hon KIM CHANCE: I rise to oppose this Bill, the second of what is called a trilogy of Bills - changes which we are advised in the newspaper are still to come - which form the basis of the Government industrial relations legislation. This Bill is significant in that it is the only protection for workers against a free-fall in wages. Few workers can take any great comfort from the provisions of the Bill. The Minister for Labour Relations acknowledged in the other House that it is possible that, as a result of workplace agreements some people will be paid less. The Minister was asked by the member for Pilbara on, I think, 18 August whether it was possible for people to be covered by a workplace agreement under which they will be worse off than they are at present. The Minister for Labour Relations was unequivocal in his answer and said, "Possibly." That is as unequivocal as that Minister ever gets. The Government has also conceded in debate in the other House and in the Press that it will be extremely difficult for workers and their families to live on a wage of \$275 a week. However, I will not make a great deal of that admission. It is true that at the moment the arbitrated State minimum wage is almost exactly that.

Hon Peter Foss: Which is why it is there.

Hon KIM CHANCE: As the Minister for Health has said, that is why the Minister for

Labour Relations has chosen that figure. The significance of this Bill and of the minimum wage of \$275 is that the minimum wage of the vast number of workers in this State is set, not by the State arbitrated figure, but by the awards. My friend, Hon Alannah MacTiernan, indicated last night, and has just confirmed to me, that some 79 per cent of Western Australians work under awards. I honestly did not know that figure until last night.

Hon Alannah MacTiernan: Wage and salary earners.

Hon KIM CHANCE: For the vast number of Western Australian workers the State arbitrated minimum wage is not a relevant factor. Why else then is this Bill significant? The real effect of this Bill will come from the deregulation of the labour market and, inevitably, will mean that more workers' wages will fall to the minimum provision. In support of that, I will read a quote from a source which many of my colleagues, and no doubt some Government members, will find somewhat unusual. It is a precis addressed to all MLAs and MLCs by the National Civic Council. It might be quite historic that a member of the Australian Labor Party is quoting from a National Civic Council document. I am pleased to say that the precis I and other members have received from the National Civic Council is not only precise but also a remarkably accurate piece of work. In the conclusion of that document the National Civic Council states -

The only certainty of moving from a regulated I.R. system to a substantially deregulated system is that the wages and conditions of the low skilled will decline, as is shown by experience in the US.

A US Census Bureau study on the prevalence of poverty-level wages among full-time adult wage and salary earners -

We are not talking about people who are recipients of social welfare, or about disabled people who may be working under a different regime of wage structure, but full time adult wage and salary earners. The document continues -

- found that 10.8% of males and 21.2% of females received them -

That is, poverty level wages

- in 1990. By contrast the Australian figures were 3.4% and 7.1% respectively. And yet in the 1980's, Australia outperformed the US in both employment and productivity growth, according to the OECD data.

Ideally, reform of the Industrial relations system should be directed towards the twin objectives of maximising efficiency and retaining an equitable system which minimises the opportunities for the exploitation of any party by another.

The conclusion goes on to say that that will be best achieved by supporting the amendments proposed by Hon Y.D. Henderson. Members may think it strange that a National Civic Council quote is being read by a member of the Australian Labor Party and of Labor's left at that. I called the State Secretary of the NCC - initially I wrote - to thank him for the information, which I found valuable. In my letter I said that I appreciated what he had done and that many other members had also told me that they had appreciated the letter. Receiving that information from the NCC was a reminder to me that it is not only the Australian Labor Party that is concerned about Australian workers. In fact, the one thing these Bills have done, particularly the debate, which I guess one could say originated with the Victorian move towards labour market deregulation and oppression of workers, is bring all the factions of the labour movement together.

Hon Peter Foss interjected.

Hon KIM CHANCE: Mr Foss should realise that the links between the NCC and the Democratic Labor Party are very old. In fact, the Government has some unusual links with the DLP also. When the Deputy Premier, Hon Hendy Cowan, was first elected to this place, he was elected as a member of the National Alliance which was the result of a coalition between the Country Party and the Democratic Labor Party.

Hon P.R. Lightfoot: They were that successful they are dead!

Hon KIM CHANCE: The Deputy Premier is not dead.

Hon Peter Foss: That is true; because he is not a member of the DLP.

Hon KIM CHANCE: It is interesting that, in bringing these industrial relations Bills forward, this Government and the Victorian Government have caused bridges to be built across a 40-year gulf between the two sides of the labour movement in this country. I made a point of mentioning the National Civil Council's information and the direct relativity between its point of view and our point of view on this matter because that is effectively what this Government and the Victorian Government have managed to achieve. There are some deep historical differences between us and the NCC. However, on this matter there is a degree of unity. The Government has managed to distance itself from just about every sector of Australian society on this matter. It has distanced itself from church groups, social action groups and from the vast bulk of the formal political groups in Australia. Yet, the Minimum Conditions of Employment Bill is one minor part of that trilogy. That does not make it any less offensive, not because of what the Bill is, but because of what it represents in that trilogy.

Clause 9 of the Bill permits a degree of contracting out. Contracting out of the Minimum Conditions of Employment Bill is not in itself such a bad thing, particularly by people who may need to work in sheltered workshops, for example. I understand why the Government needed to allow some degree of flexibility in that matter. However, my concern about clause 9 which is titled "Limited contracting-out of minimum wage entitlement" - I hope the Minister will allay that concern when he speaks - is that it does not specify who, if anyone, will determine whether the agreement is fair and reasonable. I will not read them, but the last lines of clause 9 state that somebody has to be satisfied that the persons making the agreement are fit to make that agreement. Clearly, a severely intellectually handicapped person could not be held responsible for his or her signature on that contract. Nonetheless, the Bill sets out to define some kind of minimum wage and conditions and says that one class of employee, the disabled, will be allowed a let-out clause from the basic effect of the Bill. The very least we should be able to expect is some alternative form of safety net for those employees.

*Sitting suspended from 3.45 to 4.00 pm*

Hon KIM CHANCE: I hope that at a later stage in the debate, the Minister can reassure me that there will be some kind of mechanism to provide a degree of protection for people whose wage levels have been negotiated without the protection of this Bill as a result of the implementation of clause 9.

I am concerned also about the provisions of clause 15, under which future minimum rates will be set by the Minister, and in some circumstances the Minister will also set the divisor as it applies to, in some circumstances, casual and part time workers. It is inappropriate that the Minister determine wages and future wage levels.

Hon J.A. Scott: It is ad hoc.

Hon KIM CHANCE: It is arbitrary, I would say, although the Minister does need to consider the advice of the commission. I refer to the preceding clause, clause 14. Clause 15 sets a precedent of arbitrary decision making in industrial relations that members opposite may well come to regret in the future. A future Minister could totally destroy the whole industrial relations structure that the Government is in the process of putting together by the simple procedure of manipulating the prescribed minimum rate of pay. If a future Minister wanted - and it would be an act of vandalism - to destroy totally -

Hon Peter Foss: You are referring to a future Labor Minister, are you?

Hon KIM CHANCE: It may be a future Labor Minister or a future Green Minister. Who can predict?

Hon Peter Foss: Somebody bent on destroying the economy.

Hon KIM CHANCE: It could be somebody bent on making the point that this legislation needs to be changed. That person could manipulate the structure to a level at which the minimum wage that needed to be paid could be \$2 000 a week. That would force all the industrial relations Bills back to the House to be dealt with.

Hon Peter Foss: What sort of person would do that?

Hon KIM CHANCE: A person bent on destroying the industrial relations package that the Government -

Hon Peter Foss: Doesn't that sort of person get put up by either party?

Hon KIM CHANCE: It is entirely possible. Who can predict the future? I rule out nothing. If we are setting legislation in this House, one of the things that we should consider is the unlikely -

Hon Peter Foss: But most of our legislation would not work if we had a malevolent Government.

Hon KIM CHANCE: The allowance for this mechanism in this legislation is left too open to dispute. I have drawn, certainly, a ridiculous example.

Hon Peter Foss: There are easier ways for a malevolent Minister or Government to destroy the economy.

Hon KIM CHANCE: I am not suggesting that the act of malevolence would be directed at the economy. I am suggesting that the act of malevolence could be directed at the industrial relations Bills which, if they became Acts, would be the case. The effect would be not to destroy the economy in the medium term.

Hon Peter Foss: It would.

Hon KIM CHANCE: No; I said a future Minister may or may not threaten to. The threat, while it would cause some collateral damage, would not destroy the economy. But a future Minister could hold the Parliament to ransom -

Hon Peter Foss: Do you really believe that?

Hon KIM CHANCE: That is a fact. Whether I believe that a future Minister may do that is another question. I do believe that a future Minister could do that; I most certainly do. Unless the Minister can show me some reason legally that a Minister could not do that, which is the basis for my objection -

Hon Peter Foss: Do you check under your bed before going to sleep?

Hon KIM CHANCE: It is not my side of the House that checks under their beds before they go to sleep. We do not have anything to fear under our beds.

Hon Peter Foss: I think you have; you have a malevolent Minister there.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon KIM CHANCE: Nonetheless, nothing that the Minister for Health has said has suggested that there is no legal reason that this could not happen. I am suggesting that the capacity for it to happen is there and that a future Minister may well have reason to act or threaten to act in the manner I have described.

Hon Peter Foss: Under the Health Act, I can order everybody out of Western Australia. Does that worry you?

Hon KIM CHANCE: Perhaps I should not comment on that comment of the Minister.

I will be brief on other aspects of the Bill because it is not my intention to enter into debate on matters which should properly be the subject of Committee consideration. However, with respect to accumulated sick leave provisions in the Bill I am concerned that there is no provision to carry over the 10 days that accumulate each year. The reason for that concern is apparent enough. If an employee suffers a serious illness -

Hon Peter Foss: That's the common law, is it? That's not the law?

Hon KIM CHANCE: The Bill prescribes 10 days of sick leave per annum with no

provision to carry the 10 days sick leave per annum to the next or subsequent years. I suggest to the House that an employee with a more serious illness or injury, which could be as little as a broken arm or leg, may require rest or medical attention for a period of 20 days. If the employee had accumulated two or three years of accident free, claim free, work, that employee would not be entitled to take the 20 days required for convalescence, but would be restricted to 10 days. That employee may have worked for the employer for two or three years and in the normal course of events and under most awards he would be entitled to sufficient sick leave to be paid for the 20 days' absence. Under the minimum provisions - I acknowledge that these are minimum conditions - this would not be possible. I acknowledge the concern that has been expressed by many employers in respect of allegations of misuse of the practice of carrying over sick leave, but even so, the Bill has done an overkill in respect of its limitation on sick leave.

The Bill allows for sick pay at a minimum of only \$275 a week, even though the wages of the employee may have been higher.

Hon Peter Foss interjected.

Hon KIM CHANCE: Of course the Minister is right when he says that a worker and employer can agree very different conditions. But why set the minimum at such a low level? Is it too much to ask that a minimum be set at the normal rate of pay of the employee; that is, for the normal 38 or 40 hour week? I think that should be the rate.

Hon Peter Foss interjected.

Hon KIM CHANCE: That is not what the Bill says. If the Bill said that, I would not be raising an objection. If the Bill said an employee will be paid while on sick leave at the rate of his or her normal earnings, I would not be raising an objection. I am raising an objection because the Bill says the sick pay need not be at a figure higher than \$275 a week.

Hon Peter Foss: All you are saying is that when they are agreeing to something different -

Hon KIM CHANCE: If they are agreeing to something different it would not be a matter of concern in this Bill. We are talking about this Bill, and I am objecting to that provision.

In his contribution to the debate, Hon Nick Griffiths drew the attention of the House to a statement by Hon Ray O'Connor, a former Liberal Premier, in a debate in 1979. I will not repeat the remarks he made, but I was interested in Hon Ross Lightfoot's interjection to the effect that in 1979 things were very different and that it was a long time ago. Mr Lightfoot never said a truer word. Things were very different in 1979. If there was ever a need to address the process of industrial relations reform it was probably in 1979. Our industrial relations system was chaotic at the end of the 1970s. The present harmonious industrial relations that we enjoy have come about because of the hard work and goodwill that has been invested in industry by employers, employees and Labor Governments.

Hon P.R. Lightfoot: And high unemployment. There is a pool of unemployed who can jump into jobs. That is rather a tragedy but it keeps a lid on industrial disputation.

The DEPUTY PRESIDENT (Hon Barry House): Order! Hon Kim Chance is on his feet and he has the floor.

Hon KIM CHANCE: I am pleased that Hon Ross Lightfoot has reminded us about the employment situation because it has been raised a number of times in this debate, and it is a legitimate question. We do have very high unemployment, and one of the reasons the proponents of this legislation have put forward in justifying its introduction is that they hope these Bills will ease the unemployment problem.

Hon A.J.G. MacTiernan: It didn't happen in England.

Hon KIM CHANCE: Indeed. I will address the relationship between deregulation of the labour market and employment a little later in my speech. However, it is important to

note that in those countries which have a deregulated labour market there is no evidence to show that they have handled the current worldwide unemployment problem during this present recession any better than we have in Australia. That is not to say that we should say we cannot do any better; that would be a cop out, and members of Parliament should not accept that. I am happy to look at any serious proposal the Government comes up with if it will address the problem because unemployment, particularly among young people, is the priority problem shared by both sides of this House. I appreciate the interjections of Government members in relation to unemployment. It is a serious issue and one we should address very earnestly. At the same time, I have yet to be convinced, and the empirical evidence has yet to support the view, that anything the Government is promoting will seriously address unemployment. Nevertheless I am always happy to listen to the views of members opposite on this subject.

I was unaware until Hon Nick Griffiths raised the matter of the former Liberal Premier's comments on industrial relations. All I can say is I stand in awe of Hon Ray O'Connor's great foresight on that matter. In 1979 I was the director of an employer industrial organisation; I was on the other side.

Hon Peter Foss: Good on you! I always thought there was some sense in you.

Hon KIM CHANCE: It was registered with the Industrial Relations Commission. As a director of the Farmers Union Industrial Association I recall going to see a Federal Minister for industrial relations - my memory fails me as to who it was in 1979, although the name Tony Staley rings a bell, but I could be wrong - along with the State President of the then Farmers Union, Wolf Boetcher. We had some problems in representing exporters and in dealing with the union movement, which had some different ideas from ours about the requirement for the free flow of exports from our ports. When we went to the Federal Minister to ask what he thought he could do to assist to overcome this impasse with the union movement he promised us some very tough legislation. The point Wolf Boetcher and I made to the then Federal Minister was that if he was not prepared to use the powers of the legislation he had then, how did he expect us to be assured by his promise to introduce even tougher legislation? My president referred to the tougher legislation as a paper tiger. That proved to me, and later events have established it clearly in my mind, that one cannot legislate for good industrial relations. It is not that simple. Good industrial relations requires a lot of hard work.

Hon Peter Foss: Section 45 had some good results.

Hon KIM CHANCE: We were among the first employer organisations to use it.

Hon Peter Foss: It was good at getting people to talk.

Hon KIM CHANCE: It is not something I am proud of. Good industrial relations is not something one inherits. This Government has not learnt what it took me 10 years to learn: Good relations are brought about by very hard work. Hon Tom Helm held up a document during his speech on the Workplace Agreements Bill; it was the BHP Iron Ore enterprise bargaining agreement. I have since taken the opportunity to read the document in some detail. I know that it took two years of negotiations to finalise that document. It is a very good agreement. However, it took two years to make. The Government can tell me that the legislation is aimed at speeding up the process of reform, but I will not insult the mining unions and BHP Iron Ore by claiming that we could have done something in this place which could have speeded up the process of that agreement. It was negotiated fairly by two parties of roughly equal power; namely, the mining unions and BHP. It could be argued about which party has the most money, but that is irrelevant in the end. It still took two years - and a great deal of goodwill as both parties realised that it had to be done - of hard negotiation to create the agreement. It is important to appreciate that we could do very little to speed up that process. However, if we are not careful, we could do a great deal to destroy the capacity for unions to be able to negotiate on an equal basis with employers.

Hon Peter Foss: Unions believe in the Teddy Roosevelt idea of talking softly, don't they? Is he not the one who said, "Talk softly and carry a big stick"?

Hon KIM CHANCE: Even that is preferable to some other practices in the industrial relations arena.

Hon Peter Foss: I thought unions worked on that basis.

Hon KIM CHANCE: The triad of Bills - of which the one before the House is arguably the least important - add up to an indication of the paucity of the Government's knowledge and experience in industrial relations; it is an important and sensitive field. However, the Government is sensitive to criticism of a lack of a safety net within the legislation, although such a net was part of workplace agreements promoted during the election campaign. This Bill appears to have been tacked together in an attempt to provide bottom line conditions.

My colleagues, especially Hon Cheryl Davenport and Hon Alannah MacTiernan last night, have clearly identified the faults of the Bill. Its main fault is that under a regulated labour market, an arbitrated minimum wage is irrelevant because the award provides such minimum wages and conditions. I have already demonstrated that the potential and logical outcome of a deregulated labour market is more workers falling down to the level prescribed as minimum wages and conditions, as happened in the United States of America.

Hon Cheryl Davenport: And New Zealand.

Hon KIM CHANCE: Indeed. Along with the Workplace Agreements Bill and the Industrial Relations Amendment Bill, this Bill has failed the test of this debate.

Hon Peter Foss: How many of the 20 per cent of people not on awards are on the current minimum?

Several members interjected.

The DEPUTY PRESIDENT (Hon Barry House): Order! Let us hear from Hon Kim Chance.

Hon KIM CHANCE: These three Bills do not have public support; they have drawn criticism from just about every quarter of society. I am saddened most that the Government has missed the opportunity to be constructive in speeding reforms in the workplace. Instead of seizing the opportunity, it has fallen for the trap of chasing the paper tiger. Worse than that, the Government has pursued this course in the full knowledge that similar legislation in Victoria has failed: Only approximately 100 agreements have been registered in Victoria, where a mass exodus of employers and employees to the Federal awards ensued. That has proved that industry will vote with its feet if it is given a true choice between award conditions and employment contracts. Premier Kennett in Victoria eliminated awards at the same time as introducing employment contract legislation, but he could not head off the choice for employers and employees to move to Federal awards and out of the State employment contract system.

This system has failed not only in Victoria. The overseas experience suggests that the philosophy is flawed. *The Australian* of 24 August 1993 contains an article outlining the British experience. The article refers to a paper released on 23 August by the Economic Planning Advisory Committee outlining a study on enterprise bargaining systems and international case studies. The article reads -

Coming amid intense debate in Australia about how best to move towards a more deregulated wage-fixing system, the papers suggest caution in shifting rapidly towards greater enterprise bargaining without considering other ways of improving productivity and maintaining some control over overall wage outcomes.

It further reads -

Contrary to expectations, unionised firms experienced faster productivity growth than their non-union counterparts in the early 1980s but also experienced slower wage growth.

That comment came from a paper titled "The British Experience of Enterprise Bargaining" by Mr William Brown and Mr Gianni Zappala of Cambridge University.



They indicated that the benefits of moving to enterprise bargaining were at best mixed. Also, a Canadian paper, "An Assessment of Enterprise Bargaining in Canada and Implications for Industrial Relations Reform in Australia", was written by Mr Frank Reid of the University of Toronto. The article refers to this paper as follows -

It argues that Canada's economic performance is not so superior to Australia's, nor due unequivocally to workplace bargaining, to compel "an unqualified move towards the Canadian model".

My time is running out and I would have liked to refer more to the EPAC papers. Simply, the legislation is not supported by world experience. Other countries' experience with enterprise agreements and workplace wage fixing has certainly not been an unqualified success.

I do not criticise the Government for attempting to speed up the industrial reforms we put in place - I have never done that. Many will agree that the Government should look at the process to consider moving at greater speed. However, these Bills will be crippled because they will not achieve what may be the best intentions in the world by the Minister for Labour Relations. If the Government is genuinely interested in speeding up the process of workplace reform, and it is not pursuing a course of destroying the union movement as we allege -

Hon Peter Foss: Certainly not.

Hon KIM CHANCE: - it should take back the Bills and indulge in some mature reconsideration of what it is trying to achieve. The Government must recognise that it has a long time left in this term in office, and such historic legislation should not be rushed through Parliament by a deadline of 21 October. Historic legislation needs to have some genuine community support. If the Government is well intentioned in this matter it should withdraw the Bills and reconsider them. The Trades and Labor Council would be happy to work with the Government to try to meet the maximum part of the Government's real intention in this matter. If that were the case, and the Bills were reconsidered and brought back to this House and the Legislative Assembly, I am sure the Government would find it is most likely that we would support Bills of that nature. Our history is not one of opposing reform. The Australian Labor Party is not necessarily married to the concept of the award system. It supports the award system because it is superior to anything else. That does not mean the award system is some kind of shrine to us. If people can show us that they have something better than the award system that will benefit all Western Australians and will not result in a vast shift of power from one side of the industrial relations argument to the other, but will at the same time speed the process of reform, the Government would find us wanting it more than the Government. That is what I am suggesting and I hope the Government will consider it.

HON J.A. COWDELL (South West) [4.36 pm]: Mr Deputy President, the Minister is at it again. He is back to his nineteenth century frame of mind. I acknowledge as the Minister said earlier today that as Minister for Health he could order everyone out of Western Australia. It is always good to know that things are in hand in the House of knights and burgesses, and that the example of Teddy Roosevelt, whether it be carrying a big stick or charging up San Juan Hill, is alive and well. At the conclusion of his second reading speech the Minister shares with us a few familiar comforting thoughts. He states -

The Bill will provide a solid and comprehensive safety net of conditions and will play a significant part in ensuring that the industrially weak are not overwhelmed by the strong, and that all employees may enter into contracts of employment totally confident that in these specific areas their minimum employment conditions will be guaranteed.

It sounds remarkably similar to other glowing summations that I have read. For example, in the nineteenth century a firm stated -

The owners recognise the generosity of the new labour laws, but will expect a great rise in output of work to compensate for these near-Utopian conditions.

That is probably near to the Government's sentiments on this.

Hon John Halden: It was Graham Kierath's latest speech to the Press.

Hon J.A. COWDELL: They presage, of course, a set of rules that would not, I fear, be much out of step with nor contravene any of the guaranteed minimums contained in the Government's Minimum Conditions of Employment Bill. I will refer to the glowing conditions of the particular workplace -

1. Godliness, cleanliness and punctuality are the necessities of good business.
2. This firm has reduced hours of work and clerical staff will now only have to be present between the hours of 7 a.m. and 6 p.m. on week days.

Of course, that included Saturday.

Hon Kim Chance: That is overly generous.

Hon J.A. COWDELL: It continues -

3. Daily prayers will be held each morning in the main office. The clerical staff will be present.

Hon John Halden: What happened to the cleaning staff?

Hon J.A. COWDELL: This is one that would worry the current Minister -

4. Clothing must be worn of sober nature. The clerical staff will not disport themselves in raiment of bright colours nor will they wear hose, unless in good repair.

Hon Peter Foss: It sounds like an infringement of rights to me.

Hon J.A. COWDELL: It continues -

5. Overshoes and topcoats may not be worn in the office, but scarves and head gear may be worn in inclement weather.
6. A stove is provided for the benefit of the clerical staff: coal and wood must be kept in the locker. It is recommended that each member of the clerical staff brings four pounds of coal each day during cold weather.
7. No members of the staff may leave the room without permission from Mr. Rogers. The calls of nature are permitted without permission and clerical staff may use the garden below the second gate. This area must be kept in order.
8. No talking is allowed during business hours.

Hon Doug Wenn: That definitely sounds like this place.

Hon J.A. COWDELL: It continues -

9. The craving for tobacco, wines or spirits is a human weakness and is forbidden to all members of the clerical staff.

Hon Peter Foss: That sounds like a very good one. We have gone backwards, haven't we?

Hon J.A. COWDELL: It continues -

10. Now that the hours of business have been drastically reduced, the partaking of food is allowed between 11.30 a.m. and noon, but work on no account ceases.
11. Members of the clerical staff will provide their own pens. A new sharpener is available on application to Mr. Rogers.

It then refers to the relevant rates of pay.

Hon T.G. Butler: I am glad Graham Kierath didn't see this before he prepared his Bill.

Hon Peter Foss: I wonder what the present day wage equivalent would be?

Hon J.A. COWDELL: Nineteenth century wage rates probably do equate with the Government's current proposal.

Hon John Halden: In fact they are probably generous.

Hon Graham Edwards: It would be interesting to work out the earnings those workers contributed to the particular area they were working in for at the same period.

Hon Peter Foss: Perhaps we should send that to the commission which sets the current minimum wage, so it is mindful of these things.

Hon J.A. COWDELL: With the current legislation I would have to send that wonderful example to a Minister in another place rather than to the commission.

Hon Peter Foss: He might do even better than the commission.

Hon J.A. COWDELL: I have no problem with the concept of a Minimum Conditions of Employment Bill. The Federal Labor Government is currently preparing legislation of a similar type. However, I have problems with the Bill that is before us today. My objections, which were stated by previous speakers, are twofold: Firstly, I object to the paltry nature of the minimum standards contained in the Bill.

Hon Peter Foss: Are you criticising the commission in that respect?

Hon J.A. COWDELL: No, and I will refer to the commission shortly. Secondly, I object to the way that the Bill may be used by employers in the context of the unholy trinity - that is of course this Bill, the Workplace Agreements Bill and the Industrial Relations Amendment Bill - to reduce the terms and conditions of employment of those already covered by the award system. I admit that the offer of something in this Bill is slightly better than nothing for many of the 21 per cent of the work force who are award free; that is, some 105 000 Western Australians. As I have said, there is the risk posed for all those who are within the award system.

The minimums provided in this Bill are inadequate. The Minister states that any society which holds dear the democratic principles of fairness and justice must provide protection for the weak against the strong, and this applies as much in employment relations as elsewhere. The safety net provided by the Government is slung very low indeed. If we look at the various minimums that are provided and referred to in the Minister's speech, such as the minimum weekly rate of pay which he refers to the commission's door, they are poor indeed.

Hon Peter Foss: That is what the Bill does, does it not?

Hon J.A. COWDELL: The Bill, I think, takes it from the commission's door.

Hon Peter Foss: That is the starting point.

Hon J.A. COWDELL: But not the finishing point. We refer to this minimum rate offered, to be set at \$275.50 gross per week for adults, which is under \$7 per hour. An ordinary family cannot live on \$275.50 a week.

Hon Peter Foss: Why did somebody not point that out to the commission?

Hon J.A. COWDELL: Some people have. I am about to refer to that.

Hon Peter Foss: Why did they not change it?

Hon J.A. COWDELL: That is a question which should be posed to the commission.

Hon Peter Foss: I think you should pose it here.

Hon J.A. COWDELL: I will pose it. The Government is asking us to vote for \$275.50 a week in this legislation, regardless of what the commission has decided in the past or at present. It is here in this place and what the Government is asking us to vote for as a reasonable minimum. We are being asked to vote for something that will ensure a poverty wage for the working people of this State. The amount of \$275.50 a week is probably somewhat less than 10 per cent of what the Minister earns. How can the

Minister suggest it is appropriate for a family to subsist on less than 10 per cent of his salary? I realise this is the minimum wage currently prescribed by the general order. However, that does not mean that this legislature should embrace \$275.50 a week as being at all adequate, even though that is the amount in the general order. The previous Government did not embrace that amount in its submission to the Industrial Relations Commission last year. The Lawrence Government proposed that the barest minimum that should be entertained was \$325.40 a week. The commission decided not to act on that submission, awaiting instead the outcome of the State election. Now we have an answer. The current Government has decided the appropriate minimum is the old figure of \$275.50 a week. This stands in stark contrast to the Labor Government's submission of a year ago, which put the figure at \$50 per week higher, let alone what any objective determination currently would come to. There are many reasons for adjusting the minimum upwards.

Hon Peter Foss: The commission makes the decision, does it not?

Hon J.A. COWDELL: It did make the decision, but now we are making a different decision in this piece of legislation.

Hon Peter Foss: There is nothing in what the commission has said, is there?

Hon J.A. COWDELL: Yes. We are starting out with the general order figure, which is what I am objecting to.

Hon Peter Foss: It seems to be a criticism of the commission.

Hon J.A. COWDELL: Yes, but it becomes a criticism of this Chamber and this Government if we adopt that figure as well.

Hon Peter Foss: It seems strange, having heard all these wonderful things about the commission, that you are criticising its decision.

Hon J.A. COWDELL: I refer to the Lawrence Government's submission to the Industrial Relations Commission, which is an excellent submission outlining some very pertinent reasons why \$275.50 a week is not an adequate minimum. The beginning of the submissions started last November and, of course, various hearings continued until July of this year. I refer to some of the hearings of the commission. With regard to the previous Government the commission says -

The Minister for Productivity and Labour Relations argued that the Commission should make a General Order, having broad application to all employees envisaged by section 50 of the Act, whether or not their employment was regulated by an award.

It did not previously cover people whose employment was not regulated by an award, and I also criticise it for that.

Hon Peter Foss: This of course does.

Hon J.A. COWDELL: Indeed, it does. I acknowledged a bit of credit on that basis at the beginning.

Hon Peter Foss: Thank you.

Hon J.A. COWDELL: Referring to the submission by the Minister in the Lawrence Government the document says -

... the Commission should fix a minimum raise on a "needs basis", that is, it should determine a wage based on the needs of an average worker in order to live in "reasonable comfort" having regard to contemporary social attitudes. The wage should have no reference to the nature of the work done, but be a "living wage" somewhat akin to that established in the Harvester case (1907)... The Minister argued that the minimum wage should apply to all adult employees aged 21 or more, whether covered by an award or not because the concept of a needs based or living wage was as valid for non-award covered employees as it was for award covered employees.

As the Minister has pointed out, the Government has extended that coverage but not the base amount. It continues -

To achieve a proper minimum wage, the Minister suggested that the Commission should regard the average worker as being a householder providing for a spouse and two dependent children. Using the most recent household expenditure statistics assembled by the Australian Bureau of Statistics, the Minister submitted that the Commission should prescribe a minimum wage of \$325.40 per week for an adult aged 21 years.

Hon Peter Foss: To refresh my memory, does that include this sort of expenditure?

Hon J.A. COWDELL: I am coming to that as my next point.

This was almost \$50 per week below the "Henderson Poverty Line" and as such not generous.

Such a wage was said to be economically sustainable because it was likely to affect approximately 18,000 employees in this State representing only 2.4 per cent of the labour force.

Furthermore, the proposed increase would only raise average weekly earnings in this State by approximately 0.3 per cent.

The particular argument put by the Lawrence Government is still as valid today as when it was submitted. The argument in the Minister's submission that the adult minimum wage should be retained and extended was based partly on historical reasons, which are still valid. The special position of the low paid, low skilled employees with limited bargaining power of their own had to be protected and, when demonstrated as necessary, assisted by the commission and community through the welfare system.

The second argument put forward in support of the particular minimum envisaged of \$325.40 was that to deny sections of the community a minimum standard of living was to condone poverty amongst affluence, a situation which is both personally humiliating and morally indefensible.

The submission indicates -

... any attempt to measure poverty is to embody certain values or ideological positions. An argument is often put that the measurement fetishism actually serves to defuse the real issue of poverty and allows the community to avoid confronting the need to address the poverty problem effectively.

The second part of the argument with respect to poverty in the community in the Lawrence Government's submission proceeds -

The other point which supports our argument is that there is a section of the community out there, we have indicated it's around 40 per cent, which is single income, couple families, which we need to ensure that even if it's a small percentage of the community generally, that no section of the community - we cannot condone any section of the community living in poverty in what they call poverty amongst affluence.

The transcript continues -

The other aspect of the reason to retain or extend the adult minimum wage goes to the question I indicated this morning about the incentive over social security. The exhibit on social security benefits shows that an unemployed person with two children can receive up to \$373 per week. This is obviously consistent with the Henderson poverty line. Nobody could legitimately say that this is too high when you consider the consumption patterns submitted and the standard of living in this country.

This argument is based on the need to work for a decent wage rather than to receive social security benefits.

