WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE ASSEMBLY

Wednesday, 22 October 1997

Legislative Assembly

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

PETITION - PUBLIC SERVICE

Job Security

MR BROWN (Bassendean) [11.05 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We the undersigned public sector workers and members of the community request that the Legislative Assembly support amendments to the Public Sector Management Act that provide job security for public sector workers by:
>
> > regulating the level of contract workers in the public sector
> >
> > causing a Standard that would ensure that permanent appointments are made except in those circumstances where the work is not ongoing
> >
> > requiring adequate reporting for external contracting out of government services and
> >
> > ensuring public sector employees are not forced into the private sector against their will.
>
> Furthermore your petitioners respectfully request that the Legislative Assembly in Parliament assembled strongly oppose the introduction of involuntary redundancy for public sector workers.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 1 445 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 98.]

PETITION - PORT HEDLAND DETENTION CENTRE

Government's Priorities

MR RIEBELING (Burrup) [11.06 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We, the undersigned are absolutely appalled that the Federal Government is planning a $6 million dollar face lift for the Port Hedland detention centre when the Medical Services in the Pilbara is declining rapidly, and essential day to day medical requirements are becoming less accessible to the ever growing population. We strongly suggest to you that your priorities be reviewed immediately.
>
> Your petitioners, therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 843 signatures and I certify that it conforms to the standing orders of the Legislative Assembly. This petition is in exactly the same terms as a petition containing 1 588 signatures that I presented earlier this year.

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

[See petition No 99.]

STATEMENT - MINISTER FOR MULTICULTURAL AND ETHNIC AFFAIRS

Benefits of Cultural and Productive Diversity

MR BOARD (Murdoch - Minister for Multicultural and Ethnic Affairs) [11.07 am]: Western Australia is a State of extraordinary achievements and equally extraordinary potential. In no small way, this is because Australia is a country of migrants and Western Australia has the highest proportion of overseas born people of any State or Territory. Migrants have made an enormous contribution to our State in both cultural and economic terms. Many of Western Australia's industries were built up by generations from various countries. Members would be aware of

the valuable contributions made by the Italians and Greeks in the fishing and marine industries, by the mid Europeans to horticulture and wine making, by the Japanese to pearling and the by Chinese to the restaurant industry and computing.

Western Australia's rich cultural diversity has realised great benefits for all its small business sector and assisted in the development of major state corporate bodies. It has also served to attract major overseas investments into the State. This is what productive diversity is all about - identifying the many ways we can take advantage of the potentially huge national asset that our diverse population represents. In Western Australia we have people from more than 200 different countries - people who can speak all of the languages of the world. I cannot emphasise enough the value that this represents to Western Australia with the globalisation of business. I also clearly state that the cultural and linguistic skills of all Western Australians enhance trade potential and tourism, a fact which no company can afford to ignore in today's world.

This Government is committed to promoting the benefits of productive diversity. This Friday, the Office of Multicultural Interests, in partnership with the Department of Commerce and Trade, will host a seminar to further raise awareness of the huge potential benefits that cultural diversity can bring to business. The seminar has been deliberately organised to coincide with Celebrate WA week, a time that presents us with an opportunity to promote citizenship and a sense of pride in being Western Australian. Events such as the seminar will focus the attention of Western Australia's business and industry sectors on the wealth of potential that exists in the diverse cultural and linguistic skills of its people.

The Office of Multicultural Interests has also developed guidelines for government agencies to assist them to become more responsive to the needs of their diverse customers and to recognise and value the cultural diversity of their workforce. Once launched in early November, an appropriate set of guidelines based on the same principles will be designed to assist the private sector. These initiatives will go a long way to capitalising on productive diversity for the benefit of all Western Australians.

BILLS (4) - INTRODUCTION AND FIRST READING

1. Pay-roll Tax Amendment Bill.

   Bill introduced, on motion by Mr Court (Treasurer), and read a first time.

2. Liquor Licensing Amendment Bill.

   Bill introduced, on motion by Mr Cowan (Deputy Premier), and read a first time.

3. Local Government Amendment Bill.

   Bill introduced, on motion by Mr Omodei (Minister for Local Government), and read a first time.

4. Criminal Injuries Compensation Amendment Bill.

   Bill introduced, on motion by Mr McGinty, and read a first time.

SELECT COMMITTEE INTO THE MISUSE OF DRUGS ACT - MEETING

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

> That leave be granted for the Select Committee on the Misuse of Drugs Act 1981 to meet when the House is sitting on Thursday, 23 October.

ENVIRONMENTAL PROTECTION AMENDMENT BILL

Second Reading

MRS EDWARDES (Kingsley - Minister for the Environment) [11.13 am]: I move -

> That the Bill be now read a second time.

The Environmental Protection Act has now been in place for more than 10 years. The strengths of the Act have always been clear, focusing on protecting the environment, the independence of the Environmental Protection Authority, and the openness and accountability of the Act's processes. Earlier this year the Government formulated detailed proposals for reforms to bring the Act into the twenty-first century, while retaining and enhancing these strengths. The reforms being proposed -

> reflect the growing importance the community is placing on environmental protection through a range of increased and innovative penalty provisions;

provide for the introduction of the urban landfill levy, designed to help meet the Government's commitment to halving waste per capita disposed to landfill by the year 2000; and

help tackle the growing problem of winter haze by regulating the sale of wood fired heaters and firewood.

The proposed amendments have been divided into two packages. The first package, containing the more urgent and straightforward amendments, are addressed in the Bill now before the House and in the associated Environmental Protection (Landfill) Levy Bill 1997.

The Bill I am now introducing will achieve five objectives. It will -

reform the Act's provisions for offences, penalties and enforcement;

provide for the collection and disbursement of the landfill levy through a dedicated trust fund;

provide for the operation of the waste management facilities at Mt Walton East and Forrestdale;

enable the implementation of national environment protection measures made under the National Environment Protection Council (WA) Act 1996; and

provide the power to regulate the sale of wood heaters and firewood to help tackle Perth's winter haze problem.

The remaining matters will be addressed in a second amendment Bill which is currently being drafted, with detailed consultation. That Bill is to include the offence of unauthorised environmental harm, provisions for strategic assessment, improvements to the existing provisions for assessments, works approvals, licences and pollution abatement notices, and ground breaking legislation to address the administration of waste management and to effectively tackle the State's contaminated sites. The Government plans to introduce that Bill to the House next year.

Public Consultation: In May of this year the Government released for public consultation a package of documents outlining the proposed amendments to the Act. Public meetings were held across the State, with full day seminars in major regional centres. There were also workshops and focus-group forums to ensure adequate consultation on the proposals. The proposed waste management amendments were released later but were subject to a further detailed consultation process. Over 80 written submissions were received. There was strong support for the proposed amendments, and several useful suggestions for improvement which have been acted upon.

I now turn to the content of the Bill. I will deal with the legislation in three sections: Firstly, offences and penalties; secondly, waste management provisions; and thirdly, wood heater provisions and other matters.

Reform of Offences and Penalties Provisions: The offences and penalties provisions in this Bill will again place the Act at the forefront of environmental legislation in Australia, and were important elements of the 1996 coalition environment policy. Consistent with that policy, the review of the offences and penalties has the overall objective of protecting the environment with the willing cooperation of all those involved. For example, penalties are to be increased by about 10 times. However, there will also be scope for the courts to order rehabilitation in addition to a fine, to ensure the environment is protected and improved; inspectors are given the power of seizure so they can step in before the environment is damaged and take preventive action; and the new concept of modified penalties enables an offender who quickly reports the offence to pay a lesser fine and avoid going to court if he or she meets strict criteria, including taking prompt action to fix any environmental damage and avoid a recurrence.

The Bill divides the Act's offences and penalties into three tiers consistent with the Government's commitment, through the Australian and New Zealand Environment and Conservation Council, to broad band uniformity of environmental penalties across Australia. Penalties have been increased in the order of 10 times - some more or less to remove anomalies. The Bill provides a maximum penalty for the most serious offence - intentionally causing pollution - of $500 000 or up to five years' gaol for an individual and up to $1m for a body corporate.

Tier 1 offences: Tier 1 offences contain the most serious offences including pollution, intentional or criminally negligent offences and breaches of conditions set by the Minister. Maximum penalties range from $125 000 to $500 000 for individuals and twice that for bodies corporate. Tier 1 prosecutions are initiated by the chief executive officer of the Department of Environmental Protection, with the consent of the Minister.

Tier 3 offences and infringement notices: At the other end of the scale, tier 3 offences contain the most minor offences. All tier 3 offences carry a maximum penalty of $5 000. So, too, do regulations. Tier 3 and regulation offences can be prescribed as "infringement notice offences", which means an inspector designated by the chief executive officer can issue tickets for these offences. Hundreds of small businesses are now being managed through registration and regulations rather than individual licences. This greatly reduces the cost to industry and government. The infringement notice system provides a workable way of policing these regulations to ensure the environment is

protected. Like tickets elsewhere in the Statutes, these infringement notices carry a penalty, prescribed by regulation, and the penalty can be up to a maximum of 10 per cent - $500 - for a first ticket and 20 per cent - $1 000 - for any subsequent ticket. The recipient of a ticket can choose to pay the penalty, in which case there is no prosecution and no offence recorded, or defend the matter in court.

Tier 2 offences and modified penalties: Tier 2 offences contain all the other offences in the Act, like breaching a condition of a licence or works approval. Penalties range from $10 000 to $62 500 for individuals and twice that for bodies corporate. For tier 2 offences the Bill introduces the new concept of modified penalties. The tier 2 modified penalty process is very similar in effect to the tier 3 ticket system in that if an offender who receives a modified penalty notice chooses to pay the modified penalty, there is no court hearing and no offence is recorded. However, because of the more serious offences in tier 2 and the higher penalties involved, much more stringent provisions apply.

Again the primary objective is not to impose large fines but to protect the environment, so where someone accidentally commits a tier 2 offence, if the offender reports it promptly and takes prompt action to restore the environment and prevent a recurrence, a modified penalty may apply. Modified penalty notices are not issued by inspectors. They can be issued only by the chief executive officer after the following process has been completed. Firstly, the chief executive officer prepares the case and determines that a tier 2 offence has been committed, and there is evidence to support an allegation. Secondly, the case is referred to the Crown Solicitor for confirmation that the case could be taken to prosecution. Thirdly, the Minister's consent to the initiation of proceedings is sought. Fourthly, the chief executive officer checks the facts of the case against five criteria spelled out in the Bill -

(1) Did the alleged offender promptly notify the chief executive officer of the occurrence?

(2) Did the alleged offender take all reasonable and practicable steps to minimise and remedy any adverse environmental effects?

(3) Did the alleged offender cooperate with the department and provide information and assistance on request?

(4) Has the alleged offender taken reasonable steps to prevent a recurrence?

(5) Is there any overriding reason why a modified penalty would not be appropriate - for example, evidence that the offence was intentional?

These criteria are designed to recognise and reward desirable behaviour and thus protect the environment by encouraging prompt reporting of offences and prompt action by the offender to rectify the situation. If all these criteria are met, the chief executive officer must issue to the alleged offender a modified penalty notice and a certificate specifying how the criteria were met. If the criteria are not met, or if the alleged offender elects not to pay the modified penalty, the case proceeds to prosecution, the Minister having already given consent. If the penalty is paid, the chief executive officer publishes the fact in a widely circulated newspaper and in the department's annual report, and copies of the notice and certificate are placed on a public register.

The consequence of paying the modified penalty is that no offence is recorded. Administratively, an admission of the offence may be required, but payment of the modified penalty is not an admission of guilt for the purposes of civil or criminal proceedings. The concept of modified penalties, as an incentive for environmentally responsible behaviour following an offence, is both innovative and unique in environmental legislation. It recognises a cultural shift to improved environmental performance that is already in place in many existing industries, and facilitates and encourages the same shift by other industries which are still developing their mechanisms, policies and commitment to environmental protection. It will put Western Australia at the forefront of Australian legislation in this regard.

Intentional Offences: The Bill introduces five new key offences with double the penalty, where the act is committed intentionally or with criminal negligence. The offences concerned are -

Causing pollution;

emission of noise, odour or radiation which unreasonably interferes with a person's health, welfare or amenity;

dumping waste where it is likely to result in pollution;

breach of a condition placed on a pollution abatement notice; and

contravention of a "clean-up" direction given under section 73 of the Act.

Defences: For all tier 1 offences, a new defence of taking "all reasonable precautions" and exercising "due diligence"

is provided. The interpretation of "due diligence" will be left to the courts. Standards for environmental due diligence have been developing rapidly in recent years and any definition could soon become dated. The courts can be informed by case law in other States where a "due diligence" defence has been available for some years.

Seizure and Other Powers for Inspectors: The Bill gives inspectors the power to seize things involved or likely to be involved in the commission of an offence or things affording evidence of an offence. At present, if an inspector comes across someone about to dump a truck full of waste in a wetland he cannot prevent their driving off to another wetland and dumping the waste there. With this power, inspectors will be able to seize the waste and stop the environment being polluted. Since some of the things seized could well need special treatment - for example, they may be explosive or corrosive - there are provisions to allow the chief executive officer to treat or dispose of them if necessary and recoup the costs. Where an inspector reasonably believes a name and address given to be false the inspector may detain the person until a police officer arrives. This provision is consistent with similar provisions which exist for fisheries inspectors and wildlife officers.

Daily Penalties and Attempted Offences: For offences with a daily penalty, the Bill clarifies that the daily penalty applies for as long as the offence continues, from the date a written notice of the alleged offence has been given by the chief executive officer, until the offence ceases, whether or not that occurs before conviction. Under the Bill, attempting to commit an offence or becoming an accessory after the fact to an offence is an offence in its own right which attracts the same penalty as the original offence.

Additional Court Orders: Another important reform in this Bill is the introduction of a wide range of sentencing options in addition to monetary fines which the court may order. This suite of provisions is consistent with the overall aim of protecting the environment. It draws on the latest trends in environmental legislation across Australia and will place Western Australia's courts in a particularly strong position in attempting to make the punishment fit the crime.

Under the new provisions the court may order the offender to -

> Forfeit to the Crown for subsequent disposal things used in committing an offence;
>
> take specified steps to prevent harm to the environment caused by the offence, make good any environmental damage, prevent a recurrence or undertake an environmental community service project;
>
> pay compensation, up to prescribed maxima, for costs reasonably incurred in connection with the offence to the department and for loss or damage suffered to other persons.
>
> pay the amount of costs avoided by committing the offence; or
>
> publicise the offence and its effects in the Press, to those affected or to shareholders.

Orders for rehabilitation or community service orders may be issued only on application from the prosecutor. This ensures that the court has the benefit of the department's environmental expertise in formulating its order. This also enables the offender to know and, if necessary, contest the content of the application before the court determines the order.

Although the costs reasonably incurred by the department in connection with an offence could be quite high, the amount of compensation for loss or damage payable to a third party enjoined in the action - for example, a neighbour - would be limited to a prescribed maximum in view of the civil remedies available.

An example of costs being avoided by the offence would be where an offender disposes of waste to the environment instead of transporting it to a treatment facility. In such a case the court could order that the costs of transport and treatment be paid so that the offender did not gain by avoiding these charges in committing the offence.

The court may make any one or combination of these orders, in place of or in addition to the monetary penalty, and the amount of these orders is not restricted by the maximum monetary penalty.

Self-incrimination: The Bill provides that where someone is required by an inspector under part VI of the Act to provide information, the excuse of not providing information on the grounds that it may incriminate does not apply. Natural justice is preserved by the provision that where the person objects to the requirement, the information is not admissible as evidence. However, further information obtained as a result of that information may be admissible. This provision does not apply to bodies corporate, because they cannot claim the excuse of failure to reply on the grounds of possible incrimination.

Initiation of Prosecutions: Under the Bill the chief executive officer, with the Minister's consent, institutes prosecutions for tier 1 offences. The chief executive officer must seek the Minister's consent to initiate proceedings for a tier 2 offence, but the Minister has no role in determining whether this results in a prosecution or a modified

penalty - that is determined by the chief executive officer applying the criteria. The Minister cannot unilaterally initiate a prosecution and has no role in approving prosecutions under tier 3. Under tier 3, prosecutions may be initiated by the chief executive officer or a person authorised under section 87.

The period following an alleged offence during which a prosecution may be initiated is increased from 12 to 24 months. This is consistent with the Fish Resources Management Act 1994, under which a period of two years is provided for most offences.

Waste Management Provisions: Part 3 of the Bill addresses the proposed amendments related to waste management; firstly, the landfill levy and waste management and recycling fund provisions and, secondly, the State's waste management operations. The reasons for having the landfill levy are discussed in the second reading speech for the Environmental Protection (Landfill) Levy Bill. The present Bill makes provision for collection and management of the landfill levy. The landfill levy funds will be placed into the waste management and recycling fund. This fund, with clearly defined purposes in the Bill, will make a significant contribution to Western Australia by providing funding for projects to reduce the environmental and public health impacts of our wastes; conserve energy and resources - including scarce landfill airspace; help to make waste avoidance, re-use and recycling a way of life; and inform the community on waste reduction and sustainable development generally.

Levy moneys are only to be used to fund programs approved by the Minister relating to the management, reduction, re-use, recycling, monitoring or measurement of waste and administering the fund. The levy is not to be used to fund other normal ongoing operations of the department.

There are provisions for performance evaluation and financial auditing of programs, and summaries of the performance evaluation reports on funded programs are to be made public through the department's annual report.

In determining the objectives of the fund and the programs that should be funded from time to time, the Bill requires the Minister to seek advice from relevant parties. The key source of advice will be the Advisory Council on Waste Management.

The provisions for the waste management and recycling fund, and the expenditures on waste management programs, are as proposed by the Government in the discussion paper released earlier this year. These proposals have the capacity, with community support, to provide a framework for a significant program in the areas of waste reduction and recycling and related areas which will serve Western Australia very well into the twenty-first century.

Waste Management (WA): The Bill creates Waste Management (WA), a body corporate constituted by the chief executive officer as a part of the department, primarily to carry on the State's existing waste management operations at Mt Walton East and Forrestdale. Some concern has been expressed at having the State's environmental regulator also acting as an operator. However, the proposed arrangements ensure that the State's most problematic wastes are managed by the agency with the highest level of relevant expertise, and supervised and monitored by the statutorily independent Environmental Protection Authority, with assistance from other government regulators. Waste Management (WA) may carry out other waste management operations approved by the Minister.

The Minister may not approve such an operation when it will compete with a like operation which is providing an adequate service. In other words, we are not in the business of competing with private enterprise. The department will provide services which are essential to Western Australia and which either require long term security or are commercially unattractive to the private sector, for whatever reason.

The Bill has special provisions to ensure the perception of conflict of interests is dealt with. Since these operations are to be carried out as a part of the department, they are not required to hold licences, which are issued and supervised by the chief executive officer of the department, but instead are to be managed through conditions set by the Minister following the public process of environmental assessment by the EPA and by additional ministerial directions. It is not the department but the independent EPA which is responsible for monitoring compliance with conditions set. In carrying out its assessment and monitoring, the EPA has access to independent consultants at the department's expense. The Bill provides specifically for the recovery of costs by the State, in accordance with agreements already in place for the operations at Mt Walton East.

Implementing national environment protection measures: The final part of the Bill makes miscellaneous amendments associated with the implementation of national environment protection measures - NEPMs - the provision of powers to regulate the sale of wood fired heaters and firewood, and some other minor matters. NEPMs are made through a joint process involving all the States and the Commonwealth. They are prepared under parallel legislation in each Legislature including, in Western Australia, the National Environment Protection Council (Western Australia) Act 1996.

The making of NEPMs involves a process which closely parallels the process for making environmental protection

policies under the Environmental Protection Act 1986, including extensive consultation and the opportunity for disallowance by the Parliament. In some other Legislatures there is provision that an NEPM automatically becomes an environmental protection policy, or equivalent. Western Australia has chosen to retain flexibility, since an NEPM may be better implemented through regulation, for example. Consequently the Bill provides that the Minister may declare an NEPM to be an approved policy, for the purposes specified in the declaration, and that, where appropriate, regulations can be made to enable the implementation of an NEPM.

Regulating the sale of wood fired heaters and firewood: Smoke emissions from wood fired heaters give rise to many complaints and are a primary cause of the winter haze problems in Perth and many country towns. If dry firewood is burnt in heaters which comply with the Australian standard 4013-1992, the amount of smoke is greatly reduced, with consequent public health and environmental benefits.

The Bill provides powers to regulate the sale of wood fired heaters and firewood. Inspectors' powers of entry are adjusted to enable entry to premises where solid fuel burning equipment or solid fuel is manufactured, sold or distributed for sale, and the headpower is inserted to enable regulations to be made to ensure wood fired heaters conform to the required standard and that firewood for sale has less than the prescribed maximum moisture content.

The proposed regulations will ban the sale of wood fired heaters which do not conform to the Australian standard and ban the retail sale of firewood with a moisture content of greater than 25 per cent. The regulations will not affect existing, installed wood fired heaters or constrain those who gather their own firewood in the forest. The inspections will involve places where heaters and firewood are sold. There will be no inspection of households. The provisions of the Bill will be complemented by extensive community education campaigns.

Conclusion: This Bill has the consistent overriding objective of protecting the environment. It introduces significant reform to the offences and penalty provisions of the Act, bringing it to the forefront of Australian environmental legislation. Penalties are increased, providing a clear deterrent, and provisions for modified penalties and defences are introduced to encourage prompt reporting and corrective action where breaches occur. A suite of new optional orders will be available to the court which again helps to ensure the environment is protected.

The new waste management levy will help to ensure that the impact of our wastes on the environment is minimised. Through Waste Management (WA) the State's best expertise will be brought to bear on the State's most problematic wastes. It attacks the problem of excessive waste by funding the initiatives necessary to deal with it. It is efficient because it falls most heavily on those who generate the most waste and sends them a clear signal to reduce and recycle.

Measures put in place at a national level for the protection of the environment will be able to be implemented in Western Australia through the provisions in this Bill. Finally, the Bill will help the Government to control Perth's winter haze problem by regulating the sale of wood fired heaters and firewood. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

ENVIRONMENTAL PROTECTION (LANDFILL) LEVY BILL

Second Reading

MRS EDWARDES (Kingsley - Minister for the Environment) [11.36 am]: I move -

That the Bill be now read a second time.

This Environmental Protection (Landfill) Levy Bill 1997 provides for the implementation of important parts of the 1996 coalition environment policy. In particular, the introduction of a levy on waste to urban landfill was proposed to provide necessary funding for waste management and recycling programs.

This Bill provides the powers for the introduction of a levy on waste to landfill. The associated management and expenditure powers are contained in the Environmental Protection Amendment Bill 1997, which has been introduced into the House. This policy proposal has been the subject of significant discussion within Western Australia this year, particularly among sections of local government and the various public interest groups involved with environmental management.

The Government, through the Advisory Council on Waste Management, circulated a discussion paper on this matter in June of this year. The Government proposes several measures to ensure its sound management, including identifying the principles on which the levy is based; the concept that generators of waste should contribute to waste reduction programs; establishing a trust fund into which all proceeds of the levy must be placed, with funds allocated to meet clearly stated waste management objectives; varying rates for the levy to recognise the potential environmental impact of different types of waste; vesting responsibility for approving funding programs with the

Minister who will take advice on this matter from the Advisory Council on Waste Management which includes representatives of local government, industry and the general community; ensuring that the funds will not be used to fund the ongoing usual activities of the Department of Environmental Protection, with the exception that the administration of the levy will be funded by the levy itself; and clearly specifying the general terms of the types of programs on which funds derived from the levy should be expended.

This legislation, together with the Environmental Protection Amendment Bill 1997, delivers the legislative framework required for the Government's commitments in this policy area to be delivered. I am pleased with the level of support now emerging around the State for the proposal and believe that it heralds a new era for waste management in Western Australia.

The levy has the potential to fund projects which will significantly impact on the 2.3 million tonnes of solid waste generated by Western Australians each year. On average, each person in Western Australia creates about 1.4 tonnes of solid waste a year. We want to reduce this to 700 kilograms per person by January 2000.

Turning now to the detail of the Bill I will inform the House of the following major provisions. The levy applies to waste received at licensed landfill disposal sites. The amount of the levy is to be set by regulation. The Government has already announced that the levy will be $3 per tonne for putrescible waste and $1 a tonne for inert waste going to metropolitan landfills licensed for those purposes. Similarly, it has also been indicated that inert waste disposed of to putrescible landfills should attract a $3 levy in order to encourage conservation of landfill airspace. The manner in which the levy is to be paid, and the administration of the levy funds, are addressed in the Environmental Protection Amendment Bill 1997.

There are provisions for the regulations to prescribe exceptions on a case by case, or class basis, for situations where the levy is not payable. Differential levies may be prescribed for different cases or classes, and the basis of levy calculation and the factors involved may be prescribed.

The Bill imposes that the levy be prescribed and further provides that the levy is payable by the licensee of the premises at which the waste is received. Therefore, the onus is on the licensee to calculate and collect the levy from the people delivering waste.

This Bill, in itself, provides only for the powers to raise the levy and regulate for the conditions attaching to it. However, it is clearly linked to the important waste management, recycling and resource conservation initiatives proposed for the waste management and recycling fund in the Environmental Protection Amendment Bill 1997. In this sense it is an important part of the Government's environmental policy commitments, and I look forward to being involved with the positive outcomes. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

MUTUAL RECOGNITION (WESTERN AUSTRALIA) AMENDMENT BILL

Second Reading

Resumed from 16 October.

DR GALLOP (Victoria Park - Leader of the Opposition) [11.39 am]: The Opposition supports the Bill. This Bill seeks to extend the sunset clause of the Mutual Recognition (Western Australia) Act by one year. I will make some general comments about the Bill and the progress of mutual recognition arrangements in Western Australia.

As all members know, mutual recognition enables goods which are sold in accordance with the regulations of one jurisdiction to be sold freely in another. Mutual recognition also allows members of registered occupations to enter freely into an equivalent occupation in other States and Territories without having to satisfy further admission or practice requirements.

The Mutual Recognition (Western Australia) Act has now been in operation in Western Australia for just under two years. This Act adopted the Commonwealth's Mutual Recognition Act. Any future amendments to the commonwealth Act must be referred for consideration to the Western Australian Parliament prior to their incorporation into Western Australian legislation.

The mutual recognition arrangements in place are a creative way to deal with both federalism and a search for a single national market in Australia. It means that, generally, goods acceptable for sale in any one State or Territory will be acceptable in any other jurisdiction. It also means that services provided by a person assessed as good enough to practise in one State or Territory will be acceptable in another jurisdiction.

The Mutual Recognition (Western Australia) Act was set to expire on 28 February 1998. To determine whether mutual recognition arrangements should continue in the State, the Act required that a review of the operations of the

Act and the effect of these arrangements be undertaken by 31 August 1997. The review has since been undertaken by the federal affairs branch of the Ministry of the Premier and Cabinet. The review was tabled in both Houses of Parliament on 28 August 1997 and provides a backdrop against which to discuss the progress of mutual recognition arrangements in Western Australia thus far.

Before I move on to talk specifically about the review undertaken by the federal affairs branch, I will discuss briefly the role that both the State and the Commonwealth have in determining the future of mutual recognition in Western Australia.

The Council of Australian Governments has agreed to undertake a national review of the operation of the Australian Mutual Recognition Agreement and the Commonwealth Mutual Recognition Act 1992. The review is to be completed by March 1998 and will consider the future operations of the mutual recognition arrangements in Australia. To ensure that any future mutual recognition arrangements in Western Australia can incorporate recommendations of the national review, the Government wishes to extend the sunset provisions of the Mutual Recognition Act 1995 by one year.

The Opposition agrees that this is the best approach to take. The Opposition trusts, however, that many of the key issues identified in the Western Australian review of the Mutual Recognition (Western Australia) Act 1995 will be dealt with in the national review and, if not, will be further dealt with by the Western Australian Government to ensure that Western Australians receive the greatest benefits available from the mutual recognition arrangements.

Before I discuss some of the main issues raised in the review, I would like to express concern about the length of time taken to conduct the review. Calls for submissions from the general public and industry were made on 9 July 1997. The public was given approximately three and a half weeks to provide comments. This means that the whole review process from the calling of public submissions to the tabling of the report was only seven weeks. It does not appear to be a substantial amount of time to undertake a review such as this. It is essential that where reviews of existing government policy are required by legislation, all interested parties are given sufficient notice, time and information to provide informed input.

I will now move on to discuss some of the major issues raised in the review. It is pleasing to see that mutual recognition has encouraged the development of national standards for the registration of some occupations. This can have the effect of increasing the portability of educational qualifications. Overall it appears that there has been a positive impact on mobility and recruitment, and the transfer of skills and knowledge throughout Australia. It is also pleasing to see that for the occupational groups listed in the appendix to the report the number of mutual recognition registrations as at 30 June 1997 totalled 1 375, which was approximately 4 per cent of the total registrations. There are, however, concerns expressed over the application of mutual recognition by some registration agencies. Concerns raised include that mutual recognition could lower registration standards below acceptable minimum standards. Agencies which have raised these concerns include the Psychologists Board of Western Australia, the Nurses Board of WA and the Real Estate and Business Agents Supervisory Board.

The Nurses Board and the Health Department gave a number of examples of situations which may lead to a lowering of standards. One example was where nurses registered in New South Wales who have not practised for at least five years and are therefore considered to be out of practice, seek registration in Western Australia. Nurses from Western Australia are required to undergo a renewed registration program while the board is required to register nurses from New South Wales who are out of practice. The Real Estate and Business Agents Supervisory Board gave other examples in the review. While not seeking to move away from the intent of the mutual recognition arrangements, we believe these issues require further consideration to establish the real implications of mutual recognition arrangements in some fields.

The Ministry of Fair Trading has also raised concerns that there is a system in place for determining what is an equivalent occupation. The example given by the Real Estate and Business Agents Supervisory Board and the Independent Agents Association is whether a real estate agent and conveyancer in New South Wales is equivalent to a real estate agent and settlement agent in Western Australia. The activities of the two real estate agents are substantially the same; however, the actual processes undertaken by the two differ. The Real Estate and Business Agents Supervisory Board overcomes any problems encountered by issuing restricted licences to those applicants who come from a State where different licensing exists.