The final point in the previous Government's case that the minimum wage should be \$324 referred to the International Labour Organisation's conventions as follows -

A wage that secured workers a reasonable standard of life as this is understood in their time and country, the provision of an adequate living wage -

The particular ILO conventions and the universal declaration of human rights in article 23 states -

Everybody who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity.

The transcript continues -

In the European Social Charter the parties accept as the aim of their policy to be pursued by all appropriate means the right of all workers to fair remuneration sufficient for a decent standard of living for themselves and their families. The right to a minimum wage is thus recognised around the world as a human right.

During the course of the submissions going before the Industrial Relations Commission, the Government of this State changed. The representative of the current Government went before the commission, which was eagerly waiting to hear the Government's view. I will quote the current Government's stance on this matter, which was outlined to the commission by the Government's representative. Members must recall that the Industrial Relations Commission was halfway through hearing the previous Government's submission and I have outlined the points which were made in favour of its submission; that is, that a reasonable basic minimum wage would be \$325.40. The transcript of the case continues -

In respect of the government's submission or the Minister for Productivity and Labour Relations' submission in respect of this matter now I would like to inform the commission of the current government's policy in respect to the setting of minimum pay and conditions or a safety net for the want of a better word through legislation through the parliament.

That safety net will cover various areas. One of the areas it will cover is a minimum hourly and minimum weekly rate of pay. It is the government's intention to have an annual review of the minimum wage conducted by the Western Australian Industrial Relations Commission and a report or decision of the commission to be forwarded to the minister for the parliament to legislate that rate of pay.

Further reference is made to the actual amount as follows -

The other aspect of the implementation process is that the government would support a long phasing-in period of the increase to \$325.40, again similar to that available under the minimum rates adjustment process of over 2 years - four instalments over 2 years - 6 months apart.

The Government's representative who appeared before the commission, having received new instructions from the incoming Government, said that \$325.40 was a reasonable minimum wage. However, the Government stated that the proposed minimum rate should be phased in in four, six monthly instalments. As this Government has been in office for approximately nine months the minimum wage should, in accordance with this Government's policy, be at the base figure of \$300.

I bring to the attention of the House the paltry nature of the minimum wage in terms not only of the minimum proposed by the previous Lawrence Government, but also of this Government's stance of nine months ago when it said that a reasonable minimum wage would be \$325.40, phased in in four instalments. The minimum wage under this legislation has been reduced to \$275.50 and presumably one can expect a review 12 months down the track. If that were the case, this Government would have been in office for approximately two years and the minimum wage should, according to its policy, be \$325.40, but it will be \$275.50. This Government is not providing for the minimum sustenance required to maintain a family. It will require, at the very least, the wage earners of single income families to send their spouses out to work. The minimum conditions are paltry, but the prime underpinning of those minimum conditions is an

amount which is not justifiable; it is an amount the Government did not embrace earlier this year.

Of course, there are exceptions to the generous rate of \$275.50 per week. A junior rate of pay will be prescribed at a rate or rates - we do not know what it will be - below \$275 per week. It will mean that 18, 19 or 20 year olds who may have similar expenses to 21 year olds may receive the same rate of pay as 15, 16 and 17 year olds. I do not know how these citizens and electors are expected to survive on a sub-minimum rate of pay. Other exceptions from this generous minimum rate of pay of \$275.50 per week will be employees who are mentally or physically handicapped regardless of how their incapacity - permanent or temporary - affects their ability to do the work they are employed to do. The problem is not only a very low base minimum wage, but also there are exemptions from that low minimum rate. The review mechanism allows for some people to have their base rate increased, but it does not apply to the handicapped, or to anyone the Minister chooses to exempt. The annual review provision can be applied at the discretion of the Minister. Admittedly, he has to receive a submission from the Industrial Relations Commission which takes hearings beforehand, but it is by ministerial whim. The Minister may be generous next year and decide that the minimum rate of pay will be 10 or 11 per cent of the minimum ministerial salary instead of the nine per cent proposed in this legislation. It is a generous adjustment mechanism by ministerial whim.

[Continued below.]

[Questions without notice taken.]

## MINISTERIAL STATEMENT - BY THE MINISTER FOR TRANSPORT

*Fremantle Port Authority Stevedoring Maintenance Business Unit, Report Tabling*

**HON E.J. CHARLTON** (Agricultural - Minister for Transport) [5.32 pm] - by leave: I table a report of an inquiry into the stevedoring maintenance business unit at the Fremantle Port Authority. In doing so, I would like to outline, but not in detail, the contents of the report. Some time ago members may recall that some suggestions were brought to the House, particularly by Hon John Halden, about the business unit at the Fremantle Port Authority and the decision by the port authority to take certain action. As a consequence I gave the member and the House an undertaking that an inquiry would be carried out. That inquiry has been completed. Therefore, I table the report which will outline the details of that inquiry.

[See paper No 592.]

## MINIMUM CONDITIONS OF EMPLOYMENT BILL

*Second Reading*

Debate resumed from an earlier stage of the sitting.

**HON J.A. COWDELL** (South West) [5.34 pm]: Before question time I was referring to the fact that it was unfortunate that the Government's Minimum Conditions of Employment Bill started from the level of an indefensible minimum. This rate was below the amount the Government had indicated as being appropriate in its previous submission to the Industrial Relations Commission earlier in the year. It was substantially less than the level proposed by the Lawrence Government to the commission last year. The amount in the Government submission was even less than the Chamber of Commerce and Industry was willing to entertain. The summary from the commission with respect to that submission says -

The Chamber of Commerce and Industry of Western Australia did not oppose an increase in the minimum wage to \$325.40 but expressly refrained from making any submissions regarding the quantum of the minimum wage.

The Chamber, although accepting that it was legitimate to put a floor on the wage levels to avoid exploitation and to prevent adverse undercutting through

commercial competition, invited the commission to adopt a cautious approach to the matter.

We have an inadequate base level for a minimum rate of pay provided in the Minimum Conditions of Employment Bill and, as I pointed out, an inadequate adjustment provision whereby the minimum would be determined each year based on the whim of the Minister. This is almost the same situation as occurs in the *Yes, Minister* series: What a courageous decision on the part of the Government to put itself in the position of being the arbitrator and the expert as to what the minimum rate of pay will be on an annual basis!

My further concerns about the minimum conditions outlined include one with respect to the casual loading. The casual loading outlined is 15 per cent, rather than 20 per cent which I think is nearer the mark to cover a worker for those permanent benefits that are forgone. The minimum leave conditions outlined in the Bill are hardly a paradise for the working poor. The minimum sick leave conditions are 10 days annually and those days are not cumulative. The Government should look at making the 10 days cumulative at the very least to take account of the situation when significant illnesses arise. The legislation provides for four weeks' annual leave for everyone as the minimum provision. That is reasonable. But what is not reasonable is the lack of provision of pro rata payments if a person serves less than 12 months; that is, six months or nine months. Various arrangements can be made whereby employers can turn over staff and therefore not be required to provide those minimum annual leave payouts. At the same time the employer would not be liable to pay a casual rate where the employee may have been put into a position of being employed casually.

The minimum parental leave provision states that employees, other than casual employees, are entitled to take up to 52 weeks of unpaid leave in respect of the birth or adoption of a child to the employee or the employee's spouse.

Unfortunately the legislation leaves out that section of the general code that enables people to be paid accumulated annual leave during unpaid maternity leave.

Hon Max Evans: Would you mind explaining that?

Hon J.A. COWDELL: There is no right to take annual leave when a person is on 52 weeks' unpaid maternity leave. For a coalition of parties that has traditionally prided itself on support of the family unit, this seems to be a grave oversight. It may well be that the family unit is dependent on those extra payments of accumulated annual or long service leave to be able to start a family or to maintain a family unit during maternity leave. No provision is made for that extra level of support which would be more than reasonable under the heading of minimum parental leave.

Hon Bob Thomas interjected.

Hon J.A. COWDELL: Not even under that which is the entitlement payable. I refer now to public holidays.

Hon Max Evans: I had to send my wife back to work long before 12 months.

The PRESIDENT: Order!

Hon J.A. COWDELL: Clause 30 of the Bill refers to public holidays and provides that an employee, other than a casual employee, who in any area of the State is not required to work on a day solely because that day is a public holiday in that area, is entitled to be paid as though he or she were required to work on that day. Clause 31 provides that clause 30 is not to be read as requiring an employer to pay a penalty rate for work done on a public holiday. Very simply, public holidays are not guaranteed as minimum conditions; they become simply a quaint old custom that employers may or may not observe. I do not know why the clause applicable to public holidays is included in the Bill at all. In its current form, it provides no guarantee of the 10 public holidays that exist in Western Australia. These can be safeguarded only by a definitive requirement for observance or by a penalty rate to be struck for work on same. As neither device is provided for in this clause, no guaranteed minimum exists. If they read this Bill in



conjunction with the other two Bills under consideration in this industrial package, members will see that it overrides the Public and Bank Holidays Act, particularly clause 9 which states that any provision of or a proclamation made under clauses 7 or 8 of this Bill prevails over any provision of an award, order, or industrial agreement made under the Industrial Relations Act 1979 to the extent of any inconsistency therewith. One's employer can treat Christmas Day or Good Friday the same as any other working day for an employee. This is a disgrace and an affront to the Christian and civic observances of our State and nation. Under this minimum standards Bill, Easter and Christmas are to become optional. If the Government does not -

Hon Max Evans: People in the United States have always worked on Good Friday. In Scotland they work on Christmas Day and Boxing day.

Hon J.A. COWDELL: I maintain that by virtue of the Public and Bank Holidays Act still being a Statute in force, a certain sentiment exists within the community and, I suspect, rather strongly within the coalition parties that the 10 days mentioned in the schedule are worthy of observance. The fact that this industrial legislation proposes to effectively override those observances must be a matter of some concern to many of the coalition members and supporters. I say again, if one is required by one's employer to work on Christmas Day or Good Friday or whatever, and one does that at the ordinary rate of pay, one does not even get a day off in lieu as a consequence of working on that day. The key is, very simply, that some mechanism should be in place to encourage observance. We cannot have a prescriptive requirement, but we can have a requirement of double or triple time so employers think very carefully about requiring staff to work on Christmas Day or Good Friday or whatever. That provision which props up these public holidays now will be removed and, in fact specifically prohibited. There will be no way of encouraging employers to observe those public holidays. It will be specifically outlawed. It would not be too much of a departure from the Government legislation to look at a penalty rate in those situations - obviously there is a penalty loading for casual work. The Government could consider using this clause to impose a penalty loading. The minimum rate is \$7 an hour; therefore if someone on the minimum rate is required to work on Christmas Day at double time, that will be \$14 a hour. That is not a huge impost, but it may save the day for the employee.

Hon Max Evans: It is only 100 per cent!

Hon B.M. Scott interjected.

Hon J.A. COWDELL: That is why I am saying that those days are celebrated not only as a civic or Christian observance, but also as family occasions and they should be safeguarded in some way.

Hon Max Evans: My daughter who is a nurse said she liked working on Christmas Day because it was one of the fun days.

Hon J.A. COWDELL: I will leave that point and refer to the other guarantees that are not contained in this Bill.

The Bill fails to address a range of conditions that our community should regard as essential and which other jurisdictions do; for example, protection from unfair dismissal, including a requirement for an employer to offer a valid reason for dismissal, a maximum of a 40-hour week for ordinary time averaged over 52 weeks. This is contained in some of the legislation in the other States. There is no mention in this Bill of long service leave provisions. It may well be that long service leave - I believe this to be the case - is provided for in another Statute, but if there is a minimum provision in this respect it should be mentioned in the Minimum Conditions of Employment Bill. Surely in putting forward this Bill, we should have a piece of legislation that is consolidated so that employers and employees can find in the one Act at least mention of all the entitlements rather than no mention at all or a backhander at the end which says this Bill should be taken in conjunction with Acts A, B, C and D. I notice the public holidays are mentioned in this Bill, despite there being the Public and Bank Holidays Act. It seems to me that even though long service leave legislation is on the Statute books, it should be referred to

in this Bill so that everyone can look at a composite Act and have a general idea of what are the minimums.

I will conclude by saying that it is worthwhile to have a minimum conditions Act, but there should be a worthwhile range of minimums contained in that Act, particularly in terms of the minimum rate of pay within the full range of conditions. If the conditions are false and are not guaranteed as for public holidays, they should not be listed under the Minimum Conditions of Employment Bill. I do not think we should delude employees about something being guaranteed when it is not. I oppose the legislation.

**HON DOUG WENN** (South West) [5.50 pm]: I oppose the Minimum Conditions of Employment Bill. As Hon John Cowdell said, a Bill of this nature should benefit both the employer and the employee. As with the debate on the Workplace Agreements Bill, I will allude to a number of questions during my address that I will ask of the Minister for Health when we reach the Committee stage. I will also use the Minister's second reading speech and the Bill to support my arguments for changes to be made to this legislation. First, will this Bill be put through as it is or will we be given a number of amendments in the Committee stage?

In his second reading speech, the Minister said -

... these are minimum - not maximum - conditions of employment. Most workers will have conditions in excess of these. However, none will have less.

Throughout his second reading speech, the Minister made the point that, under certain circumstances, people will get less. I will return to that point later.

I am concerned that the Bill is full of holes through which an employer can escape its provisions. However, there are no holes at all for the employee. Hon John Cowdell referred to the part the Industrial Relations Commission will play in reviewing the system. The second reading speech states -

There will be no capacity to contract out of these conditions except where the Act allows, under limited and specifically defined conditions -

This is the part about which I am concerned -

- where the Minister has agreed to exempt ...

I spoke at some length in the debate on the Workplace Agreements Bill about someone with a grievance towards an employer having the right to take that grievance to the commission. However, if the employer does not want to go to the commission, the full cost for that action will fall on the employee. This legislation goes down the same path. The employer will have recourse to the Minister to obtain an exemption from the conditions of the legislation. The sentence continues -

... a person who belongs to a class of persons from the definition of "employee" ...

Nowhere in the Bill is "a class of persons" defined. That introduces a whole new issue which will create problems. The Minister also said in his second reading speech -

The second exemption may arise where an employer and employee -

This is a hole in the Bill for the employer -

- agree in writing that the employee is entitled to some other weekly rate of pay instead of the minimum to which he or she may have been entitled.

In that respect I will refer later to an incident in my life that occurred when I worked for Telecom. The Minister continued -

This position will occur only if the employee is either permanently or temporarily mentally or physically disabled. Such a provision is already an accepted principle -

It should not be -

- and where the parties have agreed is a standard provision of awards. It serves to

enable such workers the opportunity of employment which otherwise might not be available.

If this legislation is passed, some disabled people will be on the minimum wage and able-bodied people will be on higher wages. That is appalling. With the right guidance, these people would have recourse to the Equal Opportunity Commission. Why should a handicapped person receive less money than an able-bodied person when he or she is doing the same job? I worked for Telecom at a workshop in Osborne Park in which handicapped people worked alongside able-bodied people doing the same job. One was not doing the job any faster than the other. They were putting relay sets together. It was not easy for some of them because they had a disability. However, they got the same pay. That right will be taken away under this legislation because the employer will be able to negotiate a different wage structure for the handicapped person. As I said, that is appalling and, under the Equal Opportunity Act, any person with a disability being paid less money for the same job would have cause to ask for that to be investigated. Hon John Cowdell referred to the Industrial Relations Commission. The Minister, in his second reading speech, said -

The commission will review the minimum weekly rates of pay and make a recommendation to the Minister . . .

However, the worst part is yet to come. It is lucky that this Government is in office only for a short term because we will amend the legislation to remove the provision relating to the next statement by the Minister, who said -

The Minister may accept that recommendation or determine a rate or rates different from the recommendation.

The commission does not have the final say at all about what will be the lower wage structure. The Minister will determine that. That huge lobby group called the employers through the Chamber of Commerce and Industry and other organisations will be able to approach the Minister directly about rates of pay and ask him to do away with the \$275 minimum and determine a rate that he feels is a fair minimum wage for the people of Western Australia. That is appalling. The next Government, a Labor Government, will change that provision as soon as it gets into office. If the Minister will not amend that provision, we will do it in three and a half years' time. The Minister continued -

A significant social reform is that the announcement will include an order prescribing junior rates of pay for employees who have not reached 21 years of age.

Apparently we are to return to a time when a person was not an adult until he or she turned 21. For many years, an 18 year old has been considered to be an adult. We have given 18 year olds the right to vote and, because they have that right, we gave them guns and sent them into war zones. Adult wages should begin when a person turns 18. I hope that the member handling the Bill for the Opposition, Hon John Halden, will amend that provision. Eighteen year olds can borrow money to buy a car.

Hon T.G. Butler: Yes, and go to war.

Hon DOUG WENN: Yes, I said that. They should also have the right to earn an adult minimum wage whatever it may be and whatever the Government determines. The \$275.50 a week is only a recommendation. If the Minister will have the right to determine a rate different from the recommendation, we are heading into the unknown. I think it will affect the employer as much as the employee.

*Sitting suspended from 6.00 to 7.30 pm*

Hon DOUG WENN: In the last three speeches I have made in the Chamber, I have been interrupted. I do not know if there is a message there, but nobody spoke to me about it during the dinner break.

Hon W.N. Stretch: We try to let you get a second wind.

Hon DOUG WENN: I would prefer to speak without interruption.

As I was saying prior to the dinner suspension, 18 is accepted as the age at which one is an adult. If we can allow 18 year olds to get loans without parental consent, to have the vote and be sent off to war, we should acknowledge them as adults under the Minimum Conditions of Employment Bill.

A couple of anomalies in the Bill must be considered very seriously. One such anomaly concerns annual leave. I refer to page 5 of the second reading speech, where it states -

Bereavement leave of up to two days, which need not be taken consecutively, -

I do not know what is meant by that, but I am sure that the Minister will in time explain it to me -

- will be available to an employee on the death of a close family member.

I have big problems with that. I am sure that all of us have felt the loss of a very close loved one and that not one of us believes that two days is enough leave to cope with such a death. Family members must generally be involved in the organisation of funerals as well as attending the funeral, placating other loved ones and helping them in their sorrow. Anyone who believes two days leave is enough must be in another world. The provision for two days should be extended to a minimum of four days. As with my request to have the age of 21 lowered to that of 18, I hope that the Minister handling the Bill in this House will consider increasing bereavement leave from two days to a minimum of four days.

The speech also states that the Bill provides that bereavement leave will be granted only on the death of the spouse or de facto spouse - I am happy to see de facto spouse included - or the child or stepchild or parent or step-parent of the employee. I accept those named within the provision, but point out that there is no provision for in-laws. I understand that the Minister is at a meeting at the moment, but that he is listening to the broadcast. I hope he will take appropriate steps to include provision for the death of in-laws, because they are as much loved ones as direct family relations. We have all heard the adage about mothers-in-law, but they can be loved as much as a direct relation. I hope the Minister will take the appropriate steps so that we do not have to move the necessary amendments.

I am concerned also that the Bill requires that if so requested proof must be provided of the death and of the relationship of the employee to the deceased person. I find that provision totally appalling. A person does not come into work and say, "My wife has died", "My brother has died", or "My husband has died" just for a joke or to get two days off.

Hon B.M. Scott: You can believe it. People come in every week and say, "My grandmother has died."

Hon DOUG WENN: They must have a hell of a lot of grandmothers and Hon B.M. Scott must be very gullible to have accepted such statements. She must have accepted them a number of times to have had that understanding of what happened. There may be a few unscrupulous people around, but the average person would not come in and just look for two days off under those circumstances. The provision is there and I know that, as the Government has the numbers, it will go through. The employee must provide to the employer, if so requested, proof of the death and of the relationship of the employee to the deceased person. A clause expressed in that way is open to challenge with respect to a de facto spouse. As I said at the outset of my speech, I will put these questions to the Minister at the Committee stage. Knowing the thoroughness of the Minister, he will probably have the answers for me at that time anyway.

The Bill contains no requirement for an employer to pay penalty rates for work done on a public holiday. Hon John Cowdell raised the matter of people being told they must work normal hours and be paid for a normal day on a public holiday. If we consider days such as Christmas Day and Anzac Day, we see that Christmas Day, in particular, is a part of many people's religion and a day of being with the family. Some people do have to work on Christmas Day - those involved with emergency services, hospitals and the like - but they have the right to be paid in lieu of losing their right to have that day off. I take into

account what Hon Max Evans said about his daughter enjoying working on Christmas Day, because she was with people who were in need of services because they were in hospital and that she found it a delightful time to be at work. I asked Hon Max Evans whether his daughter was married and whether she had children. He did not respond. I think 99 per cent of those who work and are paid penalty rates would prefer to be home with their loved ones on a day such as Christmas Day.

Hon Peter Foss: Some people under awards have to work on Christmas Day.

Hon DOUG WENN: But they get paid the extra and above. This Bill provides that they will not.

Hon Peter Foss: They still have to work that day.

Hon DOUG WENN: Yes, but the Government is to take away penalty rates absolutely.

Hon Peter Foss: Not absolutely - they are not being guaranteed, that is all.

Hon DOUG WENN: The provision for parental leave also gives me great concern. It should also give Hon Barbara Scott concern - not that I think she is going to have any more children, but she may wish to. If the doctor says to her that her baby is going to come into the world on a certain day, she will have to give 10 weeks' written notice. What happens if the baby decides it does not want to wait around for that 10 weeks? She will have locked herself into a position. I am asking what happens in the case of premature births.

If an employer holds a grudge against an employee, the employer can say that the employee did not give 10 weeks' notice. It might sound a little silly, but members should think about that situation. The Minister said that it gave him great pleasure to present this Bill, but I do not think that he read it before he presented it. It is a contradictory Bill because the second reading speech states that a female employee who is expecting a child will be required to begin her leave six weeks prior to the expected date of birth, unless a medical practitioner certifies that she is fit for work. In one situation 10 weeks' notice is required, and in another only six weeks' notice. That depends on the workplace and the acceptance of the medical practitioner's certificate by the employer.

The second reading speech also states in relation to parental leave that on the employee's return to work, he or she will be entitled to the position held prior to commencing that leave. It states also that alternatively, if such a position is not available, the employee will be entitled to a comparable available position. If that position is not available, the person is expected to take up another position within the workplace; so, is the employer allowed to work out another wage structure?

Hon Peter Foss: He does not work out a wage structure; it must be agreed to by both parties.

Hon DOUG WENN: When an employee returns to work and the same position is not available and he or she must change to another position, is it necessary that another agreement be drawn up or will the employee remain on a comparable wage?

Hon Peter Foss: The answer is in the Bill.

Hon DOUG WENN: I am glad the Minister has returned to the Chamber because I have been asked to talk for some time. The Minister is improving my situation with his interjections.

Several members interjected.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon DOUG WENN: The second reading speech also states -

Where an action by an employer is likely to have "significant effect" on an employee or make an employee redundant, the employee will be entitled to be informed as soon as possible after a decision to make the changes has been made. "Significant effects" include termination of employment . . .

One would hope that an employer would advise an employee if the employee were about

to lose his job. The term "significant effect" needs to be explained more fully than the explanation in the second reading speech.

I turn now to another wonderful point. Members opposite must live in cloud cuckoo land. Further on the second reading speech reads -

The employee who is informed that he or she has been, or will be, made redundant will be entitled to eight hours of paid leave during the notice period to seek alternative employment.

One whole day is allowed for an employee to find another job - and this will occur at a time in this State when unemployment is on the rise again. With the provisions contained in these three Bills, the rate of unemployment will skyrocket. The second reading speech states further -

The legislation provides that in giving relevant information to the employee, the employer will not be required to give confidential information prejudicial to the interests of the employer . . .

Such records must be available for inspection by the employee, a person authorised by the employee, or an industrial inspector.

The provisions are contradictory in that the employer can withhold information; and if the employer does not keep decent records about paying the employee appropriate wages and other matters, no-one can receive those proper records.

Hon Peter Foss: The member should read the Bill.

Hon DOUG WENN: I have read the Bill but it does not explain this situation. If an employer is unscrupulous it means he may not need to keep complete records - under this clause - because it may be prejudicial to the interests of the employer. This part of the legislation should be reconsidered so that it provides that the employer will keep and provide every piece of information on the employee.

I will go through the Bill clause by clause because I have other questions to ask the Minister. No doubt he will answer these queries at the Committee stage. The Minister should take into account also the point made about 21 year olds being classified as adults for wage purposes, because for years we have recognised 18 year olds as adults within our community.

Hon Peter Foss: Awards do that.

Hon DOUG WENN: It is not indicated in this legislation that those people will receive a minimum wage of \$275. It states that other awards provide less. We have recognised 18 year olds as adults in the community for many years. The Minister should take that fact into consideration.

The Minister should also reconsider the two days provided for bereavement leave because if my mother were to pass on - thankfully my mother is very healthy - two days' bereavement leave would be totally inadequate for me to be able to attend to appropriate matters.

Hon Cheryl Davenport: What about bereavement leave for Aboriginal people?

Hon DOUG WENN: Yes, and under this legislation they will not have any jobs anyway.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon DOUG WENN: I turn now to the application of minimum conditions in the Bill. In this part the Minister sneaks in little words which mean a lot. I am not a lawyer of 29 years' experience; therefore I may be reading this Bill incorrectly. This part of the Bill is entitled "Generally minimum conditions apply unless conditions more favourable". Clause 5 reads -

(1) The minimum conditions of employment extend to and bind all employees and employers and are taken to be implied -

- (a) in any work place;
- (b) in any award; or

That is the sneaky little word - "or" - and it continues -

- (c) if a contract of employment is not governed by a workplace agreement or an award, in that contract.

I hope that the Minister will explain.

Hon Peter Foss: I do not know what the member means.

Hon DOUG WENN: If the Minister cannot understand what I have just read - and it is in his Bill - he is in bigger trouble than I am.

Hon Peter Foss: I understand the words read but I do not understand the member's problem.

Hon DOUG WENN: What about the word "or"?

Hon Peter Foss: It is a conjunctive.

Hon DOUG WENN: I do not want an English grammar lesson. I want to know how the word fits into the clause.

Hon Peter Foss: Do you mean the clause or the second reading speech?

Hon DOUG WENN: The Minister does not listen. I said to the Minister that -

The DEPUTY PRESIDENT (Hon Barry House): Order! The member on his feet is not addressing the Minister but the Chair.

Hon DOUG WENN: May I explain, through you, Mr Deputy President, that the Minister said that I should read the Bill. I finished referring to the second reading speech and I explained that I had moved on to the Bill. The Minister said that he did not understand, and now asks where it is in the second reading speech. That is why I refer to the Bill. I am sure the Minister will explain the situation to me.

Hon Peter Foss: It means what it says; I am just not sure what the question is.

Hon DOUG WENN: As I said earlier, the limited contracting out of minimum wage entitlement clause refers to cases in which "the employee is either permanently or temporarily mentally or physically disabled". I will be very surprised if a visit is not forthcoming from the Equal Opportunity Commission. As I described earlier, in the early days at the Osborne Park Telecom workshop people with physical handicaps were employed alongside people without handicap. These people received the same wage structure. Under this legislation, that will not be the situation. These people are entitled to be treated as equals and the legislation may well be challenged by the Equal Opportunity Commission.

Clause 14 refers to the commission reviewing minimum rates of pay each year. It states that the commission is to review the minimum weekly rates of pay and make a recommendation to the Minister. The commission is a toothless tiger. Why do we need the commission when the recommendation will pass to the Minister who will determine the rates of pay? Clause 15 refers to the Minister determining minimum weekly rates of pay by accepting the recommendation from the commission under clause 14. In other words, \$275 a week is a fictitious amount. It is grabbed because it sounds good. However, when the Minister has control of the legislation - we are realistic and know the Government has the numbers - I will be surprised if the minimum wage starts at \$275.50. The lobbying by the Chamber of Commerce and Industry and other employer groups around the State will be so heavy that the Minister and the Liberal Government will accept what they are saying. Over the years we will see the minimum wage level reduce.

Part 4 of the Bill deals with minimum leave conditions. Clause 18(3) reads -

Payment for overtime, penalty rates or any kind of allowance is not required to be taken into account in determining any rate of payment for the purposes of this section.

If members believe they have seen a lot of industrial action in this place, when the shift workers around the State find out about this provision, more than barricades will be needed around here. People will storm this place to tell the Government what they think of this provision.

Hon P.R. Lightfoot: Are you predicting that they will break into Parliament?

Several members interjected.

The DEPUTY PRESIDENT: Order! The member knows that it is against standing orders to interject from a seat which is not his own.

Hon DOUG WENN: I can understand that the member made that mistake; he is new to this place.

Shift workers will not be happy about this. The 17 per cent leave loading was originally introduced for such people, and the shift workers at Collie and Bunbury will not be happy with one iota of the Bill.

Clause 20 states that if an "employee's illness or injury is attributable to the employee's serious and wilful misconduct, or the employee's gross and wilful neglect in the course of his or her employment", the employee is not entitled to be paid sick leave. Who will determine whether the employee engaged in serious and wilful misconduct or negligence? Will that be the employer's word or will someone be called upon to make a judgment? If it is the Commissioner for Workplace Agreements who makes a recommendation to the Minister on the matter, it will be a dead loss. Clause 22 refers to proof in support of claim for leave. It reads -

An employee who claims to be entitled to paid leave under section 19(1) is to provide to the employer evidence that would satisfy a reasonable person of the entitlement.

Who is classified as a "reasonable person"? I know the Minister will explain this at length during the Committee stage. I am sure he has been told by his leader and Minister in another place not to go into too much depth with this legislation, although he is already out of his depth. Clause 25 refers to "when annual leave is to be taken", and indicates that an employer is to give an employee at least two weeks' notice of the time when it is convenient for the employer for the employee to take the leave. In other words, the employee has no right of choice when he or she takes leave! If a person has a special reason to take leave, the employer has the absolute right to refuse. A small shop in Bunbury has two employees. The employer walked up to one of the girls and said, "I want you to take your holidays on Monday." It was Friday. That is how callous these people can be. The employee indicated that she had already applied for leave three weeks after that time.

Hon T.G. Butler: Under the award an employer is not entitled to do that.

Hon DOUG WENN: Under this legislation the employer will have every right to do that. Unfortunately, the industry to which I refer does not have a union, and these people could not run to anyone for help. The employer could say, "You're stuck with it; either that or take your holidays permanently and don't come back. There are plenty of people out there who will take your job."

Hon T.G. Butler: The problems would be massive if that was legalised.

Hon DOUG WENN: I have already referred to the provision regarding bereavement leave. The Minister must look seriously at the two days allowable, and amend the wording of the clause to include a parent-in-law. The provision refers to any person who lived with the employee as a member of the employee's family. Maybe the Minister is trying to cover the parent-in-law situation with that, but the reference is not specific enough and needs clarification.

If nothing else, I ask the Minister to extend the two day bereavement leave provision to four days and to extend the entitlement for bereavement leave to the death of parents-in-law. In my family, as in most families, one's parents-in-law are equally loved as one's



parents. The Minister may not like what I have said, but I will raise those questions during the Committee stage. The Bill contains many omissions including a reference to the status of Aborigines. It leans towards the employer. It is full of holes, but only for the employee. Will this Bill be revamped like the Workplace Agreements Bill in a version which is one-third larger as a result of amendments? I am willing to accept only a few parts in this Bill, but I sincerely hope the Minister will take on board the points I have raised.

Debate adjourned until a later stage of the sitting, on motion by Hon Bob Thomas.

[Continued below.]

## **SITTINGS OF THE HOUSE - EXTENDED AFTER 11.00 PM**

*Wednesday, 22 September*

On motion by Hon George Cash (Leader of the House), resolved -

That the House continue to sit and transact business beyond 11.00 pm.

## **STATEMENT - BY THE MINISTER FOR LANDS**

### *Vietnam Land Management Project*

**HON GEORGE CASH** (North Metropolitan - Minister for Lands) [8.02 pm] - by leave: To inform the House further, I wish to report on the latest developments in respect of an important project known as the Vietnam land management study following my visit to the Socialist Republic of Vietnam last month. It is now more than three years since proposals for a Vietnam land management system were prepared by our State's Department of Land Administration and taken to that country for consideration by Vietnamese Government officials. Since then, a project supported by the Western Australian Government and a consortium of private sector companies, known as the Institute of Land Management Australia, has been formally approved and is being jointly conducted in both Vietnam and Western Australia with officials of the Vietnamese Government.

The first stage of the project, a feasibility study, commenced early in 1993 with external funding support from the United Nations Development Program in Hanoi. The feasibility study has involved 18 Western Australian experts from DOLA, ILMA, the Valuer General's Office, TAFE and Curtin University of Technology working in Vietnam for several months earlier this year to carry out project work. In addition, by the end of October, more than 40 Vietnamese technicians and senior Government officials will have visited Perth for training in land management and related study tours as part of the project.

During my visit to Vietnam in August final approval was obtained from the UNDP and Australia's aid agency, AIDAB, to extend the existing contract with Western Australia to complete the next stage of this project commencing in 1994. This additional funding will permit a continuation of the successful Vietnamese/Western Australian joint education and training program in land management as well as the completion of three pilot projects in various parts of Vietnam in 1994. These will be carried out by Vietnamese technicians working with Western Australian land management experts. I am appreciative of the efforts of several Ministers of the previous Government in supporting this project during its formative stages. The present Government has also made a commitment to continue to support the work of public and private sector professionals who have been developing this initiative since its inception.

The Government has made a decision of continued support for the Vietnam land management project for two reasons. First, the project is seen as an excellent vehicle to strengthen the cultural, professional and trade links between Western Australia, Australia and Vietnam. Secondly, as the project proceeds to a larger scale, known as the implementation stage, it is likely to attract further funding support from international aid agencies. At that time there should be good prospects for Western Australian specialist private companies, with expertise in the land management field, to find commercial

opportunities to undertake work to assist Vietnam in the development of a modern land management system for the entire country. Western Australia is fortunate to have a well developed and efficient land management system and this project is seen as an opportunity for our State to share our expertise with a neighbouring country in the South East Asian region which is of growing commercial, cultural and political importance to Australia.

During my visit to Vietnam last month I was pleased to be given the opportunity to discuss the future of the project with Vietnamese Ministers and officials. The Deputy Prime Minister, Mr Tran Duc Luong advised me that the support of Western Australia was appreciated and timely as a new land law had only recently been approved by the country's National Assembly, making the work of the land management project even more urgent. The land management project is headed on the Vietnamese side by Mr Ton Gia Huyen, Director General of the General Department of Land Management in Vietnam. He is receiving support for his joint work with Western Australia from many quarters in Vietnam.

I had an opportunity to discuss our joint efforts with Vietnam's Minister for Construction, Minister of the Office of Government, the Chairman of Hanoi People's Committee, the Vice-Chairman of the State Planning Committee and the Minister for Heavy Industry and his Deputy Ministers. It is clear from their comments that the work being led from the Australian side by DOLA and ILMA in this project is building excellent relationships between our two countries.

The assistance of some of Perth's Australian-Vietnamese community in facilitating the cultural liaison between the Australian and Vietnamese working together on this project has made progress far easier. The support of the Australian Ambassador to Vietnam, Mr Michael Potts, and his able deputy, Mr Rakesh Ahuja, has proved an invaluable asset during the work of our Western Australian teams in Vietnam. At a local level, the successful public-private sector partnership which has been formed between DOLA International and the private sector consortium, ILMA, to carry out the project has been most successful and provides a useful model for other opportunities which might arise in the export of Australian expertise to overseas countries.

I was pleased to be given the opportunity, during my visit, to open a two day national seminar on land management held in Hanoi in August. The occasion was given national television and radio coverage in Vietnam, but perhaps more importantly, the catalyst for the seminar was a comprehensive report on land management issues produced by the joint efforts of Western Australians working in Vietnam and Vietnamese working in Western Australia.

**HON GRAHAM EDWARDS** (North Metropolitan - Leader of the Opposition) [8.09 pm] - by leave: I thank the Leader of the House for providing me with a copy of his statement earlier today. I also thank him for recognising the very important work done by Ministers in the previous Government in helping to establish this project. One of the disappointing aspects of losing Government is not being able to continue work on projects such as this. I am pleased to see that the Government has continued to pursue the Vietnam land management project, and I am pleased at the level of personal interest the Leader of the House has shown in this project. I congratulate him for making his recent visit to Hanoi. I also congratulate the team of workers from Western Australia in both the Government and non-government sectors for the excellent job that they have been doing. The project is very much one which will benefit the people of Vietnam and provide many opportunities for the consortium of private companies from Western Australia and Government officials working on the project.

Additionally, I hope the project will strengthen those cultural, professional and trade links between Western Australia and Vietnam and the development of social and professional opportunities. It deserves bipartisan support. However, the next time I get an opportunity to visit Vietnam by invitation, I would be happy to trade with the Leader of the House that invitation to attend a marathon in Ho Chi Minh city in January, get him to do the marathon and for me to open the next conference.

**LOTTERIES COMMISSION AMENDMENT BILL***Second Reading*

Debate resumed from 14 September.

**HON T.G. BUTLER** (East Metropolitan) [8.12 pm]: The Opposition supports this Bill in both principle and practice. Although we are not particularly enthused about retrospective legislation, we do appreciate that this piece of legislation does not change the rules in any way but retrospectively clarifies the rules.

The need for the legislation is as expressed in the second reading speech of the Minister; it is the result of a New South Wales District Court ruling in favour of an argument that the instructions on an instant lottery game were to some extent ambiguous. The instructions on the game were to match three numbers and win. The argument put forward by the complainant in that litigation was that the wording allowed for three pairs of numbers to be matched, not three single numbers, and clearly that was not the intention of the legislation. This was subsequently recognised by the New South Wales Supreme Court in dealing with a New South Wales Lotteries Commission appeal against the decision of the District Court. The Supreme Court upheld the decision of the District Court despite the fact that it claimed it understood the intention of the instruction on the instant lottery ticket. It believed the present wording to be sufficiently ambiguous to uphold the decision of the District Court. That decision of the New South Wales courts has virtually opened up a Pandora's box for most States, including Western Australia. It does not naturally follow that any claims lodged in the Western Australian courts would necessarily succeed simply because a claim succeeded in New South Wales; but it does follow that if claims were to come in and succeed it would be very costly to the Western Australian Lotteries Commission. We would all agree that that would mean money, not deservedly won, would be denied to many organisations that rely on the Lotteries Commission for additional finance to run their organisations. We do not want to see a situation such as that applying, and the Opposition believes that this Bill will correct the situation.

The amendments to the Lotteries Commission Act in this instance, in the opinion of the Opposition, put beyond doubt the intention of the instruction. That intention is clearly that one has to match three identical numbers, which means one needs three of a kind. We all know what three of a kind means. These amendments clarify very clearly the meaning of the match three money amounts, because it goes on to say that to win a prize the ticket must show three of the identical money amounts, tokens, symbols, matching numbers or whatever the Lotteries Commission means in that instance. The only other amendment to the Act is to section 16(5), which is to delete the words, where they appear, "lotteries gains" and insert in their place "other than instant lotteries gains". This is to clarify any misunderstanding that that section could apply to instant lottery games. The Opposition is pleased to support the legislation.

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [8.18 pm]: I thank Hon Tom Butler and the Opposition for the support given to this urgent legislation, which is needed to protect the funds of the Lotteries Commission which go to charitable organisations in this State. It amounts to quite a considerable sum of money, as they have found in the Eastern States. I commend the staff and the executive officers of the Lotteries Commission for the work they have done in getting together and liaising with the people in New South Wales who are putting through similar legislation to protect their interests. As Hon Peter Foss said, the NSW courts made an incredible decision but, nevertheless, we have to follow it up and protect the funds which will go to public and charitable organisations in this State. As Hon Tom Butler said, it was never intended that prizes should be paid out on three pairs but on three of a kind. That is the important fact we have clarified in these amendments, so that we do not have that type of claim against us. The sooner this goes through the better, so I thank the Opposition for its support.

Question put and passed.

Bill read a second time.

*Committee and Report*

Bill passed through Committee without debate, reported without amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and transmitted to the Assembly.

**MINIMUM CONDITIONS OF EMPLOYMENT BILL***Second Reading*

Debate resumed from an earlier stage of the sitting.

**HON BOB THOMAS** (South West) [8.21 pm]: One of my favourite advertisements on the television is about a couple of farmers. One farmer is looking over his fence watching his neighbour who is digging a huge trench which is disappearing into the horizon. The farmer who is working very hard is dirty and sweaty. His neighbour asks him what he is doing and he replies that he is making fertiliser. His neighbour then asks him how he is doing that and he replies that he is digging a trench which he will fill up with crushed sheep skulls. His neighbour then asks him what he will do next. He replies that he will cover up the sheep skulls with mulch, wait until the sun is at its zenith and then dig up the mulch, put it into 44 gallon drums and mix it with water. He will leave it for a while in the drums and then spread it over his paddock. He then looks over his fence and sees that his neighbour has a beautifully pastured paddock and behind him is his own paddock which is dry and certainly does not look as good as his neighbour's. He asks his neighbour how he is able to get such good pasture. He replied that he used superphosphate. I use that analogy because the Minimum Conditions of Employment Bill and the other pieces of industrial relations legislation before this House are as cumbersome and outdated as the process used by that farmer.

Hon Graham Edwards: He is using super-Foss-phate.

Several members interjected.

Hon E.J. Charlton: You are using something else that is more commonly known -

Hon BOB THOMAS: This Government has introduced 140 pages of industrial relations legislation into this House and it will operate in parallel with the existing award system. The legislation contains some terrible measures, including a secrecy provision to ensure that employees who sign workplace agreements with their employers do not divulge the contents of those agreements. This Bill and the Workplace Agreements Bill are both unfair. The legislation tilts the balance of power in favour of the industrially strong and wealthy - the employers who are usually well educated - against the weaker members of our community - the youth, unemployed, migrants and women returning to the work force.

In the same way the farmer I referred to does not need to go to the lengths to obtain the same benefits as his neighbour, we do not need to go to the lengths the Government is proposing in this legislation. Australia has a record low level of inflation; I understand it is the lowest for 30 years. Western Australia has a remarkable record in wage restraint. Industrial disputes in this State are at an all time record low and there has been a strong productivity growth which has been brought about because of the cooperative and consentient approach to industrial relations which has been the hallmark of State and Federal Labor Governments since 1983.

This State does not need this industrial relations legislation and I have serious reservations about the three Bills which have been introduced. I will refer to four reservations I have about the Minimum Conditions of Employment Bill. First, the Minister has the power to set a minimum weekly rate of pay and that is inconsistent and unfair. After all, we are talking about a Minister who, as a member of Parliament, has a base rate of pay of \$1 300 a week. He pays approximately \$500 a week in tax if he does not have any form of investment which allows him to negative gear to reduce the amount

of tax he pays. The amount of tax paid by a member of Parliament is almost double the proposed minimum rate of pay which this Parliament will have the power to set for workers in the community. On top of the \$1 300 a week members of Parliament are paid, they receive a vehicle allowance and 85 per cent of the telephone bill for their principal and second place of residence is paid. In addition a country member of Parliament receives \$8 600 per annum to maintain a second residence in Perth which allows him to attend parliamentary sittings and other parliamentary business. Members of Parliament also receive an electorate allowance of \$450 a week or more. It is wrong that members of Parliament should be the people who determine the minimum weekly wage because they are too far removed from reality to do that. It would be better determined by an independent commission or some other form of independent committee which is able to take into account the whole range of economic and social conditions applying in the community and to make a judgment on the minimum rate of pay. Members of Parliament or Ministers are not the best people to make that judgment and that is the reason we should ditch the relevant clause of the Bill and give autonomy to another committee to make that determination.

I am concerned that as members of Parliament we will be making these decisions based on the ideological positions we hold. There could be no person more ideologically driven on this issue than the Minister for Labour Relations. One only has to consider the way he treated his staff when he was an employer and the number of times the Miscellaneous Workers Union received complaints about his underpaying his staff at Keep Clean to know that he is the last person who should be setting a minimum weekly rate of pay.

I am also concerned that the Minimum Conditions of Employment Bill contains no provision for people to accumulate sick leave. I found it quite amusing that in the second reading speech the Minister referred to some common awards in which there is no provision for accumulation of sick leave. The Minister for Labour Relations has gone to those few awards which do not contain that provision and has found the lowest common denominator and used it as the minimum condition. This will be discriminatory to the very young and very old workers in the system. Many young people tend to take more sick leave because they are involved in sport, or they do not have the same level of physical maturity as other workers. Quite often in the workplace they approach things like a bull at a gate and they are prone to injury. At the other end of the scale are older workers with failing health, who are more prone to take lengthy periods of sick leave for medical conditions such as heart attacks, strokes and so on. Many employers will decide not to employ people in those categories, but will prefer to employ people in the middle-aged group who tend to take less sick leave. This will be a windfall for some employers, who will opt for that course of action. A far better system would be to allow employees to accumulate sick leave. In the long run it would probably be more productive for employers because there is nothing more unproductive than trying to fill a gap for an employee who has taken a day's sick leave and given very little notice. Also, when employees in the middle-age group realise that they will no longer be able to accumulate their sick leave, it may be that they will take more sick leave especially on those days when their health is at the margin and they are deciding whether they are ill enough to stay at home. This will be counterproductive for the employer. That provision in the Bill needs a lot of scrutiny, and I hope we shall be able to change it so that the Government does not make the big mistake of not allowing employees to accumulate sick leave. It can be seen that in very few cases do employees use all their sick leave entitlements before they terminate their employment. Most people carry that sick leave forward and they are generally not compensated for that sick leave, which is lost when the employment is terminated.

I am also particularly concerned that the Bill contains no provision for leave loading. I know that members opposite regard these industrial relations Bills as a way of reducing employers' costs. However, I want them to look very carefully at leave loadings. For example, an employee earning the average weekly rate of \$500 would accumulate four weeks' leave a year under the current award system and be paid a total leave loading of

\$350. That is just less than 1.5 per cent of the employer's total wage cost for that employee. Taking into account all the oncosts, it becomes less than one per cent of the cost of employing a staff member. We know that, on average, wages make up seven per cent of the total cost of running an enterprise. On that basis, less than one per cent of the seven per cent spent on wages becomes 0.1 of one per cent of the total cost of running an enterprise. There are many other ways in which an employer could reduce costs by that percentage. For example, an employer could continue to pay staff the leave loading and reduce his costs by renegotiating his existing loans or lease payments. That would reduce his costs by a lot more than 0.1 of one per cent. I know of many employers who have negatively geared their homes and purchased them in company names in order to reduce their liability for company tax. The percentage of an enterprise's costs that that contributes to the enterprise is far greater than 0.1 of one per cent. Many employers would be able to reduce their costs significantly if members of the coalition Government were prepared to take tough action and do something about the excessive rent rises set by shopping centres and the people who belong to the Building Owners and Managers Association. The Government should insist on a reasonable approach to rent increases for small businesses. When a shopping centre increases its rents, there tends to be a flow-on effect to all other rents in that area because shopping centre rents are used as benchmarks. If this Government did something about those excessive rents, it would be of much more assistance to small businesses than removing the small amounts paid in leave loading.

I have a specific interest in wanting leave loadings to be retained because my home town of Albany is becoming increasingly dependent on tourism. Eighty per cent of the tourist business in the Albany region comes from the metropolitan and country areas of Western Australia. The leave loading which applies under the current award system means that those tourists have a little extra money at holiday time when they come to Albany to enjoy the beauty of the region and the other advantages it offers as a holiday destination. Removing the leave loading will destroy an industry that is starting to become a major employer in our region. We need to have a good look at that and ensure that we do not make decisions which will have a minuscule effect on some employers but will have a dramatic effect on people in regional centres which are becoming increasingly dependent upon tourism.

I hope that when the Minister sums up, or at the Committee stage, he will give me some clarification about clause 45 of the Bill. The Minister stated in his second reading speech that "this Bill will require employers to keep relevant specified employment details of each employee working under a contract of employment. Such records must be available for inspection by the employee, a person authorised by the employee, or an industrial inspector." However, clause 45(2) states that "Relevant persons are the employee; and an industrial inspector under the Industrial Relations Act 1979." Nowhere does it refer to a person authorised by the employee. I hope the Minister will let us know which is correct. Is the Minister seeking to go further down the track of destroying unions and not allowing bargaining agents or unions to have access to those records, or is this a genuine oversight by the people who drafted this Bill?

I have other reservations about the Bill. I find it rather ironic that before the last election the coalition campaigned on a theme of more jobs, yet since the election we have seen a number of quite foolish decisions. In true "Yes Minister" fashion we have seen the Government portray itself as tough. We have seen it announce the closure of the Robb Jetty abattoir at the end of this kill season, and we have seen it announce the bad decision to close the Midland Workshops. Just last week it announced that school cleaning and gardening staff will be reduced by 25 per cent, or 1 100 jobs will be lost. The R & I Bank has announced that it will downsize its work force by 400 staff. We have seen a litany of other decisions whereby a large number of Government employees have been sacked or made redundant. Given that the Government has decided to downsize its work force in that fashion, I can conclude only that it must think that by introducing the Minimum Conditions of Employment Bill and the industrial relations Bills that we have before us, market forces will somehow magically create more jobs so that the Government can deliver its promise of more jobs.

I will point out to the Government some basic economic facts so that it can take those into account when it deals with this Bill at the Committee stage. In most small businesses, the number of staff employed is not determined by the level of wages that is paid. All small businesses employ enough people to meet the demand for the services or products which they provide.

Hon Peter Foss: Where did you get that information from? It is mind boggling.

Hon BOB THOMAS: I am about to tell the Minister. He should listen.

Hon Peter Foss: I am listening. I am wondering what is the basis of your statement.

Hon BOB THOMAS: Firstly, the demand for labour is not price elastic. That has been proved in a number of cases. I refer to some work done by the Bureau for Labour Market Economics. In the early 1980s, there was a big debate about youth wages, and the effect on employment levels of a reduction in youth wages was studied. In the United States during the 1970s, there was a downward movement in youth wages of about 10 per cent, but there was no increase in the number of youth employed in that country. At the same time in France, the youth wage was about 60 per cent of the youth wage in Australia, yet both France and Australia had similar levels of youth unemployment. One would think that if the demand for youth labour was price elastic, France, which had a lower level of youth wages, would have had lower youth unemployment because the demand for youth employment would have been higher. However, that was not the case. In Australia during the early 1970s we saw a real decrease in youth wages, yet there was no discernible increase in youth employment. Therefore, I believe that argument can be projected to adult wages and one can say that the demand for labour is not price elastic.

[Quorum formed.]

Hon BOB THOMAS: I can give a couple of examples. Recently, I had some conversations with employers. I was talking to an employer who has a small engineering workshop. He told me that he finds it extremely difficult to respond to organisations like the Commonwealth Employment Service which try to encourage him to take on subsidised labour, to give some people work experience under the various labour market programs. He said that quite often it means that he has to take somebody who is senior in the company, a supervisor, or someone who is a highly productive tradesperson and have that person supervise the new worker who has come into the enterprise. Some of those senior people in that company are paid over \$20 an hour. Over half of their day is spent supervising the trainee who comes into his company. With the rate of subsidy that he receives for the trainee sometimes he can pay as low as \$5 an hour for that person. It is unproductive for that enterprise to pay a person \$20 an hour to supervise a person who is paid \$5 an hour. He needs somebody who is efficient, productive and able to do the job that he requires to be done. He will take on as many people as he needs to do the work in his enterprise. His words to me were that he does not want people to come into his company and stand in a corner or push a broom around the workshop all day long. Members opposite think that if they reduce wages to the level of \$275 a week, somehow or other magically a lot more employers will take on more employees. That is fantasy. It will not happen.

Hon M.D. Nixon: Some people are worth more than others.

Hon BOB THOMAS: Exactly. That is another point that I want to raise in relation to the Minimum Conditions of Employment Bill. I think we should have some differential in the Bill to show that, as we have under the existing award system, where people are prepared to acquire skills, they will be treated differently. Nowhere in the Bill is there any differential for people who have been prepared to acquire those skills and be more proficient and productive. That is very short-sighted of this Government. Australia needs to continue to improve its increase in productivity levels so that we can secure those niche markets around the world and increase the level of manufactured exports that we are starting to see occur in Australia. This Bill will destroy that culture that we have begun to develop in our workplace which encourages employees to become multiskilled, to acquire skills, to become more productive and to improve export capacity. All of this will be destroyed with this trilogy of Bills.

I am also concerned that the industrial relations changes proposed by this Government will have a detrimental effect on small business. We all know that most employers pay the award rate. They do not pay any more.

Hon B.K. Donaldson: That is not right. It is a load of rubbish. Employers pay above the award rate. You know damn well they do.

Hon BOB THOMAS: Some do.

Hon B.K. Donaldson: Have you been an employer yourself?

Hon BOB THOMAS: Yes; I have.

Hon B.K. Donaldson: Did you pay over the award?

Hon BOB THOMAS: I pay over the award. In the retail industry 85 per cent of people employed are paid no more than the award. Under the Minimum Conditions of Employment Bill this will become the benchmark. There will be a downward pressure on wages and we will see a larger number of people in our work force receive these low levels than are receiving the minimum wage in Western Australia now. Hon Kim Chance showed that in the deregulated labour market in the United States the number of people receiving poverty wages is 10 per cent of the work force; in Australia it is about three per cent. Under the deregulation that the Government is imposing more and more workers will be pushed down to the minimum wage. If the Government does not think that will happen, it is living in cloud cuckoo land. It will have a detrimental effect on small business.

Most small businesses provide non-essential, luxury goods. As more and more workers are pushed onto lower wages, they will tend to pay their rent and buy their groceries but because they have less money left over after those payments, they will cut back on non-essentials. They will stop buying the sorts of things that are supplied by small business. In the first pay period small business may have the benefit of a lower wage bill. But most of its customers will have much reduced spending power and it will see that its take through the till will be greatly reduced. It will be reduced by an amount far greater than the savings that are made on wages. In my view reducing wages in the way in which the Government is trying to do in this legislation is a false economy. It will hurt most the Government's constituency; that is, small business. I think the Government wants to have a good think about this legislation before it is passed.

I do not believe the Minister when he says that the Minimum Conditions of Employment Bill is a safety net. It is the lowest common denominator. It is probably best described as the lowest level that this Government is prepared to tolerate. It is not a safety net. It will have a detrimental effect on small business.

I want to make the House aware that there is a view among more right wing think tanks and the Federal Treasury people that the unemployment levels we have in Australia are inefficient. They believe that is caused by so many of our workers in this country becoming unemployed. These workers have reached the stage where they are now virtually unemployable. Their self-esteem has become low and their skill levels do not match up with the jobs that are becoming available in our modern economy. A very large proportion of our unemployed in Australia has become almost totally removed from the work force. About 30 per cent of the unemployed people in our community are almost unemployable because of the factors I have described. Some people are saying that the level of unemployment we have in Australia is not acting as a downward pressure on wages.

It is the old supply and demand argument; if there is a large supply of people who are unemployed and prepared to accept lower conditions and lesser wages, some downward pressure will be on wages. The Federal Treasury believes that the level of unemployment is inefficient and not acting as that break. I believe that the coalition Government here in Western Australia is aware of that and decided to introduce its own legislation to try to put more pressure on the workers of this State to accept lesser wages and conditions. That is contemptible.



In view of the Workplace Agreements Bill dealt with in this place last week it is quite clear that this Government believes that Western Australia is living beyond its means. It believes we must cut back, but that only the lower paid, the less well off and the weak in our community are those who must cut back. The Government is not prepared to do anything to cut back on ballooning executive salaries. In the past 10 years, the level of wages and salaries for workers in this country has increased by about 40 per cent while inflation has risen by 70 per cent. Executive salaries have gone up by 195 per cent. I do not see anywhere in the trilogy of industrial relations Bills which have come before this House an effort to tackle that. Those salaries are far more counter productive to good industrial relations and productivity in this country than any small increases in wages that the wage and salary earners have been receiving lately. I hold this Bill in contempt and do not support it.

**HON J.A. SCOTT** (South Metropolitan) [9.02 pm]: I refer members to the speech given by Hon Doug Wenn in which he said he was mystified by an appearance of an "or" in the middle of a clause of the Bill. I can shed some light on that - I think it has fallen off the ship of State since the introduction of this infamous or unholy trilogy of Bills to the House.

A number of areas of this Bill are of concern to me; the first is the ethos behind it. The Government seems to have a blind faith in the market place to provide good wages and conditions for workers by some mysterious, unaccounted for good heartedness which has not appeared before.

Another area of concern is the evanescent nature of the wording of the Bill. One need only look at clauses 14 and 15 of the Bill, for instance, which provide that the Industrial Relations Commission is to review the minimum rates of pay and make a recommendation to the Minister. Under clause 15 it all disappears; the Minister can determine a rate or rates different from the recommendation. On one hand the commissioner can give his view of a proper rate and on the other hand the Minister can decide not to accept it. Also, in the application of minimum conditions, a clause provides that, generally, minimum conditions will apply unless conditions are more favourable. In other words, conditions apply, unless they do not, which seems to be a very strange thing to say.

Hon John Halden: It is fairly consistent in this Bill.

Hon J.A. SCOTT: Some of these provisions seem to be gobbledegook to me, to use a good Peter Walsh phrase.

Another area which concerns me is the control by the Minister of pay rates. This movement by the Minister into controlling pay rates is a backwards step. The minimum amount of \$275 a week is not a proper rate of pay and the probability under this Bill is that the unskilled and those with less sought-after skills in the community will be exploited.

Another area of concern are the clauses which provide that pay and conditions are to be a matter of agreement between the employer and the employee. Under clauses 20, 22 and 28 a mysterious thing happens: Initially, an agreement exists between the employer and the employee, but under clause 20, headed "No entitlement to sick leave in some cases", ultimately someone must make a decision about whether the employee is entitled to be paid for his absence from work resulting from the illness or injury. However, it does not say who should make the decision. Is it the employee or is it by agreement between the employee and employer? The same occurs under clause 22. An employee who claims to be entitled to paid leave under clause 19 is to provide to the employer evidence that will satisfy a reasonable person of the entitlement. Who then makes the decision about that? Does it come under a workplace agreement or does the employer decide? I can imagine that Mr Kierath would like the employee and the employer to sit down and decide between themselves whether the employee is really entitled to have that leave.

Hon Tom Helm: This Minister does not know. He is very quiet on the matter.

Hon J.A. SCOTT: Workplace agreements are to apply in some places, but in other places

they are not agreements, they are edicts from above. The areas I am most concerned about are those not covered by this Bill. I call it the minimalist conditions of employment Bill because of what it leaves out. It does not cover a number of areas of importance to employees. In particular, I would like to know what the Bill will do to protect the rights of women seeking work in places where they might be waitresses such as the Slic Chix restaurant. The protection of the Health Act regarding the working conditions of those waitresses has been removed because of the view of the Minister for Health that it is a moral issue, rather than a health issue.

Hon Peter Foss: It does not come under the Health Act, or was that a gratuitous remark about morals?

Hon J.A. SCOTT: No; I realise the Minister has taken away that protection. I probably agree it should not be part of the Health Act, but there must be somewhere -

Hon Peter Foss: They did not have protection from being exploited. There are all sorts of ways in which they can be exploited, but the Health Act can stop them having meals eaten off their stomachs.

Hon J.A. SCOTT: That is exactly right, but some protection -

Hon Peter Foss interjected.

Hon J.A. SCOTT: Maybe the Minister does not believe women should be protected from having to work under conditions like that.

Hon Peter Foss: That is not the point at all. I administer law according to the law; I do not make it up as I go along. I hoped you would applaud that.

Hon J.A. SCOTT: I had not noticed it.

Hon Peter Foss: Are you suggesting that I should have used the law to deal with matters in the way I want?

Hon J.A. SCOTT: I am not saying that to the Minister. I am suggesting that there should be protection in the Bill beyond just money and leave.

Hon Peter Foss: And you made a smart arse remark, didn't you?

The DEPUTY PRESIDENT (Hon Murray Montgomery): Order!

Hon J.A. SCOTT: I do not know; maybe the Minister does not want to see any protection of that sort.

Hon Peter Foss: You are being too clever by half, Mr Scott. A typical Green.

Hon J.A. SCOTT: Perhaps the Government benches go along with employing naked women as dinner plates. I do not believe that should be the case.

Hon Peter Foss: Nor do I, Mr Scott.

Hon J.A. SCOTT: My party and I believe that we should protect the dignity of women and all workers. This Bill does not do that. It is an economic, fundamentalist dinosaur that I believe will lower productivity, crush people's dignity and cause bitter divisions in the community. I oppose it.

HON MARK NEVILL (Mining and Pastoral) [9.12 pm]: Predictably, I oppose this Bill. It looks fairly harmless when one first reads it.

[Quorum formed.]

Hon MARK NEVILL: Only when it is read in conjunction with the Workplace Agreements Bill and the Industrial Relations Amendment Bill can one see the real intent of this Bill. One of the problems that I have in reading the Bill is that I cannot determine who will enforce its provisions. What penalties will apply if people do not pay these minimum rates of pay and adhere to the minimum conditions? Perhaps the answer to that lies in other legislation. Perhaps it lies in the Industrial Relations Amendment Bill which I have not had time to read. However, the enforcement provisions and penalties for people who do not abide by the minimum conditions and rates of pay are not clear in this

Bill. Of course, there are penalties for people who do not keep proper records and who do not produce those records when they are required. However, the enforcement provisions are not clear unless one reads the Justices Act or knows about the other methods that will be used to enforce the provisions of the Bill. The Bill refers to the Justices Act and the Industrial Relations Act.

Taking into account the philosophy of members opposite, I am concerned about how much effort will be put into enforcing the provisions of this legislation. Will the enforcement functions be properly resourced and funded; because there is not much point in having minimum conditions if there is no way to ensure that they are complied with, particularly in the regional areas of this State. At the moment a large number of people working in certain industries receive lower than the award rate. To a large degree, the employers get away with paying those low rates. It will be interesting to see whether this Bill will improve compliance with the minimum conditions. The industries I am talking about include market gardening, wildflower picking, farm labouring, fruit picking and some areas of the restaurant industry. Will the Minister assure me that that area of enforcement will be adequately resourced and that there will be a serious attempt to ensure that the minimum conditions are adhered to?

As I said in the debate on the Workplace Agreements Bill, the real aim of the legislation is to reduce the involvement of unions and weaken the union movement. That will probably occur in the short term. However, my experience is that, in the longer term, whenever someone sets out to destroy the union movement, it bounces back even more strongly and becomes more resilient. We saw that in recent years with attacks on the union movement. People banded together to protect their wages and conditions. This Bill is designed to dismantle that protection.

The thrust of the Labor Party and people of my political persuasion over the years has been to try to assist the union movement to improve services to its members and to improve their response to the many situations with which they are faced from day to day when fairly vulnerable members need assistance. We have always believed that the better educated the union shop steward and delegates are, the smoother the industrial relations system works. I do not think it follows that the better educated and smarter they are, the more trouble there is. That has not been the experience of the last 10 years when we have really received value from trade union training. So we have a very different philosophy. Ours is to foster the union movement and try to make it more responsive and pro-active and to help it provide a better service to its members.

I move on now to the minimum rates of pay under the Bill. My understanding is that the figure of \$275.50 is the minimum adult rate of pay that applies to adults doing apprenticeships. It is the lowest of all the rates and my concern is that it will be seen by many employers as being a standard that should be aspired to rather than a minimum. I have a letter to which I will probably refer later that perhaps reflects the mentality of some employers, probably a minority, a small number, who will see this minimum as the standard rather than the bottom of the net.

When reading the Bill I was also disturbed to see that the commission is given the job of reviewing the minimum rate of pay each year and it will make a recommendation to the Minister. But the Minister is not bound by that independent assessment. The Minister can decide what the minimum rate of pay should be. The Bill says that in determining the rate of pay, the commission can take submissions. It would be very surprising if the Government did not put in a submission. Basically, the process will go around in circles. At the end of the day, after the commission has considered the submission and made a recommendation, the Minister for Labour Relations will have to prescribe a rate. It removes any semblance of independence from that process and I think such independence is essential.