The issue of restricted licences, and whether they will grow in popularity as the number of mutual recognition registrations increase and whether such licences are, indeed, appropriate arrangements, requires further investigation.

A number of submissions to the review also highlighted the need for further education after coordination of the mutual recognition arrangements. The Ministry of Fair Trading believes there is misunderstanding in the community about the effect of the Mutual Recognition (Western Australia) Act and the actions persons must take to operate in

another jurisdiction. The Real Estate and Business Agents Supervisory Board believes there is limited policy coordination for the administration of mutual recognition in Western Australia. It stated that "an outcome of this limited coordination is that regulatory authorities are administering and interpreting the legislation differently, both within Western Australia and around Australia, and inconsistencies have developed". The Government should take action to deal with the promotion of mutual recognition arrangements, in particular relating to information dissemination requirements and improving coordination of the policy as highlighted in the review.

In relation to the mutual recognition of goods, different levels of awareness were found in different industries and among different businesses in the same industry. There is a high level of awareness among regulatory authorities, such as the Health Department, while other industries have low levels of awareness.

As I mentioned previously, the Opposition supports the Mutual Recognition (Western Australia) Amendment Bill, which seeks to extend the sunset provisions of the Mutual Recognition (Western Australia) Act by one year; however, a number of issues raised in the review of the Mutual Recognition (Western Australia) Act should be further considered and addressed by the national review agreed to by the Council of Australian Governments and, where applicable, by the Western Australian Government in anticipation of the expiration of the Mutual Recognition (Western Australia) Act in February 1999.

This is to ensure the long term success and viability of the mutual recognition arrangements in Western Australia and also to ensure that any problems are ironed out before we move on with similar arrangements with other parties, such as trans-Tasman mutual recognition arrangements with New Zealand agreed to by all heads of government in 1996.

MR COURT (Nedlands - Premier) [11.49 am]: I thank the Leader of the Opposition for his support of this legislation, which in effect will allow another year to fully review its operation after we know the results of the national review. Western Australia is specifically involved in that national review; it has a representative on a subcommittee of the committee of regulatory reform. In other words, it has been given a second opportunity to raise concerns through that national review, and advertisements have been placed directly for submissions from Western Australian organisations to the review.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and transmitted to the Council.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)

Second Reading

Resumed from 21 October.

MR BROWN (Bassendean) [11.51 am]: I take this opportunity to comment on small business. I understand this Bill is a device for general debate that will enable me to do so. I shall raise a number of separate matters, the first of which relates to concerns about commercial tenancy law reform.

Almost immediately prior to the last state election the then Minister for Fair Trading introduced into this House a Green Bill setting out the Government's proposals for amendments to the Commercial Tenancy (Retail Shops) Agreements Act. The then Minister stated that if the coalition Government were re-elected at the 1996 election, it would introduce legislation to amend that Act in the first session after the election. The coalition was re-elected, but the promise was never fulfilled and legislation was not introduced into the Parliament.

I am aware there have been ongoing discussions and negotiations between the Minister for Fair Trading and various groups dealing with commercial tenancies subsequent to the issue of the Green Bill. However, I anticipated that legislation would be introduced at least this week if the Government intended such legislation to be considered before the end of the parliamentary session. I understand that, unless the Leader of the House advises otherwise, the Parliament is due to sit for the remainder of this week and will take a break for two weeks and then sit for a further three weeks. It has been rumoured by some government members that this House is about to be told that Parliament will sit for longer than that. The Leader of the House is shaking his head. I do not know whether somebody is indulging in some gamesmanship.

Mr Barnett: For your information we plan to sit for those three weeks after the two week break and it may be that because of the slow passage of legislation in the upper House, we will return after a break for another one or two days.

Mr BROWN: It has been the practice in recent years for this House to return for an odd day or two to tidy up any amendments or carryovers. There is nothing unusual about doing that in the first full week before Christmas. If it is intended to sit for those last three weeks, that will not permit proposed changes to the Commercial Tenancy (Retail

Shops) Agreements Act to be considered this year because the Government has not introduced an amending Bill at this stage. The only way such legislation could be considered this year is if the Government were to trample on the conventions of this House and the other place by not giving due notice of those Bills. We all know of the convention that once Bills are introduced, they will lie on the Table of the House for one week before being debated. If that convention were observed by the Government in this House and in the other place, it would mean the amending Bill could not be considered this year. If that be the case, it will be a bitter disappointment to many small business retailers in this State, many of whom are very conscious of the fact that the Government introduced a Green Bill last year after rejecting proposed legislation introduced by the Opposition which would have enhanced the position of small retailers. The Government introduced that Green Bill after significant pressure from the then opposition spokesperson for small business, Nick Catania, the former member for Balcatta. As a result of that pressure the Government tried to take the political heat out of the situation in the lead up to the 1996 election with the promise that legislation would be introduced in the first session after the Government was returned.

Mr Barnett: I think you will also agree that in areas which are contentious and where there are widely different views in the community, a Green Bill is a good way of proceeding.

Mr BROWN: It is an excellent way of proceeding and I have no equivocation in saying I support that process. It enables public input and it enables the Government of the day to take account of the views in the community and to formulate sensible and workable legislation. I agree very strongly with that process. However, the Opposition did not make that commitment to the small business sector about the introduction of legislation. The promise was made by the Government of the day, when it had behind it the resources of government. It is one thing if an Opposition becomes the Government, does not know exactly the position in government, and when it takes office finds other matters of which it was unaware.

Mr Barnett: Sometimes people in government do not know what the position in government is!

Mr BROWN: I understand that can happen from time to time. I also understand that when there are changes of Ministers, even when the Government does not change, some Ministers have their eyes opened quite significantly about what might have been happening in the exalted office before they arrived. Although I agree, on the one hand, that the process should be thought through, particularly in this complex and vexed area, on the other hand, the speed with which legislation is dealt must take into account the number of problems in the sector with which the legislation is designed to deal. It will come as no surprise to members of the Government and the Opposition that a constant stream of concerns have been raised by small business retailers about a variety of issues involving commercial tenancy. Some were proposed to be addressed in the Green Bill.

I am not suggesting that every tenant in a shopping centre or strip of shops is anxiously awaiting this legislation, nor that there is not a good and strong relationship between landlords and tenants. It is true that in some centres, the relationship between landlords and tenants is strong and positive: They are working towards the objective of promoting the centre and trying to attract a greater number of customers to the centre, because they want it to be viable and to prosper. In some areas that works successfully. We generally do not need legislation to cover the situation where there is agreement between landlords and tenants and they are looking for a win-win situation. Unfortunately, human nature is very fickle and not all the people involved in a particular endeavour or enterprise approach it from the view of trying to balance their interests with the interests of other people but rather are keen to advance their interests by disadvantaging others. Therefore, in some circumstances we do need legislation that will change behaviour and overcome certain practices about which small business retailers are complaining.

This matter was investigated thoroughly by the House of Representatives Standing Committee on Industry, Science and Technology and discussed in its May 1997 report entitled "Finding the Balance". This comprehensive report was commissioned by the former federal Minister for Small Business, Geoff Prosser. The recommendations of that select committee were unanimous. However, the Federal Government sat on those recommendations for quite a long time, and it was not until shortly after the then federal Minister for Small Business had been removed and the new Minister had been installed that the new Minister moved to implement some of the recommendations in that report.

The Federal Government claims, I think correctly, that some commercial tenancy issues are appropriate to be dealt with by State Parliaments rather than the Federal Parliament. I will deal with those matters in a moment. Members will be aware that one of the key recommendations in that report was that the Federal Government amend the Trade Practices Act by using the term "unfair conduct" rather than "unconscionable conduct" in order to broaden the jurisdiction of the legislation to enable an action to be taken by small retailers who believe they are being subjected to unfair conduct.

Those members who have been following the debate will know that the Federal Government has not adopted that recommendation but has decided to retain the term "unconscionable conduct". The difference between the two terms is significant. The report of the committee states that the term "unconscionable conduct" has been interpreted by the

courts in a narrow way as meaning behaviour at the extreme, whereas the term "unfair conduct" means behaviour where a person uses his superior bargaining position to arrive at, for example, a lease, and where the person with the least bargaining power has limited opportunity to influence the outcome of those lease negotiations.

The standing committee was most concerned about the power imbalance and unfair bargaining position where one person held all the cards and a small retailer had no power and did not have the financial resources to argue in a court that what a property owner had proposed was unfair. The report outlined a series of tests that could be applied to determine whether conduct was unfair. It considered the situation where a small retailer was presented with a contract drawn up by a property owner on a take it or leave it basis and there was no real negotiation. It looked also at the complexity of the contract and the degree to which a small operator could come to grips with what was proposed.

It is interesting that although the Federal Government said that it had picked up the recommendations of the standing committee and would change the Trade Practices Act to meet the concerns raised by the committee, that is not the case. The Federal Minister for Small Business has done exactly what the committee did not want him to do; that is, he has decided to retain in the Trade Practices Act the term "unconscionable conduct" rather than use the term "unfair conduct". That is the opposite of what the committee recommended.

This is the most duplicitous action I have ever seen. When people in small business see these phoney cases, which will be run up under these narrow legal criteria, fail, the Federal Minister for Small Business will run away from this issue at 100 miles an hour. This is the greatest weak-kneed cop-out I have ever seen. Worse than that, it is duplicitous in the extreme.

It is no wonder that these provisions will not apply until the middle of next year. The first time that a case will be able to get up properly will be in 1999, well after the next federal election. How convenient! The Federal Government will be able to keep promoting the image that it has made these changes to assist small business and has done a great job.

It is the greatest con job of all time. It could almost be a criminal offence on the basis of false representation. Small businesses will get very little respite out of this. It is contrary to the recommendations of the standing committee. It will be my task to try to explain the complexities of this issue to many small business operators who are struggling and who think, falsely, that they will gain some respite from the way they are being treated.

[Leave granted for the member's time to be extended.]

Mr BROWN: One of the issues raised by the standing committee was the allocation of retail space; that is, how much retail space should be provided in a given area bearing in mind that if more and more retail space is made available, the viability of retailers, particularly small retailers, will be affected. I received a letter from Retailers Against Incompatible Development, a group concerned about proposals to expand the Westfield Carousel Shopping Centre. It is now before the Planning Commission. I am aware of the guidelines under the policy document that the Planning Commission uses in determining these matters.

The submission from RAID is very detailed and raises concerns by 160 retailers about that planned expansion. The members of RAID believe that if the expansion of the Carousel Shopping Centre is approved by the Planning Commission the viability of their businesses will be in doubt. They are most concerned about the outcome. Their document reads in part at page 4 -

> Page 3 of the Metropolitan Centres Policy -

That is, the government policy -

> - recognises that centre developments *should have regard to the impact on the amenity of the area and their impact on other centres.*

The submission indicated that although RAID has not been able to do a study because it does not have the financial resources, feedback from its members indicates that shopping centres in the surrounding areas have been struggling for some years and the situation would be made worse by a massive expansion of Carousel.

Later in the document RAID refers to the Metropolitan Centres Policy stating that it was important that there be a degree of certainty in the policy planning approach so that investment decisions could be made with confidence; that is, people investing in shopping centres should be reassured that they will not be caught in two or three years' time with a massive development alongside them that makes their centre unviable.

The group emphasises that that point applies also to small businesses. Small business retailers must make considerable outlays in order to obtain leases and establish their businesses in strip shops or shopping centres. If government allows laissez-faire expansion, small businesses will be considerably affected.

I raise that today because although I appreciate the degree of expertise on the Planning Commission, ultimately decisions about planning and the degree to which expansion occurs are matters for government. The Government cannot hide behind the Planning Commission and say that this is a decision for the Planning Commission. The Government must take an interventionist role to ensure people who have invested in businesses in good faith have an opportunity to run them, not without competition, with reasonable competition, but not where the market will be swamped by retail space.

I ask the Minister for Small Business to examine any recommendations that come forward to ensure that those businesses are not disadvantaged by decisions that might emanate from the Planning Commission.

The other matter concerns independent retailers who have been trying for some time to obtain changes to the sales tax system that discriminates against independent retailers who buy through a wholesaler compared with a major supermarket chain which buys through its own warehouse. This issue involves the unfair application of sales tax when the two situations are compared. Sales tax is applied in such a way that the independent retailer pays up to 13 per cent more on a wide range of goods than do the larger chains.

It concerns the point at which the sales tax is applied when independent retailers operate through a cooperative arrangement. It is anomalous and it significantly disadvantages independent retailers. It has been raised by them for some considerable time. I raise the matter in the hope that the Minister for Small Business will make representations to his federal counterpart to have that matter redressed.

The independent retailers in this instance are not afraid of competition; they welcome it. They are not concerned about larger buying power and so on because they operate through their collective arrangements to ensure that they can get good prices. However, they are concerned about the application of the sales tax to the larger operators who are able to buy in and incur the sales tax at a lower point than the independent retailers who operate through a collective wholesale arrangement. I ask the Minister for Small Business to address that matter.

The Federal Government has decided to deregulate the wholesale price of petrol. That poses particular issues for independent retailers. Independent petrol retailers have informed me that they are now unable to purchase petrol from the relevant oil company at a price matching that at which petrol is sold by the oil company service station. In other words, if petrol is being sold at some oil company service stations at 68¢, the independents cannot buy it at even 68¢; they must buy it at more than 68¢. Therefore they have no chance of competing in that market. They raise the question: If it is profitable for an oil company to sell petrol to one of its own service stations at a rate which still makes it profitable for the service station to retail it at 68¢ a litre, why can the oil company not do the same for independent operators? Many independent service station operators are being squeezed to death.

Mr Riebeling: Especially in the country.

Mr BROWN: It is occurring everywhere. It is not a matter that can be overcome easily or overcome in this Parliament; however, unless the Federal Government acts, those operators will go out of business.

Mr Riebeling: The South Australian Government introduced legislation to deal with this.

Mr BROWN: I am happy the member for Burrup raises that matter. I will look at that. It is a major concern. Although all the businesspeople I have spoken to from small and large businesses say they are happy to compete and that it is a question of service delivery, they say firmly that they want to compete on a level playing field. That is, they do not want to buy their products at a price significantly higher than that at which their competitors buy them and, therefore, be disadvantaged. If they all buy at the same price and they all go out into the market, whoever has the best after sales service will survive and prosper. They do not want to compete unequally.

The last matter I raise concerns correspondence I have received from the Australian Owned Companies Association. This association is concerned with labelling, among a number of other matters. It is concerned that the Federal Government has not instituted a labelling system that will ensure the Australian public can delineate between an Australian product that is produced by an Australian owned company, a product that has been made and created in Australia, or an Australian company that uses Australian raw materials and produce in its products. This matter is important if we are to ensure that consumers making purchasing decisions know exactly what is produced in this country. If members are keen to keep employment opportunities here, they must ensure purchasers have the opportunity to make that distinction. If the Government wants to assist small business, it must deal with these issues and the many other issues that affect small business that I have not had time to deal with today.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [12.22 pm]: This week is Education Week. The theme of the week is "Government Schools: Excellence in Education". I place on record my appreciation and the appreciation of the State Parliamentary Labor Party for the excellent work teachers in government schools do. It is important to maintain public confidence in the government school system. A small but steady drift is occurring in

enrolments from government schools to private schools. If that drift becomes a flood, the consequences on the educational opportunities of students remaining in the government school system will be negative. To preserve the educational opportunities of parents who do not have a choice in deciding the educational future of their children, the government school system needs the support of students and parents who have a choice in education.

The Federal Government has been deficient in maintaining public confidence in the government school system. Outrageous attacks have been made on public schools by senior federal Ministers. Amanda Vanstone attacked on a fallacious basis the record of government schools on putting students into employment, if indeed that should be regarded by anyone as part of their core business.

Mr Osborne: She drew attention to the statistics.

Mr RIPPER: The member for Bunbury by his interjection in a sense supports Amanda Vanstone. The only reason she drew attention to the statistics was to attack the record of government schools and to cast doubt on their performance. Amanda Vanstone ignored the very different enrolment patterns of private and government schools. She ignored all the socioeconomic advantages of people enrolled in the private school system. She did not do government schools a service: She contributed to the undermining of public confidence in the state school system. So also did David Kemp when he made his attack on literacy standards in government schools across the country.

Mr Osborne: Your mates in the union hated that because implicit in Kemp's position is that we must start working on the standards of teaching in government schools. We must accredit good teachers and, in a sense, apply some restrictions and disciplines to teachers who are inefficient. That is what you do not like about his comments.

Mr RIPPER: I have no quarrel with mechanisms to improve government school education. One of the roles of the Opposition is to point out deficiencies in the Government's management of the education system and to suggest ways it can be done better. What was wrong with David Kemp's attack on literacy standards in state schools was that he developed his own artificially high level of literacy standards, which was not a position supported by others involved in administering the education system, notably the state Education Ministers. In seeking to measure the performance of schools against an artificially high standard, he contributed to the myth that there has been a decline in literacy standards over the years.

I do not believe there has been a decline in standards. I believe the community is demanding higher literacy standards from a wider range of adolescents. That is understandable. Many of the unskilled jobs that people with poor literacy standards used to undertake have disappeared. Those people must move into work, if they can get it, which has higher requirements for literacy than the work similar people would have undertaken in earlier generations. There is a sense that the structure of the community, particularly the economic structure, has changed. The literacy standards required of a range of people are higher now than those that would have been demanded in earlier generations. Of course there is a demand for the skills to improve; however, it is wrong to argue that literacy standards have declined.

I have referred already to the role of the Opposition in this matter. We must point out deficiencies in the Government's management of the education system. We must suggest ways the system can be improved. That is our role in the Westminster system. However, we must undertake that role in a way that preserves public confidence in the state school system, because undermining confidence in the public system can be damaging to the educational future of students who have no choice but to enrol in that system.

There is a need for the system to improve because, although we have a competitive education system in comparison with those of our regional neighbours, it will remain competitive only if we concentrate on making it state of the art. We must keep up with the pace of educational systems in our neighbouring countries, which are improving. The competitive advantage this country enjoys by virtue of its education system will not remain unless we concentrate on continuing to improve it.

One of the ways we should improve it is to take a stand against violence and abuse in our classrooms. In Education Week we must say that we will take a stand against violence towards and abuse of teachers. I am concerned that the crisis at East Maddington Primary School has continued into the second week of the school term, with no sign of its being resolved. My understanding is that negotiations continue. From time to time television cameras are present outside the school. There is considerable unease among parents and the school community generally. Students there must be experiencing a very disruptive education, given the impact of this dispute on their teachers. They have already experienced three days under supervision but without active teaching. Further industrial action is possible if the Education Department persists in its determination to have the two children at the centre of this dispute enrolled at East Maddington Primary School.

It happens that the teacher at the centre of the dispute is a constituent of mine, and her husband is very concerned about the experience she has had at this school. Perhaps members do not realise what has taken place. I will run

through in non-specific terms some of the experiences this teacher has endured with one of the two children at the centre of the dispute. This teacher has experienced disgraceful abuse in the classroom which in other circumstances and other workplaces, for instance, would be described as racial discrimination and/or sexual harassment. Her instructions have met outright defiance expressed in extremely offensive terms. She has witnessed the bullying and assault of other students. We know that we have a problem in many schools with bullying in the playground, but this bullying and assault occurred in the classroom. When the student in question has been chastised, the student's defiance has been expressed in the strongest language; if it were to occur in the presence of a police officer, it may well have resulted in charges being laid. The teacher at the centre of this dispute has been assaulted in her classroom. She has witnessed the abuse and assault of the school principal. She has even had relayed to her threats by the student to obtain a relative's firearm and shoot her. These incidents have not been isolated. They have taken place for a considerable period.

The teacher has attempted to provide for the student's education in the most sensitive way possible. She has 35 years' teaching experience and is no novice in the classroom; she certainly knows a lot about the way classrooms work. What has happened to her is unacceptable. In no circumstances should teachers of large mainstream classes, be they in primary or secondary schools, have to put up with such a campaign of harassment and assault.

I am very surprised that in these circumstances the Education Department is continuing to insist that the student allegedly responsible for this campaign should continue to be enrolled at East Maddington Primary School. The boy in question has a right to an education, and a right to a place somewhere in the government education system. However, that place is not at East Maddington Primary School. If a student abuses and assaults teachers, he puts himself beyond the pale and loses the right to be involved in the local school.

The system has a responsibility and the boy needs to be enrolled, but not at East Maddington. I want to see him enrolled at a unit, preferably a socio-psycho education resource centre. I understand he has been to a SPER centre for only two weeks, and unfortunately the centre recommended that he be re-enrolled at East Maddington. That is not an acceptable solution. The Education Department should find another place for this boy, preferably in a small specialist centre such as a SPER centre, or at least at another school.

Teachers have a right to teach free from violence and abuse, and students have a right to learn free from such distraction in the classroom.

Mr Baker: What do you say in response to the mother's allegation or suggestion that the complaints regarding the child's behaviour are really based on racism rather than the child's behaviour in the school? Do you say that that is nonsense?

Mr RIPPER: I regard those comments as regrettable. On the basis of the information available to me, I do not accept that argument. I will comment later that a strong majority of parents at the school believe that the boy should be enrolled elsewhere. My advice from the president of the local P & C association is that a majority of the Aboriginal parents at the school also believe that the boy should be enrolled elsewhere. If a question of racism were involved, different responses from those outlined might be forthcoming from some of the stakeholders.

Mr Tubby: I understand his behaviour at the SPER centre was very reasonable. The major problem with that child is not the child himself, but the mother. The schools are having to cope with this issue, but they cannot deal with such a situation as they have no such strategy.

Mr RIPPER: If the boy's behaviour has been problematic, the behaviour of the only parent who seems to be involved in the issue has been disgraceful. The boy may be very bright; he may know when he needs to behave. What he has done at East Maddington has not been acceptable. No teacher and no class of students should have to put up with that behaviour.

We need to make a stand and say that such behaviour is not on in our schools. We should stand by teachers who stand up for their rights as employees and professionals and for the rights of their students to peaceful learning conditions. I understand that the Education Department says it has no power to compel the enrolment of this boy at another school, or at a specialist unit. It may be that mistakes were made in dealing with the boy and in applying sanctions against his behaviour. It may be that comprehensive administration and documentation has not been maintained on the issues relating to this boy's behaviour. If mistakes in management have been made, they do not justify a continuing threat to the welfare of this teacher, other teachers and other students at this school.

The Minister for Education needs to intervene in this issue and resolve it. We have already had eight school days of this term, and the issue remains unresolved. The stand-off cannot continue. I have looked the Education Act and its regulations. I doubt the argument heard that the Education Department has no power to compel the enrolment of this boy at a school other than East Maddington Primary School. Section 20G(1) of the Education Act reads -

> If a person holding or acting in a prescribed class of position -

Namely, a principal -

> - is of the opinion that the conduct and behaviour of a child attending a Government school is not conducive to the good order and good management of the Government school, the person may suspend the child from attendance at the Government school in accordance with and subject to the regulations.

In part, clause 20G(2) reads -

> . . . the person may in addition recommend to the Minister that the child be excluded from attending the Government school.

If there is a recommendation for exclusion of the child from the school, the Minister must convene an advisory panel, on the recommendation of which the Minister may exclude the child from attending that school or all government schools. The suspension and exclusion must take place in accordance with the regulations.

The regulations appear to provide for a scheme where, once a child has accumulated 30 days of suspension in any one year, a recommendation should be made for that child to be excluded from school. However, a recommendation for exclusion is not required to be made only after someone has accumulated 30 days of suspension. I draw the attention of the House to regulation 35, which provides -

> (4) Nothing contained in subregulation (1) affects or limits the power of the principal of a school to recommend the exclusion of a child from that school pursuant to section 20G(2) of the Act.

This boy's presence at the school is demonstrably not conducive to the good order and proper management of the school. No-one can say that the school is in good order and properly managed given the stand off that we have at the moment. Under the Education Act and the regulations, the school has the power to recommend the exclusion of this student.

Mr Barnett: Much of this occurred when I was away last week, or the issue was heightened. The director general is personally handling the issue, has spoken to the mother of the children and is setting up an arrangement whereby the older boy will be put into a transitional arrangement to high school and the younger boy will return to the school. The difficulty is the many and varied agendas.

Mr RIPPER: That is often the case with a sensitive issue which touches on some of the fundamental tensions in our society, as does this. I hope the Minister is correct and that a solution has been found. However, having spoken to the P & C association president last night, I believe that no solution has been found - there is still a stand off and the mother is still insisting on her right to enrol the boy at the school.

Mr Barnett: Cheryl Vardon spoke to the mother and she understood that that would happen. That is what she is trying to achieve and it is a sensible solution. The director general personally has spent a great deal of time dealing with the issue and is meeting with the parents at the moment.

Mr RIPPER: The stand off cannot be allowed to continue. We are already into the second week of the term. If agreement cannot be reached soon, the Minister must intervene. The powers in the Education Act should be used and the boy must be enrolled at some other Education Department institution.

[Leave granted for the member’s time to be extended.]

Mr RIPPER: It is not only the sections of the Act related to suspension and exclusion that might be relevant. Section 21, headed "Minister may refuse child admission to a Government school", provides -

> (1) Subject to the remaining provisions of this section, the Minister may refuse the admission of any child to any Government school if accommodation has been provided for such child in another Government school nearer to his dwelling-place, or if there is more suitable accommodation in some other Government school within the prescribed distance.

Again, that clause might provide some power for the Minister to act.

On reading earlier sections of the Education Act, it appears that the prescribed distance is such that a child is not required to travel by foot in excess of 3 kilometres. I found it hard to determine the prescribed distance precisely from the Act. That is the only reference I can find to a prescribed distance. Under other sections of the Act, this boy can be required to attend a school if he is not required to walk more than 3 kilometres to get there. While there might not be another specialist unit within that distance from his home, there is a school other than East Maddington Primary School.

Lest it be thought that I am unconcerned about this boy's educational future -

Mr Barnett: I do not think that.

Mr RIPPER: - it can be argued that the prospects for his success at the school given the history are not very good. He needs a new start in a different environment.

Mr Barnett: That is true for the older boy, but the younger boy can stay.

Mr RIPPER: There might be an argument about the younger boy but, given the history and experiences of the older boy at this school, even in his own interests it cannot be argued that it is the best place for him to be enrolled.

I hope the stand off will not continue much longer. It is very difficult for the Council of State School Organisations and the P & C association office bearers to manage the emotions of the parents during this time. There is strong feeling in the parent community. They are worried about their children's educational future, the school is disrupted and the conditions in the year 7 class cannot be ideal for those students. The issue must be resolved.

That is unfortunately only one example of a broader issue; that is, the number of assaults, verbal and physical, to which teachers are subjected. Unfortunately the Education Department does not accept its responsibility in this area and apparently does not maintain a central register of assaults on teachers. The teachers' union from time to time has conducted surveys. I will quote some of the figures produced in due course.

Mr Barnett: There is no central register, but I do not believe that the department neglects its responsibility for behaviour management at a school and district level. I am sure that is not what the member meant. The department is conscious that this is a growing problem in many areas. However, I do not believe that the member meant to say that the department is negligent.

Mr RIPPER: I am arguing that the department should maintain a central register; I am not commenting on how it approaches the issue. It has a responsibility to collect information on this issue and to make it available to the Minister and to the Parliament. I do not think it is honouring that responsibility at the moment.

In the vacuum created, the union has conducted surveys, but unfortunately they do not cover every school. The 1996 survey was sent to 750 workplaces and 161 responses were received. Nevertheless, the figures are interesting. They show that in 1996, teachers in those 161 schools reported 989 incidents of physical assault; 2 528 incidents of verbal assault; and 570 incidents of damage to teachers' property. If all 750 schools had responded there would have been considerably greater numbers in each category. That pattern did not apply only in 1996. The figures for 1995 show 424 reported incidents of physical assault; 12 377 reported incidents of verbal assault; and 410 reported incidents of damage to teachers' property. The survey was also conducted in 1993, when it revealed 1 364 reported incidents of physical assault; 4 716 incidents of verbal assault; and 610 reported incidents of damage to teachers' property. Inadequate as they are, these surveys provide clear evidence of a serious problem for teachers which impacts on them in their personal and professional lives and which also must have an impact on the learning conditions of the great majority of students, who are not responsible for physical or verbal assaults on their teachers.

We should take this issue seriously. In Education Week I would like members to take a stand against verbal and physical assault of teachers and for peaceful learning conditions in our classrooms. The best way to take that stand is to resolve the issue at East Maddington Primary School in favour of peaceful learning conditions in our classrooms.

MR GRILL (Eyre) [12.50 pm]: I want to make a few remarks about native title. The Native Title Act is the province of the Federal Government, but this State Government is intimately concerned with the question of native title. This State expends a substantial amount of money on questions ancillary to native title. We also have a budget in this State for Aboriginal affairs, although the budget is not of the dimension that I would like to see. The Federal Government's budget is much larger in this arena. It has the formal responsibility for Aboriginal affairs as it has had since 1967. Many of the tasks undertaken by the Federal Government should be undertaken by State Governments. They are closer to the problem and in many respects to the indigenous people towards whom we have a responsibility. In many ways the State Governments should be performing a much bigger role in this area.

I want to talk about some of the practical problems of the implementation of the Native Title Act. The Native Title Act has been in force now for some years. The Act has not been met with universal acclaim throughout Australia. The implementation of the Act has thrown up a whole range of practical problems, problems that affect people very directly and personally and problems on the ground, as it were, that impact on the lives of many people in fairly mundane but nevertheless important ways. I do not want any of my remarks on practical problems to impinge upon the principle of native title. We on this side of the House and most members on the other side of the House support native title, as do the High Court and the Federal Parliament, by and large. I believe that native title is a fundamental legal property right, acknowledged and upheld by all the institutions of Australia. I do not want anything I say today, whether now or later this evening, to be seen to be derogating from those principles.