We already have minimum conditions in awards. The effect of this Bill will be that the pay and conditions of that section of the work force that does not have any bargaining power and whose jobs can be taken by anyone will gravitate towards this minimum. The net result will be a less contented work force. With that discontent, there will be more

disputes. As I said previously, I do not know much about this area of law or practice and I will stand corrected by anyone more expert in this area, but that is my instinctive view as to what will happen. We will see a division in the work force. The people with bargaining power will get stronger and the Government will lose the control it presently has over their wages and conditions. The weaker sections of the work force will get weaker. That goes against the grain of my basic philosophy, because I come from a large working class family that never had any surplus money. I certainly will not forget where I come from. I know that even today many people experience that level of difficulty in financial matters.

I want to take an example to show how one of these groups will be very vulnerable under the legislation. Today I phoned the shop assistants' union and spoke to a Bill Johnson; I am not sure what his position is. I asked him about the shop assistants' award. He was very helpful. I am not sure whether he is an organiser -

Hon T.G. Butler: He is a sort of assistant secretary.

Hon MARK NEVILL: He is one of the staff of that union. He told me that under the shop assistants' award a 21 year old earns \$385 a week, which is \$110 more than the minimum rate proposed under this Bill. I put it to members opposite that that whole group of people in our community will be vulnerable under this legislation. Most shop assistants, I would imagine, can be trained fairly quickly and their rate at present is \$110 above the minimum weekly rate. There is a lot of free fall there for those thousands of people in Western Australia who work under that award. They will certainly be very nervous about this Bill becoming law. Under their award they get an extra \$25 for working on Saturday and their pay on a Saturday under this legislation could drop from \$16.20 an hour to \$7.91 an hour, which would be the equivalent of the hourly rate under this minimum rate of pay per hour on a Saturday. That would be a 50 per cent reduction. It is possible, if not probable, under this Bill that their hourly rate for working on a Sunday could be reduced by 70 per cent. Under that award there is a 40 per cent loading for the night casual rate.

[Quorum formed.]

Hon MARK NEVILL: Under this Bill, penalty rates do not have to be paid, so the pay of those under that award could drop from \$14 to \$8. The normal rate for a shop assistant of 21 years of age and over is \$12.66 an hour under the award. That could drop to \$7.91 under the proposed minimum conditions of employment. If those people are paid piece work rates or a commission, there is no minimum rate. Many employees working under the shop assistants' award may be on piece work or commission. Those people who stack shelves at Coles and Woolworths during the night could be paid on the number of boxes they empty to fill the shelves. There is no obligation under this legislation to pay them a minimum rate. All they must be paid is the piece work rate or the commission rate, which could be way below the minimum weekly rate. I am sure many employers will use that avenue to reduce wages, and some will use it to reduce them to below the minimum conditions set under this Bill. Other employees who may be very vulnerable to these piece work rates and commission rates work in the clothing industry. Under this Bill they will be paid no retainer; all they will get is their bonus for selling clothes. The same applies to employees who are selling furniture. The Bill opens up a can of worms which will cause a lot of discontent and anger with this Government, and in some cases perhaps lead to industrial disputes.

The Bill will clearly impact on women more than anyone else. They are typically the employees with lower paid jobs, and they are over-represented in unskilled jobs. The real effect of this Bill in my view will be to reduce significantly the earnings of more vulnerable women in our society, particularly those on lower incomes.

I refer now to sick leave and point out that under the shop assistants' award an employee receives 10 days' sick leave annually which is cumulative from one year to the next. Under this Bill it will not be cumulative. The Bill provides for two days' bereavement leave to be given. I give the Government credit for employing 50 more Aboriginal health workers, but the Government will find that if there is a death in someone's near family those workers will go off for a week or two. That situation must be accommodated.

Hon Peter Foss: It is a broader range of people than the Bill deals with. Their uncles, aunts and other relatives are different from ours.

Hon MARK NEVILL: If the Government wants to keep these people in jobs and build up their skill levels -

Hon Peter Foss: That applies to a lot of awards. They do not cater for the time Aborigines want to take. You are right. Everybody has to make special arrangements for Aboriginal people whether they are under an award or not.

Hon MARK NEVILL: I am pleased to hear the Minister say that.

Hon Peter Foss: I do not think you can define Aboriginal culture as a minimum for everybody because it will cause all sorts of difficulties.

Hon MARK NEVILL: I am not an authority but I think it would be difficult to work that into legislation. Perhaps it should be done by convention.

Hon Peter Foss: Those 50 people are not all health workers; they are 50 workers of all types in the Health Department.

Hon MARK NEVILL: I hope some will be in hands-on positions.

Under this Bill people who work on Sunday could face a reduction of up to 70 per cent in the money they receive. Under the shop assistants' award they work on Sunday only if they agree. Under this legislation a person could be required to work every day of the year. I know that is taking my argument to the extreme, but it could be required of an employee. I do not believe that is a sensible way to go.

I refer now to annual leave. The clause dealing with this aspect seems fairly clear to me, but I have heard some rather obtuse interpretations of it and the Minister should say what he understands it to mean. As I read it an employee gets pro rata annual leave for any part of a year that is completed. If a person works for 18 months he or she receives annual leave for 12 months worked plus pro rata annual leave for the next six months. Some people who have read this clause have placed a rather obtuse interpretation on it and said that workers will not get the pro rata payment in all cases. For my own benefit I would like the Minister to clarify that employees will get pro rata annual leave.

Hon Peter Foss: On a weekly basis.

Hon MARK NEVILL: Is that correct?

Hon Peter Foss: That is how I read it.

Hon MARK NEVILL: I do not agree with the interpretation which some people have placed on it.

Hon Peter Foss: I agree with you.

Hon MARK NEVILL: The other disturbing aspect of the annual leave clause is that a person can contract out of annual leave and have a payment in lieu. My reading of the Bill is that an employer can make an agreement with an employee to pay him or her \$50 in lieu of annual leave which may be worth \$2 000 to the employee.

If that is done before they sign up, and if the employee wants the job he might have to agree. It is disturbing that the Bill allows employers to contract out in a situation where the employer can take advantage of a person and pay him a lot less than the normal four weeks' annual leave.

Hon Peter Foss: The question is whether it should be a commensurate benefit.

Hon MARK NEVILL: Yes, I would expect it to be, but that is not the way I read it. The Minister in another place has foreshadowed a second raft of amendments to this Bill. I have received my information second-hand, but I presume it is correct. I would be interested to know what these amendments will relate to and whether the Minister will amend the Truck Act. That Act requires an employer to pay an employee in cash.

Hon Peter Foss: I thought that was amended to allow a cheque.

Hon MARK NEVILL: A cheque is okay. If the Minister in another place is proposing to amend the Truck Act, or even abolish it, an employer could pay an employee in kind for annual leave.

Hon Peter Foss: A benefit.

Hon MARK NEVILL: Yes, rather than in money, so if one ran a restaurant one could give an employee's family a free feed on Sunday night rather than pay the employee cash. I am interested in what the amendments might be. I have heard that the Truck Act will be amended. My concern is that it might be amended in such a way that payments could be made in kind rather than cash or by cheque.

The reaction of the average Australian worker to this sort of legislation has been clearly reflected in Victoria with an exodus to the Federal system. I would not be surprised if that occurred here, although I do not have my finger on the pulse in these sorts of matters. I am not convinced that the Government has articulated how greater market flexibility, expected under this legislation, will boost economic activity and employment. In a private conversation with me - and frankly I was not convinced - Hon Eric Charlton tried to explain that is one of the central aims of this Bill. It has not been articulated or demonstrated by experience elsewhere. What we want from this legislation is a strong increase in employment and in economic activity, but I am not sure we will achieve that. The Government has not articulated those two aspects of the Bill's purpose. I am not sure that the Bill will result in more jobs. We have witnessed consistently that efficiencies usually result in the shedding of jobs. We have seen that in the banking sector and in all other sectors of the economy. This legislation will not necessarily result in the provision of more jobs.

As I said in my opening remarks, I am not overly concerned about the ability of the union movement to survive the attack that these three Bills represent. This legislation will strengthen our support in the community; it will make the unions more resilient and stronger. We may see some initial advances but we will probably end up with a stronger, better and more effective union movement. That is generally the outcome of this sort of proposition.

Hon Peter Foss: We hope that unions will look after their members, as opposed to resting on their current laurels. That is the desirable outcome.

Hon MARK NEVILL: Unions are like employers; some are better than others.

Hon Peter Foss: I agree.

Hon MARK NEVILL: We should try to increase the performance of the unions that are not providing a good service to members, to the level of the unions that do provide a good service. Most of the unions in this State work hard and look after their members to the best of their ability.

The only other comment I wish to make on this Bill is the same as I made during debate on the Workplace Agreements Bill; that is, I am disturbed by the silence of Government members - although Hon Ross Lightfoot's interjections probably add up to a reasonable proportion of a speech. One consolation for members opposite is that they will not be sentenced to 10 years on the Government backbench, not being able to say much, basically with their lips buttoned, because I am sure that this type of legislation will ensure their speedy return to this side of the House.

The Bill is not necessary. It will be seen as a standard to aspire to by many employers at the bottom end of the wages market. Its provisions will not be regarded as minimum conditions. This legislation will impact heavily on women and, although I have not gone into a couple of areas that I intended to explore, it will be a lawyers' gold mine. I can almost hear them licking their lips. I strongly oppose the Bill.

HON TOM STEPHENS (Mining and Pastoral) [9.49 pm]: The Minimum Conditions of Employment Bill is another piece of legislation which I oppose in every detail and every principle. This evening I had the opportunity to have my family with me in the dining room during the dinner break. This is a relatively recent innovation in this

Parliament by which members' families can be here during the break in the parliamentary day.

Hon W.N. Stretch: It is nice to have a few friends!

Hon TOM STEPHENS: Indeed. While looking at my young family, I remembered that after dinner I would speak in the Chamber on an issue with enormous implications for the State and my youngsters as they grow up. This legislation will impact upon the Western Australian community when they are adults. That thought is disturbing and daunting. One hundred years of industrial history is being swept aside in the process of this legislation, and this will make it more difficult for people to allocate their labour and expect a fair return for that labour. This trilogy of Bills represents a horror story.

I found it interesting to have the opportunity to listen to a speech delivered by a Government backbencher.

[Quorum formed.]

Hon TOM STEPHENS: This speech by the Government backbencher was not delivered in this Chamber. Surprise, surprise! It was delivered in my electorate last Friday in the township of Newman. This was an opening ceremony at which Hon Norman Moore was to speak. For understandable family reasons, the Minister could not be there and he was represented by his colleague, Hon Derrick Tomlinson. This member did the right thing and put aside the speech prepared for the Minister and gave an extremely compelling speech. He said to young unemployed persons participating in a work project in Newman the following words: "As you know, unemployment sucks." I was intrigued by the speed with which the member developed a rapport with the young people in my electorate, to my regret!

Hon B.K. Donaldson: He is a likeable fellow.

Hon E.J. Charlton: They would not be used to that in the area!

Hon TOM STEPHENS: He should be on the front bench - he could replace a few on it now.

Hon N.F. Moore: Indeed, he could.

Hon TOM STEPHENS: The Ministers should watch out. Hon Derrick Tomlinson said in his speech that unemployment sucks. He touched on a key issue for these young people, who were the beneficiaries of a program put in place by the previous Government. I regretted that I could not speak to these people myself.

Hon E.J. Charlton: You created the unemployment.

Hon TOM STEPHENS: I offered to speak about this project which was funded when we were in Government, and I thought I may do so on this occasion, particularly when I heard that the Minister was not available. I thought I could step in and take over.

Hon N.F. Moore: You have forgotten what happened in February.

Hon TOM STEPHENS: The Minister for Education has been too busy proposing to shut things for his Government and taking credit for things done by the previous Government! This Government has a hide as the Premier prances around the north opening airports while the Attorney General is shutting gaols. This Government runs around the north west taking credit for things built by the previous Government. That is why I refer to Hon Derrick Tomlinson's comments to the crowd, with whom he struck up a good rapport. A thought occurred to me in relation to his comments and this Bill: As unemployment sucks - to use Hon Derrick Tomlinson's term - so does employment based on unfair wages and conditions.

Hon P.R. Lightfoot: You have not been eating the funny mushrooms again, have you?

Hon TOM STEPHENS: I have not. If the member can tell me from where he gets them, I might try them to see whether they make me as eloquent as the member - namely, struck dumb.

Hon W.N. Stretch: How about the Bill? Come on.

Hon TOM STEPHENS: We run the risk in this legislation of striking pay and employment conditions which will be the source of great inequity, disquiet and tension in the community. In another debate in consideration of these three Bills I referred to my first experience of employment as a young builders' labourer and being robbed at the hand of the employer.

Hon Peter Foss: Oh, not again!

Several members interjected.

Hon TOM STEPHENS: One aspect of which I did not tell the House -

Hon E.J. Charlton: As well as lying on the back of the truck?

Hon TOM STEPHENS: - was how this experience - like my dislike of lawyers - welled up in my heart the sense of the inequity and injustice against me as a young employee.

Hon P.R. Lightfoot: The bloke deserves a VC for employing you.

Hon TOM STEPHENS: Evil thoughts developed in my heart regarding the situation, as I often have about members opposite! I thought of the inequities perpetrated on me. I did not receive the justice of the five weeks' wages I deserved.

If we are to believe the Minister for Labour Relations' press release, and this Bill is to introduce this new order in Western Australia, we will create the climate of ensuring that the work force in this State will be faced with inequity and injustice from which they will have no recourse. They will have no opportunity for striking just wages and conditions. That brings within it the opportunity for the seeds of destruction of a stable community. We will see instead the replacement of basic stability in the process of industrial relations in this country, certainly over the past 10 years and over a broad sweep of Australian history for almost 100 years. It will be replaced for no good reason by a Bill that drives a real nail into the coffin of equity and justice in our community such as has been available through the industrial relations processes of this State.

Hon E.J. Charlton: You are a pretty intelligent bloke, and even you would realise what has happened in Australia over the past 10 years.

Hon TOM STEPHENS: The Minister's Government has produced a Budget which demonstrates that, after 10 years of a Labor Government, it is faced with an economy that is growing naturally as a result of 10 good years of administration.

Hon Peter Foss: Ten years of debt.

Hon E.J. Charlton: Every cent of income will come as a consequence of what was put in place 20 years ago.

Hon TOM STEPHENS: The Minister for Transport knows damn well that the only thing that will put the community of Western Australia at risk is his Government's using the opportunity of being in office to drive ideologically based legislation such as this through the Parliament to cause dissent and disunity in our community. The WA community has had a sound economy during the 10 years of Labor Governments. I will not resile from those comments. The Treasurer has been able to recognise the error of his ways and bring down a Budget which demonstrates that the State of Western Australia is on a path charted by the former Government that has been continued almost unchanged by the Budget that was delivered last week.

Hon W.N. Stretch: You have lost the plot. You put one million people out of work.

The DEPUTY PRESIDENT: Order! Members, I am not sure what it is, but there were very few interjections on the last couple of speakers, and I would like that scenario to continue with the present speaker.

Hon P.R. Lightfoot: He is inciting us and saying untruths.

Hon TOM STEPHENS: Not true, Mr Deputy President. The laws of our State will be effectively placed in imbalance with the passage of this legislation. We will see an imbalance struck between capital and labour that has not been the case in this State for many decades.



Hon P.R. Lightfoot: Isn't that what we are about, striking a balance between capital and labour?

Hon TOM STEPHENS: That is what the former Government was about. This legislation is about an imbalance. What has been in place for the past 10 years has been the balance that has brought about the stability and economic soundness about which we can all be proud. Members opposite were in Opposition for the past 10 years and we, when in Government, were responsible for the growth and prosperity that has continued. But we need some real focus on the question of unemployment and certainly no focus on these questions of striving to bring about disharmony and discord in this otherwise peaceful State. The new members on the other side of the House of which there are a couple in the Chamber, and perhaps occasional visitors to this place, may be puzzled by the experience they are having certainly in the processes of this debate in the passage of this legislation before them.

Hon B.K. Donaldson: We have not heard anything yet.

Hon John Halden: Come to think of it, you have not said anything either.

Hon TOM STEPHENS: We have seen unleashed in this Chamber an unusual process by any standard. We are seeing very lengthy speeches from the Opposition benches, all extremely interesting and containing new material introduced from a variety of different speakers, all putting forward arguments in the process of this debate to explain why this legislation should be given the thumbs down and defeated at this very early stage of its consideration. In the face of the enormous number of contributors from this side of the House we have nothing from the other side of the House except contributions by way of interjection from Hon Ross Lightfoot.

Hon John Halden: Mostly wrong.

Hon TOM STEPHENS: They have highlighted more than anything the confusion that reigns on the other side of the House. Mr Lightfoot has demonstrated time and time again by way of his interjections that he does not understand the legislation. Even if by some extraordinary good fortune he is right about the legislation, it is clear that there are 14 or so other legislators in this place who have a different view of the same clauses about which he was speaking. It tends to suggest that the legislation is very poorly drafted if it can produce such divergent viewpoints and different interpretations about the same clauses of the Bill. As far as I can see it has been Hon Ross Lightfoot on that side of the House and some 14 members on this side arguing about the interpretation of the Bill.

Hon P.R. Lightfoot: There was only one or two in the Chamber on your side.

The DEPUTY PRESIDENT: Order!

Hon TOM STEPHENS: I am looking forward to the speech by Hon Ross Lightfoot that might develop an argument on why his interpretation of the Bill is accurate.

I was talking about the unusual process that has been unleashed in this Parliament. We should look at the parliamentary process in the consideration of this Bill. There are times when we will see legislation which will provide, to use Noam Chomsky's words, "an opportunity to manufacture consensus". I know he uses it in a pejorative way.

Hon P.R. Lightfoot: That is your Caucus.

Hon TOM STEPHENS: That provides an opportunity for legislation to arrive and the Government and Opposition to consider it and hopefully refine it, process it, and have emerge through that process a manufactured consensus where we get better legislation that serves the interests of the Western Australian community.

Hon Bob Thomas: Don't hold your breath.

Hon TOM STEPHENS: Sometimes that process can be achieved quite speedily. For instance, take the Lotteries Commission legislation. That legislation touched on some core issues.

Hon W.N. Stretch: What about talking about this Bill?

Hon TOM STEPHENS: I am by making a comparison between this Bill, which has a range of core issues, and the Lotteries Commission Bill, which touched on some core issues about which one might expect some substantial debate. The Opposition understood and could agree on why that Bill be given priority, dealt with rapidly and headed off to the other place to be processed as quickly as possible to ensure that community groups which are the beneficiaries of Lotteries Commission grants are not disadvantaged by the problem that has emerged by way of a court decision in New South Wales.

Hon Bob Thomas: It probably had something to do with the nature of the Minister.

Hon TOM STEPHENS: This Bill represents an extraordinary contrast to that Bill. We see a Government that is intent on doing the very opposite to manufacturing consensus; indeed, perhaps we will not see many occasions that the Court-Cowan coalition Government is in office when it will even be interested in such a process of developing a consensus in the Parliament or in the community about its legislative program. This legislation was rammed through the Assembly with the processes that we know were unleashed there and now rammed into the Legislative Council, with silenced Government benches and with voluble Opposition benches opposing the legislation because of our assessment of it. Opposition is coming from the State Parliamentary Labor Party, from the Greens, from the Independent Liberal, from the community, from the Trades and Labor Council, from the union movement and from the work force. Criticism has come from the Federal Government, from the Industrial Relations Commission and from the lawyers.

Hon W.N. Stretch: What about the million you left unemployed?

Hon TOM STEPHENS: There are even criticisms from elements within both the work force and the employers. We are not even blessed with hearing from the Government benches whether there is any dissent in their ranks about this legislation. All we have is the shaking and nodding of their heads and the occasional interjection from Hon Ross Lightfoot; otherwise there is deafening silence and acres of leather empty on the Government side.

On occasions like the debate on this Bill in another place we have seen the playing out of some serious theatre. That brings us to recognise another role of this place that new members in particular need to understand, that sometimes there are issues in this community about which firm views are held, divergent and in conflict, where this Parliament becomes the stage where the playing out of that conflict is carried out. The process of deliberation on this legislation is quite clearly an occasion when that happens. This is a classical clash between capital and labour such as that which has gone on forever in the democracy as we know it in this country. It has been resolved in better ways in previous deliberations over legislation, but it is now being played out in this arena. Because of the arrogance of this Government, it will use its brute force to play out the clash but use its numbers to conquer opposition, despite the arguments in the community for the opposite viewpoint. We will not see even a half-hearted attempt to manufacture a consensus within this community over this legislation. New members must understand that role, that sometimes this House becomes the place where we play out the conflict and deeply felt passions over this issue, while recognising that in other countries this sort of conflict is played out differently.

In our community we do little more than offer strong, passionate contributions, at least on this side of the House, rather than adopt the processes which take place in other countries, such as the conflicts that are unleashed in Bosnia-Herzegovina, Somalia and South Africa, where conflict develops in the streets. Here we play it out in the theatre of Parliament and with nothing more than our contributions, feelings and passions about what is wrong with the initiative of this Court-Cowan Government as it proceeds with the movement of this Minimum Conditions of Employment Bill through the House. We are left not with chucking bombs and grenades at one another but with our verbal contributions of speeches, taunts and abuses, which is what we have brought ourselves to

do in this parliamentary democracy. Hon Bob Thomas reminds me that Parliament is a clearing house for political differences in our community. In this community that is all we are left with. We hope that in considering issues as important as this we become the clearing house for those passions and political differences but, by and large, we should recognise the challenge that when passions are running high, there is a warning to a Government and an invitation to a Government to come back to the concept of manufacturing consensus and not leave unhealed in the community the rifts this legislation will cause.

I am puzzled by the handling of the legislation by the Minister for Health, who has responsibility for it in this House. He said by way of interjection a few minutes ago to Hon Mark Nevill that he hoped this legislation would strengthen the union movement. We know that this House has within the Public Gallery at this time limited numbers of supporters for this legislation. They are present because they want to see, through this legislation, the demise of the union movement. Because of their deeply held convictions, they do not see a role for the union movement standing between employer and employee.

Hon P.R. Lightfoot: Any decent person wants to see the demise of compulsory unionism.

Hon TOM STEPHENS: We have heard from the Minister that he hopes that this legislation will strengthen the union movement.

Hon Peter Foss: But not compulsory unionism, and that is what I said. You should encourage people in by the service you provide; there are no problems with that.

Hon TOM STEPHENS: There was a simple piece of legislation the Minister could have brought in - and this ain't it! This is the wrong legislation and the wrong Bill if that is what the Minister is in favour of and what he is speaking about.

Hon Peter Foss: Calm down a little bit. I supported the legislation because that happened to be one of the beneficial side effects.

Hon TOM STEPHENS: Here we have the great champion of the union movement, Hon Peter Foss, bringing in a trilogy of Bills that is aimed at strengthening the union movement. Everybody from the union movement, the community and the Trades and Labor Council expresses a different viewpoint on that.

Hon Peter Foss: If you calm down you might hear something.

The PRESIDENT: Order! The member should direct his comments to the Chair. I suggest it is the Hansard reporter in this Chamber who must hear the member, not the one in the other place.

Hon TOM STEPHENS: Thank you, Mr President. In the lead up to the last State election there developed the emergence of fostered expectations on the part of the Court-Cowan coalition amongst the advocates for capital in the Western Australian community, that in the end the problems could not be resolved unless there were to be a sense of fairness and equity within the Western Australian community. In the lead up to the State election, the Government produced an expectation among the bosses, the employers, that it would press on with legislation such as this. The Minister, of necessity, had to come before this House with legislation that is essentially aimed at reducing the conditions of the work force of the Western Australian community. He has dressed it up by saying, "It ain't about that at all. Oh no, definitely not about that."

Hon P.R. Lightfoot: Who speaks like that?

Hon TOM STEPHENS: Actually there are not too many left on the member's side of the House who speak like that. It is more the sort of comment that Liberal Senator Vanstone would use in the Senate. It is not legislation that is going to do that, so Ministers in this House and the other House say, when in fact the words of the Bill on almost every page spell out that it is precisely about reducing conditions of the work force of Western Australia which has operated in this State up until now.

Hon W.N. Stretch: You know that is not true, so why do you say it?

Hon TOM STEPHENS: If it is not true, as Hon Bill Stretch says, then let him rise during

the Committee stage of the Bill and move the amendment to this Bill that will guarantee it will not be true. No doubt he can call on the skills of the Minister for Health, the so-called great parliamentary draftsman, to draft an amendment to guarantee that his interjection will be enshrined in the legislation to ensure that there is no reduction in the basic conditions of the Western Australian work force. He will not do that because he is chicken. He does not believe his interjection and he will not take up the challenge.

Hon E.J. Charlton: Do you believe what you are saying?

The PRESIDENT: Order! I ask the member not to use that language. I do not mind him calling me the Deputy President, but I do object to him using that terminology when he is talking about another member of the House.

Hon TOM STEPHENS: I apologise, Mr President.

The trilogy of legislation presented to this House includes provisions which will ensure that the conditions outlined in the workplace agreements remain a secret. Perhaps we will never know whether my fears - the fears Hon Bill Stretch rejects - will be clearly demonstrated to the wider community. Perhaps Hon Bill Stretch will be the first member opposite to rise during the Committee stage of this legislation to move an amendment which will put in place an independent arbiter who will assess the workplace agreements to make sure that what he says is the truth about this legislation remains the truth. He should ensure that the workplace agreements are assessed by an independent arbiter to ensure that agreements struck in Western Australia do not reduce the pay and conditions currently applying to the Western Australian work force.

I know not many members opposite are capable of drafting crafty amendments to legislation. I know Hon Bill Stretch would not be able to do it, but perhaps he will be able to get the Minister for Health to give him a hand. By using one of the computers for which the Minister is famous, he may be able to draft a clause which the Opposition would be more than prepared to consider. The Opposition will ensure that the amendment is included in the legislation which will then be returned to the other place for its consideration. Hon Bill Stretch should put his money where his mouth is, but I suspect he will not do that. He knows that this legislation is about the classic clash he represents; that is, capital versus labour. Many members opposite have a vested interest in capital versus labour and they see the opportunity in this legislation to make themselves richer from their investments and their role as employers. Whether they are travel agents exploiting employees or farmers -

Several members interjected.

Hon E.J. Charlton: You know that bloke who gave you your first job -

The PRESIDENT: Order! It is hard enough to hear the member without listening to the interjections.

Hon TOM STEPHENS: Members opposite see the opportunity in this Bill to drive a nail into the work force which works for them.

Several members interjected.

Hon E.J. Charlton: The first boss you had had it right.

Hon TOM STEPHENS: Members opposite can see the opportunity in this Bill to exploit the Western Australian work force. Mr President, you have had a long history of understanding the work force and the difficulties of being an employee. You know the needs of an employee who is faced with a difficult situation in the workplace. Members opposite do not know about your experiences, Mr President. They want to grab this legislation in an endeavour to make themselves wealthier at the expense of the work force. Members on this side of the House understand the situation and they have a passion to ensure that equity and justice prevail in the community. For that reason, the Opposition will reject the legislation because a balance will no longer be struck. This legislation will replace 100 years of the traditions of fairness and equity in the Western Australian work force. The rhetoric used by the Minister when he introduced the Minimum Conditions of Employment Bill and its partner in crime, the Workplace

Agreements Bill, illustrated that there is no real need to guarantee the minimum pay and conditions.

Hon John Halden: If the Workplace Agreements Bill works so well there is no need for this Bill.

Hon TOM STEPHENS: The reason that Hon John Halden is the deputy leader of the Opposition in this House is that he can put what I am saying so succinctly. He said that if the Workplace Agreements Bill is going to live up to the claims meted out by the Minister in his second reading speech, there would be no need for this legislation. That Bill will provide an opportunity to guarantee that individuals can negotiate equitable workplace agreements.

Several members interjected.

The PRESIDENT: Order! Members know that this afternoon before we started this debate I said that hopefully we would get through the debate with the minimum of fuss and that we would be able to give to those members who are legitimately addressing the Chair the opportunity of having their say without having to put up with a barrage of interjections. That seems to have gone by the wayside since I have been away on parliamentary business. I suggest that members remember what I said earlier and let Hon Tom Stephens complete his speech. I am sure that there is a fighting chance that in the next six minutes and forty seconds he will make a comment about the Bill which is before the House.

Hon TOM STEPHENS: I will indeed take the opportunity of continuing my comments about the Bill. It has been capably demonstrated to this House by Hon Ross Lightfoot, by way of interjection, that this Bill is poorly drafted. It has led to his confusion and he has clashed with the members on this side of the House who have studied the legislation, analysed it and interpreted it in a way which is at odds with his interjections, which have constituted the only speech to this legislation by members opposite. The contribution made by Hon Ross Lightfoot goes to the core of the argument; that is, this Bill is poorly drafted. I can understand that amendments will be introduced to presumably fix up the poorly drafted legislation. Hopefully they will not make it any worse.

I was very interested to read the clause in the Bill dealing with bereavement leave, to which Hon Mark Nevill referred in his earlier contribution and for some of the same reasons discussed by him. I want to build on those comments.

Hon Peter Foss: Are you actually going to speak on the Bill?

Hon TOM STEPHENS: I know the Minister has difficulty listening to anything other than the sound of his own voice but I have been speaking on the Bill. To say otherwise would be a reflection on the Chair. The President would certainly have stopped me if I had not been speaking to the Bill. Clause 27 deals with entitlement to bereavement leave and limits the categories of people for whose death a member of the work force may obtain bereavement leave. If the Minister were convinced by his own rhetoric that there should be a place for individually struck workplace agreements, why does this clause not provide an opportunity for people with different cultural needs and traditions to strike a different type of agreement on bereavement leave?

Hon Peter Foss: It does.

Hon TOM STEPHENS: Do not interrupt me. The Minister should take the opportunity to prove that I am wrong during his contribution to this debate, or get another member on his side to do so. Where and how in this Bill is there provision for individuals to strike up new agreements? In this connection I refer, for example, to Aboriginal people who might want to include new categories of people for whose death they may obtain bereavement leave.

Hon Peter Foss: You really mean it.

Hon TOM STEPHENS: Perhaps the bright lawyer from the terrace, with his familiarity with computers, can demonstrate that I am wrong. If he can do so, I will be delighted to know that I am wrong as a result of his erudite contribution to this debate.

Should it be that this legislation will do what the Government claims it will do, quite clearly countries such as India would be among the wealthiest countries on earth. In those countries there are no minimum awards or conditions for the work force. If that were critical to the success of the economy of this nation, it would equally be critical to the success of the Indian economy and would have produced a prosperous nation, as this Government indicates its legislation will. We all know of the parlous state of the Indian economy. It has not been the beneficiary of rapid economic growth to the widespread benefit of the entire Indian community. In fact, the reverse is the case, as I know members opposite will want to be the case in this State also; that is, they want to build the great divide and make sure the people who contribute their labour to the economy of this community are not the beneficiaries - as they have been in the past - of equity, fairness and justice in this economy. Rather, a new divide will develop and the class represented by members opposite - capital and employers - and in which they are participants, will prosper and develop bigger inequities in our community than have ever been seen before. One of the great tragedies of this legislation is that many members opposite, including the Minister handling the Bill, recognise that it is poor legislation which they would not have tolerated had they been on this side of the House with the numbers to reject it. The Minister knows it is bad legislation. However, because members opposite are on the Government benches, no matter how bad the legislation is, God is in his heaven, all is right with the world, and the legislation will be rammed through. Because members opposite are on the Treasury benches, it does not matter what they do or how bad their legislation is. The Liberals are in government, the National Party is with them, and there is no room for a Parliament or Opposition to express its feelings about the bad legislation. The Government members need to be reminded, as they have been in this debate.