We have of course before Federal Parliament at present legislation which will substantially amend the Native Title Act. The legislation is highly contentious and may or may not solve some of the practical problems which I want to air in this speech. We must be particularly careful about the way we go about amending the Native Title Act because in endeavouring to amend it we do not want to go so far as to negate the constitutional basis upon which the Federal Parliament has the right to legislate. A line of argument favoured by the Australian Law Reform Commission and the Federal Opposition says that we need to be particularly careful in this arena and that the Wik amendments, to use the colloquial term, which are before Parliament and the whole Native Title Act may well founder on the basis of the legal arguments that have been put forward.

As I understand it the legal arguments are that the Federal Government has a right to legislate on native title under two heads of jurisdiction: First, under section 51(xxvi) of the Constitution, which is the race power; and second, under section 51(xxix), which is the external affairs power. The external affairs power endorses an international convention on the elimination of all forms of racial discrimination. It has been argued that in exercising these powers, first, the race power can be used only to benefit an indigenous group of people and, second, the external affairs power cannot be used as justification for discriminating against any section of our population. If the Wik amendment 10 point plan, to again use the colloquial term, discriminates against or takes rights away from indigenous people, it runs the risk of being found unconstitutional by either the Federal Court or the High Court. In that situation we would be thrown back on common law. If we are thrown back on common law on the question of native title, it could be many years or even some decades before critical questions on the settlement of native title disputes are decided.

The argument from my federal colleagues, as I understand it, is that in amending the Native Title Act we must be extremely careful that we do not take a step too far. That would appear to be the fundamental philosophical difference between the Federal Government and the Federal Opposition on this point. We in Western Australia should be looking for a practical solution to the various problems which have been thrown up by the Native Title Act. There are very many of those problems. We should not be allowing ourselves to be embroiled in a philosophical argument at a federal level. If the position of the parties becomes entrenched, that argument could linger on for a very long time. At present we need in Canberra a group of parliamentarians from both sides of the House who are prepared to sit down, work through problems and come up with solutions. If the Prime Minister wants to use the Wik legislation as a trigger for a double dissolution further down the track, which is the fear of many members of the Opposition, that would be entirely counterproductive.

Mr Prince: I doubt that he does. I think he genuinely wants to make the legislation work.

Mr GRILL: He should make that clear. From my discussions with Gareth Evans, Darryl Melham and the Leader of the Opposition last week, I know that fear may not be at the top of their minds, but it is certainly there and is certainly a worry for them. That fear was echoed on the ABC today by one of the federal members - I think Gareth Evans.

Mr Prince: I appreciate that it may be the perception, but my strong understanding is that the Prime Minister and the Government want to get this legislation working because they accept that what we have does not work.

Mr GRILL: I hope the Minister is right and that we can dispel the perception of some of my colleagues.

I do not want my colleagues to be opposed to practical amendments to the Native Title Act simply on the basis of philosophy. If they dig their heels in, we will not have any amendments which will make the legislation work. The legislation does not work in the goldfields.

Mr Prince: I genuinely wish you had more influence with your federal colleagues.

Mr GRILL: My federal colleagues are probably better versed in the legalities of the Act than are we. Whether they are versed in the practical problems thrown up by the Act is another question. They are slowly becoming aware of that. Comments last week by Gareth Evans and also, to my surprise, by Darryl Melham clearly indicate that they are becoming aware of those problems. Darryl Melham, who is our spokesman on native title affairs, is quite happy to come up to Kalgoorlie and have a look at the problems first hand.

[Leave granted for speech to be continued at a later stage of the sitting.]

Debate thus adjourned.

[Continued on page 7235.]

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

COMMITTEES - JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Membership - Resignation of the Member for Rockingham

THESPEAKER (Mr Strickland): I have received a letter from the member for Rockingham, signed yesterday, in the following terms -

> Unfortunately due to time restraints I have to resign from the Delegated Legislation Committee effective immediately.

JURIES AMENDMENT BILL

Second Reading

Resumed from 16 October.

MR RIEBELING (Burrup) [2.40 pm]: This legislation is only three pages long but, unfortunately for the Government, this speech will not be that short. The legislation is simple in its endeavours. It will change to an electronic system the process by which people attend court as jurors, and will provide for the payment of jurors through electronic banking systems and other matters. The interesting aspect of this legislation is found in reading the Minister's second reading speech.

Mr Prince: Thank you.

Mr RIEBELING: It is a very interesting speech. It begins by making quite a bold statement that these amendments are part of the coalition Government's policy on law and justice, and that it honours a commitment made at the last election to review the jury system. However, it does not say why that review was necessary.

Mr Prince: It refers to reviewing the jury system process of selection, election and supervision. Get it right.

Mr RIEBELING: That is right, but it gives no reasons for the process taking place. Scant reference is made in the second reading speech to people losing faith in the current system. My involvement with the jury system, although not great over the last five years, was comprehensive during the previous 21 years. It is my knowledge that the jury system has worked quite well. However, the Government has a burning desire to change that system.

Mr Prince: No.

Mr RIEBELING: Yes.

Mr Prince: You have not read the speech.

Mr RIEBELING: I have read the speech, which is longer than the Bill. It is a very good speech; it has been read by the member for Burrup. It states that this legislation is designed to save money and improve a system which has fallen into some sort of disrepute.

Mr Prince: No. It does not say that at all; it says that it should be done by computer rather than manually with cards and a barrel. That is all.

Mr RIEBELING: Not at all. It then refers to automatic banking, using bar codes instead of rolls and many other aspects. The problems with these changes are threefold. I am sure that after my speech the Minister will see the error of his ways and alter the legislation. The Opposition believes that change should be for the better, and not just change.

Mr Prince: Yes.

Mr RIEBELING: This change is just change. The amount of savings to be made in the system will be very small. As the Minister knows, summonses are already prepared electronically in the centralised sheriff's office. Therefore, the biggest cost of a manual system has been reduced for at least the past eight years. The only change the Minister envisages is in the structure of the summons to allow a bar code to be placed on the document, and to allow the random selection of juries through a computer program. A random selection of the jury roll has taken place for at least eight years.

Mr Prince: In which case we are bringing the law into line with practice.

Mr RIEBELING: The second reading speech claims the practice to be new. It claims that a review of the process is needed, and that this is the new system - it is not a new system.

Mr Prince: You may be right about the practice, but the Juries Act does not allow that to happen.

Mr RIEBELING: The second reading speech indicates that the system is new, so the Minister's speech is not correct. Also, I contest in the strongest possible terms the Minister's views about improvements made by direct banking of jurors' fees.

Under the old system, which is the probably the system to which the Minister refers, each of the registrars of the eight or nine court districts in the State would receive a roll. This was based on an estimate of how many people would be required. The Karratha area would receive 2 000 names of people in the area on a roll produced at random in hard copy by the Electoral Commission. This went to the registrar. He had a barrel containing 2 000 discs. A jury precept was issued for 150 people. A Justice of the Peace would pull from the barrel, say, 300 discs relating to numbers on the roll, and summonses would be served by the bailiff ; he would knock on the door and give a summons to, say, Joe Bloggs. A report was produced by the bailiff to determine on whom the summonses were served.

People would turn up for another process of random selection to result in the 12 good people to determine the fate of the defendant. All people who turned up were paid. In a week's trial, jury members needed to produce proof of loss of earnings. A change made by this Government was to reduce the ability for the registrar to draw sufficient money to pay jurors on the spot for work time lost due to jury duty. This legislation is a culmination of a number of changes. The current system is not as good as the former one.

The first change was that the work on the rolls was removed from the local area and put into a central registry in the sheriff's office. Summonses are prepared at that office by computer and are posted, not served by a bailiff or a police officer. That process has a number of bad aspects.

Firstly, the registrar and the court for which the jury is required never know how many people will turn up to court. It is known that the people with summonses returned to sender would not turn up. However, some of those return to sender deliveries take several months. That system has its flaws. The better system was for the court to know who had been given the summonses so it felt confident that people who received the summonses would advise the court why they could not attend court, would try to get excused from duty by the registrar or would turn up. If people did not turn up then the court had certainty in dealing with them, usually by arrest or fine. That process has served us very well.

We now see yet another change to install an even slacker system. We will now produce the summons via computer; it is posted out by a computer system and it includes a bar code. One of the beauties of the old system was that, when police knocked on the door and handed the summons to the person, it was likely that that person would turn up.

Mr Prince: Summonses have been served by post for a long time.

Mr RIEBELING: I have said that. I am referring to what I believe was the best system.

Mr Prince: That was about 20 years ago.

Mr RIEBELING: It was not; perhaps I am getting older.

Mr Prince: I am not being rude, but I think you are.

Mr RIEBELING: It was a manual service during the John Pat trial, but I do not know when that was.

Mr Prince: It was in the early 1980s.

Mr RIEBELING: Perhaps it was 15 years ago. The beauty of the system was that if we required 150 jurors for five defendants, the registrar - it was I at the time - could continue to draw jurors out of the roll system on a periodic basis to ensure that the precept was fulfilled. At the end of the day in that trial, instead of getting the police to serve because the defendants were all police officers, I made the mistake of ringing Don Doig, the Under Secretary for Law - a position abolished by this Government. I said that I was reluctant to give the jury summonses to the police to serve because they might not serve certain people. He said that that was very good but that someone else had to serve them so I should do it. I had to serve 150 people.

Mr Prince: Did you get the fees?

Mr RIEBELING: No. That system allowed me certain knowledge -

Mr Osborne: Only a lawyer would ask whether you got the fees.

Mr RIEBELING: That is correct. That system ensured that the registrar knew that on any day a certain number of people would appear.

Mr PRINCE: The points you are making are reasonable in a country context with a relatively small population, many of whom will be known, but not in a city context.

Mr RIEBELING: I am talking about a country context; that is the area I know best. This system does not say "except for the country".

Mr Prince: No, it does not. However, it allows for the manual system to continue or for it to be done by computer.

Mr RIEBELING: My point is that the amendments we have progressively made to this legislation have not improved the situation. It might well be that in Perth we can save one or two jobs in the sheriff's office as a result of these amendments.

Mr Prince: No. It is aimed at making it more convenient for the jurors. They receive their summonses through the post. Those who receive the summonses front up on the appropriate day and, instead of having to stand in line for their name to be ticked off, they swipe the bar code and they are recorded as being present. A similar process applies in the city for the division of the panel to the various courts. Again, the computer does that and the prospective jurors go to the appropriate court. At the moment they are pulling the names out of a barrel. It takes time and is tedious. In this day and age the random computer programs available should be used. In the country that is not the case.

Mr McGowan: It does not alleviate the need for enormous numbers of people to turn up at the Central Law Csourts.

Mr Prince: It just makes their allocation to panels for the various courts a lot quicker.

Mr RIEBELING: The Minister can correct me if I am wrong, but all that will mean is that, instead of summonsing a juror to attend the District Court at 9.15 am on Monday the tenth, we will be able to summons them for perhaps 9.30 am. It does not take very long to draw out 50 names and tell people to head for court A, B or C. How is the computer random selection conveyed to the people?

Mr Prince: The names are called out.

Mr RIEBELING: Where is the saving?

Mr Prince: You are not doing it by rolling a barrel; you press a couple of keys and there it is. That is what you are doing anyway but in an old fashioned way.

Mr RIEBELING: The Minister said in the second reading speech that this move will limit inconvenience to jurors and will promote a more favourable image of courts. He cannot be serious!

Mr Prince: They think it has come out of Dickens.

Mr RIEBELING: Perhaps that is part of the symbolism of the courts. These people have been summonsed to appear as jurors, to sit in a place similar to this Chamber in front of a person similar to the Speaker, wearing a wig - which the Speaker sometimes does - and surrounded by people in coloured robes. The Minister says that the juror summonsing system is archaic. He must joking! What part of this symbolism is archaic? Is it the person wearing the wig and robes or the summons?

Mr Prince: I do not have a problem with wigs and robes. The District Court building is relatively modern - but not all are - and is completely wired for microphones to provide an instant transcript and so on. The member expects people to front up and stand in line to have their name checked off, have it put in a barrel -

Mr RIEBELING: Has the Minister been to the District Court?

Mr Prince: You can do it with a personal computer very efficiently.

Mr RIEBELING: Then the jurors are told what has happened. It is exactly the same. The jury panel system I have seen used involves one officer extracting the numbers and another calling out Bill Bloggs, Joe Bloggs and down the list. It is very quick because they do it every day.

Mr Prince: I have seen it done hundreds of times.

Mrs van de Klashorst: You object to bringing the courts into the twenty-first century.

Mr RIEBELING: I believe in telling the truth in this place and not saying that the purpose of the legislation is to limit inconvenience to jurors and to promote a more favourable image. How can members opposite say that? Has the member seen it done?

Several members interjected.

Mr RIEBELING: I suggest that members opposite have a look at the system before they comment on it.

Mr Bloffwitch interjected.

The SPEAKER: Order!

Mr RIEBELING: The member for Geraldton wanted to make a comment.

The Minister also stated that this system will permit the replacement of a very labour intensive procedure. Which bit is labour intensive? Is it the drawing out of the names?

Mr Prince: It is the manual handling of the names, getting them checked off and drawn out of a barrel, the manual handling of money and so on - all of which can be done electronically with great confidence.

Mr RIEBELING: I am glad the Minister mentioned the money. He would say, because of his comments on the Bill, that the new system for allowing jurors to be paid is quicker than paying cash.

Mr Prince: Absolutely; I have watched it done on many occasions.

Mr RIEBELING: How is that at all possible?

Mr Prince: It is printed and paid electronically into their accounts. They do not have to queue outside the registrar's office and halfway up the stairs and wait for three-quarters of an hour to get paid. That has happened in the Albany court for years. Why do people get fed up with it? No wonder people do not want to go back for jury service when they have wasted half a day going through that process.

Mr RIEBELING: The next time the Minister is in court and sees jurors being paid, he should ask them what is the least onerous part of their task. Going to get paid is the part of their task which they do not mind. I have watched them for a decade or more. Most jurors who get cash are very happy to get it and would not like electronic transference of money into their banks.

Mr Prince: I cannot begin to tell the member of the number of jurors who have complained about waiting around with nothing happening, particularly when waiting to get paid. Sure they want to be paid, but they do not want to wait for three-quarters of a hour while someone like you hands the money out.

The SPEAKER: Order! I have allowed a lot of interjections and exchanges but it is about to come to an end. It is all disorderly. I ask the member for Burrup to address his remarks to the Chair.

Mr RIEBELING: Thank you, Mr Speaker. The Minister is a disorderly chappie.

The banking system which the Minister says is an improvement is the reverse. We have in place a system where a juror, through his employer, can arrange for a statement to be produced. Another Minister has arrived! I have worn one out.

The SPEAKER: Order!

Mr RIEBELING: The juror can obtain a statement from his employer of the exact amount the employee will lose for a week of jury service. Under the old system, which this Government has dismantled, a registrar would have been able to draw a cheque for the sum of the amount that had been lost and reimburse the juror in cash for the full amount. The Minister's suggestion that that is slower than electronic transfer is beyond me. For a banking transfer to occur in the country, the proof would have to be transferred to some head office and the authority for the transfer would have to go through the accounts section or the sheriff's office. Under the old system cash was paid direct. I cannot remember doing it, but there was also the ability to issue a group certificate if jury service continued over a long period of time. I presume that sort of system would continue.

The system which is touted as an improvement on the one that has existed for some time is not the first amendment to the jury system. The changes that occurred to the jury system prior to this Government's coming into office were also a backward step. Some things that had been done in courts had been done well and should not have been changed. However, some person in an office or some politician thought, "We are in our fifth year. We need to do something to the jury system. Let us change it." This is the gut reaction we have witnessed today. Somebody has decided that change must occur, but change is not necessarily progress and this change certainly is not progress. It weakens the jury system. I am hoping some changes might occur to the Bill to reverse the situation, even though it has been to the upper House. The old system was quick. It allowed registrars throughout the State - I am not particularly commenting on Perth - the flexibility to summon extra jurors and for people to be excused from jury duty. It also allowed the registrar more say than working with computers will allow. The new system will be used to centrally produce summonses. That has been occurring for a decade or maybe more. I cannot recall exactly when it started. The production of the full payment of moneys will be slower because, unless the Government is envisaging allowing the outstations to process direct banking - I doubt that is the case - all moneys through direct banking will have to be supervised through a central office, which may be the accounts section of the sheriff's office.

The system does not allow us to respond to a situation where there is an exceptionally high rate of return to the sender of jury summonses. In an area like mine or Port Hedland an inordinately high number of jury summonses may be returned to sender because of the transient nature of construction work forces. In a year's time 2 000 people may be on Port Hedland's electoral roll who are no longer there. Those people would not be readily identifiable under the centralised jury system. If a registrar in Port Hedland requests 150 to 200 jury summonses to be issued for a jury of 60 people, it may well be that at the end of the day only 50 jury summonses will be served. The registrar needs to be able to respond quickly to that and issue another 100 or so summonses. A weakness of the electronic issuing system has always been that that quick response is not always possible.

I am sure the Minister will not agree with my next point. We went away from the personalised service of using police officers as sheriff's officers and the like. The use of bar codes for identification of people is easily made inaccurate. Thank goodness it does not happen very often in Australia but I am sure in other jurisdictions the opportunity to change people on a jury would be readily grabbed and used. All that occurs under the current system is that a person can turn up with a jury summons that has a bar code on it and wipe it across some identifying wand or area which will register his attendance. I do not know whether the system is capable of being abused. No doubt the Minister will be able to tell me what safeguards are put in place to make sure the people who are summonsed are those who attend jury duty. This new system would also make it very difficult for a judge of the District Court or the Supreme Court to issue enforcement proceedings against people who fail to attend.

That weakness has been with us for some time and the Government should have addressed it when changing the jury system. An improvement would have to reverse the postal system requirements rather than to enhance them. That change should be included in this legislation. I hope the Minister representing the Attorney General will see the merit in that and will change this legislation so the Attorney General will not feel embarrassed about it.

MS ANWYL (Kalgoorlie) [3.10 pm]: I support the legislation, which was introduced in the Legislative Council. The Bill covers the selection, election and supervision of jurors. Having been a legal practitioner for many years and been involved in several trials I know that some merit exists in improving the system for the approaching twenty-first century.

It is interesting to note that this Bill represents tinkering around the edges of the jury system. The Attorney General in this State recently announced a review of the entire criminal justice system as well as the civil system. He is also reviewing the prison system. The Attorney General was visiting the electorate of Kalgoorlie last week or maybe the previous week when he announced that he was withdrawing the $14.7m allocated to upgrade the Eastern Goldfields Regional Prison because he was reviewing the entire Western Australian prison system. The Attorney General is certainly a man for reviews. I find it ironic that we are spending several hours today debating a minor piece of legislation on the jury system.

I will address some remarks to the way in which I perceive the jury system to be operating. Although I have made comments which are in some way critical of the minor nature of this legislation, it is important to note that the Government is trying to do something to improve the courts' image. In Kalgoorlie juries are frequently called up. Kalgoorlie has a reasonably high number of sittings of the criminal courts - the superior criminal courts being the Supreme and District Courts. One could say, without being alarmist, that Kalgoorlie is facing a crisis in jury selection. I am relying here on a report in the *Kalgoorlie Miner*.

At the last sittings of the District Court only 26 out of 150 summonsed jurors turned up. Anybody who has worked within the criminal courts will know that it is vital that an adequate number of jurors sit in the pool. It is not simply a case of calling out 12 names and installing them. For a variety of reasons problems can occur, through objections from either the defence or the Crown, as to the suitability of jurors and in country areas inevitably some jurors will be known to witnesses, defence counsel, crown counsel or defendants. It is vital to have an adequate jury call. The example that occurred in the last sittings of the court where only 26 jurors turned up out of 150 summonses issued indicates either a lack of seriousness given to the formality required from those summonsed and how they view the summons - that is, that they must turn up or provide some reasonable excuse - or a lack of summonsing of appropriate people. I received a witness summons only a month ago, which I found interesting.

Mrs Edwardes: Particularly as the member was a solicitor.

Ms ANWYL: As the Minister for the Environment points out, I have been a legal practitioner for many years. That indicates that there is no vetting of the electoral roll. The fact that so few potential jurors turn up indicates that the State Electoral Commission records are probably right out of date.

Dr Hames: They always are.

Ms ANWYL: They are, and in some areas they are more out of date than others - for example, in areas that have less stability of occupancy. The population in mining towns is notoriously transient. Many people are born in these

towns and remain there all of their lives, although many other people live there for only short periods. Well under one-fifth of those summonsed turned up on one day and that led to the sitting judge making some rather stern comments. The fact that happened is indicative of the need for the Western Australian Electoral Commission to do something about its roll. Could the Minister handling this legislation pass on my comments to the Attorney General? It would not be too difficult to pursue the Kalgoorlie example not only to see why so few people turned up but also to make some inquiries about whether these problems are occurring across the State. What will happen shortly if the problem continues and only 26 out of 150 jurors turn up is that the court will not be able to draw a jury from those people who turn up.

There will be implications on the cost of the system to the state taxpayer. For example, the costs of the court building, defence counsel and witnesses, costs borne by the Crown Law Department, whether for private barristers or in-house counsel, and the costs of providing a judge and his entourage are much greater on country circuits. If one considers those costs it is important that enough jurors turn up to enable the proceedings to go forward in a smooth fashion. With the pressures on our criminal lists at the moment it is not a simple case of reallocating a trial date. If for whatever reason a trial cannot proceed on the given date the chances are that there will be a lengthy adjournment. For some people that will involve further time in custody on remand, which is not desirable.

The other problem created by a small jury pool is that there will be less likelihood of selecting jurors who are likely to be impartial. The present system of providing jury lists is that they are given out the day before the trial. I understand that must be the case for security reasons, because the last thing we want is the opportunity to tamper with jurors and the more public the list setting out those jurors the more likelihood tampering will occur. It is important in rural and remote areas that there be a fairly large pool because of the greater chance of there being some perceived bias because of the small community in which people live and work. Certainly the defence and the prosecution should have an adequate number of people from which to challenge and be sure as much as possible that the jury is unbiased. I do not support the American system of copious examination of potential jurors; that takes the matter too far. However, it is of concern if smaller and smaller jury pools are made available to defendants. It works both ways and it also affects the prosecution. Prosecutors generally rely on the advice of the local police about the desirability of jurors. Even though people with a record for committing serious offences should not be on the jury list the legislation provides that, if they are on the list, they can be challenged.

The protection of jurors is of paramount importance. On that basis all members would have been disturbed to hear the recent comments by the Director of Public Prosecutions on the difficulties being faced at the Supreme Court, by not only witnesses, defendants and their counsel, but also jurors. If the facilities are inadequate inevitably these people will come face to face with the associates, and in some cases known criminal associates, of those people who are on trial. If we were to work through the issue it might be found that one of the reasons fewer people are turning up for jury duty is that they are concerned about their involvement in the whole system.

With respect to adequate court facilities, the Kalgoorlie courthouse has been in need of an upgrade for some time. It is perhaps ironic that as president of the eastern goldfields region law society I had the honour of meeting the Minister in charge of this legislation in 1994 or 1995 when she was Attorney General to discuss the court facilities. Unfortunately, the sad truth is that nothing has occurred to improve the situation. The current Attorney General was in Kalgoorlie recently and I know he attended the courthouse and looked at the facilities, which have not changed since the Minister representing the Attorney General in this House was in that position. I am sorry that no undertaking has been given to do anything about that. We are in a complete state of review on every other matter in this State and we will await the outcome of that review to see whether anything is forthcoming.

We have heard a lot of debate in the media today about the current situation at the Supreme Court. Only this morning I heard the view of the Criminal Lawyers Association and the DPP on this situation. I have no doubt that the Chief Justice will make his views known to the Government, if he has not already done so.

The country situation is often worse because it involves people who are easily recognisable in the community subsequent to a trial. If there is any fear of retribution surely that would be exacerbated in a small town. The physical nature of courthouses is of importance. When jurors turn up at the Kalgoorlie courthouse it is not unusual for them to have to mill around for several hours in a foyer that they share with people involved with the Court of Petty Sessions, the Children's Court, the Family Court, the Western Australian Industrial Relations Commission and a number of tribunals that sit in this State. It is not a desirable situation. On a busy morning there will be up to 100 jurors and 40 or 50 defendants in the Court of Petty Sessions, their respective legal counsel, friends and family. All those people must mix together.

The Government comes up with plenty of rhetoric about how it tries to care for people who have been victims of serious crime. The reality in the Kalgoorlie courthouse is that one very small room is dedicated to those people and in order to get to it the victims of crime must walk past the 150 people I mentioned. To suggest that witnesses and jurors have protection in that situation is not accurate. The sooner there can be a more discreet method of introducing

jurors and witnesses to the courthouse, the better. It would be desirable if separate areas were made available, which is the case in the Supreme Court. In Perth jurors do not have to mill around, although witnesses do.

I refer now to a query I have in relation to the Bill. Reference is made in the second reading speech to 12 jury districts. I did not realise there were 12 districts and I note they will not change under this Bill. The second reading speech makes reference to the capacity to randomly select potential jurors from the jury lists of the 12 jury districts in this State. I am not sure whether there is a changeover of jurors within those districts to allow those residing in one area to travel to another geographical location to sit on a jury. It is something that should be explored. If a crisis situation is caused by potential jurors not turning up in regional areas it might be necessary to provide a supplement from the metropolitan area. I ask the Minister to address this situation.

I hope the current review will address the safety of jurors, given that the Juries Amendment Bill is before the House. The Bill is tinkering around the edges of the system. I am a great advocate of the jury system and I have yet to encounter a better system. I hope that the review which is ongoing to August next year will not make radical changes to the type of trial available to people charged with offences. An important consideration is that people are innocent until proved guilty.

One could suggest that because of the way in which jurors are failing to turn up to do their duty consideration should be given to the Western Australian Electoral Commission's roll and the way in which jurors are selected. Alternatively, research should be done on why people are failing to turn up for jury duty.

MR McGINTY (Fremantle) [3.27 pm]: My contribution will be very brief. It has already been indicated to the House that the Opposition supports this Bill. Members have heard some very interesting comments from the last two speakers, the member for Burrup and the member for Kalgoorlie, each of whom have had extensive practice in dealing with a number of the issues raised in this Bill or generally with the question of juries.

The legislation seeks to do one thing in three particular areas as they are relevant to jurors; that is, to simply provide the option of making certain selections by computer rather than manually. It applies, firstly, to the sending out of notices to potential jurors; secondly, to the selection of jurors on the day; and, thirdly, to providing for the bar-coding of jury summonses which can be swiped by jurors attending at the court so that their attendance can be recorded electronically. To that extent the Bill is unobjectionable, although I hope the Minister will take into account the various issues relevant to juries which have been raised.

With those few brief comments, I am happy to indicate support for the legislation.

MR McGOWAN (Rockingham) [3.29 pm]: It is a pleasure to indicate the Opposition's support for the Juries Amendment Bill. I am not as much an expert on this subject as are some of the other contributors to this debate. Through practical experience the member for Burrup is an expert in all aspects of courts administration, which is essentially what this Bill is about. The Bill does not get down to the nitty gritty of the law, an area in which the member for Burrup might not be as proficient as some members. He is certainly very knowledgeable when it comes to the administration of the court system in Western Australia; however, perhaps he should leave the discussion on the law to others. If we were to review *Hansard* over the years -

Mr Cowan: I think someone should take the shovel off the member for Rockingham before he digs himself in any deeper.

Mr McGOWAN: I am sure that if we reviewed *Hansard* for the past few years, we would find that the member for Burrup has made many remarks about some areas of the law.

Mr Cowan: We do not need to read *Hansard* to know that.

Mr McGOWAN: I think he has been very knowledgeable in his contributions to debates on the administration of courts.

Mr Riebeling: I think my contribution on the sentencing Bill was brilliant!

Mr McGOWAN: I know of one magistrate in Western Australia who is not a lawyer. At some time in the future the Government may consider the member for Burrup in the role of a magistrate.

Mr Osborne: What about a judge of the High Court of Australia?

Mrs Edwardes: Don't factional numbers have to be done there?

Mr McGOWAN: I am just recognising the unparalleled ability of the member for Burrup -

The DEPUTY SPEAKER: Order! I ask the member to come back to the debate on the Bill.

Mr McGOWAN: Mr Deputy Speaker, I thank you for your guidance. I was being misled by a Minister of the Crown.

The DEPUTY SPEAKER: Order! I realise that; however I must ask the member to direct his comments to the Bill.

Mr McGOWAN: Mr Deputy Speaker, you know the respect I have for Ministers of the Crown. I was being misled by one of them. The point must be made that the contribution of the member for Burrup in the debate on this Bill was very good.

The DEPUTY SPEAKER: Order! The member has made it.

Mr McGOWAN: The contribution of the member for Kalgoorlie was also good, although she does not have the knowledge of the administration of the courts. She has a greater knowledge of the law than does the member for Burrup. I think her contribution must be acknowledged. The contribution of the member for Fremantle was quite good as well; it was short and to the point. Members would not catch me making speeches as short as that one. His comments on this Bill hit the nail on the head. Although I cannot quite recall which nail he hit, he summed up the Bill quite well.

I now turn to this Bill.

Mrs Edwardes: It has taken you three minutes to get this far!

Mr McGOWAN: A Minister of the Crown is trying to mislead me again to expand my comments -

The DEPUTY SPEAKER: Order! I ask the Minister to allow the member to speak without interruption.

Mr McGOWAN: Mr Deputy Speaker, I seek your protection in this regard.

The DEPUTY SPEAKER: The member has it.

Mr McGOWAN: I read this Bill prior to the debate. I found it to be very short and succinct, and in that respect it is well drafted. These people want legislation to be more concise than has been the case in the past. The second reading speech put the meat on the bones in the provisions of this Bill. It adequately covers what this Bill is about.

I do not think the role of juries in western society can be underestimated. At one stage I was quite cynical about the role of juries. I thought that in some respects they were quite wasteful. In many ways I still think their administration is quite wasteful. However, their role in the administration of justice is quite important.

I will comment on a number of aspects of the administration of the jury system and I will relate those remarks to ordinary life. First, we have some problems in our court system, as indicated by the member for Kalgoorlie. Some relate those problems to the fact that our courts are overcrowded. In some areas, especially mine which I shall discuss later -

Mr Riebeling: The Chief Justice of the Supreme Court mentioned at a seminar a month ago that plans were afoot to make the court in your area a District Court.

Mr McGOWAN: There are some problems with the size and airconditioning of the courts in Rockingham, as there are in this building. The court in Rockingham is the worst in the State.

Mr Riebeling: The second; what about Busselton?

Mr McGOWAN: I think Busselton is getting a new court shortly.

The Supreme Court building is very old and at one time it fronted the river; however, with the accretion of the foreshore, obviously, the river frontage is further from the building. The Supreme Court building is small and overcrowded, although it has a great sense of history which perhaps other courts in this State lack. Within that precinct Council House is located next door and the building is located in the Supreme Court Gardens. At one time it was proposed that the courts could expand into Council House. That plan receded because the City of Perth occupied that building.

I want to address the issue of whether the City of Perth should have been located in that building, as opposed to the Supreme Court being located there. I have some difficulties with the administration of the City of Perth, particularly the use by the councillors of a great deal of ratepayers' funds for meals and expenses recently. This matter has been referred to by the media. A large amount of City of Perth ratepayers' funds is being used by the City of Perth to provide meals, drinks and the like, which is of no benefit to the ratepayers.

I have a press release in my hand which sets out some of the costs. Although I cannot verify the accuracy of those figures, I believe they are relatively accurate. The release suggests that over the past 18 months some councillors have spent over $50 000 on food and drink. That means that every six months hundreds of people are using the City

of Perth facilities for entertaining. This is paid for by the ratepayers of the City of Perth, not by councillors. At one time I was a local government councillor. In a local government authority which was much larger than the City of Perth, we had no access to these sorts of facilities to provide free meals and drinks for whoever we wanted to wine and dine at the City of Rockingham building. Very little money was spent by the councillors in that regard. It appears that the City of Perth is not living up to the standards set by other local government authorities in Western Australia. We must also acknowledge that the City of Perth is a council which is divided, split down the middle, between the councillors -

The DEPUTY SPEAKER: Order! We are debating the Juries Amendment Bill.

Mr McGOWAN: Mr Deputy Speaker, I am aware of that.

The DEPUTY SPEAKER: Order! I remind the member of that and ask him to bring his remarks back towards it.

Mr McGOWAN: Mr Deputy Speaker, I thank you for your guidance. I will relate these comments to the Juries Amendment Bill later. The City of Perth is misusing its dining room and councillors are acting like pigs in mud by using that facility as -

Mr Riebeling: Perhaps they could cook the meals there and transfer them over to the juries.

Mr McGOWAN: That was the point I was going to make. The councillors of the City of Perth are misusing these facilities to wine and dine their friends, their political bedfellows, or whoever they like. The excuse being used is that they must host delegations. That is false. The excuse is being used too much by people such as the councillors of the Perth City Council. First, there are not many delegations to Western Australia and, second, most of the people using the dining room are not members of delegations but are friends of councillors.

Mrs Edwardes: They are not the jurors?

Mr McGOWAN: At one point they may have been. I was going to use that as an indication that I am speaking to the Bill.

The DEPUTY SPEAKER: Order! I remind the member that if he does not relate his comments more to the Bill, I will sit him down.

Mr McGOWAN: This Bill deals with the jury information management system. It is designed to get rid of much of the waste in courtrooms when juries are selected. I have not appeared as a lawyer before a jury but I have seen the system in operation. Apparently under the present system the court sends summonses to members of the public and on average one in every two of those persons turns up or is eligible to serve on a jury. People in many professions are exempt from jury service, as are mothers with young children.

Mr Riebeling: I think about 50 per cent of those summonsed serve on the jury. The figure may have gone down since I was involved in this area.

Mr McGOWAN: I have never been eligible to sit on a jury.

Mrs Edwardes: You would have been chairman.

Mr McGOWAN: I probably would have gone off the track in the jury room and been sat down.

The DEPUTY SPEAKER: The member is still in danger of that.

Mr McGOWAN: Summonses are sent to people in all walks of life and one in every two responds and is a potential juror. People report to the District Court and Supreme Court buildings in Perth, and no doubt fewer people are involved in country areas. There must be some method of administering this system, and bringing these people together to ensure that they are properly administered in the courthouse. The Minister said earlier that names are taken from a barrel for the allocation of potential jurors to the various panels. The empanelling process takes place, and 40 potential jurors appear in each court. A list of their names, addresses and occupations is given to the solicitors representing the parties, and they may challenge individual jurors whose names are called. I cannot remember how many challenges each party is allowed, but I think it is between 10 and 12. Once solicitors have used up the challenges available to them, they must take the jurors whose names are called. This empanelling process requires a great deal of administration at the District Court and the Supreme Court.

The courts must now administer these juries by a computer system. I am concerned that if it is done by a card system it may well be open to fraud or misuse by potential jurors. Those who follow the American justice system will know there has been comment about this at times.

Mrs Edwardes: LA Law?

Mr Barnett: That is where my legal knowledge comes from.

Mr McGOWAN: I think that is where most people get their legal knowledge from. Apparently the jury system in America is open to corruption and misuse. I hope the Minister can explain how this computerised system of selecting individual jurors for panels in courts will prevent any corruption at the courthouse. I am a supporter of the jury system, which has been in place in those countries whose common law is based on the British justice system for 300 or 400 years.

To the best of my knowledge, the jury system can be used in two circumstances: First, in the criminal justice system and, second, in defamation cases. Mr Deputy Speaker, can I seek a 10 minutes' extension?

The DEPUTY SPEAKER: Yes, the member is entitled to an extension.

[Leave granted for the member's time to be extended.]

Mr Barnett: Entitled, but not justified.

The DEPUTY SPEAKER: It is up to the Chair to decide that, and in this case it has been granted.

Mr McGOWAN: Of course, the Minister would never make a boring speech.

Mrs Edwardes: It has been most incisive and entertaining.

Mr McGOWAN: I hope Hansard heard that interjection. I understand it is still the case in defamation law that a jury of four can be selected to hear defamation cases. Those people are subject to instructions from the judge, and the cases are heard in the Supreme Court. That jury of four can decide not only whether something is defamatory on the basis of ordinary perceptions of what is right or wrong, but also on the amount of damages to be awarded. I seek guidance from the Minister on this point. I think that is currently the case in Western Australia, and it is probably an improper use of the jury system, firstly, because it is costly and time consuming for members of the public to adjudicate in these matters; and, secondly, an American style of justice could develop in these cases. Under the American system matters of civil wrong, such as negligence and nuisance, are heard by a jury which can decide not only whether a civil wrong has been committed but also on the amount of damages to be paid by the defendant or respondent.

There are enormous payouts in such cases in America, generally against people who ordinary people assume can afford to pay. I remember one celebrated case in which McDonald's Family Restaurant was ordered to pay $44m to a plaintiff who spilt coffee on her leg and burnt herself. The jury in its wisdom decided McDonald's could afford to pay that amount, and those damages were awarded for a burnt leg. That is wrong, and I think most people with any knowledge of our system of justice recognise it is not the way to go. I am concerned about the potential for that sort of thing to occur in defamation cases. I seek guidance from the Minister as to whether the Government is considering changing the operation of juries in defamation cases to ensure such things do not occur in the future.

With regard to the overall operation of the jury system, although I have not appeared before a judge and jury, I understand that under the Juries Act, a jury in a criminal trial is required to reach a unanimous verdict in order for the defendant to be found guilty or not guilty; if it cannot do that, there must be a retrial.

Mr Baker interjected.

Mr McGOWAN: As the member for Joondalup said, that is subject to a time limitation: After three hours, if a jury reaches a 10-2 majority, the defendant will be found guilty or not guilty.

The operation of the jury system in Western Australia is different from that in States where the jury does not have the capacity to reach a majority verdict. In Queensland, a jury is required to reach a unanimous decision, which means that if a jury does not find 12-0 that the defendant is guilty, the defendant cannot be found guilty, but the matter can be referred for a retrial.

The case that brings that to mind, without meaning to be political, is that of the former Premier of Queensland, Sir Joh Bjelke-Petersen -

Mr Baker: The problem there was that the jury had been -

Mr McGOWAN: I do not want to get into a huge slanging match about this issue, but it is a valid point that one of the jurors in the trial for bribery of the former, and much loved by the National Party, Premier of Queensland was the president of the Queensland branch of the Young Nationals, who was obviously very partisan. We need to ensure that that cannot occur within the jury system in this State.

Mr Baker: The judge normally warns jurors to put aside any bias that they may have, and when they are empanelled

they are asked whether they know the accused person and whether they have any feelings one way or the other about the case that is being tried.

Mr McGOWAN: That poses certain questions about the bona fides of that individual, whose name was, I think, Luke Shaw, in serving as a juror but not revealing his commitment to the cause of the person who was on trial.

Mr Baker: I do not think the Act imposes an obligation on a prospective juror to advise the judge of any possible conflict of interest.

Mr McGOWAN: There should be an obligation. The public is so sick of cases where justice is not administered properly that it hopes these things will not happen in future. Perhaps we should require prospective jurors to fill out some sort of application form -

Mr Riebeling: There is an obligation on jurors to declare any knowledge that they may have of the defendant.

Mr McGOWAN: In this case, the juror probably did not know the former Premier personally but was just a supporter of the former Premier - obviously a very partisan supporter.

Mr Riebeling: I thought that was an offence.

Mr McGOWAN: I do not think he was ever charged for that. We need to address that matter in this State to ensure that such miscarriages of justice do not occur.

Mr Trenorden interjected.

The DEPUTY SPEAKER: Order! The person on his feet has the floor, not the people sitting in their seats.

Mr McGOWAN: In that case, which was heard about 1990, Joh Bjelke-Petersen was charged with receiving a bribe of $50 000 from a Queensland businessman by the name of Sir Leslie Thiess - to whom, incidentally, he awarded a knighthood - who received a benefit in the form of a government contract, or something like that. One of the jurors in that trial was the president of the Queensland branch of the Young Nationals. The jury was split 11-1, and Mr Shaw was the person who -

Mr Trenorden: I think you should check your facts.

Mr McGOWAN: I have a particular interest in Queensland because I lived there during this time.

Mr Trenorden: I think you will find that he was not the president of the Young Nationals but a former president of the Young Nationals.

Mr McGOWAN: That is a good point, member for Avon; I am glad we have sorted that out. In that situation, a person used his political beliefs to ensure that the jury system did not operate correctly. Fortunately in this State with majority verdicts we can get around that situation to some degree, but I would like jurors to declare any interest that they might have in the trial.

Mr Riebeling: I think the oath covers that.

Mr McGOWAN: Yes, but the enforceability of an oath seems to be poor, because I do not think Mr Shaw was ever charged for what he had done in that case.

The Opposition supports this Bill. It will improve the jury system. I hope the Minister will deal with some of the concerns that I have raised.

In conclusion, I believe that the dining room of the Council of the City of Perth should be closed and that the Minister should join me in intervening to ensure that the City of Perth does not continue to misuse that dining room. The City of Perth is an embarrassment to the ratepayers of the City of Perth because of the misuse of that dining room.

MRS EDWARDES (Kingsley - Minister for the Environment) [3.57 pm]: I thank members opposite for their support of this Bill. I can address some of the concerns that have been raised; the concerns that I cannot address I will pass on to the Attorney General and ask him to respond to individual members with some information about the matters that they have raised.

In respect of how the changes will operate in practice, in addition to what has been outlined in the Bill and the second reading speech, I believe it would be appropriate for all members of Parliament to be given a briefing about this Bill so that they will have a greater understanding and can respond to the concerns of their constituents. The real benefit for the community will be that jurors' time will be saved because they will attend court at a much later time than they do currently. The time spent in the assembly room will be reduced.

Mr Riebeling: They are there for about 45 minutes, tops. They will still be required to be there for half an hour.

Mrs EDWARDES: According to my information, and from my knowledge, at the moment, eight to 10 trials can commence on any given day, and that requires eight to 10 ballots, each of 28 jurors, which takes a lot of time. This Bill will reduce the time for which jurors will need to be assembled.

Mr Riebeling: My understanding is that the ballot that will be done electronically is the ballot to split the overall pool for the various courts -

Mrs EDWARDES: Yes.

Mr Riebeling: That is not the ballot that takes the greatest length of time. The ballot that takes the time is the internal ballot that has objections and stand-asides, not the ballot to split up the mass roll.

Mrs EDWARDES: The advice I have is that the period for jurors to be in the assembly area will be reduced. However, if members wish to know more about how that will happen I suggest that when it is introduced all members of Parliament -

Mr Riebeling: You missed the vital part of my speech.

Mrs EDWARDES: I apologise to the member for Burrup. These amendments have nothing to do with the electronic transfer of funds to jurors' accounts. Jurors are already paid electronically in Perth. Among other things, these amendments will enhance the payment system.

Mr Riebeling: Have you read the second reading speech?

Mrs EDWARDES: Yes. It will not introduce a new system; it will enhance the present payment system.

There are 11 jury districts in the country and one in Perth. Districts generally have a radius of between 35 and 80 kilometres from the centre. Those districts are Kununurra, Derby, Broome, Port Hedland, Karratha, Geraldton, Bunbury, Kalgoorlie, Albany, Esperance, Carnarvon and Perth.

Mr Riebeling: Karratha is the nicest.

Mrs EDWARDES: I take the member's word for that.

The member for Rockingham raised the issue of the ability to corrupt the process. Individual jury summonses will be bar coded and swiped by individual jurors upon arrival. Presently, as we know, the roll is called and jurors answer that they are in attendance. We assume that the person attending is the person named in the summons. When the Clerk of Arraign swears in the juror he or she asks the juror, "Is that your name?" The Act includes penalties for impersonating a juror. Individual jury summonses will include a bar code that must be swiped by individual jurors upon arrival for confirmation of their identity. I thank members opposite for their comments.

Mr Riebeling: The second reading speech indicates that the selection of jurors by computer is new. That is not the case. Random selection of jurors has been practised for 10 years.

Mrs EDWARDES: Rather than my trying to address something that is in the second reading speech it might be better if I take up the issue directly with the Attorney General.

Mr Riebeling: It is not a big issue, but much of what is in this Bill, such as the payment system, is as you say already in existence; jury selection by computer has been in place for 10 years.

Mrs EDWARDES: The Bill is an enhancement and improvement of the system. I will raise the other issues with the Attorney General and ask him to respond. As I indicated, I will suggest that all members receive a briefing at the time of the system's introduction. I thank members for their support and commend the Bill to the House.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and passed.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)

Second Reading

Resumed from an earlier stage of the sitting.

MR GRILL (Eyre) [4.05 pm]: There are immense practical problems with the Native Title Act as it operates in the eastern goldfields. I do not believe those practical problems are isolated to the goldfields. However, they make it difficult for a range of people to go about their ordinary lives. The first is the cost of a building block; that is, the

cost of land on which people can build a residence. As things stand, Kalgoorlie-Boulder and other towns within the eastern goldfields - the problem is particularly acute in Kalgoorlie-Boulder - are circumscribed in terms of their size. Large subdivisions of land planned by the Department of Land Administration to the north and north west of the town, which are critical to the town, have not proceeded because they have run into serious problems with native title. That has meant that the price of land in Kalgoorlie has escalated dramatically.

The stock of remaining land is meagre. A major subdivision, called colloquially the airport land, where the old airport once stood has been developed in the City of Kalgoorlie-Boulder. It has been successfully redeveloped in stages into a new suburb called O'Connor. The last of the parcels of land within that subdivision will be auctioned shortly. The upset price of those blocks - the value is set by the Valuer General under the Local Government Act - is well above $70 000.

Mr Pendal: What is the size of the blocks?

Mr GRILL: They are ordinary building blocks of about a fifth of an acre. Given the vagaries of the housing market in Kalgoorlie and that comparable blocks, even with ocean views, can be bought in places like Esperance for about $30 000 or $40 000, $70 000 as the upset price for what are ordinary blocks close to the existing airport is very high. Even higher figures are being paid for blocks in more select areas. This inflation is a huge impediment to the growth of Kalgoorlie. It makes it difficult for young couples and others who want to invest in the area to buy a block of land and build a house.

The other problems associated with the high cost of land is that it discourages mining companies from establishing their operations in Kalgoorlie. As a result, mining operations continue to operate on a fly in, fly out basis. Country people do not want fly in, fly out operations. They do nothing for the towns, the communities or the region. However, mining companies are most reluctant to set up their residential operations and base their mining labour force in Kalgoorlie-Boulder when there is a restriction on the land available to build new houses and when the price of land is well above that which applies elsewhere. Of course, a dramatic increase in the cost of land leads to a dramatic increase in rents, and Kalgoorlie-Boulder rents are currently horrendous. This situation cannot all be categorised as native title problems; however, much of the problem can be traced to the fact that subdivisions which should have proceeded did not go ahead.

People may say that native title applications over the outskirts of a town can be resolved within the provisions of the Native Title Act. That is correct. However, it takes time. Multiple applications currently apply in the eastern goldfields. I am told by the Mayor of Kalgoorlie that nine applications encompass the whole of Kalgoorlie-Boulder and areas outside its boundaries. These are immense tracts of land.

One might be able to deal reasonably with one group of applicants, but with multiple applications one is dealing with lawyers in Sydney, Melbourne or Perth, but rarely in Kalgoorlie. Sydney lawyers are very aggressive litigants, and it is hard to reach resolution in those circumstances. With goodwill from some people, and a lack of goodwill from others, no resolution has been found to the problem and no resolution is in sight.

This issue generally affects people at the bottom end of the socioeconomic spectrum. When native title was put in place, we were told by the proponents of the legislation that residential blocks and houses would not be threatened. That is not the case in Kalgoorlie-Boulder and other towns in the eastern goldfields. Some 270-odd pieces of leasehold land can be found within the border of the City of Kalgoorlie-Boulder, a large proportion, although not all, of which is residential land. Some properties remain on leasehold - some with a 99 year lease - mainly because the owners of the houses and other improvements on the properties have not been able to afford the cost of freehold title. They represent the bottom end of the socioeconomic scale. All of those pieces of land have been claimed under the Native Title Act by multiple applicants.

A number of people in this situation have seen me to express concern because their threatened land and house have been in the family for decades. They are surprised and shocked that the land should be subject to native title claim - however, that is the case.

In respect of the initial application for native title claim over some of the residential lots, I was able to convince the National Native Title Tribunal that it should exercise some discretion under the Act and convince the applicants to desist with the application. This was successful. The first group of applicants dropped their claims for residential lots in Kalgoorlie-Boulder. Nevertheless, one is left with the problem that the matter went no further, and several other applicants or claimants for land have not been prepared to take the same action. There is no end to the process. It is ongoing.

Therefore, innocent and not particularly well educated people in some cases, are confronted by a morass of native title documentation. They find it hard to make head or tail of it. Some of these people are part Aboriginal - they call themselves Aborigines - yet their houses and land are under claim.

No application for their land and houses will be successful, and when these matters are resolved in the future we will find that the applications were not soundly based. However, in the interim, applications hang over the heads of the owners of this land. Some of the land is commercial but many lots involved are residential and have been in the family for many years.

Some freehold pieces of land have also been claimed. We were absolutely assured that no application for freehold land would be brought under native title. Nonetheless, applications are extending over freehold land.

[Leave granted for the member's time to be extended.]

Mr GRILL: My heart goes out to those confused and embattled people at the bottom end of the market generally who do not understand and cannot find their way through the morass and do not have the finances to afford a lawyer to deal with the matter.

Thirdly, I turn to shire rates and shire revenue. A number of mining tenement applications are not proceeding these days because they have been caught up in the native title process. The Shires of Leonora and Laverton have problems with rates. These shires have a fairly limited rate basis. I am told that Laverton has a rate base of $1.2m, and the shire president informs me that approximately $300 000 of that money is not claimable from mining tenement owners because of conflict with native title applications. Taking $300 000 out of a rate base of $1.2m is a sizeable chunk. It has an ongoing and far reaching effect on the ability of that shire to deliver amenities and services to the people living within that jurisdiction.

Fourthly, a number of shires are now very limited in the taking of gravel and road building material from crown land near roadside reserves. Apparently, roadside reserves are crown land and are claimable under the Native Title Act. As a result of the immense scope of some of these native title applications, all roads within certain shires are claimed. Therefore, all roadside reserves and the land surrounding those reserves are being claimed and it is not permissible for the shires to carry out the normal process of taking road building material from those reserves to build new roads. That is a severe impediment to these authorities.

Once again, people may say that it can be resolved under the Act, but this is a slow process. A case involving multiple applicants is quite an embroglio to sort through, especially when some very aggressive lawyers are making extensive claims for compensation.

Fifthly, I refer to accountability under the Act. Without going into names - I could do that - certain Aboriginal groups embrace within those groups, local people and some people who most Aboriginal people say do not come from that area. It involves a mixture of such people. Some live as far away as Ceduna, Adelaide or Perth. However, they feel they are entitled to bring claims because of relationships - perhaps they have relatives in the goldfields, at some stage have had some connection with it, and others have lived there for some time. They have bought claims under the corporate heading and have then entered into the right to negotiate process. Under that process one is not required to prove the claim but simply to lodge it. In fact, one is not required to present a prima facie case in order to negotiate.

In some instances these groups are receiving money, but there is no process of accounting for how the money is applied. I have had a number of complaints from local Aboriginal people that they have been part of a corporate group that has made a claim for compensation and it has received compensation under the right to negotiate procedure. However, they do not know where the money has gone. They know that other members of the group controlling the purse strings have received the money but they have been excluded. Once again, when one challenges that situation, one is often faced with very aggressive lawyers from Perth, Sydney or Melbourne who are prepared to take up the cudgels on behalf of those in the group who have received the money but who are not prepared to account for it.

In other instances, one member of a group makes a claim and finalises it before other members of the close and extended family are aware of the situation. In some cases they sign agreements with mining companies incorporating confidentiality clauses and, when the other members of the family ask for the proceeds of the negotiated settlement to be accounted for, they point to the confidentiality clause and say that they cannot disclose that information. The mining companies say that they are restricted almost totally in disclosing the terms of the settlement under the confidentiality clause. When one asks the Native Title Tribunal about its responsibilities in this regard, it washes its hands and says it has none. In most cases the State Government has registered the tenement and the agreement through the Mines Department, but it says that it has no responsibility.

A succession of people are washing their hands of any responsibility and deserving claimants are being excluded by the system. That leads to those who have been excluded making their own claims; that is, multiple claims are lodged by brothers, sisters, fathers, de facto wives and children. It is no wonder that in the case of the Anaconda development at Laverton the current list of claimants is up to 27 and growing. It will continue to grow even though

that company has reached a settlement with an umbrella group of Aboriginal people and with 20 individual applicants. It will continue to grow because, every time the company wants to make some changes to its leases, wants to obtain a miscellaneous licence to occupy a lease or to have a general purpose lease to construct a mill, that will constitute a change to the situation that triggers another avenue for compensation.

There is no end to the process. It results in a succession of multiple claims and a situation in which groups of people, whether they be Aboriginal or the tenement holders themselves, do not know where it ends. It is a most unfortunate situation without any accountability procedures.

The Goldfields Aboriginal Land Group is funded by the Federal Government to endeavour to facilitate settlements among Aboriginal groups and to bring about a resolution of conflicting claims. However, there is no necessity for or obligation on any Aboriginal group, applicant or their lawyers to come within the ambit of that group. They can ignore that process and the number of overlapping claims simply continues to grow. Where does it grow? It grows in areas where it appears mining or some other lucrative form of development will take place.

I would like to raise a number of other matters of a practical nature that do not reflect adversely on the principle of native title. These are some of the practical matters that I believe must be dealt with on a bipartisan basis in Canberra. The political and philosophical posturing about this Act must stop. We must arrive at a realistic assessment of the Act and solutions to what I believe are practical problems that affect the day-to-day lives of ordinary citizens.

MR BARRON-SULLIVAN (Mitchell) [4.28 pm]: I certainly support the Bill. I take this opportunity to raise one particularly important matter that concerns my electorate. Last Sunday evening I was riding my two-wheeled machine back into town. It was a beautiful evening and the sun was setting.

Mr Osborne: It is my town!

Mr BARRON-SULLIVAN: A third of it is mine. Riding back into Bunbury, I passed the Leschenault Estuary. The sun was setting and I stopped to watch it. It is a beautiful area; in fact, it is one of the best natural assets in the south west and possibly unknown to many people outside the greater Bunbury area. In the past few years the Government has shown a strong commitment to the area and particularly to preserving the environment of the estuary and the inlet itself. A considerable amount of money has been spent on rehabilitating the Brunswick and Collie Rivers and millions of dollars have been spent removing old chemical dumps from sand dunes on the Leschenault peninsula.

However, every beautiful area must be the subject of controversy. The controversy in this area concerns fishing and the needs of commercial fishermen and the growing recreational fishing industry. This is not a new issue. For some time recreational fishermen have complained of reduced fish stocks. Each year it appears that one stock or another has been depleted, although numbers fluctuate considerably. Petitions have been signed and public meetings have been held. I attended one meeting at which the professional fishing industry was well represented. It put its case in a very balanced and fair way. That is perhaps the key to this issue: When one is balancing commercial needs against environmental considerations one must find the right balance. In doing so, one must be fair and, in some cases, quite firm.

I was delighted a few weeks ago when the Minister, in response to a question in this House, referred to the Government's initiative to introduce a buy-back scheme for estuarine fishing licences. The Government has put its money where its mouth is by allocating $8m over a four-year period. I will refer to that issue later.

It is a complex issue. A number of families have worked in the area in a professional sense for decades. Seven professional licences are involved and for four families this is a very important part of their life both economically and in terms of their overall lifestyle. Thousands of amateurs also use the area - locals and visitors from the metropolitan area, interstate and to some extent overseas. However, to many people who live locally getting a feed of crabs and fishing for whiting or cobbler is part of their lifestyle as well.

[Leave granted for speech to be continued at a later stage of the sitting.]

Debate thus adjourned.

[Continued on page 7272.]

GRIEVANCE - SCHOOLS

Country Students - Access to Parliament House and Constitutional Centre Education Programs

MR NICHOLLS (Mandurah) [4.31 pm]: I have a grievance to the Minister for Education. Democracy as we know it relies on knowledge. In our community, generally speaking, most adults have only a limited understanding of how our parliamentary system works, how democracy came about or how they can take advantage of the processes of

democracy that operate in our country. Added to that, the constitutional debate that is starting to gear up in our community needs to be based on awareness rather than prejudice or emotion that is generated by lobby groups or political persuasions.

The political or constitutional direction of this country is an issue not only for adults or those over 18 years of age who are legally able to vote, but also should and must include students within our community who in a short time will not only be eligible to vote but also will take up positions of influence in our community. The school education program that operates at Parliament House is excellent and provides students with an insight into how Parliament works, how our democratic processes operate and how individuals can take advantage of the process to ensure both accountability and productive outcomes within our community. That program should be available to all students within our State. In 1996, 332 schools took advantage of the school education program at Parliament House. However, only 65 or 19.5 per cent of the 332 schools came from the country. Why is there such a low representation from the country? The simple answer is cost: The cost of transporting people from remote areas and also the cost of accommodation. The cost of transport is the main inhibitor. That is an issue we should be addressing.

Mandurah is not that far from Parliament House, as it is on the boundary of the metropolitan area, yet only four out of its 11 schools plan to visit or have visited Parliament House during this year. The cost per visit to transport students from school is about $250. That does not sound much to people who either deal in large sums of money or have the capacity to absorb that into their costs, but it is a significant addition to the cost of operating a school or for many parents who cannot afford to subsidise their children to visit Parliament House.

Many country students cannot afford to take advantage of the program. It is an irony because taxpayers fund many services to ensure equity within the community so the community is seen as compassionate and balanced. It seems that the understanding and knowledge of democracy and an insight into how Parliament works does not rate too highly on our scale of issues that either need to be supported or in some cases subsidised.

I request that the Minister for Education seriously consider the woeful lack of opportunity for country schools to access Parliament House to gain an understanding of how Parliament works. If possible, the Government should provide financial assistance to schools - if not the total or a substantial portion of those transport costs to bring them into line with the cost to metropolitan schools that visit Parliament House, at least to provide some relief to students who cannot afford to come.

The Constitutional Centre has been funded by taxpayers. It is a wonderful centre, yet only those schools that can afford the transport can take advantage of what it offers. I do not believe that is how our democracy should operate. We should not be in the situation where only metropolitan students who can access public transport or low cost transport to get to Parliament House will be advantaged by that knowledge. I request that the Government consider an avenue to assist country students to access not only Parliament House and the school education program here but also the Constitutional Centre to become aware and knowledgeable and to be able to participate in our democracy as we go into the next century.

MR BARNETT (Cottesloe - Minister for Education) [4.38 pm] I agree with the member for Mandurah on the value of young people, particularly school students, taking an active interest in matters with a constitutional basis both at a state and federal level; that includes the great debate in the nation on whether we should become a republic or remain a constitutional monarchy. That is fitting as we approach the centenary of Federation in Australia. It has been my observation - I am sure it is shared by other members - that school children in Australia have far less knowledge about their inheritance, their system of government and their judicial system than children in many other parts of world, particularly the United States. With that in mind there has been an increased emphasis on civics in the new curriculum framework that is currently out for discussion. The member for Mandurah referred to the tours that are conducted through this Parliament House and the Constitutional Centre, which are supportive of that.

With respect to the cost of the attendance by country schools, the member has a point; however, I will make a few observations. The approach towards the funding for schools is to give schools more autonomy and discretion over the use of money. The Government has committed to a progressive increase in school grants for that and similar purposes. It would be contrary to that approach if we were to designate money specifically for the purpose of travel for tours of Parliament House. I do not support that way of proceeding. However, we should continue to increase discretionary funding for schools and promote to schools the value to their students of visits to the Parliament, particularly to the new constitutional centre.