**HON TOM HELM** (Mining and Pastoral) [10.35 pm]: It is always a pleasure to follow a speaker such as Hon Tom Stephens in debate on a Bill such as the Minimum Conditions of Employment Bill. It is also very useful to try to take up where Hon Tom Stephens left off; that is, trying to analyse the need for this Bill. As has been said before, and was suggested when the Minister handling the Bill moved for a cognate debate of the three industrial relations Bills, in view of the introduction of the Workplace Agreements Bill and the Industrial Relations Amendment Bill and the opportunities they are supposed to present, why is it necessary to introduce this Minimum Conditions of Employment Bill? It is difficult to join in a debate with people suffering from loss of tongue. It is also difficult to join in a debate when the parties with the most employees do not stand up and defend the Bill. It is difficult to join in a debate with someone who does not understand industrial relations, and is responsible for the carriage of the Bill through this place only because he drew the short straw. It is difficult for anyone to argue that we are entering into a new era of industrial relations in this State, but that, at the same time, we shall need some legislation to guarantee minimum conditions.

In the last session of the Labor Administration one of the major squeaks from members opposite related to the dead hand of Government, freedom, enterprise, and allowing people to go free. The cry from the then Opposition was "Let my people free". They said that the Government should allow market forces to take shape and give everyone a fair go. However, one of the first Bills presented to this House involves industrial relations.

**Hon W.N. Stretch:** Giving people a fair go.

**Hon TOM HELM:** We should give people a fair go. In fact, members opposite will probably say that we should get rid of the dead hand of Government.

**Hon W.N. Stretch:** We should give all the unemployed a chance.

**Hon TOM HELM:** Members opposite said that we should remove the interference of Government. What has happened? The Government has introduced a Bill that will allow a government appointed person to decide what is fair and what the minimum conditions of employment shall be. No-one quite knows what will be the qualifications of the person deciding what is fair and equitable for the workers. However, we know one thing:

It will be a career public servant. It will not be a union official, a shop steward or a worker. What hypocrites are members on the other side of the House, those who defend the owners, who are the slaves of the capitalist system and who have among them more employees than are on this side of the House. In spite of that, all members on this side of the House, with one exception, have made a contribution to this debate. Few of us on this side have been employers. I have employed people in my time, but not very many. Few of us on this side can really understand at first hand what it is like to employ a number of people. At least two of the frontbench members opposite have employed people, yet they have nothing to say. What kind of person will sit down when he or she has something to say? What sort of passion is shown by those who will not get up on their hind legs and make a contribution? How strongly do members opposite feel about changing the industrial relations system in this State if they will not get up on their hind legs and are prepared to leave it to the muggins who drew the short straw and has to present this Bill in this House?

Hon E.J. Charlton: We passed on our comments to him.

Hon TOM HELM: Were I the Minister for Transport, I would get on my feet and say something. I do not know what kind of person can feel strongly about changing the industrial relations system in this State when he will not get up on his hind legs -

Hon E.J. Charlton: He does not have four legs.

Hon TOM HELM: No, but he brays like a donkey.

We were told in the Minister's second reading speech that we need this Bill because we need a safety net of core minimum conditions. My colleagues have explored various clauses in this Bill and have tried to provoke someone from the opposite side to give some direction about what those clauses mean. The second reading speech states that people can work 40 hours a week and may not be paid penalty rates, and that what is contained in the Workplace Agreements Bill can be decided between the two most important people in an enterprise: The employer and the employee. It is strange that the Bill does not mention the shareholders, the people who provide the capital in an enterprise. There is a lot of evidence to suggest that an enterprise will not necessarily benefit from the law of the jungle. The situation in an enterprise will not necessarily get any better by legislation and by the dead hand of Government. In fact, people on this side have given examples of Government interference in enterprises which has not been to the best advantage of those enterprises, and all the while the share market has gone down and the economy of the nation has gone backwards.

To some extent, I am indebted to a contribution made by another member opposite who lost the use of his legs but not the use of his mouth - Hon Ross Lightfoot. He is absent from the Chamber at the moment on important parliamentary business, but he made the contribution while he was sitting down that New Zealand has turned the corner and is now doing very well. That may be true. An election is due in New Zealand shortly. A television program on Sunday night also stated that New Zealand is doing very well. However, Australia, by any stretch of the imagination, is doing better than New Zealand. We have heard members opposite suggest that we could do better if we do what New Zealand is doing, or if we do what Great Britain or America is doing, yet my colleagues have demonstrated on more than one occasion that that is not true.

Hon Ross Lightfoot informed the House that we had 28 per cent youth unemployment. That is disgraceful. That figure has been reduced to 20 per cent, which is still disgraceful. He did not say that, under the present system, we are able to address that problem to some extent. He did not say, as some people would say, that if we went down the McDonald's route and paid all young people \$3 an hour, we would be able to employ everyone. We must not forget that according to this Bill, a young person is any person under the age of 21. Then again, I must remind members that in biblical times, the Egyptians had full employment when they built the pyramids. The American Negroes had full employment when they were cropping cotton in the southern States. The town in which I was born, Liverpool, flourished because it was the centre of the slave trade. If members opposite want to know something about the slave trade, I will tell them.

However, what members opposite cannot tell me, because they do not have the guts to tell me, is why this Bill is necessary when the Government is also introducing the Workplace Agreements Bill. The Government states that Bill will allow employers and employees to come to an equitable agreement. Members opposite know that is not the case.

Hon E.J. Charlton: We are doing that so that when you leave this place you will be able to get a fair day's pay for a fair day's work.

Hon TOM HELM: I thought I heard a member of the National Party bleat! I should not oppose this Bill because, as has been stated by a number of people on this side of the House, one trade union has already reaffiliated with the Labor Party since this mob opposite has been in Government. We are seeing an amalgamation and spirit of cooperation in the union movement that we have not seen before. The demonstrations that have taken place since this mob has been in power have been quite staggering. The fact is that when these Bills are passed, as they will be because the Government has the numbers and the arrogance to push them through, the union movement will go from strength to strength, and really I should support anything that will bring that about because there have been some splinters in the union movement of late.

I should tell the House about my experience in my union. I have been a member of the Metals and Engineering Workers Union for 13 years since I have been in Australia. I have seen that union evolve from a left wing, militant union to one of the leading unions in Australia, a union which has taken on the challenge of the oppression of capitalism and helped to defeat it. I have seen the Metals and Engineering Workers Union, under the leadership of the State Secretary, John Sharp-Collett, go from the old style, pommy shop steward trade union ways where it used to bash the bosses to a union that is moderate and that will listen to and consult all spheres of society, that does not turn its back on those slaves of capitalism on the other side, and that works toward a moderate point of view. That union has been part of the over 100 enterprise agreements that have already been signed in this State without this legislation. That union has had a well thought out and well-structured leadership that has taken us from the 1800s into the twentieth century. The Bills that are before us, including the so-called Minimum Conditions of Employment Bill, will take us back into the situation in which I was brought up and in which you, Mr President, were probably brought up; that is, we hated the bosses and the bosses hated us, and when the boss needed us we would give him a kick and when he did not need us he would give us a kick.

That is how I was brought up. I have to tell members that I do not want to go back to that situation because I learned to be good at it. I no longer want to be good at it. I do not want my son to be in a society where the haves and the have-nots have to live together. The evidence shows that the have-nots will not cop not having for too long. I have no intention of going back to that situation.

Government members should push the view that they have. If those who support this Bill, those who agree with the changes that are described in the Minimum Conditions of Employment Bill would give us that line, I would be prepared to listen to them at any time. We have all the information that was given to us from those who cannot stand up and defend the Bill that is before the House.

There is something else about this Bill that proves it is a fraud, a sham. It has never been said by the Minister handling the Bill in this place that there will not be amendments from the Government because the Bill is flawed. Not only is it flawed but it is also a sham. There is no need for this Bill for the simple reason that minimum conditions of employment have already been a matter of discussion between the collective organisations called unions and people who work for an enterprise or part of an enterprise. Western Australia could not flourish unless it had that agreement. In the Pilbara we already have our most important asset. Is it necessarily the people who work there? Is it the iron ore? What is the most important resource? What is the thing that we sell that the people who compete against us cannot provide so readily? It is continuity of supply. We can have the commodity and we can provide it at a reasonably cheap rate;



but if we cannot guarantee our customers that we can get the goods to them on time and in the condition in which they should be, we have had it. We have been there. Only 10 short years ago the Pilbara was in chaos. The poor old muggins who smiles a lot knows about this because he used to work for a company who used to batter its employees now and again.

Hon Peter Foss: That is right; they have changed their mind.

Hon TOM HELM: After the Robe River events they changed their mind. Lets follow the logic of the mouth. If there is any truth in what Hon Peter Foss said, whatever Robe did, if it allowed for continuity of supply, for peaceful industrial relations, I will accept the argument. If the member is telling me that the Iron Ore Industry Consultative Council had no part to play in that -

Hon Peter Foss: None whatsoever - a total waste of time.

Hon TOM HELM: If he is telling me that the mining industry had no part to play in that -

Hon T.G. Butler: What would you know?

Hon TOM HELM: Is he telling me that the commission had nothing to do with that?

Hon T.G. Butler: Were you Robe's solicitor?

Hon Peter Foss: Yes.

Hon T.G. Butler: Shame!

The PRESIDENT: Order!

Hon TOM HELM: I am probably being a bit unfair in having a go at Hon Peter Foss.

Hon T.G. Butler: I don't know.

Hon TOM HELM: Ignorance is sometimes bliss and I am sure that Hon Peter Foss is the most blissful fellow in this Chamber. The record shows that the wonderful company that he cares to promote, the one he used to work for, Robe River Iron Ore Associates, has had more industrial disputes since 1987 when it was taken over by Peko-Wallsend Ltd than any other company in Western Australia.

Hon Peter Foss: It has had more productivity and better continuity of supply than anybody else.

Hon TOM HELM: If the Minister can get fewer disputes and continuity of supply his name should not be Foss, it should be O'Foss. There is no possibility that Robe River ever did that. If it is true that Robe River did that, why do we have to change things? If Robe River is an example of a wonderfully - Hon Peter Foss said that - efficient organisation with the system as it is today, why do we need to change it? Come on, why do Government members not bleat about this? Why do we have to change it if Robe River has it made?

Hon Peter Foss: There are better processes than that.

Hon TOM HELM: We do not have to do that because Robe River is already putting an agreement before its employees on the basis that the Workplace Agreements Bill will be passed. An Act is not even in place yet. Do Hon Peter Foss and the member for Albany have something in common? Will they be able to tell the company something that nobody else will?

Hon Peter Foss: Now, now!

Hon TOM HELM: Hon Peter Foss should tell me why the agreement that has been presented to the workers at Robe River is in accordance with the provisions of a draft of the Workplace Agreements Bill. I have a copy of the agreement which I can table if members want. That is what it says.

Hon Peter Foss: I am talking about this Bill.

Hon TOM HELM: I am also talking about the Bill. I am asking the Minister, the poor

person who has the carriage of this Bill: If Robe River has it made, why do we have to change things? If Robe River is a wonderful organisation, why do we need the Minimum Conditions of Employment Bill? These Bills were drafted by somebody called George Orwell. Have members heard of 1984? That is where this idea comes from. The only thing is that we visited 1984 in 1978. Government members missed that; it has gone by. We are now heading towards 1994 when things can be done differently, when people can get on together, in spite of the philosophy of those on the Government side.

Hon Peter Foss has told us that there is no need to change the industrial relations scene in this State because a company - the one that he loves the best, Robe River Iron Ore Associates - has given us total productivity and total continuity of supply.

Hon Peter Foss: Can I just explain why there is a change in the norm? You wanted to know why there is a change in the norm. You said it was due to the unions. That is rubbish.

Hon TOM HELM: Hon Peter Foss told us that because of Robe River the iron ore industry, a major industry in this State, has everything made. Everything is fine. Everything is wonderful. I am now asking why things need to change. We have wonderful productivity, great continuity of supply and we have all of the things we are looking for, courtesy of Robe River. So why do we need to change things? We have figured that out. We have no industrial relations problems, so we do not need it for that reason. We have no economic problems. By any standard this State is leading our nation and our nation is leading the world, unless somebody wants to tell me of any country that is better; for example, Brazil or Chile. There are no restrictive work practices because, as Hon Peter Foss says, there is an ability for every company in this State to get rid of restrictive work practices. We do not need them.

Hon Peter Foss: It takes an absolute fortune to do it, but thank heavens somebody was prepared to do it.

Hon TOM HELM: The point is that it can be done.

Hon Peter Foss: All sorts of things are possible, if you are prepared to spend the money.

Hon TOM HELM: Nobody on the Government side, except for the person who is being paid to do it and who has been chosen to do it, has yet stood up and told us why he or she thinks we should do it - not one person. I bet a pound to a penny, not one member gets on his feet.

Hon Peter Foss: You are on.

Hon TOM HELM: One or two will open their mouths, but even the Minister has gone quiet.

Hon Peter Foss: Are you backing off from your bet?

Hon TOM HELM: He has no choice: He has had his 30 pieces of silver; he will do it.

Hon Peter Foss: A pound to a penny, was it?

Hon Graham Edwards: Do you think this is something you should be gambling about in this House? Why do you not take it seriously?

Hon TOM HELM: None of the people on the Minister's side will; they have plenty to say when they are sitting down. Everyone knows we have examined the Bill and found various faults which smile-a-while has agreed with. He says it has a few faults and he has indicated some amendments will be moved which we will be able to address when we see them. So far they are a secret part of this Bill. As has been said, the legislation has been badly drafted. The worst thing about this Minimum Conditions of Employment Bill is that no other major changes are allowed for.

At present, the Industrial Relations Commission is allowed to set down general orders. In other words, if an employer and an employee think that the present award conditions applying in their case should be varied they take it to the Industrial Relations Commission, which has the ability to change the award to suit both sides. The

Workplace Agreements Bill we are told allows that to happen on an individual basis. The commission would not necessarily like to see an individual making applications to vary an award for one person. Then again, in the Workplace Agreements Bill, that would not be the case either. In other words, if I wanted to be employed as a rigger and I knew that riggers were earning \$10 an hour and I wanted \$15 a hour, I would not work there. I would not get the job unless I had some specific skills. In the light of the secrecy clauses, how am I supposed to know they earn that \$10?

The minimum conditions in this legislation will be difficult to comply with because it is difficult to know what are the minimums. The minimum pay rate is \$275.50. Perhaps when the Minister gets on his hind legs he will be able to tell us where in the Bill district allowances are included in the \$275.50, or will they be separate from that? Suppose I worked in the Pilbara and it took me an hour to get from Karratha to Pannawonica to go to work in the morning. What element of that money will be travelling time? I may work in Pannawonica and be wanted on site and may have to arrange my own accommodation. What element of that \$275.50 will be living away from home allowance, or is that not covered either? Where does the Bill address that?

What is even worse is that the only person who will be able to determine what wages one will receive and how they will be varied, in other words make adjustments to wages and salaries if the cost of living goes up or down, will be a Minister of the Government. That person will be somebody from this Chamber or from the lower House - somebody from a political party. The present system allows for a general order to be varied by application from either side of an enterprise. The Industrial Relations Commission can also recommend that an award be varied to take care of wage rises that may have taken place within enterprises.

Nowhere in the Minister's second reading speech has he referred to what the people of Western Australia have now. People should forget the union movement or labour movement from where I come. Members should understand that we are the leading State and the leading nation in the world with our present system. The Bill does not seem to make provision for anyone with any sort of independence to act under the same provisions which now apply to varying conditions of employment. Members should not forget that the Liberal Party has a terrible job trying to control the National Party, and the National Party has an awful problem trying to get the Liberals to understand where it is coming from, but it will be one of them or a Labor Party Minister who determines what conditions will apply. Obviously the Minister will take advice - not obviously, because we know that certain people on the Government side are so arrogant they will not take advice from anybody. In fact Hon Peter Foss spent much time in the last session of Parliament giving advice about democracy and how things should be done; yet I did not hear him during his speech on the previous Bill, or at any other time, defend anything he put forward with any sort of integrity. He will certainly be hard pushed to show any integrity when he argues about this legislation.

Hon Peter Foss: Nonsense!

Hon TOM HELM: One day the Minister will be on a side that does not have the numbers and then he will understand. He should not give me any of his hypocrisy about democracy. I have a document here called "Minerals in Western Australia - Bedrock of the Economy" printed in May 1993 by the Chamber of Mines and Energy, the author of which was John Brunner. On page 13 is a table giving figures of trade balance by industry groups in millions, in constant 1984-85 prices. It shows under industry group 1981-82 that exports were worth \$4 659m, while in 1990-91 the figure was \$3 127m. It gives the figures for agriculture, agriculture related, manufacturing, mining, mining related, and highly assisted industry etc. It gives a thumbnail sketch of Western Australia in the years 1981-82 to 1990-91. It tells us that we were in deficit to the tune of \$4 906m in 1981-82. The table also tells us that in 1990-91 we were in excess by \$1 230m. I have never read Carl Marx but I could probably produce a passage to defend what I am saying. Nobody on the Government side would use a document written by its supporters to support the Opposition's argument. The document put out by the Chamber of Mines and Energy should have some integrity; but very few members on the other side have

integrity. That document gives examples of how our exports have increased since 1981-82.

What year has this Government taken us back to? It has taken us back to 1981 and 1982 and beyond. We are not going forward because, as has been explained by other members, this Bill gives us nothing more than we have had before. This Bill reflects what has happened in nations that have gone backwards. It is a backward step. Members opposite would have their ideology take us down the same path that Great Britain, New Zealand and America have gone down, where the gap between the haves and the have-nots has widened so much that they are now seen as third world countries. Why are members opposite persisting with this legislation? Because of their ideology, their lack of imagination and their ability to accept easily and without question what their political masters and their capitalist masters tell them to accept. That is the bottom line. They are not standing to defend their position because some of them are ashamed and the rest are frightened. They are like scared rabbits. They are frightened to open their mouths because they know that what we are saying is true. There have been pages and pages of *Hansard* and document after document to try to explain to them that what they are doing will damage us all.

This legislation will strengthen the labour movement and trade union movement. It will lead us down the path to chaos. Continuity of supply in those industries that I belong to in the Pilbara is as important as the price of the commodity being sold. I am not saying, and it is certainly not true, that we need to throw sops. The front page of *The West Australian* carried an article recently that BHP had signed an enterprise agreement with its workers that brought about radical changes to the workplace, that took away demarcation lines and restrictive practices and that annualised people's salaries. In other words, everyone will know what element of salary the living away from home allowance is and what element is dirt money. The award provisions are annualised rather than being given out in separate packages so that the company knows today what its wages bill will be in a year's time and it knows today when it talks to the Japanese what the price of iron ore will be per tonne. Why? Because the work force has agreed with the employer to rationalise wages and conditions in line with our competitors. The Pilbara's competitors are, in the most part, from Brazil, which is a third world nation where people's living standards are extremely low and where the ability to shift the ore from Carajas to the ocean is difficult because much of the railway line goes through a swamp. However, Brazil's iron ore is subsidised by the Japanese because they are the major investors in the iron ore mines in that country. BHP is still able to guarantee supply of a top quality product at a guaranteed price for 12 months because it now has in place a workplace agreement so that minimum conditions will be enforced not by some Government employee who lives in Perth but by a document setting in place certain procedures which has been signed by everybody. In other words, the employees and the employers have agreed that they are dealing with human beings and that human beings change and their needs have to be accommodated.

If the Government has to legislate for fairness and equity, it does not have a chance; it has to have goodwill. How do we demonstrate goodwill? We demonstrate it by getting on our feet and defending the things we believe in. In a very short time, demonstrations will take place in various towns, but in Perth in particular. That is okay because people have a right to free speech. Section 54B is not coming back yet although it may have to be introduced because the worst thing will be that which does not hit the television headlines. Industrial disputes will take place in many regions of Western Australia and Western Australia's reputation will be damaged because it will be seen to be unreliable. On the one hand the conservatives will be seen to be union bashers or, depending on what the Press says, the unions will be seen to be, as Hon Peter Foss is wont to say because he cannot say much else, bullyboys. Mr Foss does not have much of a chance to talk about union bullyboys except in the Robe River Iron Associates context when the commission bullyboy agrees with the union bullyboys that the workers were treated unfairly and they should go back to work.

Hon Peter Foss: The Industrial Appeals Court generally agreed with Robe River.

Hon TOM HELM: There is nothing wrong with it going to the Industrial Appeals Court except that, if it does, it will take with it top class QCs - it will not take Peter Foss any more because he does not have the same ranking - and it will spend an unlimited amount of money defending itself. That is its right; that is the law of this land. Robe River can do what it wants because the laws allow it to do that. However, the work force will be somewhat restricted when appearing before that same court because there is no way that any union or worker can afford the same sort of defence that is always put up by Robe River. Nonetheless, we are saying because we have the guts to say it that that is better than that which is being proposed by this Government. Members opposite do not have the guts to tell us where this legislation is better than that system. Robe River gets what it wants by the system that is in place now. However, neither the Minister nor his colleagues will defend this legislation.

If we have to have minimum conditions of employment, it demonstrates almost beyond doubt that this trilogy of Bills is not about improving things because Hon Peter Foss - out of the mouths of babes and fools - has told us that we already have continuity of supply and everything is wonderful. Having reached that situation, why are we changing it? We will not change it for the better. No legislation is in force now which states that we have to have minimum conditions. The parties go to the Industrial Relations Commission to argue their case. If a worker feels he has been slighted he can go before that court and argue his case. He does not go around waving a piece of paper that will change everything. We on this side have demonstrated that by any standards there is no need for this Minimum Conditions of Employment Bill. It is badly flawed. If there is a safety net, that safety net has such huge holes in it that, if I were falling from the top of the Capita Building on a six inch Dunlop mattress, I would fall through it.

This Bill should be taken back whence it came. The Ayatollah Kierath should get this Bill back and he should be told what to do with it, because it has no place in our State because it is part of the trilogy of Bills, one of which we are debating now and one of which we debated earlier. All they mean is less for the work force, trouble for the State and a step back for all of us.

HON P.R. LIGHTFOOT (North Metropolitan) [11.20 pm]: I have intended to speak on the Minimum Conditions of Employment Bill since its introduction to the Chamber; I certainly do not need any goading from members opposite to do it, particularly in view of the disparaging terms that were used.

Despite the vitriol that members opposite have used to describe the Bill, it builds, it reconciles and it repairs. It builds across the chasm that militant trade unions have dug over the decade; it reconciles labour with capital and it repairs the damage that the trade union movement in its lust for power has caused by locking out people who are not part of that movement. To take, for example, the people that it locks out, the trade union movement does not support all working people in Australia.

Hon John Halden: Nor does this Bill.

Hon P.R. LIGHTFOOT: But the Bill, as I said, will do that. That is exactly what it does.

Hon John Halden: Read clause 3.

Hon P.R. LIGHTFOOT: It encompasses, for instance, the 110 000 workers in Western Australia who do not come under awards, the 21 per cent of people in Western Australia who do not come under awards. This legislation gives them a minimum umbrella. It gives them a safety net. All along, the argument has been that the minimum wage will be a fait accompli when that was never the intention of the legislation. Members opposite cannot use the tactics that they have used for the past day to scare the people of Western Australia into thinking that the Bill will adversely affect their welfare. Of course, it will not adversely affect their welfare. It is designed, as I said, to build, reconcile and repair.

If we did not have the Minimum Conditions of Employment Bill and we had decided to emasculate the trade unions, there would be no support. I have never been an advocate for the power that trade unions have, but I believe we need trade unions. I do not believe that we need compulsory membership of trade unions. When I started work, more years

ago than I care to remember, I had to belong to the Waterside Workers Federation. It sounds odd that a fellow like me belonged to the wharfies. I was 14 and to get a job on the wharves loading ships from overseas with bags of wheat, I had to join the trade union movement. I believe that in those times there was a need for the trade union movement, but I was compelled to join the union at 14.

Hon Peter Foss: They allowed a 14 year old to work?

Hon P.R. LIGHTFOOT: Yes, they allowed me to work at 14 in the hold of a boat loading bags of wheat and they took money out of my meagre salary. I do not think that was proper. I needed a job, but I do not think that was proper. This is one area that we will address during our time in Government.

Hon Peter Foss: These are the unions that champion the weak.

Hon P.R. LIGHTFOOT: These are the unions that champion the weak, that look after the young.

Hon Graham Edwards interjected.

Hon P.R. LIGHTFOOT: They champion power today; that is the problem. The problem is that those opposite champion power; they have lost the election and lost their course. This Bill will bring back direction, put things back on course and take away the compulsion to join a trade union. It will free up the trade union movement and people will be able to choose whether they will join a union. The object of the Bill is not to abolish unions; it is to assist all people in Western Australia. This Government is about people. It is a compassionate Government.

Hon Graham Edwards interjected.

Hon P.R. LIGHTFOOT: We have listened to this rhetoric and inane drivel for the last two sessions. This is a compassionate Government about people. Members opposite try to malign this side of the House with their goings on and their rantings.

Hon Cheryl Davenport interjected.

Hon P.R. LIGHTFOOT: There is a high-pitched voice from the back there, I do not know who it came from. This is a Government about people. It is a Government of compassion. It is Government about all people, not a Government about a section of the community.

Hon P.H. Lockyer: Why was Mr Stephens tonight saying that it was all right for the previous Government to lose \$100m. What do you think of that?

Hon P.R. LIGHTFOOT: It was all right for the previous Government to lose \$1b because the current Liberal Government will recoup it and this is one way that we will do it. We are about to start on a new direction. We are about to give people who want to join a union the ability to join it; we are about to free up the unions; we are about to take away the no ticket, no start philosophy. That is the way it should be. Having been a member of several unions, I can tell the Chamber that that is the way it should have happened decades ago. This country has been brought to its knees economically. It is known throughout Asia as the soft underbelly of the hemisphere. It is not a matter of whether there should be a living wage; it is a matter of what the country can afford. The country cannot afford to go on like it is. The country must redress this situation and this Bill does precisely that.

We have never heard members opposite talk about the unfortunate people who are unemployed as a result of a decade of mismanagement by the Opposition when in Government and its Federal counterparts.

Hon T.G. Butler interjected.

Hon P.R. LIGHTFOOT: I see that Hon Tom Butler has come in after some absence. I do not have any argument with trade union leaders, particularly old style ones the like of Tom Butler. I hope that is not the kiss of death for him.

Hon Peter Foss: He is not that old.

Hon P.R. LIGHTFOOT: He is old style; I did not say he was old. He is quite youthful. What has happened to the trade union movement is that academia got into it. Those in academia saw this as a source of power and decided to take over the trade union movement. Since I belonged to the trade union movement - the wharfies, the Australian Workers Union, the Plasterers Society, the Police Union and Actors Equity - it has been hijacked by academia, by people who have never known what the real world is like. They have their little pink hands on it; they have stuck their little pink snouts into the trade union trough and they do not want to let go. That is what has happened to the trade union movement.

Hon T.G. Butler: I just think he is unbelievable.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon P.R. LIGHTFOOT: Thank you for some peace and quiet, Mr Deputy President. I move on to the power unions and the inordinate amount of power they not only produce at times, but also have. The fact that 20 per cent of youth in Western Australia is unemployed is one of the great post-war tragedies. One of the great detriments to reemploying our youth is the high cost of power in the State. If we make trade unionism voluntary, as we intend, the cost of power in the State will be reduced. We have already seen it heralded with respect to the Collie power unions. The cost of coal will drop from \$50 a tonne to somewhere between \$30 and \$40. It is a nebulous figure at the moment, because that depends on the size of the Collie coal fired power station. That cannot be done with militant unions. It cannot be done if there is a policy of no ticket, no start. If we get cheap power, it invariably follows that we will get secondary industry here. We must get cheap power. We cannot have the unions hold our youth to ransom. We did not hear members opposite talk tonight about the unfortunate situation, the tragedy of our youth. All we heard was that the Bill was no good, that this nefarious Bill was going to wreck the system in Western Australia and that we will somehow be drawn down like the Third World countries of Brazil and those in Asia. It has worked in New Zealand, and if members opposite will let me continue I will tell them why it has worked in New Zealand.

Hon John Halden: Tell us the facts.

Hon P.R. LIGHTFOOT: I know to what Hon John Halden is referring. I will go back to that because it relates very much to the Bill before the House. I think it was last Thursday that Hon John Halden forced me to interject that New Zealand has the second fastest growing economy of the Organisation for Economic Cooperation and Development countries; namely, the 19 European countries and the five countries outside Europe, including Canada, the United States, Australia and New Zealand. Let me quote from the uncorrected daily proof of *Hansard*, and I will stand corrected if it is subsequently amended. Hon John Halden said on the next day of sitting on Tuesday, 21 September, at about 8.00 pm when debate on the Minimum Conditions of Employment Bill was resumed, that -

In continuing my remarks on this Bill I will refer to a couple of issues on which Hon Ross Lightfoot and I disagreed last Thursday. He must have got caught up in the hype of the New Right when he said that New Zealand had the second fastest growing economy in the Organisation for Economic Cooperation and Development. I perused the facts issued by the OECD in its document titled, "The Main Economic Indicators of the OECD's Statistics Directorate of July 1993 - Paris". A very quick examination of the statistics indicates that of the 24 countries in the OECD, New Zealand is ranked eighteenth and Australia is ranked equal sixth. If members base an argument on the economic growth of countries using this Bill as a justification, as has been the case both inside and outside this House, they should get their facts right.

I interjected and said -

I maintain they are the facts and that they are correct.

Hon John Halden used as his reference an OECD document. Part of that document was gross domestic product. Hon John Halden's mistake was that -

Hon John Halden: I have been waiting for this. You will be wrong again.

Hon P.R. LIGHTFOOT: The way that Hon John Halden misled the House -

Hon John Halden: That is ungracious.

Hon P.R. LIGHTFOOT: - I am prepared to say unintentionally - is that he used a report that, although compiled in 1993, used 1991-92 statistics. I refer to an OECD document entitled "OECD Economic Surveys 1992-1993 - New Zealand", which states at page 35, under the heading "Short-term economic outlook", that -

New Zealand's short-term economic outlook is relatively positive, with 3.1 per cent GDP growth -

Hon John Halden: The forecast figure is 3.1 per cent. That is where you make your mistake.

Hon P.R. LIGHTFOOT: Let me continue. This document is younger in age than the document from which Hon John Halden quoted. I will start again -

New Zealand's short-term economic outlook is relatively positive, with 3.1 per cent GDP growth projected for 1992, the second highest in the OECD, and likely to continue at around this rate in the following two years.

That is from a retreating economy of about two per cent, which makes it overall about a five-odd per cent recovery. Japan is in a half a per cent retreat, which has led the OECD countries for several years.

Hon Peter Foss: It is the acceleration in velocity.

Hon P.R. LIGHTFOOT: Exactly. It is the amount of speed. I hope that clears up the controversy about New Zealand. It is not ranked eighteenth. It is in fact ranked second.

The Minimum Conditions of Employment Bill is similar to the Employment Contracts Act that was enacted by the conservative party in New Zealand shortly after it came to power. The *Business Review Weekly* of 3 September 1993 states that -

Pat Weir, president of the Tomoana branch of New Zealand's Freezing Workers Union, detests the Government's Employment Contracts Act, which he says is one-sided and has allowed employers to enforce wage cuts, is anti-union and contains no protection for workers under the age of 18. . . .

For most of the past three months, Weir and branch secretary Bruce Stobie have been helping to negotiate an enterprise agreement covering up to 1400 workers at the Weddell Tomoana Meatworks in the North Island town of Hastings. It is a deal, they say, that would not have been possible under the award structure.

The article states further -

The enterprise deal signed last month does away with the tally system that has ruled in the meat industry since the beginning.

This industry in New Zealand has in the past had an immense amount of trouble because of its archaic method of dividing capital and labour, in the same way that the Opposition is doing here. There is no talk of reconciliation. There is no talk of anything that is good in this Bill. It is divide, vitriol, hatred and antipathy. Members opposite should talk to us. Some reconciliation is possible. We can find some accommodation. Members opposite do not have to demonstrate to the trade union movement that they are so opposed to members on this side of the House. There are times when we need to pull together, and this is one of those times. We are living in hard times. We need to draw together. The talent is not all on this side. I will admit that there is talent on that side and it is the sort of talent that we should be able to lock into. However, we cannot do that because members opposite have built barriers between us.