I note the advice from the department that 172 country schools receive extra funding through the priority country areas program. That additional funding is specifically to compensate for the effects of their geographic separation and, therefore, increased costs of travel. The service provided within the Parliament is excellent. There have been about 24 000 visitors annually, of whom about 60 per cent are school children.

Although I do not propose to increase funding for that purpose, I am prepared to look at general funding to assist schools on a geographical basis. I see that as best being done by continuing to increase funding through school grants so that schools can choose which program or activities they undertake.

A further development is important. The Parliament is in the process of updating an Internet site. One is also planned for the parliamentary visitors' service. The constitutional centre has an Internet site, too. By the end of 1997 virtually all Western Australian schools will be connected to the Internet. Both that access to the Internet and the development of Internet services through the parliamentary visitors' service and the constitutional centre will bridge the gap to some extent. It is hard to suggest that that is the same as a visit to the site; however, it allows more promotion of the Parliament and its role. I take on board the comments made by the member. There are obvious disadvantages to providing those programs to country areas. My preferred approach is to continue to give more discretion in funding and to increase the discretionary budgets of schools, but, in doing so, as that goes through, I will look specifically at the effects of isolation and geography.

Mr Nicholls: If it is a problem, can the Education budget consider a proposal which may go to Cabinet to provide funding for Parliament House so that Parliament House might be able to provide limited grants to those country areas where there are obvious financial restrictions preventing students from visiting?

Mr BARNETT: That would need to be promoted by the Speaker and the President, and then taken through the process. That may have some merit if there is a feeling that the service is not reaching children in country areas properly.

GRIEVANCE - TUART COLLEGE

English as a Second Language - Ms Judy Smith

MR CARPENTER (Willagee) [4.42 pm]: My grievance is also to the Minister for Education. I grieve on behalf of one of my constituents, Ms Judy Smith of Palmyra, who is a senior lecturer in English as a second language at Tuart College. Judy Smith has been head of the department of English as a second language at Tuart College for five years. On 10 October this year she was told that next year the position would not be hers. The bad news came from no-one in the Education Department, but from the person who had been given the job, rather than a person in a position senior to that which she held.

It came as a shock to Judy Smith because she was in the process of trying to find out from the Education Department the process she must go through to reapply for her position for next year. She had not been given the chance to apply for the position, despite her efforts to obtain information about her job situation. She has had no explanation or meaningful communication from the Education Department, despite her efforts to obtain such an explanation. Ms Smith says that her successor has less experience and inferior qualifications to hers.

I will detail the process Judy Smith went through to get information from the Education Department as the situation unfolded. She was having a conversation with a woman whom she knows, a fellow teacher. In passing, during that conversation that person related to her that she was replacing Judy Smith in the position at Tuart College next year. As I said, there was no forewarning or prior knowledge of this, and it came as a complete shock. Judy Smith was doubly shocked because the person who has been given the position next year has very limited experience and few qualifications, from my understanding, in the teaching of English as a second language.

Judy Smith telephoned the vice-principal of Tuart College. He knew nothing about the matter and was also shocked. First thing on Monday morning, Judy Smith spoke to the principal of the college who assured her that this was the first time he had heard anything of such a development. The principal tried to contact the manager of staffing and the manager of the selection unit at the Education Department. They would only confirm that a new appointment had been made and that Judy Smith was not the appointee.

On Tuesday, 14 October, Judy Smith telephoned David Callow in the Education Department, who is in charge of ESL staffing. He was unavailable, but she left a message for him to return her call, and according to her he did not do that. On Thursday Judy Smith tried three times to get through to him on the telephone and she left a message each time. The only response from the Education Department was a message left at her home telephone when people at the Education Department would have known full well that she was at Tuart College. That is a well known tactic.

Eventually she spoke to someone at the Education Department about her position. She was provided with no information, other than she would not have a position next year; that was as much as she could be told. We must bear in mind that not only has she held the position at Tuart College for five years, but she has also had 20 years' experience in the Education Department. On the face of it, at the very least, it is a very shabby way to treat an employee of any description, particularly one who has the experience and qualifications to hold down this job for a considerable time.

Judy Smith has the support of other staff members and of the Westralian Association of Teachers of English to Speakers of Other Languages, WATESOL. The president of that association, Ms Jan Kirkman, has written to the Minister to outline her concern about the way in which the matter has been handled. In the letter to the Minister, Ms Kirkman points out that the job of the ESL head of department at Tuart College requires a knowledge of year 12 tertiary entrance examination English for ESL students; year 12 senior English; the foundation course of English language and Australian cultural studies; and a variety of entrance courses for Australian academic course studies programs. She says that the person who has been appointed to the position next year has very limited experience; in fact, I am told that it is only about three months.

The teachers of English as a second language feel their status is being diminished by the way in which this matter has been handled and by the appointment that has been made. They say that the matter is an attack on the credibility of ESL as a subject, and a slight on the reputation of Tuart College, a reputation it has earned, not just in Western Australia but overseas, for its expertise in teaching English as a second language. The college promotes itself in the overseas education market. I am sure the Minister is aware that the sale of education services is a huge revenue earner for Australia, especially in Asia and South East Asia. English as a second language is an important component of that tuition for many of the students who come from countries like Malaysia, Indonesia and so on. The teachers of English as a second language fear that the developments they have seen at Tuart College indicate a diminution of the relative importance in the eyes of the Education Department, at least, of the function of English as a second language as an area of study.

The teachers also expressed their disquiet that the department often allows its staff members to hear of the impending transfer or termination of contract second hand, as was the case here, or even less professionally than that - from the person who has been appointed to take over the position, as is also the case here. The teachers believe that to be treated in this way is completely demoralising for professional personnel. It is also demoralising for a staff member who has worked in such a position for many years not to be invited even to express an interest in the position which was to become available in 1998.

Essentially I would like the Minister to look at two matters: One is the individual treatment of Judy Smith in her position at Tuart College; and the other is the general regard in which ESL is held by the Education Department. If there is a diminution of that, it should be addressed.

MR BARNETT (Cottesloe - Minister for Education) [4.50 pm]: I thank the member for Willagee for his grievance. He will obviously understand that it is extremely difficult for me to respond to this situation, firstly because I do not know the circumstances to which he referred, which concern an individual staff member. Secondly, employees of the Education Department and Tuart College are employed by the Director General of Education, and without wishing to be overly bureaucratic, I refer to section 8(2) of the Public Sector Management Act, which states that in matters relating to the transfer of an individual employee, the employing authority - which in this case is the director general - is not subject to any direction given by the Minister of the Crown responsible for the department or organisation but shall act independently. According to that Act, Ministers and ministerial staff shall not in any way become involved in employment issues; therefore, it is not within my power to intervene in this case. However, I will pass on to the director general a transcript of the member's comments and will allow the director general to deal with them and, if appropriate, respond directly to the member for Willagee.

I agree with the member's comment that English as a second language is very important within our education system. This is the first time that I have heard any suggestion that ESL is in some way being neglected. I do not believe that to be the case, and I will also raise that matter with the director general. I agree that the ability of Western Australia to sell educational services into South East Asia is exceptionally effective at the tertiary level and is becoming increasingly effective at the secondary level, and colleges such as Tuart College provide an excellent service in preparing students for secondary and tertiary studies. Once or twice a year, I have the pleasure of presenting certificates, awards and scholarships to students of Tuart and Canning Colleges. I strongly support the work done by those colleges and the positive way in which they promote education among their students.

I thank the member for his grievance, and I will refer these matters to the director general.

GRIEVANCE - TRANSPORT

Bus Service - Greenhaven

MR MacLEAN (Wanneroo) [4.52 pm]: I wish to highlight a problem in the Greenhaven subdivision of the suburb of Neerabup, located on Pinjar Road, Wanneroo. That subdivision is quite isolated and its residents are primarily first home owners and Homeswest tenants who, on average, do not have a high disposable income.

I first raised this matter with the Minister for Transport over 12 months ago when I was a member of another place, and the reply that I received said in part, "I am informed that the Department of Transport recognises the isolation

of Neerabup residents and is talking to Homeswest and the City of Wanneroo to determine what level of service can be provided for residents." At that time, the staff of the City of Wanneroo were negotiating with Transperth and with the suburb developer, Homeswest, to provide an out-of-peak-hours bus service so that residents could go to the city to shop or do some of the things that they are required to do but cannot do because of their isolation. Unfortunately, the staff of the City of Wanneroo, who are extremely dedicated, and for whom I have a great deal of respect, did not consult with the council before they began those negotiations.

Subsequently, at the relevant committee meeting, which was held last Monday night, the council resolved to defer its decision about whether to provide $16 000 per annum for an interim bus service and to write to the relevant authorities to see why it should provide such a service, even though the council had set something of a precedent in 1985 when it advanced $16 000 for a bus service for the Yanchep-Two Rocks area, which was in place for some five years.

The problem that now confronts the residents of the Greenhaven estate in Neerabup is that for over 12 months, Transperth and Homeswest have been negotiating in good faith with the staff of the City of Wanneroo, but unfortunately they will now have to start all over again to try to reach some agreement because it appears unlikely that the City of Wanneroo will subsidise an interim bus service.

I am somewhat annoyed about this matter, mainly because of the delay that these well intentioned people have caused. I do not doubt that the City of Wanneroo has good intentions in not supporting an isolated community in a subdivision that it approved, and I do not doubt that the City of Wanneroo has good intentions in providing a service for one community but not for another. However, it is very frustrating that it has allowed the negotiations to continue for more than 12 months without holding them in check or bringing the departmental officers into line. It is not as though the departmental officers did not have a budget allocation for this type of service, because they had a $20 000 a year allocation to provide this type of subsidy.

It has now become extremely important, because of the extenuating circumstances in which the people of Neerabup find themselves, that they be provided with a bus service so that they can take part in the general community and do such basic things as go to a major shopping centre or access the Joondalup bus and train system. Many of these families have only one car, which the breadwinner needs to use to get to work. People can often be seen walking down Pinjar Road at 6 o'clock at night because they have caught a bus to Wanneroo but have to walk home.

It has become frustrating for me as the local member that every time I raise this issue, the response of the department, which is made in good faith, is that it is negotiating to try to find a solution to this problem. I hope the Minister will be able to address my concerns and the concerns of the people in that Neerabup subdivision.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [4.58 pm]: I commend the member for Wanneroo for his persistence; this is not the first time that he has raised the issue of transport for his constituents. I have raised this matter with the Department of Transport and the Minister for Transport, and the department has provided me with some information, to which I will refer.

The department has been planning the introduction of a regular Transperth bus service since early 1990 and will be planning again in 1998-99, when it is expected that this community will meet the service criterion of 300 dwellings per kilometre of bus travel. The Department of Transport, in conjunction with Homeswest and the City of Wanneroo, agreed to undertake a survey, which took some time, of Neerabup and Greenhaven residents to ascertain whether there is a need for a public transport service for this community. All those parties, the Department of Transport, Homeswest and the City of Wanneroo were interested in the issue and discussed the prospect of jointly funding the provision of an interim service prior to the establishment of regular transport services. The survey, undertaken in December 1986, was sent to 185 residents and landowners of the Greenhaven estate. About half the questionnaires were returned. It is of interest to note that 10 per cent had no desire to use public transport if the service were established. More important, 41 per cent, a significant number, would use the service four to five days a week and 31 per cent would use the service two to three times a week. The usage of the service was evenly divided between those commuting to work and those wanting to travel to shopping centres.

In recognition of the Greenhaven community's competing need with other suburbs, the Department of Transport initiated discussions with Homeswest and the City of Wanneroo to establish an interim service. The member rightly responded and said that the City of Wanneroo has not made a final decision. Transport was advised by Homeswest that it supports the suggested joint venture and will contribute financially. Transport is also hopeful that all the parties will agree to participate in funding and establishing an interim bus service, pending of course a full bus service.

The member for Wanneroo has raised a very important point. When I finish this speech I will contact the Minister for Transport direct and suggest to him that an adequate transport service is very important in a growing area such

as that at Greenhaven and Neerabup. As the local member, the member for Wanneroo has tried so hard to get these people a service that he is becoming frustrated. As he said, it is important for young people to be able to catch a bus to their educational and recreational facilities. It is also important for mothers and children to go shopping and so children can be taken on various outings. It is more important that the elderly people and particularly the disabled in our community, who are the most vulnerable, have access to a regular bus service.

The member for Wanneroo can rest assured that, as the Minister representing the Minister for Transport in this House, I will raise the matter with him. The people of Wanneroo are lucky to have a member who takes an interest in these matters. Obviously the Department of Transport must adhere to some criteria, but until that magic number is reached the people in that community must suffer.

We are asking that an interim bus service be implemented and a full bus service be provided to the member's constituents at Neerabup and Greenhaven to ensure they get the service that the rest of the community already enjoys. I will raise that matter with the Minister for Transport and explain to him that it is very important that this service be brought up to date as soon as possible so that the constituents of the member for Wanneroo can be placated.

GRIEVANCE - SCHOOLS

Exmouth - Occupational and Speech Therapy

MR RIPPER (Belmont - Deputy Leader of the Opposition) [5.03 pm]: My grievance is addressed to the Minister for Education. I raise with him the lack of occupational and speech therapy services in schools, both metropolitan and country and in one country school in particular; that is, Exmouth. Exmouth is part of the Gascoyne health region for the purpose of delivery of occupational and speech therapy services. The Gascoyne health region has available one occupational therapist and one speech therapist to cover a very large area with a unique set of problems.

At the beginning of this year a pilot project was established to try to improve occupational and speech therapy services to schools. The pilot project involved the appointment of one additional speech pathologist and one additional occupational therapist. Their job was to provide a school therapy service and the project was to run for six months to 30 June this year.

The outcomes in the report of this pilot project are interesting. The project revealed a much greater need for therapy than had previously been acknowledged. The project screened kindergarten to year 2 classes across schools in the region. Not all the students were screened; just the junior classes. A total of 248 children were screened and results showed that 65 per cent of those children were at risk and in need of speech pathology services while 74 per cent were at risk and in need of occupational therapy services. The pilot project showed a much greater level of need for these services in Exmouth and the Gascoyne health region than had previously been acknowledged.

The pilot project improved the access of students registered with the Disability Services Commission to those therapy services. Prior to the project the caseload was 20 for speech therapy and 10 for occupational therapy. By the conclusion of the project the caseload in this category for speech and occupational therapy was 56 students each. Access was improved for Aboriginal students. Prior to the project the caseload for speech therapy for Aboriginal students was 25. At the conclusion of the project 87 Aboriginal students were receiving services. Prior to the project one Aboriginal student had access to occupational therapy services and again the number at the end of the project was 87. Access to the service was also improved for students whose first language is not English. Prior to the project five were involved with speech therapy services and after the project 18 were involved. Again with occupational therapy, prior to the project one was involved and after the project the figure was 18.

The project clearly showed an incredible need for services and it was an effective model for improving the level of services available to students in the Gascoyne health region, particularly for Aboriginal students and those with English as a second language.

Exmouth made the initial complaint to the Opposition about the level of speech pathology and occupational therapy services in the region. Two classes at Exmouth school were tested and 76 per cent of the children were found to be in need of help from speech pathologists or occupational therapists.

There is no criticism of the professionals involved. They worked very hard to deliver the services, but the outcome has not been very good. Despite the level of need revealed in the pilot project and that the project was successful, it has not been continued by the Disability Services Commission or the Health Department. I understand that the Disability Services Commission was prepared to support a continuation of the project, but the Health Department was not.

The greatly increased level of need which has been revealed has increased the caseload and we are now back to the original level of provision of therapy services. Therefore, individuals are receiving reduced levels of service because of the greatly increased caseload. For example, in Exmouth therapy services are available for only one week in every

10 weeks. The increased caseload has had a severe impact on staff. The occupational therapist has resigned, after three months on stress leave, and there is no indication when she will be replaced. Of course this has a continuing impact on students and there is great concern about literacy standards. Speech therapy in particular would be very important in helping students to reach required educational standards in literacy. Part of the responsibility lies outside the Minister's portfolio. However, he should lobby his ministerial colleagues for the effective provision of these important supportive therapy services in the Gascoyne health region, particularly in Exmouth. The pilot project worked well; it demonstrated the need and its effectiveness. I thought the conclusion would be to continue it. Instead, it has been cancelled, with negative impacts on those students.

MR BARNETT (Cottesloe - Minister for Education) [5.10 pm]: I thank the member for Belmont for that grievance. I agree with him that the school aid therapy service is a critically important service for the health of children. It is particularly relevant in country areas and for Aboriginal children. I share the member's admiration for the professional staff involved. They do an excellent job. As the member pointed out, the service is not the responsibility solely of the Minister for Education. In fact, although the service operates in schools, it is provided through the Disability Services Commission and the Health Department. Although I am not critical of those agencies or of the Education Department, part of the problem is the coordination of that service. There are always more things to do in education. I am not saying this by way of a cop out. It is my intention to have a review of the service undertaken, probably next year. In particular, the management coordination of the service must be examined. My colleagues may disagree; however, I would like to see an ability in the Education Department to draw on services and manage the service better. The staff involved find that running from place to place, school to school, and child to child often leads to a lack of effectiveness.

I am not fully aware of all the details of the cases in Exmouth and the Gascoyne. I thank the member for his comments about those. I am prepared to take up that issue. Probably the best way to proceed is to look at the overall management and delivery of the service. The service draws on a number of agencies. There are also demands from the non-government sector, and they are not always incorporated to the best level. This service is important. The Government can manage it and do it better.

In many cases it will come back to the usual issue of increased funding and services. There is a heavy demand in areas such as Murchison-Gascoyne for both the diagnostic service and the basic treatment and identification of problems. The member for Belmont raises a legitimate issue. I wish I could be more positive in my answer and say the Government has solved the problem; however, that would be wrong. This is one of many issues in education and health that must be addressed, and one in which the Government can do better than is being done currently. I do not say that to be critical of the individuals involved. They work extremely hard and do an enormous amount of good for schools and school children. However, the management of that service can be improved, although I am not sure how. That is a task I intend to take on.

The ACTING SPEAKER (Mr Ainsworth): Grievances noted.

CRIMINAL INJURIES COMPENSATION AMENDMENT BILL

Second Reading

MR McGINTY (Fremantle) [5.15 pm]: I move -

> That the Bill be now read a second time.

The criminal injuries compensation scheme has been at the centre of controversy in this State over the past year or two. That controversy has focused primarily on the waiting times for compensation to be assessed and awarded to victims of crime. In recent times we have seen a blow out of many years and many people are on the waiting list to have their compensation assessed by the assessor of criminal injuries compensation. It is pleasing that waiting times have been addressed in recent months, with the appointment of two additional part time assessors of criminal injuries compensation. Now they have commenced their work, they should in a short period make a significant dent in the waiting times for compensation to be assessed for victims of crime.

It is essential that victims of crime not wait inordinate periods to receive their compensation. Every one of the many people to whom I have spoken who have been annoyed at the waiting times has told me they must receive their compensation to assist them in the recovery process and to assist them to put their lives back together. To receive compensation many years later, after the person has recovered from the trauma and, in many cases, the tragedy of the commission of a criminal offence is, frankly, of little or no assistance to that person. It is important that compensation be paid so people can use that compensation to assist them in the recovery process.

In recent days attention has moved from that initial problem with the Criminal Injuries Compensation Act and waiting times to the question of the quantum of compensation that is payable either in the more serious cases - in other words,

the maximum that can be paid under the Act - or when multiple offences have been committed against several people. The example that was raised in the media yesterday involving the circumstances of Ann O'Neill indicates a serious deficiency in the provisions of the Criminal Injuries Compensation Act.

I will touch briefly on the circumstances of Ann O'Neill because they gave rise to this legislation, which is designed to amend the Criminal Injuries Compensation Act. Ann O'Neill was a young mother with two young children who had her house broken into by her estranged husband a little over three years ago in August. Her estranged husband proceeded to shoot and kill her two young children who were in bed with their mother. He then turned the gun on the mother and blew off her right leg, leaving her with not only the emotional scar of having her two children murdered in bed with her, but a permanent physical reminder of that tragic night; that is, she now has only one leg. Her estranged husband then turned the gun on himself and shot himself. In that room were three dead people, plus Ann O'Neill who had had her right leg blown off. Those circumstances are tragic. I cannot imagine a more tragic set of circumstances that could confront someone than what Ann O'Neill went through on that night a little over three years ago. The personal and physical scars are enormous.

How should we as a State respond to Ann O'Neill's situation? The existing law provides that the maximum compensation payable under the criminal injuries compensation scheme in that series of events is $50 000. Is that the price we place on one life? Is it the price we place on one leg? It is the price we place on two lives and a leg? On any of those criteria it is inadequate to recompense Ann O'Neill in any sense for what she went through after that occasion. I accept, as does Ann O'Neill, that no amount of money, even in one's wildest imagination, could compensate her adequately for what occurred on that tragic night three years ago. However, it is important that we look at the provisions of the Criminal Injuries Compensation Act to ensure that to the extent its provisions can redress some of the wrong that was done to her on that occasion, they do that.

Ann O'Neill's requirements are essentially very simple. She wants to get on with her life. She wants to be able to have accommodation that she can call her own - a humble unit - and she wants to get a qualification that can give her financial independence for the future. That is not an inordinate request. It is not a great ask. The criminal injuries compensation scheme should go a significant part of the way to provide Ann O'Neill with those very basic needs.

The Criminal Injuries Compensation Act has failed and has shown us all its very significant shortcoming. If I may illustrate the initial nature of that shortcoming in this way: The Criminal Injuries Compensation Act focuses on the perpetrator of the crime. It effectively says that a series of related crimes occurring about the same time are effectively deemed to be one crime and treated as such; in other words, no matter how many crimes are committed, if they all occur about the same time and are otherwise related, the assessor of Criminal Injuries Compensation is limited to one award of compensation within the statutory maximum of $50 000. The loss of Ann O'Neill's leg and her two children are to be considered the one crime and compensated accordingly.

Mr Riebeling: The maximum is $50 000?

Mr McGINTY: Yes, under the current legislation. If I may give members a graphic example of the sort of injustice, independent of Ann O'Neill's case, to which that provision can give rise, I ask members to reflect on the fact that if the Port Arthur massacre had occurred in Western Australia, there would be one perpetrator and 36 dead people at the end of his rampage. Those 36 victims would have had to share one award of $50 000 because the deficiency in the legislation is that it focuses on the offender rather than on the impact on the victim. In the Port Arthur analogy each of those 36 people or their personal representatives should be able to make a claim for criminal injuries compensation and have it assessed independently. Focusing on the effect on the victim rather than the perpetrator of the crime is really important in these cases.

I can understand how the current scheme of the Act came about. The scheme of the Act provides that the amount of compensation awarded is recoverable from the criminal or perpetrator of the crime. Consequently the focus in the Act is on the perpetrator of the crime. With the approach that I am advocating be adopted in the Act, where we have serious and multiple offences committed against a number of people, the Assessor of Criminal Injuries Compensation should not be limited to one lot of compensation. In its own way the case of Ann O'Neill, which has received such widespread publicity, has highlighted this deficiency in the Act.

I was delighted last night to see the Premier on the ABC news acknowledge that the circumstances which confronted Ann O'Neill were indeed tragic; that she had been hard done by with the existing statutory provisions; and that there appeared to be a need to review the payments made under the Criminal Injuries Compensation Act. I hope that as a result of this legislation we will see that approach being pursued, where we all recognise that something needs to be done. It is not common for private member's legislation in this place to receive what appears to be an in principle endorsement from the Government of the day, but the nature of the circumstances with which we are all very familiar has given rise to that very likely possibility in this case. I hope that following the second reading of this Bill tonight, when Parliament goes into recess for two weeks the Government will take the opportunity to consider this legislation

and be in a position to respond in the first week back; in other words, in three weeks' time. I hope that we can then expeditiously pass appropriate amendments to the Criminal Injuries Compensation Act to achieve my objectives in this legislation.

Mr Riebeling: Does the last clause in the Bill allow for Ann O'Neill's case to be reviewed?

Mr McGINTY: The Bill seeks to do three things. If I may answer the member for Burrup first by addressing the last provision in the Bill, it basically gives anyone whose claim has been assessed by the assessor since 1 July 1997 the ability to make a written request of the Chief Assessor of Criminal Injuries Compensation to make a fresh determination of their claim in the light of the new statutory provisions. Although the legislation is retrospective to a very small degree, certainly not many other applications would need to be reassessed on these new criteria. What is proposed in clause 4 of the Bill and what would become section 20(5) of the legislation, if it is carried by the Parliament, would give Ann O'Neill the right to have her claim reassessed by the assessor in the light of the changes to the law. It is retrospective to that extent and for that purpose only.

The other two changes which have been brought about in this legislation are, first, to amend section 20(2) by inserting a new subsection (4). Each of those achieves the same principal purpose. Proposed subsection (4) provides -

> Notwithstanding any other provision of this section, where an application is made under this Act for compensation for injury or loss suffered by 2 or more persons in consequence of the commission of an offence or alleged offence or 2 or more offences or alleged offences against those persons the Chief Assessor may, in determining that application, award more than the prescribed maximum amount referred to in subsection (1) in the aggregate in respect of an offence or alleged offence or all of the offences or alleged offences.

A lot of legal jargon is contained in that proposed subsection, but essentially it says that in Ann O'Neill's case she should be able to make an application on behalf of her son and have it determined on its own merits, and an application on behalf of her daughter and have it determined on its own merits, as a personal representative of those two people; and then make an application in her own right for the damage done to her. I do not argue that in every case where there has been a multiplicity of offences, each ought to be assessed separately. If I may give a very simple assault example: Where someone throws two punches which land on a person, that should not be the subject of two separate applications. Quite clearly, if they are related and happen about the same time, they should be treated as one assault. However, where there are multiple victims each victim or that person's personal representative should be able to make a claim and have it determined as a separate claim. In the Port Arthur example which I gave, each of the 36 separate applications should be determined on its own merits. They should not be subject to the requirement of the existing law, which is that all 36 applications be determined together and subject to one statutory maximum limit on the compensation payable.

This very serious matter has struck a chord with the public conscientiousness. I urge the Government to give serious consideration to supporting this legislation to overcome the anomaly. The legislation will apply in only the most serious of cases.

I have covered the aspects of the legislation in reverse order. The final aspect is to seek to increase the amount of compensation payable from the current statutory maximum of $50 000 to a maximum of $75 000. There are two reasons for this: In Ann O'Neill's case, which I think everyone accepts is at the worst end of the spectrum, the maximum payment of $50 000 has been shown to be deficient.

Mr Riebeling: Why does the Act refer to $15 000?

Mr McGINTY: The scheme of the Act is that it provides an outdated maximum of $15 000, or such other amount as is provided in the regulations. The regulations were amended in 1991 to provide for the greater amount of $50 000. We are seeking to put back into the Act the maximum amount payable of $75 000, but allow a capacity in the future to increase that amount by amending the regulations.

I was saying that there were two reasons that we wanted to increase the amount. First, it is quite clearly deficient as a maximum amount. The simple question is whether $50 000 is appropriate compensation for the loss of a human life, and the answer is no.

The second reason is that this amount was last fixed in 1991. Members are aware of the extent to which the cost of living, prices and values have varied over the past six years and, if anything, to adjust that amount by 50 per cent, from $50 000 to $75 000, errs a little on the cautious side of maintaining the real value of what was fixed in 1991.

I will summarise the three reasons for this legislation in the order they appear in the Bill: Firstly, to increase the maximum payable under the Criminal Injuries Compensation Act to $75 000; secondly, to provide that, where there are offences against a number of people, each of those people or their personal representatives can make a claim and

have it determined, not circumscribed as section 20 of the parent Act does, to treat them effectively as though only one crime had been committed; and thirdly, to give Ann O'Neill a chance to have her case reassessed. It is very moderate legislation and it should be supported by members on both sides of the House.

Debate adjourned, on motion by Mr Barnett (Leader of the House).

PUBLIC SECTOR MANAGEMENT AMENDMENT BILL

Second Reading

Resumed from 7 May.

MR BAKER (Joondalup) [5.32 pm]: The Premier will provide the Government's response to the Bill in his capacity as the Minister for Public Sector Management. Before he does, I will raise a couple of aspects to the amendment Bill that are of concern to me.

My first concern relates to clause 8 of the Bill which seeks to amend section 80 of the Act. By way of background information I will read section 80 into *Hansard*. Section 80 of the Act falls into division 3 which is headed "Disciplinary matters". That heading alone indicates the House is dealing with a situation in which an employee may, for some reason, be disciplined. Section 80 is headed "Breaches of discipline" and it reads -

> An employee who -
>
> (a) disobeys or disregards a lawful order;
>
> (b) contravenes -
>
> (i) any provision of this Act applicable to that employee; or
>
> (ii) any public sector standard or code of ethics;
>
> (c) commits an act of misconduct; or
>
> (d) is negligent or careless in the performance of his or her functions,
>
> commits a breach of discipline.

The existing provision purports to set out what circumstances will give rise to a breach of discipline and the commonly used phraseology in that section is in paragraph (c) which reads "commits an act of misconduct". That is the law at the moment. Those provisions are fair, equitable and reasonable and are drafted in simple English so they can be understood by all employees.

The amendment proposed in clause 8 of the Bill is to insert the following subclause at the beginning of section 80, which I just read to the House -

> (1) Subject to subsection (2) -

Subclause (2) reads -

> This section does not apply to an act or omission of an employee where that act or omission is the result of that employee acting in concert with other employees in an industrial dispute.

It purports to exclude certain cases that would otherwise constitute a breach of discipline under proposed subclause (1).

I will deal with the specific exclusion from the operation of section 80 of the Act. Proposed subclause (2) states that "This section does not apply to an act or omission . . .", and it is accepted that acts of misconduct can be constituted by positive acts or by omitting to do something in the appropriate circumstances. The subclause goes on to say that the proposed section does not apply where that act or omission is the result of that employee. Firstly, there must be an act or omission which must be sourced back to the employee acting in concert - in other words this employee cannot act alone but must act with other employees in an industrial dispute.

That phrase that concerns me is "in an industrial dispute". The words "bona fide" do not appear before the phrase "in an industrial dispute". On my reading of the Act, the term "industrial dispute" is not defined in the definitions section. This Bill is saying that if, whatever one is doing in terms of a positive act or omission, one is doing it in conjunction with other employees. If it is being done as part and parcel of an industrial dispute one cannot be disciplined. That is absolutely outrageous! Surely it depends on the act or omission involved. Hypothetically a public sector employee may decide that he does not agree with the decision of a senior public servant and he enters that public servant's office and smashes the office, spreads paint around and spits on and assaults people.

Mr Riebeling: If that occurs it is an assault.

[Interruption from the gallery.]

The ACTING SPEAKER (Mr Ainsworth): Order! I advise the people in the gallery that they are more than welcome to sit in on the operations of Parliament as observers, but they certainly cannot participate in the debate, including the comments which have just been made.

Mr BAKER: It may be a case involving an assault, criminal damage or trespass. The real issue for the purpose of section 80 is whether the behaviour constitutes the commission of a breach of discipline.

Mr Riebeling: If an assault is part of an industrial dispute, it is the first time I have heard it explained that way.

Mr BAKER: I have not led up to that and I ask the member to bear with me.

Mr Riebeling: You said it.

Mr BAKER: Let us be fair about this.

Section 80 explains who or what circumstances will give rise to a breach of discipline. Clause 8 of the Bill proposes to exclude certain behaviour from section 80 of the Act. Disregarding the criminal law consequences and looking at the consequences that flow from that behaviour under section 80 of the Act, if the employee says, "Me and my mates wanted to cause some trouble as part of an industrial dispute we have at the moment; I want more pay and this bugger won't authorise that I be paid more", it will not constitute a breach of discipline. It is an absurd situation, but it is exactly what clause 8 provides. This disregards the criminal law consequences of that behaviour.

Considering section 80 and what constitutes a breach of discipline, the employee could argue that he has not committed a breach of discipline and the subsequent disciplinary procedures in the Act would not come into play. Surely there must be a provision to the effect that the industrial dispute must be a bona fide industrial dispute. However, no such proviso is built into the Bill. There is no definition of the term "industrial dispute".

It is apparent clause 8 of the Bill is fatally flawed because of certain situations that may arise. I can think of many hypothetical situations that could arise that would result in an unjust and unfair situation. In the circumstances I highlighted that particular employee, and for that matter his fellow employees, would not have committed a breach of discipline. That is absolutely absurd.

Mr Riebeling: Can you think of 1 000 more examples of bona fide industrial disputes where this amendment would fit the bill?

Mr BAKER: That is a very good point. Clause 8 of the amendment Bill does not require that the dispute be a bona fide industrial dispute. It does not define an "industrial dispute"; that issue is left up in the air. The employee may have his or her own views of the definition of an industrial dispute and someone else may have a different view. There is no condition attached to that phraseology in the clause requiring that it be a bona fide dispute as evidenced, for example, by an application before the Industrial Relations Commission. The phraseology in clause 8 is far too broad and can result in some absurd situations, specifically those in which criminal acts may not constitute a breach of discipline under the Public Sector Management Act.

Another clause with which I will deal, and to which I will apply commonsense and logic, is the provision of a merit based promotion appeals system. Clauses 10 and 11 deal with this matter. In particular I am concerned about clause 10 of the amendment Bill which is headed "New section 97A". The clause states -

> Part 7 of the principal Act is amended by inserting after section 97 the following -
>
> " **Recommendations for appeal procedure against selection**
>
> **97A.** (1) Notwithstanding any other provision of this Act or any other law the Commissioner shall, within six months from the day on which this Act commences operation, make recommendations to the Minister on the making of regulations prescribing a procedure for an appeal process whereby unsuccessful applicants for a vacancy may appeal against the selection of the person recommended to fill that vacancy.

Members might think that in principle it is a reasonable provision. It may sound fair. However, proposed subsection (2) states -

> In making the recommendations required under this section the Commissioner shall have regard to the following principles -

(a) a tribunal constituted by -

(i) an independent chairperson;

(ii) a union nominee; and

(iii) an employer nominee,

The proposed subsection states that those three people together must be appointed to determine the appeal. Why must a union nominee be included in this tribunal to determine the appeal? The provision seems to be premised on the assumption that the aggrieved employee is a member of a union. We have heard in this House time and again that union membership in this State and country is dwindling on a weekly basis. Union membership at the moment constitutes some 32 per cent of all employees within the private and public sectors. What right does a union nominee - who is not one suggested by the employee - have to be included as a member of the tribunal? It is totally unfair.

Mr Brown: How do you explain that the Law Society, which does not cover all lawyers, or the AMA, which does not cover all doctors, have specific provisions in legislation that give them the right to sit on tribunals and strike people off the register when determining matters in relation to non-members? You do not seem to have any problems with that and you do not take those provisions out of Acts.

Mr BAKER: We are not addressing that Act or those areas.

Mr Brown: That is exactly right.

Mr BAKER: I am sure the membership percentage of lawyers in the Law Society is far in excess of union membership, and is probably around 95 per cent. Perhaps that says something about the perceived effectiveness of that organisation in relation to other employee organisations.

Mr Brown: Is it okay to involve the union if the membership is high?

Mr BAKER: No. The point I am making -

Mr Brown: You are not making a very good point. It is not coherent to me.

Mr BAKER: It is commonsense. The issue is whether this tribunal should include a third party from a particular employee group in the community, obviously with particular political affiliations, to sit as one of the judges on the tribunal. It is unfair. The provision assumes the employee is a union member. On my reading of the Bill, it does not set out from which union that nominee should come. Perhaps the member for Bassendean can assist me. Is it proposed that the nominee be from any union, or the union representing the public sector?

Mr Brown: If you had done the research you would know that the provisions relating to the promotions appeal board, which were repealed by this Act, state that the union of which the person is a member or is eligible to be a member shall nominate the union person.

Mr BAKER: I seek some clarification. Is the member saying that the current Act repealed the Act to which he referred?

Mr Brown: Yes.

Mr BAKER: Is he saying the term "union nominee" was defined in an Act that has been repealed, and we should refer to that Act to determine this matter?

Mr Brown: No. It says the Commissioner for Public Sector Standards will issue the detailed standard. The purpose for that is so that it is not in the legislation. They are guiding standards. The commissioner should be able to work that out. He is paid $200 000 a year, and one would think he could work it out for himself with these guiding principles.

Mr BAKER: Is the member saying there is a definition in the Public Sector Management Act and in the amendment Bill of a "union nominee"?

Mr Brown: No. In the same way there is no definition of every term used in that Act, the Commissioner for Public Sector Standards in this Act is given very broad discretion to bring down standards. He is a top public servant. He is no mug and he has sufficient expertise to follow and bring down standards that recognise certain principles in the Act. I can take you to a range of other areas where he is required to bring down standards, and those issues are not defined in this Act. One hopes he can understand what a union nominee is.

Mr BAKER: I accept what the member is saying in terms of standards, but this provision does not purport to set a

standard; it appoints a particular person to a tribunal to determine these appeals. Once again, what is the member's intention with regard to proposed section 97A(2)?

Mr Brown: Proposed subsection (1) states that the commissioner will do certain things. Proposed subsection (2) sets out the principles. The commissioner must be sufficiently acute to bring down recommendations in relation to those principles.

Mr BAKER: Is the member saying it is up to the commissioner to determine who will be this union nominee or the union from which he will hail?

Mr Brown: The Act stands by itself.

Mr BAKER: With the greatest respect, I do not think it does. There is a large gap in that proposed subsection.

Mr Brown: If we are to introduce legislation such as this and you want to argue on this basis, we will define the Government's Bills and seek to put in hundreds of definitions.

Mr BAKER: It is a matter of statutory interpretation and defining key words and phrases in the proposed legislation. If it is so obvious, there cannot be any harm in defining what is meant by the term "union nominee". Also, that clause does not require the union nominee to be appointed by the aggrieved employee. That is also unfair. There may be a case where someone from a union with whom the employee has a problem will sit on a tribunal to determine his appeal. I highlight that because it is another failure of the provision.

I have highlighted two concerns; the first dealing with clause 8 and existing section 80, and the other relating to clause 10 which includes a proposed new section 97A. On the strength of clause 8 I am not inclined to vote in favour of this Bill. It is far too open in that a criminal act will not constitute an act giving rise to a breach of discipline under the Public Sector Management Act. That clause puts to one side the criminal law consequences of the act or behaviour complained of. It looks at the impact of that act or behaviour as it applies to the provisions of the Public Sector Management Act and employer-employee relationships, and that is wrong.

MR COURT (Nedlands - Minister for Public Sector Management) [5.50 pm]: The Public Sector Management Act was a major revamp and rewrite of public sector legislation in this State, and we all accept that such a major rewrite of a Statute will require review and amendment in areas in which practice indicates difficulties. Commissioner Gavan Fielding conducted a review of the operational effectiveness of this legislation, and that review produced a number of suggestions for areas in which some changes should be considered in the workings of the Act.

Following that review, we established a working party predominantly comprising senior public servants which considered how some of the proposals could be implemented. The Government has been completely open in dealing with the public sector in helping it produce practical changes to make the legislation more efficient. Considering the Act represented such a major change, the Government believes the thrust of the legislation has worked well and has helped to improve accountability within government. However, that is not to say that it cannot continue to be improved. This is the first Government in this State's history to operate under freedom of information legislation. For all the difficulties we have with that legislation - it certainly has some downsides - that Act alone has meant that the Government must be a great deal more accountable than was the case in the past.

The member who introduced the Public Sector Management Amendment Bill has a number of concerns about accountability associated with contracting out and tendering. I am a little bemused at times by some of the proposals put forward by members opposite considering that for many years no information was provided to Parliament about deals conducted in this State. In excess of $1.5b was lost in transactions under the previous Labor Government. It was a classic example of how a Government was totally unaccountable to the people, and certainly to the Parliament. Many of the legislative changes introduced by this Government have improved accountability. I agree with the member that that fact does not mean that one cannot improve the legislation in place.

The working group has produced a number of proposals to amend the Act, and the Government intends to introduce such legislation; however, it will not be debated this year as we are moving towards the end of this session. I envisage that we will see a series of amendments next year to make the Act work better in practice.

I turn now to some of the provisions of the Bill. Clause 4 provides for the Minister for Public Sector Management, and any other Minister of the Crown, to be bound to observe the public sector standards, codes of ethics and codes of conduct. The member is trying to make it clear that Ministers are expected and required to observe the same high standards expected of public sector employees. However, Ministers are currently required to observe the principles outlined in sections 7 and 8 of the Public Sector Management Act. As far as a Minister constitutes a public sector body, he or she is bound by the principles contained in section 9 of the Act in relation to official conduct. I do not see how the member's provision would improve the accountability required of Ministers.

The proposal for special inquiries was covered in the Fielding review. Clause 5 of the member's Bill seeks to ensure that a special inquiry in special and extraordinary circumstances be conducted by an independent person. That is one of the proposals put forward in the Fielding review. Clause 6 of the Bill provides for a special inquiry to be conducted in accordance with the rules of natural justice. When the Government prepared the parent Act, it established some general principles and regulations in which the rules of natural justice are espoused.

Mr Riebeling: They did not fit so you got rid of them. They do not apply to the promotional appeals system in any shape or form.

Mr COURT: The rules of natural justice are espoused in the Act in the general principles and regulations.

Mr Brown: Are you saying that people conducting a special inquiry under the Act are required to observe the rules of natural justice?

Mr COURT: The Act's general principles and regulations cover the rules of natural justice.

Mr Brown: It might do so in the general provisions, but my advice - I am happy that you have different advice to test it - is that the rules of natural justice do not apply to a special inquiry.

Mr COURT: We can debate that clause at more length in Committee.

Mr Brown: Will you allow it to be second read?

Mr COURT: It is the Opposition's private members' business.

Mr Brown: We can debate it in Committee only if you allow the second reading.

Mr COURT: How long does the member intend to debate the Bill?

Mr Brown: It is only for debate in private members' business.

Mr COURT: I have been told that the member wants to take it to a vote.

Mr Brown: We want to take it to the second reading, but if the Minister is happy to accept the second reading, we are happy to debate it in Committee.

Mr COURT: We will have the debate now as I do not see the Bill passing to that stage if the member wants the matter voted upon today.

Clause 7 will introduce a number of new provisions covering accountability and public sector body reporting requirements. However, the Bill does not take into account the preference for appropriate administrative mechanisms to ensure accountability, the unworkable nature of the procedures put forward, and the preparation of precise statement of standards of conduct and ethics expected when purchasing goods and services.

I know the member has taken quite an interest in the issue of tendering and contracting out, and must agree that the changes we have introduced over the past four and a half years have led to a much higher level of accountability.

Mr Brown: I do not know; I cannot get any information. I ask questions in Parliament and cannot get information.

Mr COURT: The member does not accept the practice as he is philosophically opposed to any contracting out.

Sitting suspended from 6.01 to 7.30 pm

Mr COURT: The review of the Public Sector Management Act has recommended a thorough investigation of the current disciplinary provisions. The Government intends introducing amendments in relation to those provisions.

Clause 8 provides for an amendment to the disciplinary procedures by prohibiting sanctions being applied to an employee involved an industrial dispute. It was never intended that the disciplinary provisions of the Act be invoked to address legitimate industrial action. That is seen to be contrary to custom and practice in the Public Service. That will be made very clear in any review of the disciplinary provisions.

Clause 8 also provides for the reinstatement of the power of the Industrial Relations Commission to deal with redeployment and redundancy in the Public Service. However, the Bill does not take into account the redeployment and redundancy provisions being subject to challenge or alteration by parties outside government. The current regulations largely mirror the general orders established by the Western Australian Industrial Relations Commission -

Mr Brown: That is not right. I know the general orders backwards and it does not relate to it at all.

Mr COURT: It does not take into account a policy shift on salary maintenance and the practice of redeploying people

at an equivalent level to the position they hold and the payment of pro rata long service leave for voluntary severance but not for terminations resulting from disciplinary action. Under the current arrangements there is recourse to the Commissioner for Public Sector Standards for a breach of the standard in relation to redeployment. Access to the Industrial Relations Commission will only duplicate that mechanism. The review of the Act recommends a new standard specifically addressing the question of redundancy.

Clauses 10 and 11 provide for the reinstatement of a promotion appeals system based on a claim of better skills and experience for appointment, and the application of the Industrial Relations Act is not derogated in any way. The present appeals system, which is based on a breach of standards, has been widely reviewed and accepted across the Public Service.

[Interruption from the gallery.]

The SPEAKER: I remind members in the Public Gallery that we welcome people to this place to observe the proceedings. However, there is a condition, and that is that they do not in any way interfere with the proceedings. If they do then, of course, they will force me to take action so that they cannot.

Mr COURT: This Bill affects the role played by the Commissioner for Public Sector Standards. The rationale for that position is that it is independent in establishing the standards that are to be complied with.

Clause 12 introduces a number of new provisions requiring the Commissioner for Public Sector Standards to establish standards under which permanent status may be given to employees and makes provision for the placement of employees who have been displaced by structural change taking place in the Public Service. The need for new standards is widely canvassed by the commissioner. Similarly, the existing approved procedures and the present redeployment and redundancy regulations provide the appropriate standards to be adopted by the agencies.

Clause 13 seeks to amend section 105 of the Act to make abundantly clear that Ministers may report to Parliament on any matter relating to the selection and recruitment of employees after an appointment has been made. Communication by members of Parliament is one of the areas addressed in the Fielding report, and it will be considered in the drafting of government amendments.

Clause 14 removes provisions that compel employees to give self incriminating evidence. Schedule 3, section 3(6) of the Public Sector Management Act qualifies the extent to which self incriminating evidence can be used. I accept that this area is always difficult to deal with in legislation.

Legislation which has been the subject of a major rewrite and which has been in operation for four years should be reviewed. That was the purpose of the Fielding report and the further work the Government had undertaken by the public sector working party. Many of the areas that have been covered by this Bill - special inquiries, breach of discipline, redeployment, redundancy issues and so on - were the subject of recommendations for improvement. As I said, the amendments the Government intends to introduce next year will take those recommendations into account, remembering that extensive consultation has been carried out during both the Fielding review and the working party investigations.

The member appears to feel a bit miffed that the system was changed. He wants to see a more active role for the union and a return to the traditional industrial relations system in the operations of the Public Service.

I do not believe that should be the driving force behind why we want to look at improvements to the legislation. We accept that the legislation has been reviewed and there will be a need for amendments. We do not support the member's proposals but we do accept that in many of these areas we will need to amend the legislation to make it work better in practice.

MR RIEBELING (Burrup) [7.41 pm]: I support the amendments that are before the House. The Public Sector Management Act was part of this Government's political agenda when it obtained power. The legislation we are endeavouring to alter is the result of the McCarrey report and its findings. When that document became public many people thought that its recommendations on the Public Service were so outrageous that they would never be taken on board by any Government. That has proved to be wrong. This Government implemented a large number of the report's recommendations to the detriment of the Public Service.

The member who spoke prior to the Premier indicated that in some way our proposed changes should not be passed because the meaning of particular words was not properly defined or set out in the schedule to the Bill. Very few industrial disputes in the Public Service need a Bill to explain to the people involved what is an industrial dispute. The member's contribution was an insult to the Public Service which the amendments are designed to assist. The simple fact is that major changes in the Public Service have been brought about by this Government. We are attempting to rectify some of the problems it has created. One of the big changes that has occurred since this Government took office five years ago has been the massive expansion of contracting out to the value of $1.1b across

the Public Service. This Parliament has a great deal of difficulty ascertaining what the State is getting for its $1.1b. In the last five years we have witnessed the almost complete destruction of the promotional start of a public servant's career. Level 1 employees in the State Public Service are employed on short term contracts instead of going into a professional field where they start at level 1 and progress through the ranks. Now the vast majority of level 1 employees are on three, six or 12 month contracts. If on a whim the Minister in charge of the department decides that costs have to be cut, it is easier to get rid of contract labour than permanent public servants.

The massive expansion of level 1 grades has been in the contract area and not in permanent public servant positions. I would hazard a guess that the vast majority of permanent public servants start at level 2 instead of level 1, which is basically contract labour. Of course, the Court Government has got rid of some 10 000 of its employees in the past five years. This Government is proud of that and continues to promote it as one of its major achievements. It says that, by removing those jobs from the public sector, somehow those people will be employed in the private sector. For individual public servants that is not the case.

My position and that of members on this side of the House is that privatisation has gone as far as it should go. We on this side must be convinced of the need for any further movement in that direction. Basically this Government will try to sell to the private sector everything that is not nailed down and when doing so will try to portray it as good economics. I use the analogy that it is easy to control one's debts if one sells the family home and rents it back. That is what the Government has decided to do.

The economic principles that prevail in the management of Western Australia at the moment are that we do not need to borrow for capital works and have a level of debt, but rather we should sell all of our assets and rent them back from the private sector. For some reason members on the government side think that the private sector can do jobs more efficiently than the public sector. That is not true in many cases. The vast selling off of assets will come back to haunt us.

Mr Court: Will you explain why when you were in government you wanted the private sector to build the Collie power station but this Government is building it?

Mr Brown: The private sector is building it.

Mr Court: Explain it. You are talking of privatisation. You wanted the private sector to build and own Collie power station but we are building it ourselves.

Mr RIEBELING: What area of government does the Premier think that he should not sell off?

Mr Court: Don't be hypocritical and get your facts right.

Mr RIEBELING: The Premier is being hypocritical. His colleague, the Minister for Resources Development, said that he would resign if one public servant lost his job. We have now seen 10 000 public servants lose their jobs and the Minister is still in the Premier's Cabinet.

Mr Court: What about the 110 000 jobs that have been created?

Mr RIEBELING: Did the Premier create all of those?

Mr Court: You cannot have it both ways; you cannot criticise us for unemployment.

Mr RIEBELING: Many times the Premier has also said that the Pilbara region is booming under his Government and the Karratha area will benefit most from that boom. At the moment no boom is occurring in the Pilbara, other than in the offshore oil and gas industries.

Mr Court: Go 100 miles north.

[Interruption from the gallery.]

The SPEAKER: The member should take his seat. I repeat in part what I said before to the people in the Public Gallery: You are welcome here to observe but your presence is conditional upon people not interfering with proceedings. If you interfere with the proceedings you will force me to take action which will preclude people from watching and observing, which is something they would like to do.

Mr RIEBELING: I did not observe the problem.

Mr Court: When did you last visit Port Hedland?

Mr RIEBELING: Is the Premier referring to the hot briquette project which was announced before we lost government?

Mr Court: You do not think Port Hedland is booming?

Mr RIEBELING: It is booming; Karratha is not.

Mr Court: You should go home more often and have a look at the place.

Mr Baker: The Native Title Act is one of the impediments.

Mr RIEBELING: That is so for Karratha, is it?

Several members interjected.

Mr RIEBELING: The member is absolutely incorrect but he can keep rabbiting on because it does not matter. We are hoping to see come to fruition some of the promises that the Premier made about the Pilbara region, such as those in relation to AUSI Steel. None of those projects which the Premier announced six or seven or times has happened. The only project that has got off the ground is the one the Labor Government put together before it lost government. Have any downstream processing plants been established since this Government came to office?

Mr Court: You have been asleep for five years.

Mr RIEBELING: My region has steel plants which this Government has put in place! If the Premier thinks the people of the Pilbara are that stupid he is wrong. They have been waiting for the boom, that the Premier flogs every day, to occur.

Mr Court: If you believe the HBI plant was committed to five years ago, you will believe anything. You could not put a power station together at Collie.

Mr RIEBELING: When the plant was announced the Premier said in *The West Australian* it was outrageous that it should be announced during an election campaign. Does the Premier recall saying that?

One of the areas I wish to pursue in relation to this Bill is the promotions appeals system which has been set up by this Government. It has resulted in the lack of opportunity for public servants to pursue a claim for a position. The Premier stated 10 or 15 minutes ago that the Public Service accepted the new system and was quite happy with it. That is not the case. The vast majority of public servants dislike the current system because it is not based on merit. A promotions system which is not based on merit has been put in place by this Government. If a public servant applies for a position and does not get it, he is not able to appeal that decision on the basis of merit. The Government deliberately did that, for whatever reason, and the Premier knows that is the position. He also knows that the Public Service in general does not like the new system.

A public servant can appeal on the basis that the process that was used in determining who should get the position was incorrectly applied and was not based on merit. The tribunal will look at whether the position was advertised in the right manner, whether the advertisement contained the right information and things of that nature.

A public servant who feels aggrieved by a decision made by a department or a boss cannot appeal that decision unless he can find something wrong with the process that was adopted. However, if a loophole can be found or it can be proved that the correct procedure was not followed, and the appeal is successful, the person who lodged the appeal would be wrong if he thought he would at least be recommended for promotion. That is not the case because there is no power in the legislation to overturn the decision or force the department to make another recommendation of that nature. There is absolutely no power in the appeal system. If the public servant feels aggrieved, he will not bother to appeal because there is no merit base and if he is successful he will not receive any benefit.

Currently, the employers of the public servants do not have to justify their decisions. All they need do is to lodge a report, produce some documentation to show that they followed the procedure and recommend whomever they wish for the position.

This new system has developed a culture within the Public Service which is not particularly healthy and the vast majority of public servants do not agree with it. The people who agree with the boss at all times and do exactly what the boss expects are the people who get the promotions. Therefore, the people who go out of their way to ingratiate themselves to their boss receive preferential treatment. This system, which has been in place since the Government introduced the legislation, has resulted in a reduction in morale of those people who do not wish to undertake their duties in the manner required by some employers. It has resulted in a number of people who should apply for positions not doing so. They take the view that it is not much use applying for the job because Joe Bloggs, who has been sucking up to the boss, will get it and there is not much they can do about it.

The public servants whose positions have been under threat - some 10 000 have already gone - have served this State very well and they now find themselves in insecure positions. Even though they are often the best people for the job,

often they do not get it. The result is that the morale of their fellow workers is getting lower and lower. If that is the result the Premier wanted when the Government introduced the existing legislation, that is exactly what he has got. It is time the review which he talks about was implemented and the way that public servants are treated was changed forever.

It was disappointing to hear the member for Joondalup say that the Civil Service Association is affiliated with the Labor Party. He was trying to link the CSA with the Labor Party and for some unknown reason suggested that that is the reason the Opposition is calling for a member of the union to be on the appeals board. It was a bizarre attack and was completely wrong. For members opposite who do not know better, the CSA is not affiliated with the Labor Party and the current amendments are driven out of concern by public servants and are a response by the Labor Party to the difficulties confronting public servants.

The review system that has been suggested is a review of the procedure, and nothing more. Members should imagine the consequences of an appeals system in any other walk of life where nothing happens if one's appeal is successful. It is an absolute joke to suggest anyone will use the appeals system. I do not know the current statistics of the number of people who appeal to the appeals board, but under the rules which have been set I suggest a small number of people would take the opportunity which has been offered to them by this Government to appeal a decision, win the appeal and receive nothing.

The adverse impact over the last couple of years of this Government's reign has been evident in a number of areas. The majority of people who have been promoted within the Public Service are exceptionally young and they may very well be exceptionally good. However, the system in place does not allow for that ability to be tested on the basis of merit. Therefore, within the ranks of the Public Service are people who may well have been promoted on merit, but there is a lot of anger and disillusionment with the process because it cannot be tested. People who were on level 1, 2 or 3 have been promoted to level 6 positions and the like within periods of 18 months. That sort of career movement is unusual and has been unusual over the past decades. Those sorts of movements create suspicion within organisations, and the appeal system currently in place does not allow for any testing of the ability of those people. As a result, people may well be considered not worthy of the positions they hold, and that will stick with them throughout their public service careers because their comrades will always be of the view that their promotion might not have been justified.

I urge the Government to look seriously at these amendments and comply with them. Hopefully, that will lead to a better Public Service if it agrees to them.

MR OSBORNE (Bunbury) [8.01 pm]: The member for Burrup's ideological slip at the conclusion of his address, when he referred to people with public service colleagues as comrades, is perhaps as instructive as any of the other things he said this evening. I comment on this Bill as a former member of the Western Australian Public Service.

Mr Riebeling: Did you not have any comrades?

Mr OSBORNE: I did not call my workmates my comrades. I called them my work colleagues.

Mr Riebeling: I would not call you my comrade either.

Mr OSBORNE: That satisfies me immensely. I first joined the Western Australian Public Service in 1972 when I finished university. I joined the cadetship scheme and went to the Public Service Board. I remember with great affection and pride the standards of Public Service that existed in Western Australia in those years. The chairman of the Public Service Board was R.H. Doig, the deputy commissioner was J.B. Crooks, and I worked under a gentleman I still hold in high regard and personal affection, Hughie de Burgh. Much of the reason for that was the standards they transmitted to me about the place of an independent, effective and transparent public sector in the Westminster system of government. Of course, I do not need to say too much about that. We all understand that an independent, effective and talented public sector is essential to carry out any Government's policies and this one is no different. As I moved through my public service career, I believed I was witnessing a decline in standards in the Western Australian Public Service, and that reached its nadir in the 1980s. What the previous Government, under the premiership of Brian Burke, did to the Public Service in the 1980s was the principal reason I determined to leave the Public Service and pursue a career in the Parliament. I wanted to do what I could to put the Public Service and its former traditional standards back to where they belonged. I can stand in this debate, and on a continuing basis as a member of this Government, and say that this Government has honestly tried to develop and maintain a public sector that is independent and fearlessly provides advice, and is able to serve the interests of those we all serve - the taxpayers and public of Western Australia.

Ms MacTiernan: You must admit that has been fairly compromised by the Public Sector Management Act.

Mr OSBORNE: I refuse to accept that, and I am as entitled as anyone to say that. My personal experience and

background in the Western Australian Public Service entitle me to say that. It is also a matter of commonsense that no Government would seek to destroy an important arm of government which is essential to carry out its policies. Why would a Government seek to diminish the effectiveness of and destroy the Public Service if it is essential to carry out its policies and administer its programs?

Mr McGowan interjected.

Mr OSBORNE: It is a rhetorical question, the answer to which is that no Government would do so. This Government does not either. It is my view that one of the things that led to the downfall of the previous Labor Government was that it surrounded itself with a number of political appointees who tended to shield it from what was happening in the public arena. That is a danger. Any Government that surrounds itself with sycophants will get the advice they know it wants to hear. They will tell the Government what they think it wants to hear. When that Government comes a cropper, it will do so in a big way. That is exactly what happened. It would not be commonsense for this Government, or any Government, to stack the Public Service with political appointees or to diminish the effectiveness of the public sector. There are commonsense, practical and policy reasons for that, and obvious, observable, political reasons. That is not to say the Public Service cannot and should not change. I think we are largely debating that tonight.

This Government has a philosophy that it should examine change but, unfortunately, the conservatives on the other side of the Chamber find that very difficult. They would like things to stay exactly as they have been in the past. In this and many other spheres the Government intends to make effective change and to find ways of doing things better than they have been done in the past. I remember that in the 1980s the Burke Government produced a fine document entitled "Managing Change in the Public Sector". It contained a number of challenges for the Western Australian Public Service which I think were accepted initially but were gradually dropped. That is a great shame for Western Australia generally and for the Public Service as a whole.

I joined the Western Australian Tourism Commission in 1983 and one of the great attractions of that organisation in the early days after the then Premier, Brian Burke, rewrote the TDA Act and established the Western Australian Tourism Commission - he was Minister for Tourism at the time - was the dynamism evident throughout the whole organisation. It largely comprised young people who were very excited about the industry in which they were working and the challenge in front of them. There was great esprit de corps and a commitment from the top to the bottom to look at the way things were done in the Public Service, to break with the old traditions and practices, and find new, dynamic, vital ways of doing things in an industry that demanded that approach. Sad to say, it is my belief that throughout the 1980s and early 1990s the old culture slowly clawed its way back and my colleagues in that organisation stopped worrying about the industry for which they were working and the job they were doing. They tended to focus more on the old issues of working conditions, what they were getting, when they could go home and so on. I believe the organisation gradually went backwards as a result of the traditional public service culture slowly taking its hold on the Western Australian Tourism Commission. Apart from the culture established in the Tourism Commission at that time, there were new ways of doing things and I will talk about that tonight.