Hon John Halden: We would be delighted to talk with you at any time about something that is reasonable, but these Bills are not reasonable.

Hon P.R. LIGHTFOOT: If the member put some sincerity into that, I would be very pleased to meet with him. The article continues -



The bottom line for the workers has been a reduction in the average hourly rate of 15-20% . . . The benefit for the workers is in a training program that encourages competent workers to obtain qualifications, and a commitment by the company to develop a profit-sharing scheme in the next 12 months.

The article states further that at the Tomoana meatworks, the company rewards skills, and that bonuses are paid to all workers in this New Zealand enterprise, who now earn more than they did under the award. Some workers at one of the New Zealand plants are now \$100 a week better off. This is the result of a minimum conditions of employment Bill that New Zealand has enacted that makes its workers better off and that covers all workers in New Zealand, and not just a select group of workers who happen to be in the trade union movement or who happen to have a policy of no ticket, no start. What is wrong with that? This Bill encompasses all workers in Western Australia. The proposition is that it will build, reconcile and repair.

As another example, when the New Zealand Employment Contracts Act was initiated, a New Zealand company bought a Melbourne factory that was 10 per cent less productive than Ceramco's New Zealand operations. This has nothing to do with meatworks. It is stated that the cost advantage blew out to about 25 per cent after taking into account the higher base wage rates, plus the oncosts in Australia such as the training levy, workers' compensation and superannuation. The executive goes on to say that the Melbourne operation enables the company to stay close to its market. But Ceramco shifted to China because the Chinese were about 40 to 50 per cent cheaper in production costs even though logistics problems had to be overcome. The company eventually shifted back to New Zealand because of the agreement that allowed all workers to have workplace bargaining under the umbrella and safety net of the New Zealand Employment Contracts Act - similar to this Minimum Conditions of Employment Bill.

This is what the union movement is fearful about. This is why some trade union leaders have involuntary emissions. The union membership was compulsory in New Zealand but the law changed and union membership plummeted from 650 000 under that Labor Party to 390 000, and workers took home more pay. That is what I am attempting to demonstrate. The workers are not worse off; they are better off. Some workers are taking home up to \$100 a week more. The minimum conditions are written into the New Zealand Act but they are rarely used. The comment that workers there are paid \$1.50 an hour is utter tripe. That is scaremongering.

Several members interjected.

The DEPUTY PRESIDENT (Hon Barry House): The interjections must come from the seat the member is supposed to occupy.

Hon P.R. LIGHTFOOT: As another example, Comalco in New Zealand has about 50 union members. That company operates the power station in the south island of New Zealand. I think it is at Bluff - and any expatriate New Zealander here may correct me. Comalco operations employ about 1 400 workers of which only 50 are union members; so, it is not stopping people from joining the union. It is not encouraging them but it is not stopping them because clearly, of the 1 400 employees 50 are union members.

Returning to my earlier statement, the Comalco works are entirely owned by CRA, which in turn is substantially owned by RTZ of the United Kingdom. We send bauxite to New Zealand and that bauxite, because of cheap power, is converted into alumina powder which is turned into aluminium. The process of converting bauxite to alumina powder to aluminium is one largely involving the supply of electricity. New Zealand has cheap electricity. Those 1 400 workers should be in Australia, and if we had cheap electricity, they would be here.

The situation we are facing is simply this: Unless we can control militant trade unions, unless we can do away with adverse work practices, unless we can at the same time protect workers with a safety net and an umbrella in Western Australia and demonstrate that clearly, then there is little use in our saying that there will not be compulsory trade unions. We must demonstrate that we can protect the worker. This Bill does that.

The Bill is designed only as a minimum basis for conditions. We talk of maxima as being all the way up. If there are skills - and we can use the New Zealand experience - it will happen here. I see nothing to fear from this Bill. Trade unions will lose some of their power. Members opposite know it and I know it. That is not a bad thing. Trade unions have had too much power for too long. They were essential in past times, but I do not think they looked after me when I belonged to them. There are so many laws now enshrined as a result of our parliamentary process, that to a large degree, trade unions have become redundant as a result of the laws that protect them.

Hon Sam Piantadosi: I would like you to have been a member of my union. I had 100 per cent membership.

The DEPUTY PRESIDENT: Order!

Hon P.R. LIGHTFOOT: I heard at election time there was 110 per cent support for the member.

Hon Sam Piantadosi: We can always manage that too.

Hon P.R. LIGHTFOOT: It is a long time since Hon Sam Piantadosi was in the trenches.

Hon Sam Piantadosi: I have been there more recently than the member.

The DEPUTY PRESIDENT: Order!

Hon P.R. LIGHTFOOT: Hon Tom Helm owes the Minister for Health, Hon Peter Foss, a wager. I trust that Hon Peter Foss will collect that wager.

I see nothing to fear from this Bill. As a former trade unionist, my view is that this legislation had to be introduced. It offers protection for all people and it encompasses, above all, the people who had no protection in the trade union movement because they did not belong to it. They were not covered by an award. The legislation protects those people. I commend the Bill to the House.

**HON GRAHAM EDWARDS** (North Metropolitan - Leader of the Opposition) [11.46 pm]: I was pleased to see Hon Ross Lightfoot rise to his feet. I thought initially he would defend the Minimum Conditions of Employment Bill. However, it became evident that he did not rise to defend the Bill but to defend his vanity, obviously a vanity dented earlier in the week by Hon John Halden. It is obvious also that Hon Ross Lightfoot has been stewing over that all week. Having Hon Ross Lightfoot speak on this Bill is like sending a clown to a funeral as a mark of respect to the recently deceased.

Hon E.J. Charlton: That's very nice.

Hon GRAHAM EDWARDS: The Minister will have his chance.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon GRAHAM EDWARDS: I have unlimited time. I will wait until the Minister has exhausted himself.

The DEPUTY PRESIDENT: The member does not need to wait. He must address the Chair, and the interjections must cease.

Hon GRAHAM EDWARDS: It became evident that Hon Ross Lightfoot had not even read the Bill. If he had, he would not have been able to make such inane and stupid statements - such as this Bill does not adversely affect workers' welfare, that it repairs and reconciles, or that it is about people. Anyone who has read the Bill would know that it is not about people; it is about this Government's repaying favours to the people who supported it in the lead-up to the last election.

I am very pleased that in this debate I have unlimited time because I have noted a number of new issues to which I can respond, following Hon Ross Lightfoot's remarks. It has been pleasing once again to listen to the well researched and knowledgeable speeches that have come from the Opposition side of the House. It is disappointing that only one member from the Government side has spoken. As I have said before, I appreciate that at least Hon Ross Lightfoot has spoken on the Bill.

Hon Peter Foss: And spoken ably.

Hon GRAHAM EDWARDS: The Bill has been successfully, effectively and efficiently debated by members on this side of the House, so I will not roam through the Bill but will address clause 9(1)(a), which refers to an employee who is either permanently or temporarily mentally or physically disabled. That clause has been drafted through ignorance and the person responsible should hang his head in shame. The clause denigrates people in our community with disabilities. It is important to spend time considering the terminology and what is inferred when this type of language is used in relation to people with disabilities. I chaired a task force in 1986 which prepared a report entitled "A fair go for people with disabilities". I will quote extensively from that report. The task force found it had to address the question of terminology. Section 1.6 of the report states -

Before going onto our discussion in detail, we would like to clarify the terminology which will be used. This is important because many of the words used to describe people who have handicaps are emotive and often have derogatory connotations. In some instances, inappropriate terminology can actually be discriminatory. For example, the presence of a particular impairment might lead to the assumption, in every case, that the person is unfit (or only fit) for certain tasks.

It seems that is exactly the sort of assumption that has been made in this Bill. The report of the task force refers to the World Health Organisation's definitions of impairment, disability and handicap. It states -

**Impairment:** "Any loss or abnormality of psychological, physiological or anatomical structure or function." Impairment is a generic term which covers any disturbance in normal structure and functioning of the body including systems of mental function.

**Disability:** "Any restriction or lack (resulting from an impairment) of functional ability to perform an activity in the manner or within the range considered normal for a human being." Disability refers to the loss or reduction of functional ability and activity that is the result of an impairment. Disability covers incapacity in walking and other body movements and in manual activity and behaviour disorders.

**Handicap:** "A disadvantage for a given individual, resulting from an impairment or a disability, that limits or prevents the fulfilment of a role that is normal (depending on age, sex and social and cultural factors) for the individual". Handicap represents the social and environmental consequences to the individual arising from impairment and disability.

Those are important points because we need to understand what it is that we are debating in this Bill. The report gave an example. It states -

A broken leg is a person's impairment. The person's inability to walk is his or her disability. The problems in gaining access to buildings, in finding accommodation and employment, in using transport, and in having sufficient financial resources are all handicaps.

The way in which words themselves are used is also important. Phrases such as "the disabled", "the handicapped", "the deaf" and so on can emphasise an impairment, when it is actually the consequences of an impairment that are of interest. They can also create a uniform class where none exists.

The report continues -

We feel that such labels should be avoided and that the terms should be humanised.

A further problem with terminology is that it can create distinct categories according to the type of impairment. We have noticed that disabled people seem to be described as either "physically handicapped", "intellectually handicapped"

or as having a "mental disorder". . . . We regard such labels as misleading because many impairments do not have the same origin as manifestation and because the lines between the categories are blurred in the first place.

I am referring to this report because either the person who drafted this Bill or the person who gave the drafting instructions has fallen into the same sort of terminology traps that the task force referred to way back in 1986. This report was very well accepted within the community as a non-political document. The membership of the task force included someone for whom I have a lot of time, that is, Mr Doug Lambert, who was the Director of the Labour Relations Division within the Chamber of Commerce and Industry.

Hon Peter Foss: Are you making the same point that was made by Hon Nick Griffiths about the difference between being disabled and incapacitated?

Hon GRAHAM EDWARDS: I am making a different point. The point I am trying to make about the report's being accepted within the community, and one of the reasons it was accepted so well, was that the committee's membership included such people as Doug Lambert. Not once during the course of the deliberations of the task force did it resort to taking a vote. Every one of the recommendations that was brought forward came from consensus and agreement. Page 23 of the report refers to physical impairment and states -

The range of physical impairments which give rise to handicaps is far greater than might at first be expected. Physical impairments include conditions such as paralysis, blindness, hearing impairments, visual impairments, degenerative diseases and the like. Many impairments are hidden and some people have difficulty in understanding the existence of an impairment which has no visible manifestation.

Once again it is the terminology of this Bill that is a very important point, because someone like me who has a very visible disability may be more heavily penalised by an employer than someone who has a hidden disability. It may be that both people are penalised unfairly, because this Bill provides for an employer to make a judgment about the level of impairment and disability.

Hon Peter Foss: It is the employer and the employee.

Hon GRAHAM EDWARDS: Yes, but the employer has the whip hand given the fact that people with disabilities find it difficult to get employment. They find the options that are open to them are fewer than those open to able bodied people. That is especially so in times of high unemployment when they are competing in the workplace for jobs. I do not know any employers who would do this, but I am sure with a little bit of research I could find those who would be prepared to take advantage of circumstances like that. The report of the task force goes on to say -

Conditions falling within this category include epilepsy, back injury, diabetes, migraine, heart disease, hypertensive disease, repetitive strain injury etc.

All these conditions can cause some problems to people in the work force and an employer may want to interpret them as a disability. With some impairments it is difficult to know whether the condition is best understood as a physical disability or one which has resulted from adverse early experience and faulty learning. The report then refers to mental impairment. It is important that we go through this report. I do not intend to hold the House any longer than is necessary, but we must address the phrase "mentally disabled" which is contained in this Bill. The report states -

In the area of "mental" functioning, we considered it critical to distinguish intellectual impairment and mental disorder. This point was also strongly made in several submissions, which viewed the terms of reference as deficient because of the failure to make this distinction explicit. The Working Party recognises this difference, and feels that any confusion in legislation would be most undesirable.

That was in 1986, but I am suggesting that the terminology used here in 1993 has the potential for confusion in this legislation and is a valid concern. The key distinguishing

feature is that an intellectual impairment is generally a permanent disorder in which specialised training and education can be used to help a person realise his or her fullest potential. Intellectual impairment refers to conditions such as mental retardation, mental degeneration due to brain damage, and slowness in learning or specific delays in development. In contrast, a mental disorder is generally regarded as being treatable or controllable as an illness of organic or social origin or a social deviance. Included in this category would be conditions such as senile and other psychoses, neurotic disorders, personality disorders and other non-psychotic, mental disorders.

I turn to the last area I want to deal with, which is on page 28 of the report in section 274 which refers to mental disorder. I reiterate that it is important, particularly when we come to the Committee stage of this debate, that we know in this House what we are talking about. Mental disorder has been described by one person in the anti-discrimination field as the poor relation among disabilities. It is the area in which the least progress has been made in providing protection against discrimination and the area in which community attitudes are the most negative. The next heading is "meaning of mental disorder". It says -

Mental disorder and mental health are notoriously difficult to define. Before defining what we mean by mental disorder for the purposes of the Equal Opportunities legislation, we need to outline the basis of our understanding of the concept.

Mental disorder is usually judged to be present when there is evidence of abnormal behaviour. Although there has been considerable debate about what should be considered abnormal, there is usually agreement that abnormal behaviour is any which is unusual, inconsistent, unexpected and maladaptive i.e. it interferes with the ability of the individual to function effectively in managing everyday matters. It is also likely to result in considerable personal anguish and suffering.

Questions of the origins of particular mental disorders have been widely debated, though little understood. All psychopathological conditions are, by definition disorders of function, but some have a presumed organic basis while others seem to result from adverse early experiences and faulty learning. In many cases it is difficult to know which are which and there has been considerable dispute about whether pathological states are better understood in terms of the model applied to physical diseases or from the study of learning processes and socialisation.

Whatever the causes of mental disorders, it is important to recognise that they are widespread in the community. They are also heterogeneous in type, severity and duration.

The Minister for Health may be interested in this statistic, which dates back to 1986 -

Mental disorders in Western Australia account for more hospital in-patient bed days (19 percent) than any other International Classification of Diseases (ICD9) category of illness. The admission rate to hospitals (psychiatric, general and private) is over 130 per 10 000 for adults over 20 years old. In 1984-85, over 8 000 adults sought help as out-patients from psychiatric services. An unknown, but almost certainly larger number, visited teaching hospital and private psychiatric out-patient clinics. It has been estimated that 10 percent of the population will, during their lifetime, spend some time in a psychiatric unit or hospital.

Under the terms of this legislation, I just wonder, during that time when some 10 per cent of the population will spend some time in a psychiatric unit, whether they will be affected by this legislation and adversely dealt with by the employer who seeks to take advantage of what is contained in this Bill.

Hon Peter Foss: If they are in a psychiatric unit they are unlikely to be employed, and while they are not they are not affected.

Hon GRAHAM EDWARDS: This Bill talks about "permanently or temporarily". When

does one decide that? Of course, this is the dilemma that people with disabilities will have under this legislation. Certainly it may be a problem for the employer.

The reason I have gone into this other detail is that although this data points to a high rate of mental disorder in the community, only a small proportion of these people will be conspicuously and severely disabled. For most of those who seek assistance or treatment, perceptible loss of a normal function is rare, transient and mild. Even for those who are severely and repeatedly affected, there are likely to be long periods when adequate social and personal functioning is achieved. Nonetheless, it is common for people who have undergone psychiatric treatment or hospital admission to be subjected to considerable discrimination and stigmatisation. This Bill will only lead to and increase that discrimination and stigmatisation. The report continues -

There is no doubt, as pointed out in one of the submissions we received, that in the past thirty years there have been significant advances in diagnosis, management and rehabilitation of mental illness. This, the submission concluded:

"...demands a re-evaluation of psychiatric disability by decision-makers in government, commerce (including the personal insurance industry), education and the community. This re-evaluation must incorporate a shift in emphasis that the psychiatrically disabled person has not chosen his disability and is therefore not responsible for it. Policies and services should be changed to reflect this emphasis."

I emphasise that policies and services should be changed to reflect this emphasis. In terms of policy, this Bill does not reflect this emphasis. I do not care how members interpret the legislation, but the clause to which I have referred discriminates against people with disabilities. Even if someone can convince me that I am wrong in my interpretation of it, they will not convince me that this legislation is not obnoxious. It quite clearly denigrates people with disabilities who are trying to compete with able bodied people for employment at a time of high unemployment. People with disabilities are often more disadvantaged because of that fact. This legislation takes us back to the situation which prevailed prior to 1986, the year the report to which I have referred was prepared.

I thought we had addressed a lot of these issues in the 1980s and disposed of the myths that were circulating about people with disabilities. I am pleased that because of this report the equal opportunity legislation was introduced into this Parliament and passed, because it gives people with disabilities more recourse under law. After reading the Minimum Conditions of Employment Bill, I am pleased that the equal opportunity legislation was enacted because if this Bill is passed in its current form many people with disabilities in the workplace will have to seek recourse under that legislation.

**HON PETER FOSS** (East Metropolitan - Minister for Health) [12.13 am]: I thank members for their comments on the Minimum Conditions of Employment Bill. I found many of the comments to be extremely helpful, particularly those referring to the provisions of the Bill. It will be much easier for me to address members' concerns in Committee. Of course, we will not deal with the majority of those concerns in detail now, but I will ensure that I can answer the concerns that have been raised in this debate. However, I will refer to one or two issues that were raised in the debate now.

I will commence with Hon John Cowdell's speech. His contribution to the debate was lucid and I found his comments most helpful. He clearly demonstrated to the House the difference of opinion between the Opposition and the Government on this Bill. Although there were errors in some of the conclusions he drew about the wording of the Bill, he did indicate the major aspects of the Bill in which the Government and the Opposition differ. The points he made were summed up in his opening remarks when he said he had no problem with the concept of the Minimum Conditions of Employment Bill. He pointed out that the Federal Government is considering preparing similar legislation. However, he said he had a twofold objection to the legislation - the paltry nature of the standards and the way in which it could be used by employers. He said this Bill would be used by employers in conjunction with the Workplace Agreements Bill to enable people to step outside the award system. This Bill is an improvement for those people who are not employed under the award system because currently they have absolutely no protection.

Hon Alannah MacTiernan said that she would not object to the legislation if it had not been part of the Government's industrial relations package. That brings me to the essence of the Opposition's argument. Members opposite consider this Bill to be a disadvantage because they see it as a maximum rather than a minimum. They believe that workplace agreements will be forced on employees by unscrupulous employers. I thought the Bill would gain considerable support from members opposite because, for the first time, it will protect those people who have had no protection whatsoever.

Hon John Halden: Don't forget clause 3 in which the Minister can say people are no longer employees.

Hon PETER FOSS: That is true, but it is an exception. At least until the Minister does that it gives that right to people who have previously not had it. Members opposite spoke about other things, but, generally speaking, not the Bill itself.

Perhaps we should examine some of Hon John Cowdell's objections to the Bill. He acknowledged that the proposals in this legislation will be an improvement on the current situation because 21 per cent of the people are currently award free. He did take exception to the nominated minimum rate of pay and considered it to be paltry. The fact remains that the amount has not been randomly selected, but is the rate of pay currently applicable under the general order. He gave reasons why he did not agree with that figure. He said that the previous Government wanted that figure to be higher and the current Government did not want it to be higher, but wanted it to be implemented in instalments.

It is a little inconsistent that people who have been lauding the conditions under the industrial relations system and telling the Government that that is the way to go, suddenly find themselves unable to support the minimum wage which has been fixed by the Industrial Relations Commission. Members cannot have it both ways. On the one hand one cannot say that the Industrial Relations Commission is a wonderful organisation that gets things right and, on the other hand, accuse it of not getting the appropriate minimum wage right. Hon John Cowdell suggested that the previous Government had the right to nominate the appropriate minimum wage and then he complained that clause 32 of the Bill provides that the amount will be prescribed by the Government. Members have to come down on one side or the other if they wish to criticise the legislation. They cannot, on the one hand, say that the Government's decision is irrelevant and that the commission's decision should be accepted and, on the other hand, say that because the commission cannot get it right the Government should make the decision. We have said we think it is perfectly appropriate to start with the current situation, neither taking people backwards nor moving them forwards. It is starting in exactly the place applying to them now. The Government is applying that to all people not covered by awards, and saying that thereafter it will be prescribed. We think it is appropriate that Governments be involved in this because we believe it is more responsive and a quicker process than the minimum award process. It is quite appropriate for that sort of decision to be made by Governments, which have access to the appropriate information.

One of the other points raised by Hon John Cowdell was the question of annual leave, which was also raised by Hon Mark Nevill who disagreed with him. It is appropriate to put on the record the Government's intention, which is quite clear. Clause 23 deals with the calculation of annual leave which is referred to as an amount for each year of service. Hon John Cowdell said that an employee who did not have a year of service would not be entitled to anything. However, subclause (2) states -

An entitlement under subsection (1) accrues *pro rata* on a weekly basis.

The meaning is quite clear. Perhaps, rather than try to paraphrase that, I can give the equivalent example of an annual interest rate accruing from day to day. The amounts accrue on a day to day basis and one does not wait until a year expires. The member also said that clauses 30 and 31 are in contradiction, but I do not believe that is the case. It seems to be thought that this Bill makes massive changes to the law and becomes a code. Rather, it provides minimum conditions of employment. It sets out the minimum conditions of employment to be imposed when a person engages in a contract, and that is

put there without in any way disturbing any other areas of the law, except as specifically provided. Its effect on awards is only applicable through the provisions of the Workplace Agreements Bill, and not through the Minimum Conditions of Employment Bill. It comes from misapprehension as to how those clauses of the Bill are to be applied. Therefore, it does not override the Public and Bank Holidays Act, the Long Service Leave Act or any of those Acts. There is no provision for it to override any of those Acts. Hon John Cowdell said the Bill does not provide protection from unfair dismissal. Again, there is no protection from unfair dismissal, except as currently exists under section 29 of the Industrial Relations Act. An employee covered by that section of the Act will continue to be covered, and an employee not covered by it previously, will not be. An employee with a workplace agreement, of course, is protected against unfair dismissal, in accordance with the Workplace Agreements Bill. The member said that long service leave provisions should be included in the Bill. Of course, they should not because we already have an Act in this State specifically dealing with long service leave.

The other person who dealt with some matters in the Bill in some detail was Hon Kim Chance. He accepted that the minimum figure provided is the current State arbitrated minimum wage. He also recognised that the question of sheltered workshops was an important one. I should perhaps inform members of where this clause came from. The Government was apparently asked by those people involved in sheltered workshops to exempt them totally from the provisions of the Bill. Rather than exempting them totally, this provision was included. I understand the concern raised by Hon Kim Chance about a safety net, and that is something we can possibly deal with through regulations. It might be appropriate to have a regulation which says an agreement such as provided for in clause 9 should be witnessed by an official of an organisation involved in the area of disability that person has. I understand the concern. One could have a highly prescriptive regime put in the Bill. The Government recognises that it is important, but instances have already occurred of people's employment being threatened because of the inability to make differences for people employed in sheltered workshops.

Hon Doug Wenn interjected.

Hon PETER FOSS: I will certainly consider the matter, but I will not do so through the second reading debate. I will certainly address that in the course of the Committee stage.

Hon John Halden: You commented on the long service leave provisions and I understood you to say there was no change. However, the Industrial Relations Amendment Bill gives the power to the Minister to repeal the general order regarding long service leave provisions.

Hon PETER FOSS: Long service leave has its own Act.

Hon John Halden: Yes, I know and this will give power to the Minister to overrule that Act.

Hon PETER FOSS: No, there is a difference between the Long Service Leave Act and a general order regarding long service leave. It has always been possible under the Industrial Relations Act to provide different long service leave provisions than those contained in the Act, but it is not proposed that the Long Service Leave Act be repealed. That Act already gives minimum conditions of long service leave in Western Australia.

Hon John Halden: It will bring it back to long service leave every 15 years.

Hon PETER FOSS: We will deal with that Bill when we get to it.

Hon John Halden: I want you to be clear that I am watching you.

Hon PETER FOSS: It might have been easier to debate these matters cognately because some people resolutely have debated the first Bill every single time. The Long Service Leave Act currently provides the minimum conditions of long service leave in this State.

Hon Doug Wenn interjected.

Hon PETER FOSS: That recognises the current situation with regard to some awards in this State which still make the distinction between employees' ages up to the age of 21



years. A debate was held last year on this matter in connection with the Equal Opportunity Act amendments. Some current awards in this State recognise a continuing rate of increased payments up to the adult wage payable at age 21. The fact is that they exist and that situation currently applies in a number of clauses.

Hon Doug Wenn: You can send 18 year olds off to war -

Hon PETER FOSS: We have had that one before, and there are all sorts of arguments about it. The member can make his argument if he wishes, but it recognises the current situation. One or two awards have that age group in them and that is the reason it is included.

Hon Doug Wenn: Change it, Minister.

Hon PETER FOSS: We cannot change awards. Awards, as the member might know, are changed by the Industrial Relations Commission.

Hon Doug Wenn: You have the priority now to do it within this Bill.

Hon PETER FOSS: I know Hon Doug Wenn wants me to change the Bill. I am almost tempted to point out some of the things he said about the Bill, but I will save everybody some time, as I am sure he will raise those matters again at the Committee stage. I would not want to prevent him from having that opportunity.

Members opposite have generally expressed a concern that a certain amount of the law will be determined by prescription. The Deputy Leader of the Opposition raised the fact that a person can cease to be an employee by virtue of prescription. Hon Nick Griffiths raised some concern as to the general provisions of the regulations, although I must confess that I do not agree with that. I prefer more general provisions. I think the Deputy Leader of the Opposition also raised the question of clause 47 in that context. There were complaints about terminology and questions asked about words such as "de facto". We will deal with that when we come to that particular part.

Hon Nick Griffiths asked whether being mentally or physically disabled necessarily meant being incapacitated. He asked why a person who was disabled but able to perform the job should lose any protection. I will certainly take up that point and give it consideration.

Hon Cheryl Davenport gave us a very thoughtful speech on what she sees as a regularly disadvantaged group in society, that of women.

Hon Tom Stephens: Would you go over that point again, Mr Foss?

Hon PETER FOSS: Which point?

Hon Tom Helm: I just did not understand fully what you said before about clause 47.

Hon PETER FOSS: I have made a couple of points since then.

Hon E.J. Charlton: We are now on to Hon Cheryl Davenport. You were not listening.

Hon PETER FOSS: Hon Cheryl Davenport said that she saw women as being possibly disadvantaged by the legislation. I understand the point she made and the concerns she has. That is, of course, predicated upon a supposition that was prevalent in many of the speeches that were made; namely, that the world is full of ruthless employers who like nothing more than the opportunity to downtread the workers. That seems to be a false impression; it is, at least, one with which I cannot agree.

Hon Tom Butler used the opportunity to give his speech on the Workplace Agreements Bill that he was unable to give when we considered it. It was a very interesting speech.

Hon T.G. Butler: That is the problem we have with you; you do not understand what is going on.

Hon E.J. Charlton: It saves doing it in the adjournment debate.

Hon PETER FOSS: That is true. He was not allowed to do it on the adjournment debate, so he gave it in this instance. We were very interested to hear his contribution. I do not think anything arose for answer from Hon Sam Piantadosi's speech.

Hon N.D. Griffiths: You took a lot of notes, though.

Hon PETER FOSS: I put a zero followed by an exclamation mark, actually. Similarly, I do not think anything arose from the speech of Hon Jim Scott.

Hon Doug Wenn: So why did you get so upset?

Hon PETER FOSS: I always thought that the green people were nice people rather than people who took a chance to take a cheap shot, raising matters which were entirely irrelevant. I thought that one should show him up for his position. I always thought that as a green person he would be one of those who insisted on the law not being abused by executive Government. I always thought that the greens would think that laws should be obeyed and properly administered by Governments, not used to satisfy the whim of individual Ministers. I am surprised that Hon Jim Scott takes this attitude, because I always thought -

Hon E.J. Charlton: He comes from Doodlakine.

Hon PETER FOSS: Maybe they have a different view in Doodlakine from the rest of the green movement, but I always thought they were very keen on ensuring that people observed laws and that Ministers did not go beyond the power to grant them or use them for purposes other than those for which they were intended. It may be that he genuinely believes that Ministers should use their power or maybe he was showing another green characteristic of taking a cheap shot.

Hon Derrick Tomlinson interjected.

The PRESIDENT: Order!

Several members interjected.

The PRESIDENT: Order! Members can see that the Minister is trying desperately to get to this vote.

Hon John Halden: Minister, I have a report card for everyone here. You might like to sign it and give a mark to everyone.

Hon PETER FOSS: I was not going to refer to Hon Jim Scott, but having had the opportunity I think it was worthwhile. I found Hon Mark Nevill's speech extremely helpful in that he raised various examples of what he saw as vulnerable groups and their current entitlements. We will certainly give it a lot of consideration. I have already dealt with the question he raised about pro rata annual leave and I think he was quite correct in his statement. The point about his reference to clause 8 is that this does not in any way affect the Truck Act. The Truck Act still applies. It does not purport to amend or repeal that Act. Hon Mark Nevill again raised the question of how much the benefit should be. I recognise that whether it should be commensurate should be looked at.

Hon Tom Stephens: The question from Hon Mark Nevill was whether the Truck Act was going to be repealed, not whether this Bill was going to repeal it.

Hon PETER FOSS: That obviously is a matter outside my portfolio, but I am not aware of any such suggestion.

Several members interjected.

Hon PETER FOSS: Hon Tom Stephens -

The PRESIDENT: Order, Minister! I will not continue to let members carry on as they are at the moment. I will get quite angry in a couple of minutes. If members want to participate in the activities that I thought were going to occur 15 minutes after the Minister stood up but which now look like occurring 45 minutes after, they need to be in the Chamber. If members think that I am mucking around, if they keep interjecting they will finish up not participating in that vote. That includes the Minister.

Hon PETER FOSS: Thank you, Mr President. Hon Tom Stephens' emotional speech dealt mainly with one point, clause 27. His plea to me was: Why is there no opportunity to strike up a different agreement from that in clause 27? This shows the total lack of appreciation that this member has of what this is all about. This is a minimum conditions of employment Bill. Anything can be agreed. If people wanted to put greater categories

of people into the area of bereavement leave or to change the number of days, of course they can do so. The Bill does not purport to stop people from doing anything. All it is doing is providing minimum conditions. The member asked why there was no opportunity to strike up a different agreement. I think he indicated that he would retract or apologise or something of that nature after I pointed out to him the fact that there is every opportunity to do so. Anything can be agreed, but it must not be less than that proposed in this Bill. Obviously, Hon Tom Stephens has not understood the Bill.

Nothing really arose for me to reply to in the speech of Hon Tom Helm. I am grateful for Hon Ross Lightfoot's excellent contribution. I am looking forward to my \$244 from Hon Tom Helm. One thing he did say was that he would bet a pound to a penny that nobody else would stand up.

I thank Hon Graham Edwards for the matters he raised in regard to disabilities. The important point about clause 9 is that it is meant to be a comprehensive clause that will apply no matter what is the type of disability, rather than one that seeks to make some distinction between disabilities and to make different provisions apply to them. The points that he raised certainly indicated the different considerations that might apply in regard to those different disabilities and the need to ensure that a wage was based on a real concern rather than some apparent concern about a person's capacity to perform worthwhile work.

The debate has made a clear distinction between the attitude of the Opposition and the attitude of the Government. The attitude of the Opposition is not an objection to the concept of this Bill but rather is a concern about some of the protections involved in it, about whether the minimum is a fair minimum, and about the future processes for adjusting the minimum. Apart from that, the Opposition's concern relates really to this Bill's relationship with the Workplace Agreements Bill.

Hon John Halden: That is a fair comment.

Hon PETER FOSS: I think the Bill is accepted by all parties as a worthwhile endeavour. Accordingly, I thank members opposite for their contributions and commend the Bill to the House.