The most obvious was the business of contracting out. In those years the Tourism Commission produced more brochures and publications than any other government organisation in the State. However, it did not employ a printer or an artist. All these things were contracted out to the private sector and the role of the commission, in managing those large contracts and significant amounts of money, was to watch the contracts carefully, see that value for money was obtained and, if necessary, give the contract to a more effective operator if satisfaction had not been achieved. A huge amount of high quality work was produced by the Western Australian Tourism Commission in those years yet not actually performed by the Tourism Commission per se. The way the Government tended to do things at that time was extremely effective and incorporated valuable innovations. In the past the Government would have used State Print to produce the brochures, but we found a cheaper, more effective way of doing that work.

The member for Burrup referred to the large number of level 1 public servants employed. It must be put on the record that the Premier has made a commitment to a permanent public sector in Western Australia. However, as I said earlier, that is not to say we should not continually examine different ways of doing things. At the same time that we make a commitment to a permanent Public Service in Western Australia, we must have flexible employment arrangements which are necessary from time to time. Provisions exist which require contract employment within the Public Service to be limited to specific circumstances. For example, if a finite task must be done the public sector will use contract employment. However, underlying it all is a commitment from the Premier and the Government that we will always have a permanent public sector in Western Australia.

The member for Burrup also commented on merit selection. It must also be put on the record that merit based selection occurs in the public sector. The Government has made that commitment time and time again and it will not retreat from it. For the obvious reason I gave in my opening remarks, a merit based public sector is the only way for this or any Government to have its work carried out as quickly and as thoroughly as possible. Why would we want

to do it any other way? Why would we want a public sector not built around a merit based selection process? Members will know that a statutory office exists of Commissioner for Public Sector Standards. He is an independent officer who reports to this Parliament. He does not report to the Premier and he is not beholden to the Government in a political sense. He reports to this Parliament and that is the guarantee in place for the merit based selection process.

As I said, the member for Bassendean referred in his second reading contribution to contracting out. He believes that the Government is not committed to the principle of open government. He referred to the Government's use of the contracting out process as an example of that. As the member for Bunbury, I have seen the contracting out process working in my electorate. A parliamentary question was asked of the Minister for Works by the member for Vasse about the contracting out process at the West Busselton Primary School. The Minister said - he could say the same about the south west health campus - that about 80 per cent of the work on these projects goes to local contractors.

As the local member, I know that Bunbury subcontractors and people who get their jobs in my electorate appreciate that. They believe that the contracting out process works. It is self-evident that it works just because the projects are happening on time and within budget. The very large south west health campus is on time and within budget. I am not saying it would not be on time and on budget if it were done another way. However, independent assessments have demonstrated that the combined benefits of the cost savings and so much work being done by local contractors mean that the contracting out process works effectively and we should, and will, continue to use it.

Ms MacTiernan: The opposite is happening in country regions. Large contractors such as BGC are replacing local labour. It is happening in Bunbury with road maintenance, in Merredin with track maintenance and all over country regions.

Mr OSBORNE: If the member for Armadale were to visit the south west health campus and talk to Merv Waugh and the contractors on site -

Ms MacTiernan: I am sure it is the odd local people.

Mr OSBORNE: It is not odd local people at all. Local people are employed on that site. It is a $70m project being built by a Bunbury man, Merv Waugh, and 80 per cent of the workers are Bunbury people. It happens time and time again on projects of that nature.

Ms MacTiernan: What about the BGC road contract?

Mr Barron-Sullivan: Local companies are getting far more work now than they did before.

Mr OSBORNE: That is true; that is the fact of the matter. I am not necessarily inviting her, but if the member for Armadale were to come to my electorate I would be happy to introduce her to Merv Waugh. I will do her a deal: If the discussions can be conducted in Old Norse she is welcome to come - that is a private joke, Mr Speaker.

I reiterate that I and all members on this side of the Chamber see the advantages of contracting for delivery of services or the competitive tendering process introduced in 1993. It is important to remember that in this process the Government retains control of the service and the agency chief executive, the State Supply Commission, is accountable for the efficient and effective rendering of deliveries and services. Always the Government retains the right to ensure that the contract is being carried out properly.

The figures speak for themselves and show that the process works well. Efficiency has increased as a result of the competitive tendering process. The WA Auditor General found there were net savings of between 4.5 per cent and 7.5 per cent on the contracts even after allowing for the costs of contracting and for the payment of the redundancy which might have been involved. Even when all those costs were taken into account, the Auditor General no less, once again an independent officer who reports to this Parliament and who is free of all political influence and persuasion, finds that there is a 4.5 per cent to 7.5 per cent saving on those contracts.

The Public Sector Management Office also conducted an annual survey on contracting out and found there was an average gross saving of approximately 22.5 per cent. By anyone's measure that is a significant saving. The Government believes accountability has improved as a result of contracting out. We clearly specify the contract details and have very clear and specific criteria for measuring the outcomes of contracts.

Quality has improved. Once again I know that in my own electorate this is happening on the south west health campus. Designs are more innovative because we can access architectural designs and building approaches from across the world. We have a new design and construction process. The hospital is being constructed very quickly to very high standards. When completed it will be the latest and best of its kind in the world. Quality is improved as a result of the contracting out process.

Economic development in regional areas is also improved as a result of the contracting out process. Nothing gives me greater pride than to hear the Minister for Works make a statement from time to time in this Parliament about how a project, which has been contracted out from the public sector, is very beneficial to people, businesses and workers in the electorate of Bunbury, for which I have principal responsibility.

With those few remarks I reaffirm my support for the Government's position on the public sector. The public sector is efficient and effective and we have no reason to want it to be any other way. Naturally we expect the public sector to be able to respond to new challenges placed before it. We understand that change can be difficult and we respect the difficulties in which people find themselves from time to time. However, we will make arrangements to take account of those circumstances. We intend to continue the approach we have adopted. Tonight I have used examples of the contracting out process, a process which I believe mandates a continuation of this approach from the State Government.

MS McHALE (Thornlie) [8.21 pm]: Before I rebut the comments of the member for Bunbury in support of the Government's purported commitment to a permanent Public Service and before I address the Bill, which deals with current deficiencies in the Public Sector Management Act, I want to refer briefly to the excellent work that public servants at the Art Gallery have done in exhibiting the Golden Age of Dutch Art, from whence I have just come. It is an exhibition of excellence and I urge every member, regardless of his or her political persuasion, to see that exhibition.

I now turn to the Public Sector Management Amendment Bill which is the subject of tonight's debate. The Government came to power in 1993 on a platform of accountability and open government. As a responsible Opposition over the past four years, members on this side have highlighted significant examples of lack of accountability by this Government.

Mr Barnett: We have been more accountable than the previous Government.

Ms McHALE: The member keeps referring to the lack of accountability of the previous Government. However, this Government has not yet implemented the Commission on Government recommendations, which we support and which highlight the need for accountability. This Bill falls into that context. Therefore, the Leader of the House should not keep saying that the lack of accountability by his Government is overshadowed by the lack of accountability of the previous Government.

Mr Barnett: Your Government showed a disgraceful lack of accountability. It was a disgrace.

Ms McHALE: I remind the Leader of the House that his Government has not yet implemented the recommendations of the Commission on Government.

Several members interjected.

The SPEAKER: Order! I have allowed some interjections, particularly when members speaking have accepted the interjections. However, I cannot allow a barrage of interjections to continue.

Ms McHALE: The Public Sector Management Act was supposedly enacted to increase accountability and public scrutiny and to provide a legislative framework for the administration and management of the public sector. In his speech, the member for Bassendean asked whether the Act achieved those objectives - whether it facilitates greater public accountability and scrutiny, whether it increases ministerial accountability and, importantly, whether it provides for a fair and reasonable employment arrangement for public servants and public sector employees. As the member for Bassendean said, those promises of greater openness have not been met by the enactment of the Public Sector Management Act. We believe that this amendment Bill will address many of the deficiencies in that Act. I therefore support the Bill.

I will address my comments particularly to fair and reasonable employment practices and focus on clause 12, which refers to permanence for public servants in their employment, something to which the member for Bunbury said this Government was committed. However, I will illustrate how permanency in the Public Service has decreased and how job instability has increased since this Government came to office.

Last week, I referred to the annual report of the Directorate of Equal Opportunity and Public Employment and its reference to the lack of accountability and responsibility for the management of diversity in the Public Service for women, Aboriginal employees and employees with culturally diverse backgrounds. Already, a government report has referred to questionable employment practices in the Public Service. The report also referred to permanent and non-permanent employees. I will now turn my attention to what this Government has done about permanent and non-permanent public servants.

Clause 12, which goes to the issue of permanent employment, is a sensible provision. It would require the

Commissioner for Public Sector Standards to issue a standard regulating the use of permanent employees in the public sector. It does not prescribe what should happen but hands responsibility for permanency to the commissioner. He would have the power to consider critically and strategically what is happening with permanency in the public sector and to set some standards. That standard would require departments and agencies to offer temporary employees a permanent position when those employees have been performing those duties on an ongoing basis. As the member for Armadale said, often employees are given a three month or a six month contract and they wonder, when they come to the end of that contract, whether they will have a job, and whether they will be able to get mortgages or loans, and it goes on and on. That is not the description of a permanent Public Service; that is the description of a very destabilised Public Service, and one to which we object very vehemently.

The standard would require agencies and departments to offer permanency to temporary employees when they perform duties of an ongoing nature. The standard would not apply to employees whose duties are for a fixed term and which are of a temporary nature. However, permanency would be offered when those duties are being performed on an ongoing basis. It is not difficult to distinguish between a fixed term project and work that is ongoing and there is no need to keep staff on contracts when the work is ongoing.

Over the years, the number of public sector employees has declined significantly. The pool of employment has shrunk and job opportunities in the public sector have shrunk very dramatically over the past three to four years. Ten years ago, there were about 94 000 public servants. In June 1993, there were about 97 500 public servants. In June 1996, the number had declined by nearly 10 per cent to 88 000 public servants. Therefore, in three years, the public sector had shrunk by 9 000 or 9.5 per cent. That is a significant decrease in public sector employment. The overall pool of employment has shrunk significantly over the past three to four years.

When we investigate below those figures, we see a significant increase has occurred in the number of non-permanent employees of the public sector. In 1994 the number of employees who were of permanent status was 85 per cent. In 1996 that figure decreased to just under 76 per cent. A quarter of the Public Service employees are not permanent employees. They are on either recurring contracts or fixed term contracts or they are casual employees. It is ludicrous for the Government to say it is committed to permanent employment of the Public Service when over a quarter of its staff are non-permanent. That significant trend in the move to non-permanence has occurred over the past three to four years. That basically blows asunder the Government's commitment to the idea of permanency and security and, more importantly, to the idea that the Government's people are its most important resource. Over 25 per cent of them do not know whether they will be its most important resource because they do not know whether they will have a job with the Government.

Ms MacTiernan: That would affect morale and performance.

Ms McHALE: Absolutely. Those factors do not seem to come into the Government's argument when it talks about a reduction in the Public Sector. The Government always says it is becoming a leaner, meaner, more efficient, more productive Public Service. However, the Government is destabilising and dehumanising the Public Service. It is increasing unrest and decreasing morale. All those factors together lower productivity and increase the stress on the work force of the Public Service. Twenty-five per cent of public sector employees do not know whether they will have a job. That the Government can say it has a permanent public sector work force when it has those sorts of figures is a disgrace.

There has been not only an overall increase in the non-permanent sector of the Public Service, but also a reduction in the number of permanent full time staff. There is a trend to part time employment, which may suit a number of workers. The Opposition has encouraged part time work to facilitate, for instance, working families as men and women move in and out of their family life cycle. However, the number of part time workers is increasing and the number of full time workers is decreasing. The number of permanent full time staff has dropped 10 per cent in the past two years. In 1994, 72 per cent were permanent full time. In 1996 that declined to 62 per cent. The 1997 figures are not out yet. Staff have employment, but it is part time employment. Some are happy to have part time employment; others would like full time employment, but cannot get it because it is not being offered and they take the part time employment. That supports the member for Armadale's comment about morale. It adds to job insecurity and also contributes to overall stress levels. It is questionable whether the Government has the most productive Public Service when it is creating this environment in the Western Australian public sector.

Mr Board: If it becomes obvious that a function the public sector provides can be provided better and in a more cost-effective manner by the private sector, do you think it is incumbent on government to look at that and to provide the best possible return to the taxpayers?

Ms McHALE: That question is based fundamentally on ideology. I have come from the private sector. We had contracted out elements of our service and we returned to day labour because it was more efficient and the working relationships were better. That ultimately contributed to increased productivity. I believe in a strong, efficient Public

Service. We can produce the best with public sector agencies and employees. I do not believe the private sector does it better than the public sector. The Government has a commitment and a responsibility to look for the most efficient and effective ways of producing a service; however, I do not believe the private sector is better than the public sector.

Mr Board: The Public Service cannot employ experts in every field, nor would it want to, nor can it afford to. However, the contract agenda brings in world's best practice. I cite architecture as an example.

Ms McHALE: I will cut the Minister short because I can feel a brief ministerial statement coming on and my time is running out.

Ms MacTiernan: Possibly even a poster.

Ms McHALE: Oh, my goodness - or a colouring in competition! We will debate that matter at another time - in the Minster's time.

The problem is worse in some departments. I have talked about averages over the public sector. Of 64 of the largest agencies, 35 had reduced the number of permanent full time employees. Since 1993 only 12 agencies have increased the number of full time employees. One is the Police Department, with which the Opposition has no qualms. Another is the Ministry of the Premier and Cabinet, which increased its staff by 50 per cent. I am not sure of the reason for that expansion; perhaps it involved the amalgamation of two departments. Ten agencies had a 25 per cent cut in their permanent full time employment. The Opposition will address the issue of contracting out in further detail later.

Overall, 24 per cent - almost a quarter - of public service employees are non-permanent. However, it is worse for selected groups. One does not need to be a Rhodes Scholar to determine what those groups are: It is worse for women. I have calculated that of the agencies surveyed by the Directorate of Equal Opportunity in Public Employment, 34 per cent of women are not on permanent contracts. That is an extraordinary figure. So much for the Government looking after and being concerned about management of diversity. It is bad enough that 34 per cent of women in the public sector are on fixed term contracts or are employed casually. Thirty-two per cent of Aboriginal and Torres Strait Islander workers are also non-permanent: 22 per cent are on fixed term contracts and 13 per cent are casual. The Government is telling me it has a permanent Public Service when 32 per cent of Aboriginal workers and approximately 34 per cent of women are not permanent. It shoots a cannonball through the Government's argument. We are concerned about the lack of permanence and we are saying that the Government's rhetoric about the permanent Public Service is totally erroneous because it is bad human resource practice. It is not fair or reasonable and it does not make good economic sense. As fortune always has it there was a rather good article in today's *The West Australian* about job anxiety and the lack of job security in the economy. It states that Australians are increasingly becoming renters as the nation's labour market weakens and once traditional job security evaporates.

[Leave granted for the member’s time to be extended.]

Ms McHALE: One-quarter of the Public Service is non-permanent. Public servants do not know whether they can get a mortgage or pay their credit cards off. Worse still, they do not know whether they will have a basic wage to pay for ordinary living expenses. That is against a backdrop of the national position where job insecurity is having a significant negative effect on the economy.

We need to put what I am saying in the context of the lack of employment growth and the increasing trend towards fixed term contracts, which the Government sees as a way of increasing productivity. However, there is a significant downside to this approach to the management of the Public Service.

This Bill seeks to improve the Public Sector Management Act. Nothing in the Bill is at odds with or contrary to the recommendations of the Commission on Government. Those recommendations underpin and support the Bill. The Bill seeks to address and redress deficiencies in the Public Sector Management Act and, if this Bill were accepted tonight, it would enhance that Act, which the Premier said took a long time to develop. Yes, significant work went into that Act. However, my point tonight is that the Government cannot refer to a permanent Public Service because the figures very dramatically and significantly paint a different picture.

By taking up the recommendation that the Public Sector Standards Commission introduce a standard to regulate the issue of permanent employment, the Government will address the issues of job security, morale and stress in the Public Service, and will begin to stop the destabilisation of the Public Service that we are, and have been, observing over a number of years. I wholeheartedly support this Bill. It will introduce amendments to the Public Sector Management Act which will improve the Public Service and address a worrying trend towards a non-permanent Public Service.

MS MacTIERNAN (Armadale) [8.43 pm]: I too support the Public Sector Management Amendment Bill that the member for Bassendean has brought before us tonight. It is a sound piece of prospective legislation that would give

us a more accountable, just, productive and stable Public Service. I will address some of the comments that have been made by members opposite. First, the comments made by the member for Bunbury, better known in Old Norse as Lord Osborne.

The member asked a number of rhetorical questions that he stated he did not want answered on why the Government would want to destroy the Public Service or do away with a permanent Public Service given it is so necessary to good government. However, the Opposition will give the member for Bunbury answers, because there are some good reasons why the Government would want to do away with the Public Service and is doing just that. One reason is an undeniable fact: The public sector is more highly unionised than the private sector. Hence, if as part of the Government's long term strategy it can destroy the public sector -

Mr Baker: X files!

Ms MacTIERNAN: It is not; it is obvious. It is one of the few clever things that Graham Kierath has dreamt up. If the Government can undermine the Public Service by reducing the numbers within the public sector it will reduce the power of the union movement. The little minds were ticking over, "That means less influence and less direct support for the Labor Party." We have seen a range of onslaughts in that regard. We have seen the banning of political donations, not from the Housing Industry Association or Len Buckeridge, but from the union movement. It is all part of a strategy to reduce the level of unionism within the State with the hope that in the long term that will undermine the Government's political opponents.

The second reason is to get a compliant Public Service. If all government staff are on short term contracts and the chief executive officers are all on five year renewable contracts and have the power to hire and fire everyone within the hierarchy - as they now have under the Public Sector Management Act - suddenly the Government has this nice compliant Public Service that will do whatever it wants it to do.

We have seen that the role of some of these senior public servants over the past few days has been to fire the shots for their Ministers. Just tonight the Minister for Transport made an interesting admission that he gets the erstwhile Commissioner of Railways and now acting Commissioner for Main Roads to criticise the Opposition because he has more credibility than the Minister. That is probably one of the few truths we have heard from the Minister for Transport. We see that in operation.

Lord Osborne should know that the third reason the Government would want to destroy the Public Service is that it needs to reward its political mates. We know that great donors to the Liberal Party such as Uncle Lennie Buckeridge have been beneficiaries of many of the contracts that have been awarded as a result of privatisation. I referred earlier tonight to a $30m contract to repair the roads around Bunbury. I can tell the member for Bunbury, who unfortunately is not here, that the Opposition has been contacted by numerous small business people and local operatives in the Bunbury region concerned by the job losses that have occurred by bringing in a huge conglomerate from Perth to the Bunbury region. They say the Government is destroying local job opportunities.

Mr Barron-Sullivan: What about the construction of new roads which creates job opportunities locally?

Ms MacTIERNAN: That construction could have been done by the public sector employing more staff or by small local contractors working in conjunction with Main Roads Western Australia. I am not saying that in every single instance the local communities have been dealt out of it; however, it is a trend. The Public Accounts and Expenditure Review Committee often looks at the way in which contracts are drawn up. They are such large contracts and they require such a degree of capitalisation that many of these local operators are excluded by virtue of size from participating. The operators who get these jobs include BGC in Bunbury, and outfits like John Holland Construction and Engineering Pty Ltd in the wheatbelt.

The local contractors do not have a hope. Unfortunately the member for Bunbury has missed the reasons I have given, but I am sure he will have the *Hansard* translated into Old Norse and read it at some stage. The Minister for Youth pointed out that there are times when one needs to engage experts who would not readily be available. From time to time all Governments have a need to employ people on a contract basis - a geophysicist or an exceptional architect. I have no problem with that. That is not what we are talking about. We are talking about jobs throughout every level of the public service being contracted out - basic blue collar jobs; trades jobs; clerical jobs at all levels from class one up. That cannot be justified in terms of the need for expertise. In many cases it is operating in the reverse.

Main Roads Western Australia had extraordinary expertise in the business of road building. Over the four years of this Government, we have basically driven all those people out of the department. They have now gone into the private sector because the work is being contracted out. That is creating a great difficulty for the department. It is supposed to be supervising the work that is done by private contractors. Suddenly we have lost not only the institutional memory, but also all the expertise that had been built up in the department to ensure the public interest

was being looked after and served. The Minister for Youth should look more closely at that argument because it turns back on itself.

I presume the Premier was responding on behalf of the Government when he made some comments in relation to clause 7. I want to address that clause in the time that remains available to me. Clause 7 contain a provisions which seeks to bring some accountability to the process of contracting out. Basically the Premier's response was this: "You people don't believe in contracting out, so we don't have to worry about what you say." That is a pretty silly response. I will give the Premier this: It is true that we have grave concerns about contracting out and privatisation. To say that the Government cannot manage the public sector so it will contract out is an abrogation of its responsibility. We are particularly concerned about the impact contracting out is having on the Western Australian economy. We are bleeding money out of this State because work that was previously done within this State and taxpayers' funds that were dedicated to people within the State are now going all around the world.

I will give a few examples of that. We must bear in mind that all these outfits - presumably, they are normal commercial companies - to which I will now refer, would be looking at taking between a 10 per cent and 20 per cent profit margin over and above the cost of any people they might employ within this State. Presumably these outfits are not in it for nothing. Their shareholders will be expecting a substantial return. Unfortunately those shareholders do not live in Western Australia. Money is being bled out of the local economy to provide Government services. The biggest of these outfits is Serco Australia Pty Limited. It is a subsidiary of a wholly owned British company, a massive company which runs everything from shopping centres to large defence bases throughout the Pacific. It has a turnover of half a billion dollars a year.

Serco has done particularly well in this State. I will give members an idea by telling them a few of the contracts in which it is involved. It does the facility management for many government buildings; in fact, it does that for this building. It is running the transport information service for the Department of Transport and is maintaining 50 per cent of our metropolitan sewerage system. We have handed over a pretty wide spread of jobs to Serco. Swan Transit Pty Ltd and PATH Transit Pty Ltd, both eastern states companies, are running bus services. It is also involved in program maintenance; that is, the maintenance painting at Royal Perth Hospital. Why we must have an eastern states contractor do that is beyond me.

Recently in some questions I asked of the Minister for Transport he conceded that we had been paying contractors to deal with the maintenance of buses. We had been getting basic maintenance people and trades people from the eastern States to Western Australia to maintain buses. Under the previous MetroBus system we never had any problems in finding local people to do those duties. Suddenly, now that we have these private contractors, the Department of Transport must jet people across the Nullarbor to provide not a specialist service, not a three or four in the world geophysicist type service, but basic trade skills.

To some extent all of this is irrelevant. Even if we embraced privatisation wholeheartedly, even if we thought privatisation was the answer to all our woes, we would still want to see clause 7 of this Bill given full legislative effect. It is all about ensuring proper accountability. Clause 7 says that each year after a service has been privatised or contracted out, a statement must be made about the impact of that service, about the cost and the quality of the service that has been delivered. Surely that is pretty basic. Those on the other side of this House say that they embrace contracting out because of all the rewards it can offer to the taxpayer and because of the enhanced service and the cost savings, so surely they would want clause 7 put in place. It gives them an opportunity to prove all of these things they have been saying. Alas, quite clearly not.

On many occasions the Government is relying on this notion of commercial confidentiality to keep any examination of these contracts away from this Parliament. At the last round of the Estimates Committees, I had great difficulty in finding out what we were getting for the $112m that we were paying the private bus contractor. I could not even find that out. We are now treating Westrail as if it has been privatised; the Government clearly has plans to do that. We were unable to scrutinise in this Parliament any of the dealings Westrail might have had with other companies. We feel many issues must be scrutinised where contracting out just does not seem to add up economically.

Let us take the bus contracts. The Auditor General came down with his original report and said that the Government had saved $6m on the bus contracts. When we pressed the Auditor General for more information, we got a second report which said that the contracts might not be able to be guaranteed into the long term because these are costs-plus contracts. Every single line item within those contracts - we, as members of Parliament, are not able to see them - is renegotiable each year. We know that already substantial claims have been made to government by these private bus operators under the operation of the escalation clauses. The operators have come back and said, "We now have the contract. We have just entered into a consent agreement with the union, so we want you to pick up the tab."

We do not have a problem with the consent agreement, but it does change the cost saving regime that was supposedly the benefit of the contracting out.

We know that as a result of these bus contracts, the bus service has been fragmented and divided up into about eight regions. The experience overseas of this sort of fragmentation is that not only do we not get competition, but over the long haul the service that is offered is diminished. That makes sense. The idea of dividing up suburbs and making people use a number of different bus companies is not the most effective way of delivering a service. If the Government thinks it is, why does it not set up a structure whereby we can see the contracts, determine the prices and make an objective analysis each year of the performance of the contractors?

We see some pretty weird anomalies in other contracts. We have the absurd situation where the Westrail security guard system is bifurcated -

Mr McGowan: Is that like an operation?

Ms MacTIERNAN: It is a bit like an operation on the security service, where one set of guards is privatised and employed by Chubb Security Australia Pty Ltd, and another set of guards is employed by Westrail. Those two sets of guards perform largely the same work but have different rates of pay and conditions, which creates problems and conflict, and operate under different managers. The private security guards have a high turnover rate, and we inquired why that was the case and why the private operators were not taking more care to ensure that acceptable management practices were in place and that the staff were retained, given that one would think that the profit motive would mean that they did not want to have to keep training these people. We found in this case, after much probing, as we found in the case of the bus contracts, that it is basically no risk privatisation, because the taxpayer, not the private contractor, is paying the $10 000 that it costs to train each guard whom that contractor is paid to employ. Therefore, the private security operator does not care whether it churns through guards every week; it just moves in another raft of them, the Government picks up the tab, and Bob is your uncle!

I could go on forever, but the last matter that I will mention is Main Roads Western Australia. I will share with members a letter from the Minister for Transport, which states -

> As you know, I am of the firm view that matters involved with letting and supervision of all contracts should be undertaken by Main Roads personnel. It is important, therefore, that suitably trained and properly qualified people be in place as soon as possible to carry out all contract supervisory work. This has always been part of our plan to ensure Main Roads can control the network.

However - guess what - notwithstanding that statement from the Minister, the Minister consented to all of the supervisory work being contracted out, so that contractors are now supervising other contractors. Who is looking after the interests of the taxpayers?

MR CARPENTER (Willagee) [9.04 pm]: Mr Acting Speaker -

[Interruption from the gallery.]

The ACTING SPEAKER (Mr Baker): I understand from the Speaker that the people in the gallery have been given a number of warnings tonight regarding their behaviour. You are here under licence, and as a privilege. I advise that you are here to hear the debate. You are not here to participate in the debate. I can understand that you may want to be involved from time to time, but you cannot do that. Please maintain some decorum, be quiet and pay attention, and please do not take any steps to -

[Interruption from the gallery.]

The ACTING SPEAKER: Please behave.

Mr CARPENTER: I thank the audience for the warm reception that it gave me before I had even had a chance to utter my first words. I have not been so warmly received for some time. I do not think it had anything to do with what the previous speaker had to say!

I listened with great interest to the debate tonight. I listened closely to what the Premier said, and unless I am getting a bit slow on the uptake now that I am in the Parliament, I cannot figure out what specific objections the Premier has to this Bill. There is virtually nothing in this Bill that the Government can find objectionable, because all it seeks to do is improve the accountability of the Government to the Parliament, which was one of the main thrusts under which the Premier was elected to office in 1993. I wonder whether the real difficulty here is the one that the Premier threw back at one of the speakers on this side; namely, that it is a matter of ideology. I wonder whether the Premier is more driven by his ideology, as he alleged others were, than is any member on this side. I wonder whether the Premier has some sort of latent hostility to the public sector and whether he secretly believes that he should be dissecting and dismantling the public sector in every way he can, and whether he has swallowed the McCarrey report hook, line and sinker as a bit of doctrine and believes that the public sector is more of an encumbrance than anything else and he should get rid of it.

Mr Court: Nothing could be further from the truth.

Mr CARPENTER: I suggest that if the Premier asked the people of Western Australia, as opposed to the public sector, whether they believe what he just said - namely, that nothing could be further from the truth; he is not hostile to the public sector and is committed to providing a better public service to the people of this State - few people would believe him. Most people have the impression that the Premier and his Government are hostile to the public sector and are diminishing the public sector's role in the State of Western Australia and its capacity to deliver the services for which it is known. Many of the policies that this Government has implemented have served to reinforce that view. I also imagine that the Premier's opposition to this Bill will further serve to reinforce that view.

I want to bring the Premier's attention to a number of issues. For the life of me, I cannot understand what the Government is doing in its hacking and slashing of Main Roads staff. I go to meetings organised by Melville City Council on traffic safety in the south metropolitan area, where Main Roads people explain what work they will be doing and what work they will not be doing and provide lists of accident black spots where massive numbers of traffic accidents occur and people are killed.

I requested even before I was elected and when I was a candidate for this seat that traffic lights be installed at one or two intersections in that area. I am now informed that that work is unlikely to take place in the near future because Main Roads has reduced its electricians from 42 to 16. This problem manifests itself in the northern suburbs, as we know, because people are being killed at intersections where traffic lights have been promised but not installed. It would be one thing to reduce the number of Main Roads electricians from 42 to 16 if there was some reason other than hostility to the public sector and a desire to minimise the budget exposure.

Mr Court: Are you saying that -

Mr CARPENTER: Let me finish; I will tell the Premier what the result was. I said to the Main Roads personnel at the meeting, "If you are getting rid of the electricians in Main Roads, who in the private sector is capable of doing the work?", and they said, "Nobody", so the work cannot be done. Does the Premier now want to ask the question?

Mr Court: Are you saying that the private sector cannot install traffic lights?