#### *Division*

Question put and a division taken with the following result -

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<i>Ayes (17)</i>		
Hon George Cash	Hon Barry House	Hon R.G. Pike
Hon E.J. Charlton	Hon P.R. Lightfoot	Hon B.M. Scott
Hon M.J. Criddle	Hon P.H. Lockyer	Hon W.N. Stretch
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Derrick Tomlinson
Hon Max Evans	Hon N.F. Moore	Hon Muriel Patterson ( <i>Teller</i> )
Hon Peter Foss	Hon M.D. Nixon	
<i>Noes (14)</i>		
Hon T.G. Butler	Hon N.D. Griffiths	Hon Tom Stephens
Hon Kim Chance	Hon John Halden	Hon Bob Thomas
Hon J.A. Cowdell	Hon Mark Nevill	Hon Doug Wenn
Hon Cheryl Davenport	Hon Sam Piantadosi	Hon Tom Helm ( <i>Teller</i> )
Hon Graham Edwards	Hon J.A. Scott	

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Question thus passed.

Bill read a second time.

### **RURAL ADJUSTMENT AND FINANCE CORPORATION 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) [12.45 am]: I move -

That the Bill be now read a second time.

The Bill before the House is the basis for the operation of the Rural Adjustment and Finance Corporation and the administration of financial support to farmers in specific circumstances. This Bill replaces the Act which commenced under the title of the Rural Reconstruction Scheme 1971, and was assented to on 14 October 1971. The Bill provides for the continuation of the Rural Adjustment and Finance Corporation, previously called the Rural Reconstruction Authority, and for administration of the rural reconstruction scheme. The 1971 Act approved and gave effect to an agreement between the Commonwealth and the State, providing for the establishment and operation of a scheme of financial assistance to persons engaged in rural industries in the State.

Since 1971, the Act has been amended a number of times and the Rural Reconstruction Authority has changed its name, first to the Rural Adjustment Authority and later to the current body, the Rural Adjustment and Finance Corporation of Western Australia. Also, over the years, there have been additional agreements between the Commonwealth and State providing financial assistance to agriculture. With the number of amendments to the Act and its supporting schedules, there has long been a recognition of the need for a new consolidated Act. In addition to consolidating the amendments into one Act, this Bill also includes a number of new initiatives. Some of these are purely administrative, but others will re-focus the Rural Adjustment and Finance Corporation.

The Bill includes provision to expand the membership of the corporation from five to seven members. Under the existing legislation, members of the corporation include: The chairperson, who must have wide experience in financial matters relevant to rural industry; a representative from the Treasury Department; a representative from the Department of Agriculture; and two persons with wide experience in rural industry or financial matters, or with other qualifications relevant to the functions of the corporation. These two members have traditionally been farmers.

The Bill proposes that the corporation be appointed by the Minister, the membership being: A chairperson with wide experience in financial matters relevant to rural industry; a person with wide experience in banking or the provision of finance for rural industry; and five persons with wide experience in rural industry or financial matters or with other qualifications relevant to the functions of the corporation.

The deletion of specified representation from the Department of Agriculture and the Treasury Department satisfies a recommendation of the recent royal commission that a public servant should not be appointed to the board of a statutory authority or State-owned company while retaining a position in the Public Service in a department within any portfolio of the Minister responsible for that body. However this is not to say that officers of the Public Service could not be appointed as members of the corporation by virtue of their experience or expertise in rural industry or financial matters, or where this would effectively integrate Government programs in rural areas, rather than as a representative of a particular Government department.

It is the Minister's intention to increase the farmer members of the corporation from two to three. It is believed that the expertise of the corporation will be enhanced by this new structure and that the interests of the farming community will be well represented. The chief executive officer of the corporation will not be appointed as a corporation member; the officer will be entitled to attend any meeting of the corporation and to participate in any discussions but will have no voting rights. The terms of the current members of the corporation will terminate with the commencement of this Act but present members become eligible for reappointment under the new legislation.

The need to have a separate chairperson and chief executive officer has been promoted a number of times both in the Press and in this place. The idea was also suggested in the report of the functional review of the corporation, and is consistent with findings of the royal commission. It also allows for the members of the corporation to act as an appeal

body independent of its administration. In line with the expansion of the corporation's membership, the Bill also provides that the chairperson of the corporation should be given a deliberative and a deciding vote, to be exercised only in the event of voting being tied.

The Bill includes a number of administrative amendments to the Act. These are: An amendment to allow the administrative costs of the corporation to be met from existing trust fund accounts for the various schemes the corporation administers; an amendment to allow the corporation to set up a separate trust fund account for its administrative costs; and an amendment to allow for fees to be charged for services provided. At this time, the corporation incurs costs associated with registering security documents, which are not costs of the corporation's own operations but are out of pocket costs the corporation must meet; an amendment to enable the winding up of the pre 1985 trust funds and the disbursement of remaining assets of these funds resulting from the early retirement of Commonwealth debts from the pre 1985 rural adjustment schemes. These remaining assets in reserve funds and future loan repayments are taxpayers' money allocated by the Commonwealth to support adjustment in the farm sector. It is proposed that these assets should be transferred to the rural assistance fund to continue to be available to the State for this purpose.

A review clause is included in the Bill. This requires the Minister to carry out a review of the operation and effectiveness of the Act as soon as practical after the elapse of five years from the commencement of the new Act. Other amendments will increase the value of fines contained in the Act. With inflation, existing fines of \$200 can be considered only token amounts and not real deterrents. Most of the fines now have been increased to \$10 000. Also, the period for initiation of prosecutions has been increased to five years and this, with the increase in fines, is a more relevant deterrent. In the past there have been instances of false declarations which did not become apparent for many months and were then outside the previous limitations period of six months for launching action for fraud.

Amendments included in the Bill cover references to the Financial Administration and Audit Act and the Public Service Act. The corporation is also brought under the jurisdiction of the Parliamentary Commissioner for Administrative Investigations - the Ombudsman - as a means of widening the accountability provisions in the Act. Other amendments included in the Bill clarify the appointment of staff to service the corporation, and the appointment of new staff which are to be public sector employees rather than employees under the Public Service Act.

Under its legislation, the corporation continues as an independent statutory authority with the Minister appointing members and the chief executive officer. This differs from the Public Service Act where the Public Service Commissioner appoints a chief executive officer. The Bill provides the power for the corporation to engage staff to perform its functions subject to the approval of the Minister. In the past, most of the corporation's staff have been employed as public servants. The Bill provides a savings section which will protect the rights of the corporation's existing Public Service staff. It clearly states that a person currently employed under public service is entitled to redeployment on the termination of employment with the corporation back to suitable alternative employment in the Public Service.

The form of the standard amendment to allow the Minister to give directions to the corporation and to have access to information from the corporation is also included in the Bill. However, this power specifically excludes the giving of directions in relation to the corporation's dealings with individual people or applicants. Ministerial directions will be in writing and will be included in the corporation's annual report in accordance with standard Government practice.

I know that many members of this House have been concerned about the definition of "farmer" as presently defined in the corporation's existing legislation. Aspects of this definition have been unclear, leading to variable interpretation and confusion regarding the eligibility of persons to obtain support through the corporation under the various

schemes that are administered. Acting on recent advice of officers of the Crown Law Department, the Bill has been drafted to delete a definition of "farmer" under section 3 of the Act. This will mean that future eligibility for support in any of the forms available will be dependent on an applicant's meeting the requirements of the appropriate agreements, or any future agreements between the Commonwealth and States, or any determination issued for a State initiated support scheme. For example, the 1992 Commonwealth-State rural adjustment scheme agreement incorporates comprehensive definition and eligibility provisions.

This Bill brings together under a consolidated Act all amendments and agreements since 1971. It formalises the operations of the Rural Adjustment and Finance Corporation. It provides for the ongoing administration of support to rural industry. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

### ADJOURNMENT OF THE HOUSE - ORDINARY

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [12.55 am]: I move -

That the House do now adjourn.

*Adjournment Debate - Rock Lobsters, Pot Reductions, Politicians' Involvement*

**HON GRAHAM EDWARDS** (North Metropolitan - Leader of the Opposition) [12.56 am]: Before the House adjourns I wish to draw to the attention of members an article in the *Geraldton Guardian* of 21 September, entitled "Politicians should 'butt out': Tuckey". It reads -

FEDERAL MP Wilson Tuckey has urged politicians to "butt out" of the crayfishing conservation debate.

Mr Tuckey, the Liberal MHR for O'Connor, said he was disappointed and tired of politicians grabbing opportunities by politicising the issue.

"I do not think there is any place for politicians with their cut and thrust ways," he said. "The issue is too big for them to become involved in."

Mr Tuckey was commenting after recent State Opposition questioning in State Parliament.

Opposition fisheries spokesman Graeme Edwards asked whether a Rock Lobster Industry Advisory Council (RLIAC) member had benefited commercially from inside knowledge.

Mr Edwards revealed concern that the member acted between the RLIAC deciding to recommend further pot cuts and the recommendation being announced publicly.

But Mr Tuckey said it would only constitute "insider trading" if the member had sold pots and the buyer had lost one quarter of them after the 25 per cent pot cut recommendation - but the member had bought pots.

"When people get to the level of 'no integrity' they could at least have a little logic," Mr Tuckey said.

I am not sure whether he is talking about me or about Hon Monty House, the Minister for Fisheries - remembering that the Minister for Fisheries had launched an inquiry into allegations made not by me but by a member of the fishing industry. I wonder whether Mr Tuckey's well-known dislike for members of the National Party has overridden his dislike for members of the Labor Party. The article continues -

He also criticised Geraldton-based lobby group Campaign Against Pot Reductions (CAPR) for trying to influence a politician - Geraldton MLA Bob Bloffwitch - in his decision making.

Mr Tuckey claimed that at a recent protest meeting a CAPR spokesman urged deckhands to buy their vehicles outside of Geraldton because Mr Bloffwitch was not supporting their cause.

I thought Mr Bloffwitch supported freedom of choice -

Mr Bloffwitch is dealer principal of Geraldton Sun City Ford and Nissan.

Last week CAPR co-ordinator Andrew Young attacked Mr Bloffwitch for not responding to a request for assistance for CAPR members in Mr Bloffwitch's electorate.

Mr Young said Mr Bloffwitch had not bothered to respond to their request, claiming it was because Mr Bloffwitch supported the craypot reduction recommendations.

But Mr Bloffwitch said Mr Young wrote informing him CAPR was against the pot cut proposal - not asking for support.

Mr Bloffwitch said he faxed Mr Young advising him to express his views at the coastal tour meetings.

"He is trying to create media for his cause and I happen to be a good scape-goat," he said.

Mr Tuckey said people should look at the information available suggesting WA was the only State with a serious management policy for its fishery.

"And the regulators are responsible for that," he said.

I refer again to the statement by Mr Bloffwitch that "Mr Young wrote informing him CAPR was against the pot cut proposal - not asking for support."

I now turn to a letter signed by Andrew Young and addressed to Mr Bob Bloffwitch MLA. It reads -

I am writing to you to ask for your support for our Campaign Against Pot Reductions. As you will be aware, these reductions may have wide ranging implications to our community and it's businesses - and the majority of fishermen along the coast do not see it as a viable conservation measure.

As we wish to seek your support in this campaign, it is imperative to know where you stand on this issue. With little time to work with, we seek a speedy reply. You may fax us . . . if that is more convenient.

We are sure that you must share a mutual concern with us that our fishery be kept running in a harmonious, equitable and viable way.

Members will note that the letter begins with the words "I am writing to you to ask for your support" and that the earlier article stated, "Mr Young wrote informing him CAPR was against the pot cut proposal - not asking for support." I ask members to make their own judgments about this.

In conclusion, I today received a letter from a group called "Deckhands Against Pot Reduction", which was addressed to the Leader of the Opposition in the Legislative Council. It reads -

Dear Graham

Please find enclosed a petition, provided by deckhands and similarly concerned people against the pot reductions proposed by the Government.

We as a group are extremely concerned about the RLIAC's proposal which we feel will endanger our jobs and our livelihoods - namely the 25% pot reduction.

We are not against conservation - on the contrary we believe in the need for preservation of our industry, and therefore the job base it provides for the people and industry of the Mid West region.

Please understand that other options are available. The options put forward by

CAPR we feel are a better proposal encompassing conservation by targeting the female crayfish.

The CAPR proposal also keeps boats and pots which in turn saves jobs in our industry.

Please take note of this petition - our jobs and livelihoods are at stake.

Hon E.J. Charlton: Which option do you favour, Mr Edwards?

Hon GRAHAM EDWARDS: Hon Kim Chance has attended three meetings in Geraldton in recent times, and I have attended two such meetings there. We have become involved in the debate not because we think good political advantage can be gained up there for us, but because, as indicated by the petition, we are implored by people living and working in Geraldton to please take note because their "jobs and livelihoods are at stake". That is a fair enough reason to become involved, and I will point that out to Wilson Tuckey.

*Adjournment Debate - Health Education Officers, Central Wheatbelt, Positions Abolition*

HON KIM CHANCE (Agricultural) [1.03 am]: I raise a matter I have brought to the House on previous occasions, but some developments have occurred which are worthwhile raising. This relates to the abolition of two health education officer positions in the central wheatbelt health region. I have asked a series of questions of the relevant Minister about the circumstances surrounding the abolition of those positions. However, I am left with some considerable concern after receiving an answer as recently as today's sitting.

The change involves the replacement of two health education officers, who work in the field in that region. This is a large area and runs from the central coast, through the wheatbelt, down to the western goldfields and into the southern parts of the wheatbelt to areas including the Avon Valley. I do not know precisely the size of the area, but it must be around 100 000 square kilometres. That is a substantial part of my electorate. The two officers were able to cover that area with some difficulty. However, as problems arose - and there were many - they were able to cover the health education problems. Some of these problems were serious, and one in particular revolved around the use of drugs in the gold mining industry at Yilgarn in the western goldfields. I understand that one of those officers performed a tremendously helpful role in redressing what was a serious industrial health problem.

The proposal from the Health Department is that the two field officer positions are to be abolished and replaced by one person. However, that person's role will not be in the field; it will involve coordination of the delivery of what the Minister has called "underutilised generic health services" in the region. The information has been revealed bit by bit in a series of answers provided by the Minister. The underutilised generic health services are community health, hospitals and privately-based health professionals as outlined in the region health promotion strategy. Community health nurses, I agree, would have the capacity to deliver some of those services if they were not already overworked. However, these nurses are unable to deliver the services they were originally employed to provide.

I am the last person to denigrate hospitals. However, hospital staff are trained in the business of health care and health education is a specialised and often sensitive field. Hospital staff do not have the time to go out to a minesite miles from the nearest hospital to talk to workers about dangers of drug abuse in the mining industry. That requires a highly specialised form of training. This change is very much for the worse. I would appreciate it if the Minister would take another look at the matter to see what he can do to reverse the decision.

I have another couple of concerns: First, when I asked the Minister why the change was being made, he replied in answer to question 319 that it was because of the success of the program at the Dalwallinu hospital. I asked the Minister who judged the strategy to be a success, and on what criteria. The Minister replied that the chairperson of the hospital board had prepared an extensive report on what had been achieved in the community. He



said that it had been seen that the health protection activities had been well accepted in the community and that people within the community of Dalwallinu appreciated and used the service. I may be wrong, but I have made some inquiries regarding what has happened with health education service delivery at Dalwallinu, and all I have been able to find is that a 12 month program has been established, but as yet there has not been any health education service delivery at Dalwallinu, and certainly not beyond the immediate region.

Hon Peter Foss: How did you make the inquiry?

Hon KIM CHANCE: I made the inquiry of employees of the Health Department of Western Australia.

Hon Peter Foss: People at Dalwallinu Hospital?

Hon KIM CHANCE: I have not yet called Dalwallinu.

Hon Peter Foss: You might start with them.

Hon KIM CHANCE: I have called people involved with the delivery of health education services.

Hon Peter Foss: Dalwallinu people are very capable.

Hon KIM CHANCE: I know one officer personally, but I am aware that two have carried out this role.

Hon Peter Foss: I am suggesting that you visit the hospital.

Hon KIM CHANCE: While these interjections are occurring, I remind the Minister for Health that I have received no fewer than eight letters on this subject and four personal representations. I would not have thought that such an issue would normally raise a great deal of interest.

Hon N.D. Griffiths: It is an important matter.

Hon KIM CHANCE: I believe it is. The answer I received today from the Minister deals with the manner in which the two health education officers were told that their positions were to be abolished.

In answer to question 242 on 10 August the Minister said that both the health education officers had been part of discussions regarding the new direction for health promotion policy over the next 12 months. I am not saying that the answer I received today is inconsistent with what the Minister said before. However, the answer was that the decision to abolish the two health education officer positions and to create a change of direction for health promotion was made following the last round of discussions with the officers concerned. At that meeting both agreed with the change of direction and both were assured that they would have secure employment, regardless of any change. It does not say where that secure employment would be. This is an area of about 100 000 square kilometres. A letter of formal notification was received two days before the last round of discussions. The first answer we were given would suggest to a reasonable person that the officers concerned had some idea that their positions would be abolished during the 12 months when they were discussing the matter with their employers. But when we get down to the real nitty gritty, we find that formal notification was sent to the officers two days before the last round of discussions, which was held on 27 July. We understand the officers received that notification on 4 August, just a couple of days later.

Hon Derrick Tomlinson: They knew six months ago.

Hon KIM CHANCE: I can assure Hon Derrick Tomlinson that they did not know until the week when they were told that their positions were to be abolished.

Hon Derrick Tomlinson: What were they involved in six months ago?

Hon KIM CHANCE: For 12 months they were involved in those discussions. They did not know that those discussions would involve the abolition of their positions until the last week of those negotiations.

Hon Derrick Tomlinson interjected.

Hon KIM CHANCE: I am not entirely sure what line Hon Derrick Tomlinson is pursuing. This is a poor decision. I would appreciate the Minister's undertaking that he will look into the matter.

Question put and passed.

*House adjourned at 1.13 am (Thursday)*

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## QUESTIONS ON NOTICE

### CORONER'S ACT - REPEAL

393. Hon TOM STEPHENS to the Minister for Health representing the Attorney General:

- (1) Will the Court Government proceed with the repeal of the Coroner's Act 1920 and replace it by an Act that establishes a State coronial system with an office of "State Coroner"?
- (2) If not, will the Court Government move in the current session of State Parliament to amend the Coroner's Act so as to establish -
  - (a) proper designation of reportable deaths;
  - (b) powers of delegation of non-judicial acts;
  - (c) powers of investigation such as search and seizure of relevant information; and
  - (d) the proper release of bodies in the control of the Coroner?
- (3) Will the Court Government be proceeding to strengthen the powers of the Coroner to investigate deaths in custody?
- (4) Will the Court Government be implementing recommendations 15 and 16 of the Report of the Royal Commission into Aboriginal Deaths in Custody?
- (5) If not, why not?

Hon PETER FOSS replied:

- (1) The matter is under consideration.
- (2),(5) Not applicable.
- (3)-(4)

The matter is under consideration.

### MINISTERIAL FUNCTIONS - MINISTER FOR HEALTH *Breakfasts, Lunches, Dinners*

460. Hon CHERYL DAVENPORT to the Minister for Health:

- (1) How many breakfasts, lunches and dinners has the Minister attended at Government expense since 6 February 1993?
- (2) Who attended each breakfast, lunch or dinner?
- (3) Of those who attended, whose meals were paid for through ministerial expense accounts or other Government source?
- (4) What was the total cost to the Government of each occasion?

Hon PETER FOSS replied:

- (1)-(4)

The information sought would require considerable research and I am not prepared to allocate resources for this purpose. However, if the member has a specific question about functions, she can direct it to me in writing and I will be pleased to respond.

### MINISTERIAL FUNCTIONS - ATTORNEY GENERAL *Breakfasts, Lunches, Dinners*

461. Hon CHERYL DAVENPORT to the Minister for Health representing the Attorney General:

- (1) How many breakfasts, lunches and dinners has the Minister attended at Government expense since 6 February 1993?

- (2) Who attended each breakfast, lunch or dinner?
- (3) Of those who attended, whose meals were paid for through ministerial expense accounts or other Government source?
- (4) What was the total cost to the Government of each occasion?

Hon PETER FOSS replied:

(1)-(4)

The information sought would require considerable research and I am not prepared to allocate resources for this purpose. However, if the member has a specific question about functions, she can direct it to me in writing and I will be pleased to respond.

#### MINISTERIAL FUNCTIONS - MINISTER FOR PLANNING

##### *Breakfasts, Lunches, Dinners*

462. Hon CHERYL DAVENPORT to the Minister for Health representing the Minister for Planning:

- (1) How many breakfasts, lunches and dinners has the Minister attended at Government expense since 6 February 1993?
- (2) Who attended each breakfast, lunch or dinner?
- (3) Of those who attended, whose meals were paid for through ministerial expense accounts or other Government source?
- (4) What was the total cost to the Government of each occasion?

Hon PETER FOSS replied:

(1)-(4)

The Minister for Planning has advised that the information sought would require considerable research and he was not prepared to allocate resources for this purpose. However, if the member has a specific question about functions, she can direct it to the Minister for Planning in writing and he will be pleased to respond.

#### MINISTERIAL FUNCTIONS - MINISTER FOR LABOUR RELATIONS

##### *Breakfasts, Lunches, Dinners*

463. Hon CHERYL DAVENPORT to the Minister for Health representing the Minister for Labour Relations:

- (1) How many breakfasts, lunches and dinners has the Minister attended at Government expense since 6 February 1993?
- (2) Who attended each breakfast, lunch or dinner?
- (3) Of those who attended, whose meals were paid for through ministerial expense accounts or other Government source?
- (4) What was the total cost to the Government of each occasion?

Hon PETER FOSS replied:

(1)-(4)

The information sought would require considerable research and I am not prepared to allocate resources for this purpose. However, if the member has a specific question about functions, she can direct it to me in writing and I will be pleased to respond.

#### HOSPITALS - BUNBURY, COLLOCATION

##### *Tubal Ligation Access*

512. Hon DOUG WENN to the Minister for Health:

Women sometimes arrange for a tubal ligation at the same time as a caesarean section birth. Will these women have access to this procedure

with a new collocation hospital at Bunbury managed by the St John of God administration?

Hon PETER FOSS replied:

I am distressed to learn that the member believes this procedure is taking place. I am informed that this is contrary to best practice. If the member knows of any medical practitioner who is performing this procedure, I suggest he advise that practitioner to contact the King Edward Memorial Hospital to discuss implementing best practices. It will be part of the contract at Bunbury that only best practices will be observed. I do not believe that we need specifically to prohibit this practice.

**HOSPITALS - BUNBURY, COLLOCATION**  
*St John of God Hospital, Abortion Refusal Advice*

517. Hon DOUG WENN to the Minister for Health:

With respect to the proposed collocation of the Bunbury Regional Hospital and St John of God Hospital and the provision of health services within the Bunbury area, can the Minister advise whether -

- (a) St John of God Hospital refuse a second or third trimester abortion should it be necessary to preserve the pregnant women's life;
- (b) St John of God Hospital refuse a second or third trimester abortion should it be determined that to proceed with the pregnancy and birth would be detrimental to the pregnant women's health; and
- (c) St John of God Hospital refuse a second or third trimester abortion if an amniocentesis revealed a severely defective foetus which the pregnant women did not wish to carry to full term?

Hon PETER FOSS replied:

The St John of God Hospital has provided the following answers in response to the member's questions. These answers reflect the policy of the St John of God health care system.

- (a) If there were a situation in which a pregnant woman's life were endangered it is ethical to perform procedures that would result in indirect abortion. The immediate purpose of such procedures is to treat the mother or to rectify threatening pathology, but in which the death of the foetus is an inevitable result that would have been avoided had it been possible. The following points are emphasised -
  - (1) The act itself is directly for the purpose of treating the mother and is thus ethical.
  - (2) The mother and doctor do not have any evil circumstantial intention; that is, they would save the child if they could.
  - (3) The death of the child is not the means by which the mother is treated but only a result of the treatment. That is not a cause but an effect of the act.
  - (4) There is a proportional reason "if the treatment is necessary to save the life of the mother, especially as the child is doomed anyway".
- (b) The question seems to imply that detrimental means something other than death of the mother or a life threatening pathology. In that case the principles of (1) above apply.
- (c) Yes, St John of God Hospital would refuse to be involved in an abortion because a "woman did not wish to carry to full term" a foetus that may be severely defective.

**JUSTICES OF THE PEACE - COMMISSIONERS FOR DECLARATIONS**  
*Appointments*

526. Hon CHERYL DAVENPORT to the Minister for Health representing the Attorney General:

Subsequent to my earlier questions on 7 July 1993 -

(1) Is the Attorney General still granting justice of the peace and commissioner for declaration status to applicants?

(2) If not, why not?

Hon PETER FOSS replied:

(1) Yes. Applicants who meet current criteria for appointment are being approved.

(2) Not applicable.

**ATTORNEY GENERAL - CONTACT WITH MAGISTRATES, REGISTRARS,  
 JUDGES ON MATTERS PENDING**

540. Hon N.D. GRIFFITHS to the Minister for Health representing the Attorney General:

(1) Since taking up her appointment as Attorney General, has the Attorney had contact with any magistrate, registrar or judge in any jurisdiction with respect to any matter pending?

(2) If so -

(a) with whom and on what occasions;

(b) with respect to what matters; and

(c) for what purposes?

Hon PETER FOSS replied:

(1) No.

(2) Not applicable.

**GREER, ARTHUR BOYCOTT - TRIAL**  
*Special Commissioner of Supreme Court Appointment*

542. Hon N.D. GRIFFITHS to the Minister for Health representing the Attorney General:

What process was undertaken to appoint a special Commissioner of the Supreme Court specifically for the trial of Arthur Boycott Greer?

Hon PETER FOSS replied:

Mr G. Miller QC was appointed by special commission under section 49 of the Supreme Court Act on 20 July 1993 for the specific purpose of trying and determining an indictment dated 30 May 1993 charging Arthur Boycott Greer with wilful murder. This appointment followed a decision by Cabinet to this effect which arose out of a recommendation of the Chief Justice of Western Australia to the Attorney General.

**HEALTH DEPARTMENT OF WESTERN AUSTRALIA - HEALTH  
 EDUCATION OFFICERS, CENTRAL WHEATBELT, POSITIONS ABOLITION**

547. Hon KIM CHANCE to the Minister for Health:

In his answer to question without notice 242 of 10 August, the Minister said that "both health education officers have been part of the discussions (on the new directions for health promotion policy) for over 12 months".

(1) Can the Minister advise if the officers concerned were made aware that their positions would be abolished as a result of the changes?

- (2) If so, at what stage during this period were they specifically told that this would be the case?

Hon PETER FOSS replied:

(1)-(2)

The stage at which it was decided that the two health education officer positions would be abolished to create a change of direction for health promotion was following the last round of discussions with the officers concerned. At that meeting both agreed with the change of direction, and both were assured that they would have secure employment regardless of any change. A letter of formal notification was sent to the officers two days after the last round of discussions, which were held on 27 July 1993, and it is understood that they were in receipt of this notification on 4 August 1993.

#### HOSPITALS - BUNBURY, COLLOCATION

##### *St John of God Hospital Board Rejection*

557. Hon BOB THOMAS to the Minister for Health:

Is it correct that in 1992 the St John of God Hospital Bunbury Board had rejected a proposal for the St John of God Hospital to be collocated with the Bunbury Regional Hospital?

Hon PETER FOSS replied:

Health Department files contain a media statement, dated 3 April 1992, which notes, among other things -

The Minister for the South West, David Smith, said today the Government had decided to proceed alone with construction of the new hospital after the St John of God group indicated it was unable to take part in a co-development at this stage.

However, an article in the *South West Times* on 7 April 1992 states -

Mr Smith called a press conference on Friday (3 April), claiming the SJOG group had backed away from the idea of co-locating a public and private hospital on the Blair Street site.

Mr Smith's announcement appeared to baffle the SJOG group which claimed on the same day that it understood negotiations were still in progress for co-development between the private hospital and the State Government.

"It is our understanding that negotiations are still under way for either our original proposal (co-locating a joint public-private hospital on the present SJOG site) or for a sharing of clinical services between the public hospital facility and the SJOG hospital in Bunbury," said SJOG, Chief Executive Officer, Tim McDonald.

No correspondence from St Johns in 1992 stating that they "reject a proposal for (their) hospital to be co-located" could be found on departmental files.

#### HOSPITALS - BUNBURY, COLLOCATION

##### *Private Management*

558. Hon BOB THOMAS to the Minister for Health:

Did Health Department of WA officers meet with St John of God Hospital Board or staff members at any time or times in 1992 to discuss the issue of collocation or private management of the public hospital?

Hon PETER FOSS replied:

Yes.

**HOSPITALS - BUNBURY, COLLOCATION**  
*Health Department Support, Administrator's Approaches*

559. Hon BOB THOMAS to the Minister for Health:

On what occasions in 1992 did the Administrator of the St John of God Hospital in Bunbury approach officers of the Health Department, south west region, with a view to ascertaining Health Department of WA support for the concept of collocating the St John of God and Bunbury Regional Hospitals?

Hon PETER FOSS replied:

On various occasions in early 1992, officers from the Health Department discussed the concept of collocation with officers from the St John of God Hospital. Most of these discussions occurred in Perth and involved representatives from the St John of God health care system. No record of the dates of the various discussions, involving telephone conversations and meetings, could be located.

**HOSPITALS - BUNBURY, COLLOCATION**  
*Negotiations Initiator*

560. Hon BOB THOMAS to the Minister for Health:

- (1) Will the Minister advise who initiated the negotiations between the Health Department of WA and St John of God Health Care Service in 1993 which resulted in the St John of God Health Care Service overturning its previous rejection of collocating the St John of God and Bunbury Regional Hospitals?
- (2) How was the contact first made?
- (3) With whom was that contact made?
- (4) Was it made at a meeting or by telephone?
- (5) Where did the first meeting take place at which St John of God Health Care Services staff negotiated with Health Department of WA Staff on the co-location of the two hospitals?
- (6) Who was present at that meeting?
- (7) What meetings has the Health Minister had with St John of God Health Care Services personnel on this issue?

Hon PETER FOSS replied:

- (1) Mr Tim McDonald, Chief Executive Officer of the St John of God health care system.
- (2)-(4) This meeting arose from a letter to the Minister from Mr Tim McDonald seeking a meeting on a number of issues.
- (5) The first meeting in which Health Department staff began negotiations with St John of God health care staff on the possibility of collocation took place at the St John of God health care system office in Perth.
- (6) Present at that meeting was Mr Tim McDonald, Chief Executive Officer; Mr Don Goode, Director of Finance, St John of God health care system; and Mr Steve Anderson, Assistant Commissioner, Health Policy, Health Department of Western Australia.
- (7) I have met with St John of God Hospital personnel regarding this issue on 9 March, 18 March, 25 June and 13 July 1993.



**HOSPITALS - BUNBURY REGIONAL**

*Forest Lodge, Future; Occupational Health and Physiotherapy Services*

561. Hon BOB THOMAS to the Minister for Health:

- (1) What will be the fate of the permanent care unit, Forest Lodge, at Bunbury Regional Hospital if collocation and private management proceeds?
- (2) Under the proposed collocation of public and private hospital in Bunbury will the allied services of occupational health and physiotherapy still be available to public patients?

Hon PETER FOSS replied:

- (1) Forest Lodge is unaffected by the plans for collocation of the new hospitals.
- (2) Yes. The public patient services which will be contracted with SJGHCS will include allied health services.

**HOSPITALS - BUNBURY, COLLOCATION**

*Private Management*

562. Hon BOB THOMAS to the Minister for Health:

- (1) What advice did the Minister receive from the Health Department of WA about the desirability of a private hospital managing the public hospital in Bunbury?
- (2) What form did that advice take?
- (3) What importance did the Minister accord to it when making his decision?

Hon PETER FOSS replied:

- (1) The Minister called for a review of the previous decision to build the new public hospital. That review was in two phases. The first examined the process of that decision making. On the basis of the findings of phase 1, the phase 2 review re-examined the eight options proposed by Reid Harris (consultants) in January 1992, and considered by the previous Government.
- (2) The advice included the conclusions of both phases of the review. The second phase included external design feasibility advice and an external, professional financial analysis of the options.
- (3) The Minister accepted the conclusions of both the internal and external reviews.

**HOSPITALS - BUNBURY, COLLOCATION**

*Private Management*

563. Hon BOB THOMAS to the Minister for Health:

Did the Minister receive advice from any of the following groups recommending against his decision for private management of the public hospital, or the collocation of the two hospitals -

- (a) doctors;
- (b) nurses;
- (c) Health Department of WA or hospital staff;
- (d) unions; or
- (e) members of the public?

Hon PETER FOSS replied:

Correspondence has been received from a number of members of the public expressing their opinions regarding this project. Their occupations or status have not been categorised.

**CHIROPRACTORS' ASSOCIATION - EXECUTIVE, MINISTER FOR  
HEALTH, MEETING**

564. Hon TOM HELM to the Minister for Health:

Further to the letter to Mr David R. Minns, President of the Chiropractors Association of Australia, dated 28 May 1993, when will the Minister meet with the executive of the Chiropractors Association?

Hon PETER FOSS replied:

I will be meeting with the executive of the Chiropractors Association on 29 September 1993 between 11.30 and 11.45 am.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Evidence*

585. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the document *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said inter alia "The statute of limitations works in favour of lawyers and claimants". What evidence was presented to the member for Avon of that state of affairs and by whom?

Hon PETER FOSS replied:

The member for Avon conducted this review independently, and the findings are those of the member for Avon, based on information presented to him. If the member requires further information he should address any questions or inquiries to the member for Avon.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Evidence*

586. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the document *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said inter alia "The current experience with common law is that any "occurrence" can be supported by the courts". What evidence was presented to the member for Avon of that state of affairs and by whom?

Hon PETER FOSS replied:

See answer to question 585.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Evidence*

587. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the document *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said inter alia "It would seem that a delayed claim has fair prospects of being successful, particularly in the form of settlement. In fact, there is an attitude that attendance is all that is required in order to get some form of payment from a court". What evidence was presented to the member for Avon of that state of affairs and by whom?

Hon PETER FOSS replied:

See answer to question 585.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Evidence*

588. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the document *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said inter alia "Increasing numbers of claims are being lodged after 5 years, making defence of the claims extremely difficult". What evidence was presented to the member for Avon of that state of affairs and by whom?

Hon PETER FOSS replied:

See answer to question 585.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Submissions Critical of Lawyers, Submitters*

589. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the document *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said inter alia "Many submissions were critical of lawyers". Who made such submissions?

Hon PETER FOSS replied:

The member for Avon conducted this review independently, and I am not aware of the detail required to respond to this question. If the member requires further information he should address any questions or queries to the member for Avon.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Submissions*

590. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In preparing his *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* dated 15 June 1993.

- (1) From whom did the member for Avon receive submissions?
- (2) Which submissions were wholly oral?
- (3) Which submissions were wholly in writing?
- (4) Which submissions were partly oral and partly in writing?
- (5) From whom did the member for Avon seek submissions?
- (6) Of those from whom the member for Avon sought submissions on what dates did he seek such submissions?
- (7) With respect to each submission received by the member for Avon on what date was the submission received?

Hon PETER FOSS replied:

(1)-(7)

The member for Avon conducted this review independently and I am

unaware of the detail required to respond to these questions. However, for the member's information the following is a list of written submissions received, and he could approach the parties as to whether they are prepared to make their submissions public. If the member requires further information he should address any questions or queries to the member for Avon.

The report by the member for Avon did not include a list of submissions received. However, I have been advised by the member of the following written submissions -

Chairman Workers' Compensation Board  
 Master Builders Association  
 WA Small Business and Enterprise Association Inc  
 Injured Persons Action and Support Association  
 Work Injured Information and Support Group Inc  
 Injured Disabled Advisory Association  
 Speedy Print  
 P. Ingram Cromack  
 N. Bartholomaeus, Chairman Workers' Compensation and Rehabilitation Commission  
 University of Western Australia  
 Curtin University Division of Health Services  
 Trades and Labor Council  
 Textile Clothing and Footwear Union  
 Australian Liquor, Hospitality and Miscellaneous Workers Union  
 Insurance Council of Australia  
 Chamber of Commerce and Industry of WA  
 State Government Insurance Commission  
 Self Insurers Association of WA  
 R.J. Trigg OBE  
 GIO Australia  
 Law Society of WA  
 Dwyer Durack  
 Slater and Gordon  
 Chris Phillips  
 Taylor Smart  
 Australian Medical Association  
 Asbestos Diseases Society  
 Chiropractors Association of Australia  
 Comcare

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Comments about Doctors*

591. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the document *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said inter alia "Comments were made about doctors who work a few days a week and earn \$250 000 a year from solely handling workers' compensation matters and reports".

- (1) Who made those comments?
- (2) What doctors were referred to?

Hon PETER FOSS replied:

See answer to question 589.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**

*Evidence*

592. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the document *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said inter alia "Medical reports in some cases are costing \$600 each and this cost is beyond acceptable expectations". What evidence was presented to the member for Avon of that state of affairs and by whom?

Hon PETER FOSS replied:

See answer to question 585.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**

*Department of Occupational Health Submission Tabling*

593. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

- (1) Will the Minister forthwith table the submission submitted by the Department of Occupational Health referred to in the *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993?

- (2) If not, why not?

Hon PETER FOSS replied:

- (1)-(2)

Submissions to the Trenorden review were made in confidence and are the property of the parties who made them.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**

*Insurance Companies*

594. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the document *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said inter alia "Number of claims are reducing therefore insurance companies are reducing outstanding claim provisions, ignoring claims in common law". What insurance companies are being so referred to?

Hon PETER FOSS replied:

See answer to question 589.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**

*Trowbridge Report Tabling*

595. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

- (1) Will the Minister forthwith table the "Trowbridge Report" referred to in the *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993?

- (2) If not, why not?

Hon PETER FOSS replied:

(1)-(2)

Yes, I will table the report today. [See paper No 593.]

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Workers' Compensation and Rehabilitation Commission Submission Tabling*

596. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

(1) Will the Minister forthwith table the report submitted by the Workers' Compensation and Rehabilitation Commission, referred to in term No 2, in the Terms of Reference of the *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon?

(2) If not, why not?

Hon PETER FOSS replied:

Yes. [See paper No 593.]

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Self-injured Association Submission Tabling*

597. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

(1) Will the Minister forthwith table the submission of the self-injured association provided to the *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993?

(2) If not, why not?

Hon PETER FOSS replied:

See answer to question 593.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*IPASA Submission Tabling*

598. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

(1) Will the Minister forthwith table the submission of IPASA referred to in *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993?

(2) If not, why not?

Hon PETER FOSS replied:

See answer to question 593.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Comcare Australia Submission Tabling*

599. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

(1) Will the Minister forthwith table the submission from Comcare Australia referred to in the *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993?

(2) If not, why not?

Hon PETER FOSS replied:

See answer to question 593.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Employer Groups*

600. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the report being *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said "Employer groups who carry out their own assessments believe that because of the "tail" of common law (of up to 7 years), the full effect of costs have not yet impacted on the system".

(1) What employer groups are being referred to?

(2) With respect to each employer group when did they make the relevant assessment known to the member for Avon?

Hon PETER FOSS replied:

See answer to question 589.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Insurance Companies*

601. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

In the document *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, it is said inter alia "Insurance companies are currently running workers' compensation business at 128 per cent expense rate". What insurance companies are being so referred to?

Hon PETER FOSS replied:

See answer to question 589.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*ICA Analysis Tabling*

602. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

(1) Will the Minister forthwith table the ICA analysis referred to in the *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, as showing that benefits to workers have declined from 78.4 per cent in 1984-85 to 68.8 per cent in 1992-93?

(2) If not, why not?

Hon PETER FOSS replied:

See answer to question 593.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*C.E. Heath Analysis Tabling*

603. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

(1) Will the Minister forthwith table the analysis of C.E. Heath referred to in

*the Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, as showing that benefits to workers have declined from 78.4 per cent in 1984-85 to 68.8 per cent in 1992-93?

(2) If not, why not?

Hon PETER FOSS replied:

See answer to question 593.

**GRANT, DAVID - JUSTICE, MINISTRY OF, DIRECTOR GENERAL**  
*Criminal Justice Experience*

605. Hon N.D. GRIFFITHS to the Minister for Health representing the Attorney General:

I refer to the answer given to question on notice 379 and ask, what experience in the field of criminal justice, as distinct from prison systems, was so assessed?

Hon PETER FOSS replied:

See answer to question on notice 379.

**WORKERS' COMPENSATION - MEMBER FOR AVON'S REPORT**  
*Documentary Submissions Tabling*

606. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

(1) Will the Minister forthwith table the documentary submissions implicitly referred to in *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993, as being "Excellent submissions were received from highly qualified professionals in the area of Occupational Health and Business Law of establishments such as the University of Western Australia and Curtin University, and the business sector. Their areas of concern were related more to the overall rehabilitation of welfare and injured workers but the benefits flowing on from their recommendations would have a favourable impact on the costs of the System"?

(2) If not, why not?

Hon PETER FOSS replied:

See answer to question 593.

**TROWBRIDGE REPORT - COMMISSION DATE; COST**

625. Hon N.D. GRIFFITHS to the Minister for Health representing the Minister for Labour Relations:

With respect to the Trowbridge report referred to in the *Recommendations on the Review of the Impact of Common Law Claims and Associated Legal Costs on the Workers' Compensation System in Western Australia* of the member for Avon dated 15 June 1993 -

(1) When was the report commissioned?

(2) Who commissioned the report?

(3) What did the report cost?

(4) When was the member for Avon provided with the report?

(5) Has the Minister for Labour Relations received the report or a copy of it?



- (6) When did the Minister for Labour Relations receive the report or a copy of it?
- (7) Was the report prepared by a firm from New South Wales?
- (8) Why was the firm that did the report chosen rather than a firm from Western Australia?

Hon PETER FOSS replied:

- (1) 13 February 1992.
- (2) Tripartite Labour Consultative Council.
- (3) \$53 557.
- (4) 1 June 1993.
- (5),(7) Yes.
- (6) 9 March 1993.
- (8) This report was initiated by the former Government. The firm involved had carried out similar reviews for a number of other States.

**ELECTORAL ACT - CONSTITUTION, AMENDMENT**

707. Hon J.A. COWDELL to the Parliamentary Secretary representing the Minister for Parliamentary and Electoral Affairs:

Does the Government propose any amendment to the Electoral Act or the Constitution -

- (a) prior to the commencement of the State electoral redistribution; and
- (b) prior to the report of the Commission on Government?

Hon R.G. PIKE replied:

The Minister for Parliamentary and Electoral Affairs has provided the following reply -

The Government is considering an amendment to section 2 of the Electoral Amendment (Political Finance) Act 1992 so that part VI of the Electoral Act 1907 can be proclaimed to come into operation on a day different from the date of operation of sections 191b and 191c of the Act.

**ACTS AMENDMENT (MINISTRY OF JUSTICE) BILL - RETROSPECTIVE CHANGES**

716. Hon N.D. GRIFFITHS to the Minister for Health representing the Attorney General:

- (1) Are there any decisions and/or actions proposed to be retrospectively validated by clause 68 of the Acts Amendment (Ministry of Justice) Bill 1993?
- (2) If so, what decisions and/or actions?

Hon PETER FOSS replied:

- (1)-(2) The Director General of the Ministry of Justice has advised that he is not aware of any such decisions and/or actions.

**QUESTIONS WITHOUT NOTICE**

**EDUCATION, MINISTRY OF - PULPING OF CURRICULUM MATERIAL**

451. Hon GRAHAM EDWARDS to the Minister for Education:

- (1) Is the Minister aware of approximately \$500 000 worth of curriculum material being sent from the Ministry of Education today for pulping?
- (2) If so, what is the nature of the material and the reason for its destruction?

- (3) If the Minister is unaware, will he undertake to investigate the matter and report back to the House tomorrow?

Hon N.F. MOORE replied:

(1)-(3)

I am unaware of that. If it is happening and is being done in a way in which it should not be done, I will certainly ensure something is done to correct the problem. I will advise the House accordingly.

#### ROCK LOBSTER INDUSTRY ADVISORY COMMITTEE - MANAGEMENT PROPOSALS, MINISTER'S DISCUSSIONS

452. Hon GRAHAM EDWARDS to the Minister for Transport representing the Minister for Fisheries:

- (1) Has the Minister had formal or informal discussions with the member for Geraldton and the member for Greenough regarding the rock lobster management proposals put forward by the rock lobster industry advisory committee?
- (2) During these discussions was the Minister assured that both the management proposals and his handling of the matter were fully supported by the member for Geraldton and the member for Greenough?

Hon E.J. CHARLTON replied:

The Minister for Fisheries has provided the following reply -

- (1)-(2) I have had discussions with a number of my parliamentary colleagues about the management proposals put forward by the rock lobster industry advisory committee. The process being followed, of industry consultation and then recommendation to me, has been well supported.

#### MAIN ROADS DEPARTMENT - BUDGET ALLOCATION

453. Hon JOHN HALDEN to the Minister for Transport:

Will the Minister confirm that this year's Budget allocation to the Main Roads Department is for all intents and purposes the same as last year's, minus the \$44m reduction in Commonwealth road funding allocated for 1993-94?

Hon E.J. CHARLTON replied:

No. The facts are that this year's allocation for roads in this State is made up of an additional \$11m from the transport trust fund, which ordinarily would have gone to Transperth. The other increase comes from the additional funds available through the State fuel franchise levy and licences, and from savings and efficiency benefits that have been achieved in the Main Roads Department.

#### MAIN ROADS DEPARTMENT - BUDGET ALLOCATION

454. Hon JOHN HALDEN to the Minister for Transport:

Will the Minister confirm that last year's Budget allocation for the Main Roads Department was \$375m and this year's allocation is \$331m?

Hon E.J. CHARLTON replied:

Last year's allocation to the Main Roads Department included a substantially increased amount from the Federal Government, which does not apply this year. The difference in this year's allocation from within the State is as I have advised the member.

Hon John Halden: Will you answer the question? Was it \$375m for roads last year reduced to \$331m this year? Yes or no.

Hon E.J. CHARLTON: I will not quote the figures off the top of my head. The funds from the State Government to the Main Roads Department have increased. Does the member accept that?

Hon John Halden: Yes I accept that.

**ROAD FUNDING - NATIONAL HIGHWAYS AND ARTERIAL ROAD PROJECTS, DELAYS**

455. Hon JOHN HALDEN to the Minister for Transport:

Which 10 national highways and arterial road projects will be delayed as a result of Commonwealth road funding of \$98m for this financial year?

Hon E.J. CHARLTON replied:

I ask the member to put the question on notice so that I may be specific about the 10 projects involved.

Hon John Halden: That is what the Premier said.

Hon E.J. CHARLTON: That is right. One of the main areas is the Great Northern Highway, for which one contract has been cut. The others are the Eyre Highway and the Great Northern Highway, for which contracts have not been let but were intended to be let this year. The others are State roads.

**QUESTIONS ON NOTICE - FULL ANSWERS, MINISTER FOR TRANSPORT**

456. Hon GRAHAM EDWARDS to the Leader of the House:

(1) Will the Leader of the House give an assurance that the Government will ensure that all questions on notice are answered fully, in particular questions on notice 570-580, 582, 583, 604 and 607, which the Minister for Transport has refused to answer on the ground that it would require too much effort on his part?

(2) If not, can the community assume that the reason for the Minister for Transport's refusal to answer questions on notice is that he causes less embarrassment to the Government when he refuses to answer questions than when he answers them?

The PRESIDENT: Order! That question to the Leader of the House is not within the portfolio of the Leader of the House. I fail to understand how the substance of that question could be put into effect by the Leader of the House. I do not know whether he wants to comment, but the question is out of order.

Hon GEORGE CASH replied:

(1)-(2)

The only comment I can make is that I will refer the comments of the Leader of the Opposition to the relevant Minister or Ministers, because I am not sure whether he refers to more than one Minister.

Hon John Halden: It is just the Minister for Transport.

Hon GEORGE CASH: I will refer those comments to the relevant Minister and I can do no more than draw his attention to the Leader of the Opposition's comments.

Hon Graham Edwards: A similar question was put to Hon Joe Berinson when he was Leader of the House.

**MAIN ROADS DEPARTMENT - MAJOR ROAD CONSTRUCTION PRIORITIES**

457. Hon JOHN HALDEN to the Minister for Transport:

What are the major road construction priorities for the Main Roads Department for 1993-94?

Hon E.J. CHARLTON replied:

There is no single major construction contract. There are many. These obviously include the Reid Highway, the Roe Highway and extensions to the Kwinana Freeway - to name three for which there is great demand for Main Roads Department funding. It will be increased funding as a consequence of the State Government's extra allocations to the Main Roads Department, and obviously would not have been carried out by the previous Government.

**HOSPITALS - ST JOHN OF GOD, BUNBURY**  
*Public Health Care Takeover, Residents' Disagreement*

458. Hon DOUG WENN to the Minister for Health:

Given that a recent survey in Bunbury showed that 85 per cent of residents do not agree with the St John of God Hospital takeover of public health care, is the Minister prepared to take notice of the wishes of the vast majority of Bunbury residents, stop negotiations with the St John of God group, and proceed with the construction of a Government owned and operated regional hospital?

Hon PETER FOSS replied:

I have seen a pamphlet handed out with regard to this survey, one of the most concerning aspects of which was the report that one of the issues to which people were objecting was that a Roman Catholic organisation would be managing it. That concerns me very greatly because history has shown that with schemes such as this, although there is often an early resistance - for example, in similar cases in the Eastern States 70 per cent were against and 30 per cent in favour at the beginning of the procedure, especially before the details were known - that reverses once the details of the scheme are known. I am confident that a similar trend will occur in Bunbury. However, that will depend upon people understanding what the situation is, being given the detail, and recognising that their concerns are being addressed. What does concern me is that religious bigotry is not addressed as easily.

Hon E.J. Charlton: Particularly when it is by members of Parliament.

*Point of Order*

Hon DOUG WENN: I absolutely refuse to be charged with inciting anti-Catholicism in Bunbury.

The PRESIDENT: Order! There is no point of order. I tell members to stop their interjecting.

*Questions without Notice Resumed*

Hon PETER FOSS: I am certainly not suggesting that it is the member. I realise that who is doing it is a matter of concern, but I am not suggesting that Hon Doug Wenn or any member of the Opposition is responsible for that. I wish I knew who was. I am sure Hon Doug Wenn shares with me the belief that it is a negative thing to happen and is not very good for Bunbury. It is becoming clear that a certain amount of anti-Catholic sentiment is being stirred up, and I agree with the sentiment expressed by Hon Doug Wenn that that conduct should not be supported.

It has been shown historically that religious bigotry is difficult to overcome, and it is not overcome by presenting the facts and satisfying people's concerns. I sincerely hope that bigotry is isolated and, notwithstanding the fact that it shows up in that survey, that it shows up as a minor part. Unfortunately, the degree to which that was a relevant factor is not shown in the survey, and perhaps if Hon Doug Wenn has access to

the details of that survey he may be able to provide that to me. I would be grateful for the opportunity to see to what extent we are faced with an intractable problem as opposed to a problem which can be overcome by dealing appropriately with the concerns of the people of Bunbury. I fully accept the concerns of the people of Bunbury.

*Point of Order*

Hon TOM HELM: Mr President, may I have your opinion on Standing Order No 140 in regard to a question being answered concisely and not containing certain other matters?

The PRESIDENT: Order! The Minister is entitled to answer the question. I have said on a number of occasions that members should be concise in the way in which they ask questions, and certainly Ministers should be concise in the way in which they answer questions. The information which the Minister is giving to the member who asked the question is obviously information which he believes is important in order to cover the point raised, but I suggest to the Minister that he quickly get to the end of it.

*Questions without Notice Resumed*

Hon PETER FOSS: It is certainly my intention to address the concerns of the people of Bunbury because I believe most of those concerns are based on genuine matters which are capable of being addressed. With the exception of the religious matter, they are specific concerns about particular points and I believe I am capable of addressing each of those points. If I address each of those points and am able to satisfy the people of Bunbury, then I am confident that if logic is the basis upon which they object to this proposal, then, as has occurred in other places, that attitude will change and they will support it. If, on the other hand, I am unable to address their concerns, I will be concerned about that also. However, I hope I will be able to address their concerns and that the situation will change. I am not quite as confident about the question of religious bigotry, and if the member has access to the details of that survey it would be helpful if he could indicate to me to what extent religious prejudice against St John of God is a basis for objection.

**HOSPITALS - ST JOHN OF GOD, BUNBURY**

*Finances, Minister's Opinion*

459. Hon DOUG WENN to the Minister for Health:

I would have thought "No" was a sufficient answer to the previous question. I am trying to get the truth so that I can relay that to the people of Bunbury, and I hope the Minister will answer this question equally as truthfully. Is it correct that the private hospital in Bunbury - that is, St John of God - will go broke if it continues under its present structure?

Hon PETER FOSS replied:

That is a question of opinion that I will not answer and I am certainly in no position to do so. I do not believe that what the member says is correct.

Hon Bob Thomas: I think you do know.

The PRESIDENT: Order! The question calls for an opinion, which it should not do.

**ESPERANCE IRON ORE PORT FACILITY - KWINANA, BEST OPTION**

460. Hon J.A. SCOTT to the Minister for Transport:

In answers to questions put on notice by me to the Minister for Transport and to the Minister for Commerce and Trade on the viability of the Port of

Esperance to load Koolyanobbing iron ore compared with the two bulk loading facilities at Kwinana, both Ministers indicated that for Portland Mining it was better to load ore through Esperance. I wanted to know then, and I still want to know, what is the best option for the State socially and economically, and what studies have been done by the State to verify this?

Hon E.J. CHARLTON replied:

The study by the company looked at both options, and the company made a commercial decision that it would like to export iron ore through the Port of Esperance. As a consequence, the company has pursued the appropriate negotiations with the Esperance Port Authority that would enable it to do so. The environmental inquiry that is under way or being completed is in response to the commercial decision which has already been made.

#### AUDITOR GENERAL - STAFF REDUCTION

461. Hon MARK NEVILL to the Minister for Finance:

Why has the staff of the Auditor General been reduced in the recent Budget?

Hon MAX EVANS replied:

I ask that that question be put on notice. I have no control over the staff of the Auditor General.

#### AUDITOR GENERAL - STAFF REDUCTION

462. Hon MARK NEVILL to the Minister for Finance:

The Budget papers indicate that the staff of the Auditor General has been reduced by one full time equivalent. What is the reason for that?

Hon MAX EVANS replied:

One full time equivalent is not very much out of an \$8.5m budget. I know that just a few days ago, the Auditor General advertised for four additional staff to conduct performance audits.

#### HOSPITALS - ROEBOURNE, LAVERTON, BOYUP BROOK *Multipurpose Centres Plans*

463. Hon KIM CHANCE to the Minister for Health:

- (1) Is the Minister planning to change the current status of the Roebourne, Laverton and Boyup Brook Hospitals to that of multipurpose centres?
- (2) If yes, will these hospitals lose acute care medical beds as a result of this change of status; and, if so, how many acute care beds will each hospital lose?

Hon PETER FOSS replied:

(1)-(2)

Not at present.

#### REDUNDANCY PACKAGES - BORROWINGS

464. Hon MARK NEVILL to the Minister for Finance:

I refer to the Treasurer's claim on many occasions that borrowings for public sector redundancy schemes were irresponsible and to his admission during question time on Thursday, 16 September that his Government had authorised borrowings for some redundancies.

- (1) Will the Minister advise the House for which areas authorisation has been given for borrowings for redundancy payments?

- (2) What amount has been or will be borrowed for redundancy payments?

Hon MAX EVANS replied:

I ask that the question be put on notice.

**SCHOOLS - TOODYAY, REPLACEMENT PLANS**

465. Hon M.J. CRIDDLE to the Minister for Education:

What steps are being taken to replace the school at Toodyay that was recently destroyed by fire?

Hon N.F. MOORE replied:

The Toodyay school which was burnt down tragically earlier this year is now being replaced, and the Budget contains \$3.2m to replace the buildings that were burnt down. The Government has also decided that \$300 000 will be made available in the 1994-95 capital works budget to complete the school. The situation is that had we simply just replaced the burnt down part of the school, the school would have needed three or four transportable classrooms in the following years. The Government has decided to complete the building so there will be no need for transportable classrooms. It will give the community in Toodyay some satisfaction to know, after a year of trauma, that the school will be rebuilt totally after a significant period of community consultation. There is a great deal of joy in Toodyay at present.

**HOME AND COMMUNITY CARE PROGRAM - COMMONWEALTH GRANTS, INCREASE**

466. Hon CHERYL DAVENPORT to the Minister for Health:

In the area of recurrent specific purpose grants from the Commonwealth, I note that funding under the home and community care program has been increased by \$5.5m this year. Is that funding an increase for existing programs or is it for the creation of new projects?

Hon PETER FOSS replied:

The increase is to allow expansion of current programs. To some extent, some of the money may be taken up with matters under consideration but it is intended to be for expansion. Any partially funded Commonwealth grant is gratefully received but it must be funded partly by State moneys and partly by Federal moneys, and our concern is that when we meet the partially funded projects we must find the money from within our resources. The home and community care program is very important and we gladly provide the extra funds. In other areas we are pleased to carry out programs, but that carries with it a cost to the rest of the health system. This project is a very important and high priority part of the Budget.

**SCHOOLS - TOODYAY, NEW SCHOOL**  
*Joint School-Community Facility*

467. Hon GRAHAM EDWARDS to the Minister for Education:

- (1) Referring to the Toodyay Primary School, is the Minister aware that in the last Budget the previous Government allocated funds to assist the Toodyay community in planning and preparation for a joint school-community sporting-performing arts type of facility?
- (2) Will he ensure that in planning for the new school at Toodyay consideration will be given to including that facility?

Hon N.F. MOORE replied:

- (1)-(2) I am not aware of any such arrangement. It may be similar to

arrangements I have discovered during my ministerial life where decisions were made without money being allocated. I will check the details and advise the member.

#### HOSPITALS - SIR CHARLES GAIRDNER

##### *Special Geriatric and Extended Care Department, Resources Reduction*

468. Hon SAM PIANTADOSI to the Minister for Health:

Given that the community's aged population is increasing both in real terms and as a proportion of total population, why has the Government chosen to reduce the resources offered by the special geriatric and extended care department at Sir Charles Gairdner Hospital?

Hon PETER FOSS replied:

I am not aware of the situation, but if the member cares to place the question on notice I will check it for him.

#### HOSPITALS - ROEBOURNE, LAVERTON, BOYUP BROOK

##### *Status Change*

469. Hon TOM STEPHENS to the Minister for Health:

Is the Minister seriously considering any proposal that would change the status of the Roebourne, Laverton and Boyup Brook Hospitals?

Hon PETER FOSS replied:

No. Perhaps I should clarify the situation: I indicated to all country hospitals in Western Australia that I did not intend to follow the lead of the previous Government in trying to close country hospitals as a way of meeting the very significant costs of country hospitals. I have also indicated I do not intend to follow the recommendation of the Select Committee on Country Hospitals and Nursing Posts which also recommended that some country hospitals be closed. I have said that all country hospitals themselves need to review their operations because unless they are prepared to do that, and to make sure they are relevant to the needs of the community -

##### *Point of Order*

Hon TOM HELM: I seek advice under Standing Order No 140. The Minister answered the question with his first sentence. I do not know if the second part of the answer is relevant to the question.

The PRESIDENT: I never seem to learn. Yesterday I paid a great compliment to all members because question time was carried out in a very dignified and proper manner. Having said that, it seems it was an invitation to revert to some other means of doing it. The Minister knows that I have said Ministers must be concise when answering questions. The Minister took me by surprise by jumping up a second time to make a ministerial statement about his general attitude towards country hospitals. I thought he might do that briefly but it appears he is not going to. One of the things that antagonises people in this place is when someone on the opposite side of the House starts to take advantage of the opportunity to address the House. I suggest to the Minister that he quickly finish the answer to the question asked by Hon Tom Stephens.

##### *Questions without Notice Resumed*

Hon PETER FOSS: I have asked all hospitals to review their positions. I believe they are currently doing so. Obviously if those hospitals, as a group, fail I will have to review the situation. I am confident that country hospitals are doing that review and that there will be no need in the foreseeable future for me to do so.



**SCHOOLS - SINGLETON, NEW PRIMARY FUNDING**

470. Hon J.A. COWDELL to the Minister for Education:

Could the Minister indicate if a Singleton primary school is one of the four new primary schools to be funded in this year's Budget?

Hon N.F. MOORE replied:

I cannot give that assurance yet. The Ministry of Education is assessing school numbers in a range of schools. Singleton is one school being considered. A decision will be made in due course.

**HOSPITALS - SIR CHARLES GAIRDNER**

*Aged Care Assessment Team Removal*

471. Hon SAM PIANTADOSI to the Minister for Health:

Can the Minister confirm that the aged care assessment team is being moved from Sir Charles Gairdner Hospital to Osborne Park Hospital?

Hon PETER FOSS replied:

As the member knows, Sir Charles Gairdner Hospital is an autonomous body. When the member asked the earlier question I said that if he wished to place it on notice I would check it. If he wishes to place this question on notice also, I will check it also.

**NOISE STANDARDS - REDUCTION, DISSENTING VOICES**

472. Hon MARK NEVILL to the Minister for Health:

In debate last night on noise standards, the Minister stated there were two dissenting voices against lowering the standards; that is, people from the Occupational Health and Safety Commission. Can the Minister advise which expert and which employer representative on the commission dissented?

Hon PETER FOSS replied:

I must take the question on notice because it does not relate to my portfolio.

**EDUCATION, MINISTRY OF - McCARREY REPORT**

*Excessive Layers of Management and Control in Central Office*

473. Hon KIM CHANCE to the Minister for Education:

- (1) Does the Minister support the view of the McCarrey report that the Ministry of Education contains "excessive layers of management and levels of control in central office"?
- (2) If so, why is the Minister contradicting the McCarrey commission by proposing to expand the number of executive directors from four to six and to create the position of deputy chief executive officer?
- (3) Given the need for more resources in schools, how can the Minister justify these extra positions costing approximately \$300 000?

Hon Mark Nevill: When in doubt, reorganise!

Hon N.F. MOORE replied:

When we inherit a mess, we fix it up!

- (1) The question seeks an opinion. I do not propose to answer it.

Hon Graham Edwards: It was not ruled out of order.

Hon N.F. MOORE: I am simply suggesting that I do not propose to give an opinion. If the member wishes to ask a question without my having to give an opinion, I will be happy to give an answer.

(2)-(3)

The second part of the question relates to a rearrangement of the Ministry of Education. It is correct that that is being assessed. It is also suggested that the corporate executive should be increased from five to eight - I think - and that a deputy chief executive officer should be appointed. There are a number of good reasons for this. The member who asked the question will be made aware of them when I make the announcement about this rearrangement. The bottom line is that the proposed structure will be flatter, even taking into account the decision to appoint a deputy chief executive officer; and the relationship between the corporate executive and schools will be greatly enhanced by the proposed structure. It has not been announced yet, and I do not propose to give any further details.

**HOSPITALS - SIR CHARLES GAIRDNER**

*Special Geriatric and Extended Care Department, In-patient Beds Reduction*

474. Hon T.G. BUTLER to the Minister for Health:

I must say that I am running the risk of not declaring an interest by asking this question. I ask -

- (1) What plans does the Health Department have to reduce the number of in-patient beds for the special geriatric and extended care department at the Sir Charles Gairdner Hospital?
- (2) Will the Minister confirm a reduction of 25 per cent?

Hon PETER FOSS replied:

I get the feeling that there is an echo in this place. As I mentioned earlier, Sir Charles Gairdner Hospital is an autonomous authority. If the member wants to know what Sir Charles Gairdner is doing with regard to geriatric beds, I will make the appropriate inquiries and advise him.

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