Mr CARPENTER: Is the Premier saying that Main Roads WA cannot install traffic lights, and that the Government is not causing delays by sacking electricians from Main Roads?

Mr Court: I told the House earlier one of the great construction companies, Transfield, started off in business installing traffic lights.

Mr CARPENTER: I invite the Premier to come down to a meeting with me and explain to the people from Main Roads WA why they are unable to install traffic lights, why nobody else in the public sector in Western Australia is capable of performing that task, and why it is necessary to bring in people from the eastern States to install traffic lights. Long delays are building up in this simple Public Service work. As the member for Girraween knows, it has cost the life of a person in the northern suburbs, and I know it is causing accidents on the corner of North Lake Road and McCoy Street by the week or month. Where are these mythical people lining up to do the work?

I have come from a meeting with people who work in the disability services field, an area for which I have portfolio responsibility. To be fair, during my short period in Parliament, I have commended the Government for the work it has done in the area of disabilities, and for the budget increase. However, outsourcing and contracting out is occurring to the point at which the Disability Services Commission is reducing staff by a considerable number. The figures provided to me today indicate that, if the outsourcing continues at the current pace, as outlined by the head of the Disability Services Commission, Hayden Lowe, in the recent bulletin newsletter from the commission, up to 250 to 300 jobs will be taken out of the commission and outsourced.

A couple of issues associated with this matter relate to clause 7 of the Bill before us. It will introduce a number of provisions which require public sector bodies to report to Parliament on the performance of contractors engaged outside the public sector.

The Disability Services Commission is contracting out its work, which has a couple of effects. First, the people who are providing the service are not accountable to the Disability Services Commission or the Parliament in any meaningful way for the services they provide. That is a source of great concern to not only people involved in disabilities, but also the general public and members of Parliament. In these circumstances, if people affected by a disability are lucky, a reputable service provider will be contracted. Increasingly, examples are seen of organisations which do not have a solid track record in the disabilities services areas trying to win contracts. From what the commission is saying, it appears there is no capacity for the performance standards to be monitored and reported back to Parliament. In fact, if one asks directly for the process by which the commission monitors standards, one gets a vague and inexplicit answer.

Also, the contracted service providers employ inexperienced and untrained people as carers and to provide services, whereas over the years the Disability Services Commission has established a reputation for having highly trained, skilled and experienced staff providing services. If work is outsourced, and positions are offered to former commission staff, they carry a diminution in terms and conditions. A case arose earlier this year of staff from Pyrton being offered employment with a private contractor with substantially reduced pay and conditions.

No adequate mechanism is available for assuring and reporting on standards of care provided by these outsourced service providers. That is a great shame for the people who rely upon disabilities service providers for their day to day wellbeing. This matter could be addressed immediately by adopting clause 7 of the Bill. I cannot imagine a cogent argument why it should not be adopted. When government organisations have outsourced work, they should be required to report to Parliament on the effect of that outsourcing, on the maintenance of standards, and on the condition on which people are employed by that outsourcing service provider. I cannot see how that can be objectionable to anybody opposite. Government members should reassess their opposition to that measure.

I promised my colleagues that I would confine my speech to 10 minutes, but I will break that promise. We face the possibility in disability services, Main Roads - I suspect it has already happened with Westrail - and the Water Corporation of dropping below a critical mass in staffing levels; this results in expertise and experience diminishing to the point where one is incapable of monitoring the standards of private contractors. The organisation has not the time, staff and experience to do so.

This concept was referred to under another name by the previous speaker; namely, corporate memory loss. With the loss of expertise, experience and long term continuity of employment, one loses the capacity to know whether a service is provided in the way it should be provided, at a cost-efficient level and to the satisfaction of the recipients of the service. The loss of corporate memory will happen if contracting out and privatisation goes too far in this State. I urge all Ministers to consider that concept. It is real. It is happening profoundly at Main Roads, it is happening in Westrail, and I am afraid it could happen with the Disability Services Commission.

A couple of riders apply to concerns regarding the Disability Services Commission; namely, that the current Minister and the current chief executive officer of the Disability Services Commission are highly sensitised to disability services. However, the current Minister will not be there forever. The current Minister for Labour Relations, or a person driven by a less noble intent than the current Minister, could take over that portfolio.

This outsourcing scenario is causing a big problem, but it could result in a disaster for the people who rely on a top class public sector in this State. Our civil service has gained a top class reputation despite some of the problems which befell it in the 1980s, which I acknowledge. However, the public sector survived and wants to thrive and provide essential services and advice to the Government in an outstanding and fearless way.

As I said at the outset of my remarks, if the Premier is serious in the attitude he espouses publicly about the public sector, he should support the Bill.

[Interruption from the gallery.]

The ACTING SPEAKER (Mr Baker): Order! Members of the Public Gallery have been warned about interrupting proceedings now on four occasions. I am afraid that I will have to consider having people removed if it continues. Be fair. If people want to clap, clap in their minds; it is unnecessary to make a noise. We will have some order in the Chamber.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [9.10 pm]: I speak in support of this Bill, particularly clause 7 which will add new section 33A to the Public Sector Management Act. This will require annual reports on the standard of services provided by contractors.

I draw on the report of the Commonwealth Ombudsman to demonstrate why such an additional accountability mechanism might be required. The Commonwealth Ombudsman's annual report is a very interesting document which contains a separate chapter on contracting out - namely, chapter 7. The Commonwealth Ombudsman raises a number of serious worries associated with contracting out, particularly accountability issues. I quote from the second paragraph of her chapter. She said the rules associated with contracting out are muddy, contradictory or not yet written and when it comes to issues of accountability and redress there is a new twilight zone. Of course, she is writing about the commonwealth government system, but I have no doubt there is a new twilight zone of accountability in the contracting out of state government services also. Up to $1b a year of taxpayers' funds has been spent on contracting out in this State. That scale of contracting out raises some very serious accountability issues, particularly if the services being contracted out are those which involve broader public interest questions or services to clients who are vulnerable or issues of enforcement. The Commonwealth Ombudsman said about those types of services -

> If such government services are to be contracted out there is an increased need to ensure effective accountability and protections so there is a fair and consistent application of statutory powers and/or service delivery.

The Commonwealth Ombudsman is saying that special factors apply to government services and there are special features of government responsibility which require more accountability mechanisms than exist in the private sector and which require something different beyond mere enforcement of the contract as would exist in the private sector. There are problems with public sector contracts. As the Commonwealth Ombudsman pointed out, enforcing service standards depends to a great extent on the quality of specifications embodied in the original contract. If the public servants do not write the original contracts tightly and efficiently, they will have a great deal of trouble enforcing the service standards that the public expects. The greatest experts in developing and managing contracts are not people in the public sector; they are people in the private sector. The people responsible for managing these contracts are not the greatest experts in the community to deal with them.

Mr Board: We are building up a great deal of expertise in the public sector.

Mr RIPPER: It is interesting that even the Minister responsible uses the words "building up a great deal of expertise". I hope that the public sector is getting better at managing contracts because of the volume of work.

Mr Board: You know that Contract and Management Services has been a separate entity only since the middle of last year.

Mr RIPPER: The Minister confirms my argument; the expertise is only now being developed but meanwhile there is $1b worth of contracting out going on and the public servants who are dealing with the contracting out must negotiate with a private sector that has a very long history in developing and managing contracts. Not only is the experience greater in the private sector; the problem is also more difficult in the public sector because government contracts involve many considerations which do not apply in the private sector. Therefore, developing specifications in government contracts is a more difficult task than developing specifications in private sector contracts. All sorts of unique circumstances crop up from time to time in government which have to be taken into account when a contract is being developed. Many of those circumstances would not need to be taken into account in private sector contracts. On the one hand, there is less experience and less expertise and, on the other hand, the task is more difficult. Yet, contract specification is the key to enforcing quality service delivery. Therefore, the Commonwealth Ombudsman has put forward a very strong argument for putting in place additional accountability measures for contracting out. After all, when services are performed in-house, they are subject to the jurisdiction of the Auditor General, the Ombudsman and the Freedom of Information Commissioner.

Mr Court: Are you opposed to all contracting out?

Mr RIPPER: Of course not. I wonder why the Premier will not support this legislation when it does not say there will be no contracting out or that contracting out should be limited. It says that contracting out should be performed in an accountable manner. It says that quality of service delivery is a key issue and we need a legislative mechanism to ensure greater scrutiny of service delivery. It is all too easy for a Government like this Government which has an ideological commitment to contracting out and an inadequate comprehension of its duty to meet social needs to contract out because it can save a dollar. However, what is lost is the quality of service delivered to the public. We can see that in our schools with the contracting out of school cleaning.

Mr Omodei: How would you have handled infill sewerage when the contract went from $13m to $80m in a year? Would you have contracted it out?

Mr RIPPER: I would have allowed the Water Corporation to compete with an internal in-house tender, whereas this Government would not allow the Water Corporation to tender for a project that it could have won against the private sector to provide sewerage to a subdivision in Hilton which was sponsored by Homeswest. At least I would have let the Water Corporation have a go to prove that its expertise and efficiency was better than the private sector's. The Water Corporation should have won that contract, but it was stopped by this Government from even putting in a tender.

Mr Court interjected.

Mr RIPPER: The Premier repeats a line that he has used over the years which is completely irrelevant to this debate.

I return to school cleaning because it is a very good example of the way in which this Government puts ideology and dollar savings ahead of its responsibility to deliver quality services to the community.

Mr Court: What quality service did you deliver with an infill sewerage program?

Mr RIPPER: We are talking about school cleaning. The Premier is several minutes behind in this debate.

[Interruption from the gallery.]

The ACTING SPEAKER (Mr Baker): Order! I direct the Sergeant at Arms to remove that person from the Public Gallery.

[Interruption from the gallery.]

The ACTING SPEAKER: Order! I have given members of the public ample leeway. I have been reasonable and the Speaker has been reasonable. There is no need to clap or carry on like that.

Mr RIPPER: It would be very interesting to see what would happen if clause 7 of this Bill were implemented. A report has been done on the quality of service provided by contractors. It was a review of cleaning in Western Australian government schools conducted by Dr Philip Deschamp. It indicates that very few people in the schools thought there had been an improvement in school cleaning and significant numbers of people, especially in schools cleaned by contractors, considered that the changes had made things worse or much worse. When the reviewer surveyed the schools, he found that when principals were asked about the quality of cleaning in schools, the average level of satisfaction on a scale of five was less than three.

Three was satisfactory on the scale. Therefore, the average level of satisfaction of school principals with the cleaning of their schools was that it was less than satisfactory. If that is what one independent report shows about the quality of services, what would we find if we had access to reports on all of the other contracted out services? What would we learn if those reports were available? On this side of the House we would learn that the quality of service counts, but not this Government. The Government has not learnt from the independent review of school cleaning. The Minister for Education has gone ahead, despite the outcome of that review, and expanded the contracting out of school cleaning. The dollar has been put ahead of the quality of service provided to our schools. Contract cleaners can do it cheaper simply because they very drastically reduce the number of hours devoted to cleaning each school. No wonder the Government does not support this Bill proposed by the member for Bassendean. It is not interested in acting on the outcomes of any independent report on the quality of work performed by contractors. It is driven by ideology and the dollar. The quality of service is a lower priority. I am very disappointed that the Government will not support the Bill. We on this side support it strongly.

MR BROWN (Bassendean) [9.32 pm]: I thank members on this side of the House for supporting the Bill. I am disappointed that the Government has failed to respond in any detailed way to the provisions in this Bill. In the brief time I have I want to deal with some of the issues that have been raised by the Government. The first is the matter of openness and accountability.

Let us look at what this Bill seeks to do and at what the current Public Sector Management Act does. With promotions in the public sector we now have nepotism operating and favouritism. In the public sector we no longer have a mechanism to test whether the best person for the job actually got the job. It was called the promotion appeal process, which was based on the relative merits of one candidate compared with another to ensure that the best person got the job. That system no longer exists. So much for accountability! When we ask questions in this Parliament about promotions in the public sector, Ministers refuse to provide details about them and the selection panels that have made certain decisions, on the basis that this Government's Public Sector Management Act precludes those Ministers from reporting to the Parliament. That is not the view of the Commissioner for Public Sector Standards but the view of Ministers. Time and time again in this Parliament Ministers say, "We will not report to the Parliament about what we are doing in the public sector because our Public Sector Management Act does not allow us to report." That is not accountability.

Let us talk about contracts. The Government says that in a whole range of areas contracting out is more efficient. We would like to know if that is true. When I was a member of the Public Accounts and Expenditure Review Committee, which is the premier accountability committee of this Parliament, I proposed last year and the year before that the committee carry out a full scale investigation of contracting out in this State. That proposition was voted down 3:2. The three government members on that committee voted the inquiry down. They did not want an inquiry into contracting out in this State. Again they were hiding those issues. When we ask questions in this place about contracting, such as, "Will the Minister tell us how many contracts were issued in April? Will the Minister tell us what contracts have been let? Will the Minister tell us how much has been issued? For how much are the contracts?" the answer is, "Get stuffed. We will not tell you." Over and over again we do not get the answers in this Parliament because the Ministers constantly refuse to provide them. Members opposite should not say that contracting out is more efficient, because we simply do not have the information by which to judge it.

The member for Bunbury said that the Government supports permanency in the public sector. This Bill would give the Commissioner for Public Sector Standards an opportunity to set a standard for looking at permanency, so that

departments and agencies with people on short term contracts would be able to look at their employment contracts and the standard developed by the commissioner and determine whether those people should be given full time, permanent employment. That is not an unreasonable proposition, yet it was rejected out of hand by the Premier despite the fact that during the term of this Government permanency in the public sector has declined by 10 per cent.

On redeployment and redundancy the Premier said that the provisions of the Public Sector Management Act were similar to the general order of the Industrial Relations Commission. That is wrong, and I will tell members where it is wrong. The Public Sector Management Act and the regulations made under it give public sector employers the right to tell public sector workers to apply for a job in the private sector where that job has been contracted out to a private company. If the public sector workers do not take that job when they are ordered to take it, they can be sacked. If they are sacked they lose their redundancy payment. A suitable job, according to the regulations under the Government's Act, is one that pays 80 per cent of the employee's existing rate. No wonder the Government has no problem in getting people to transfer over. The Sword of Damocles is held constantly over their head. It is a fabrication and totally untrue to say that those provisions were in the general order and that the provisions of the Government's Act are similar to them - nothing could be further from the truth.

The Government's special inquiries are atrocious. When the special inquiry provisions went through this Parliament we raised the problems with them. The special inquiries under this Act are similar to the inquiries under the Prisons Act. If members look at the major prison inquiry which took place during 1994-95 under the former Attorney General, they will see that it resulted in protective evidence being taken and used for criminal convictions against people. They were required to give that evidence. As ordinary citizens they lost the right to remain silent. That evidence was used against them. How much did the inquiry cost? Millions of dollars were wasted to save the position of the former Attorney General. The Government has just paid out $400 000 in legal fees because of the waste of those sorts of inquiries. The Government has replicated it in the Public Sector Management Act. It is a denial of natural justice. For the Premier to get up and mouth that the natural justice provisions are enshrined in the inquiry provisions of the Public Sector Management Act is simply nonsense and has been shown to be untrue.

I could go on and go about the importance of this Bill to the public sector in this State, not for protecting the public sector or public sector workers but for bringing some dignity back to public sector workers and letting them stand tall rather than be bashed and scrutinised, as the Government has done to them, by constantly saying, "The private sector is more efficient." The Government does not have regard to the lower rates of pay but simply says that it is more efficient. It constantly criticises public sector workers. They feel it and they resent it. We will continue to push these changes because the one difference between the Premier and the Opposition is that we believe that workers in the public sector are entitled to be treated with a bit of respect and dignity, which has been long lacking from this Government. I commend this Bill to the House.

Question put and a division taken with the following result -

Ayes (17)

Mr Brown	Ms MacTiernan	Mr Ripper
Mr Carpenter	Mr McGinty	Mrs Roberts
Dr Constable	Mr McGowan	Mr Thomas
Dr Edwards	Ms McHale	Ms Warnock
Dr Gallop	Mr Pendal	Mr Cunningham *(Teller)*
Mr Kobelke	Mr Riebeling	

Noes (27)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Nicholls
Mr Barnett	Mrs Holmes	Mr Omodei
Mr Barron-Sullivan	Mr House	Mr Shave
Mr Bloffwitch	Mr Johnson	Mr Sweetman
Mr Board	Mr Kierath	Mr Trenorden
Mr Bradshaw	Mr MacLean	Mr Tubby
Mr Court	Mr Marshall	Dr Turnbull
Mr Cowan	Mr Masters	Mrs van de Klashorst
Mrs Edwardes	Mr McNee	Mr Osborne *(Teller)*

Pairs

Mr Graham	Mr Wiese
Mr Marlborough	Mr Prince
Mr Grill	Mr Day
Ms Anwyl	Dr Hames

Question thus negatived.

Bill defeated.

FINANCIAL ACCOUNTABILITY BILL

Second Reading

Resumed from 10 September.

DR CONSTABLE (Churchlands) [9.43 pm]: I rise to lend my support to this private member's Bill which addresses the very important subject of financial accountability in government. I am sure members will agree with me that it is often the case that legislation is extremely complex and tortuous, particularly in its language. This private member's Bill is remarkable for its clarity and directness in dealing with the very important issue that it takes on. It deals with the very fundamental issue of requiring Government to engage in financial accountability in relation to its support of non-public sector bodies. It demands that the Government be accountable when there is a grant, loan or financial arrangement with a non-public sector body. In recent times there have been a couple of examples where this Government's financial accountability has been seriously wanting and I refer to Elle Racing Pty Ltd and other organisations.

It is fair to say that without the central concept of financial accountability, democracy cannot survive. People do not know how their money is being used by government if there is no accountability or transparency in these issues. Truly responsible government demands that government actions be transparent and accountable, particularly in the spending of taxpayers' money and in the instances to which I referred. Any such transaction should be open to scrutiny by members of Parliament. No member of this House needs to be reminded of the low regard in which members of Parliament are held by the general public. Barely a day goes by without members being reminded in public opinion surveys, talk back radio, the print media, letters to the editor and so on that there is a high level of frustration in the general public about the perceived dishonesty and broken promises of and the lack of trust in members of Parliament. We have been reminded of that in the past few weeks by the travel rorts allegations and discoveries in Canberra that have reinforced the sad fact about politicians. This legislation is a good attempt to change the current political culture so that the sorts of issues which have been shrouded in secrecy - for example, Elle Racing and the Global Dance Foundation - will be forced into the public arena through the parliamentary system.

The message in this Bill to the public is perfectly clear and that is contained in clause 3 of the Bill which reads -

> accordingly, the objectives of this Act are to ensure -
>
> > that any public financial costs and risks incurred by such Government support is placed before the Parliament to allow scrutiny; and
> >
> > that such support is limited to cases where the support is -
> >
> > (i) open to Parliamentary scrutiny as to its costs and risks;
> >
> > (ii) able to be met from existing financial resources; and
> >
> > (ii) capable of yielding measurable advantages to Western Australia.

They are very important objectives for members to realise.

This legislation has many antecedents in the past two decades. There are at least six major ones that I will mention briefly. The first is the general impact and memory of the 1980s in this State - memory of Government being involved in financial support for non-public enterprises which were shrouded in secrecy and certainly not open to the scrutiny of this Parliament and, therefore, to the people.

The second important antecedent was a Bill introduced in 1988 by my predecessor in the seat of Floreat, the late Andrew Mensaros. That Bill is similar in many ways to the Bill before the House. It allowed for public scrutiny of government financial assistance to the non-public sector business undertakings. The Mensaros Bill contained clauses to allow details of all agreements relating to financial assistance to be tabled in both Houses within six days of those agreements being brought to bear between the Government and the public sector parties. What Andrew Mensaros was trying to do in that case was to restore the integrity to government in the actions related to these financial matters.

The third important antecedent which was mentioned by the member for South Perth in his second reading speech and which I will mention in passing, was the Burt Commission on Accountability which was established by Premier Dowding in 1989. A very important document followed that, which is the fourth matter I will mention, and it was Premier Dowding's response to the Burt commission. It came out in a White Paper entitled "Investing for the Future". It set out a number of objectives and details for how the Government saw future government investments in the non-

public sector. I will quote three matters from that briefly. The first quote is the letter at the beginning signed by Premier Dowding who stated -

> Investing for the Future is a White Paper which spells out the Government's policy on the provision of public assistance to development projects. This policy encompasses for the first time a process of accountability and provides the ground rules by which project support shall be considered.

Secondly, it is stated at page 13 -

> It follows that as a general rule, no taxpayer support should be provided to major projects which relate only to downside risk without correspondingly being able to benefit from upside success.

Members might remember the Global Dance Foundation when looking at that statement in the White Paper. Finally, at page 35, at the beginning of chapter six where the support guidelines are presented, there are a number of broad principles, again worthy of encompassing in this debate -

> . . . support for major developments will proceed only when the following broad guidelines are met:
>
> > Accountability - any support arrangement should be open to public scrutiny as to its costs and risks.

The second broad principle is -

> Prudence - commitments entered into by government should, under the worst case, be met within existing financial resources without recourse to the taxpayer or the Federal Government.

In other words, the State must be able to afford the assistance given to the non-public sector agency. The last broad guideline is -

> Benefits - support packages shall yield real, wide-spread and measurable advantages to Western Australia.

As far as possible those advantages needed to be assessed prior to the Government entering into any arrangement with the non-public sector agency. This is a very important document, which is reflected in the legislation.

The fifth important milestone in the last two decades was the reports of the Royal Commission into Commercial Activities of Government and Other Matters. There are two major themes throughout those reports related to accountability and the relationship between Parliament and the Executive. These are very important points. This Bill addresses the inadequacies of that relationship between Parliament and the Executive, and it allows Parliament to do its job of scrutinising the financial arrangements the Executive might enter into. It makes the Executive accountable to Parliament and, therefore, to the public.

The last major milestone, more recently, is the recommendations of the Commission on Government. Again, this legislation reflects the spirit of many of those recommendations.

The 1980s have long since passed and the 1990s are nearly over. It is about time this Parliament took action to ensure this financial accountability. It is time to try to restore the public's faith in the Parliament, their Government and their elected officials. This Bill goes a long way to trying to restore that faith and the balance between the Executive and the Parliament.

I hope the Opposition and the Government will support this Bill for the reasons I have just given. I am heartened in going back through *Hansard* by some of the comments made, particularly those by the Premier when he was Leader of the Opposition and before then. I conclude by quoting some statements that will remind the Premier of his position a few years ago. On 27 September 1989 the Premier said -

> One of the points the Burt commission made so clearly was that under a Westminster system of Parliament the Government of the day must be accountable to the Parliament for every dollar of taxpayers' money that it spends.

The Deputy Premier said on 28 November 1989, when commenting on events in the 1980s -

> . . .what will certainly happen is that in future no Government will ever be able to commit taxpayers' funds to private business dealings. There will always be the knowledge that the accountability of the Government to the Parliament is paramount.

In August 1990 the Premier said -

> I will outline a very simple proposition that I would like the Government to consider, and this is something that the Government could include in amendments for this legislation: Basically, when a Government body

> gives financial assistance to a corporation or an individual in the form of any advance of money, the lending of money, the guaranteeing of any advance or loan, or the underwriting of any bills of exchange or the issue of shares or debentures, the Government must lay that information before both Houses of Parliament within six sitting days of the execution of that assurance.

Mr Thomas: Who said that?

Dr CONSTABLE: The Premier in 1990 when supporting the Mensaros concept. He continued -

> An interesting aspect of the proposal is that the Parliament cannot disallow the assistance once it has been given. In other words, a debate must take place within 14 days of the execution of the assistance and if the debate does not take place the assistance will not be allowed - that is the only way in which it could be denied. The purpose of this proposal is to inform the public of any financial assistance given through debate in both Houses of Parliament. This will keep the Government honest and open.

I look forward to the Premier's and the Government's support for this Bill.

DR GALLOP (Victoria Park - Leader of the Opposition) [9.56 pm]: I will take the very short time available this evening to comment on the Government's handling of the business of this House. It is appalling that the Government of Western Australia is not in a position to give a considered response to this legislation. It is an appalling situation where the private members' time available to debate this matter in this House is taken up with further comments on the Bill by another Independent member and a few comments from the Opposition. I ask the Leader of the House whether the Government is in a position to respond to this Bill.

Mr Barnett: The Government will respond.

Dr GALLOP: The Government has given a disgraceful performance in this Parliament over the past two weeks. The matters on the agenda of this Parliament last week were an absolute disgrace. The Leader of the House went to Japan and left the sheet I am holding in my hand for parliamentary business. It was only because the Opposition strung out debate of some of these Bills that Parliament went beyond Tuesday. The Opposition debated the Country Housing Bill at length and then had an agreement behind the Chair that debate on the Appropriation (Consolidated Fund) Bill (No 3) could be a general debate. Advice had been given before debate started in the Parliament last week that the debate must be specific. The Opposition last week helped the Government following its appalling management of government business. This week the Opposition is helping the Government again. The Government came scurrying to the Opposition and asked whether, despite the fact that the Mutual Recognition (Western Australia) Amendment Bill was introduced only last week, it could be debated this week. That broke a convention of this Parliament that time should be allowed to consider legislation. It was brought to the House only last week, and the Opposition was asked to help the Government following its appalling management this week. The Opposition agreed to help. The situation was similar with the Western Australian Coastal Shipping Commission Amendment Bill introduced into the Parliament last week.

This Government is totally incapable at managing its own affairs. We saw clear evidence tonight that the legislation introduced by the member for Bassendean had not been given proper treatment in government ranks. It was an appalling response to serious legislation. Tonight the Government has said the Opposition can speak on the legislation introduced by the Independent member for South Perth before the Government does. It has not been before the Government's party room. It is an appalling situation. The Government has given the legislation no consideration, and it wants the Opposition to bail it out in the way the business of the House is dealt with. This Government must start to get its act together. The Financial Accountability Bill is important legislation that requires proper analysis. The Government said the Labor Party should speak on this Bill for about 20 minutes. I have spent some time considering this legislation and my speech will last for more than 20 minutes.

Mr Barnett: You can carry on next week.

Dr GALLOP: I will not cop these insults from the Leader of the House any more on behalf of my party. He and his Premier should get their act together with their party and start treating these matters with the seriousness they deserve.

Mr Barnett: Will you speak on it or not?

Dr GALLOP: I will speak on the Bill at length and will ask questions of the Independent member for South Perth on his legislation while hinting that we may need some amendments to it. This is a Government which does not care for the parliamentary process and which defended the Deputy Premier when he told mistruths to this Parliament last week. That is the show of concern it has for parliamentary procedures. This Government, after a significant break, came up with a pathetic amount of legislative business last week. The Opposition bailed it out. Again this week we find only a series of second reading speeches and very little to debate.

However, there is one issue we could have debated properly; that is, the legislation of the member for South Perth. Was the Government prepared for that despite the fact that it was second read on 10 September? This Government has the resources of the State behind it and it could not even debate the legislation of the member for South Perth in this Parliament. The performance of the Leader of the House and his Government must improve. It has been a disgraceful performance in the past two weeks in this Parliament. It is treating seriously neither the legislative process nor ideas coming before this Parliament.

The icing on the cake was the performance of the Deputy Premier and the defence that the coalition numbers gave to the mistruths he told in this Parliament. Given that the time has reached 10.00 pm, I seek leave to continue my remarks at a later stage.

[Leave granted for speech to be continued.]

Debate thus adjourned.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)

Second Reading

Resumed from an earlier stage of the sitting.

MR BARRON-SULLIVAN (Mitchell) [10.03 pm]: I described the dilemma at the Leschenault Estuary between the needs of the professional fishermen and those of the growing recreational or amateur fishing community. One name synonymous with the professional fishing industry in the Bunbury area, the south west and throughout the whole of Western Australia, is the Soulis family. Although they might epitomise the professional side of the debate, other people have decades of experience as recreational fishermen and women. Included among those is a fine gentleman who passed away only a matter of weeks ago, Stric Gardiner. Local people will know those names and will realise that they epitomise the debate.

It is easier with the Leschenault Estuary than other estuarine areas to determine a solution to the dilemma of the different needs of the professional and amateur fishermen. There are in fact only seven professional licences and only three or perhaps four of those are of any economic significance. Although Leschenault has seven licences that can be compared with the Peel-Harvey area where there are 26; on the south coast as a whole there are 51 professional licences. The other reason the Leschenault Estuary must be easier to consider than other areas is that it is a far easier area in which to police an effective fisheries management plan than elsewhere.

There are three main considerations in this issue. The first is the economic consideration. The professional fishing industry is probably not of paramount importance to the area. The value of the annualised catch is in the order of $220 000. It compares, for example, with the south coast fisheries of $740 000 and the Peel-Harvey estuarine fisheries of more than $820 000.

I also suggest there are other sources of supply for local consumers. Consequently, reducing the professional catch in the Leschenault Estuary will not have a significant impact on local consumption patterns. Importantly - this is something to which a number of local people do not give a great deal of consideration - a healthy estuary will lead to increased tourism, increased investment in the tourism industry and flow-on jobs. We need only look at the moderately recent Koombana Bay tourism development worth approximately $3 million which probably generated 20 or 30 jobs to see what I mean by that. Consequently I conclude that putting an end to professional fishing in the estuary in the medium term is a viable and realistic outcome. Having said that, I have great sympathy for professional fishermen. They act lawfully and have done so for decades. Consequently any arrangements that phase them out of the estuary require fair compensation based on a calculated revenue capability for each licence holder. We must do this in a way that respects their lifestyles. Ultimately the licences should be surrendered voluntarily if possible.

From a recreational point of view a number of people approach me from time to time - and I believe my colleague the member for Bunbury - indicating they have concern over reduced fishing stocks. It is a simple concern, and in some respects justifiable. All the recreational fishermen want is to ensure that future stocks in the estuary remain good. They do not want to see the same problems as have arisen elsewhere. I believe they are taking a responsible approach. It is appropriate to mention people like Bruce Olsen and John Bray whose efforts I strongly support in seeking a reasonable solution to the whole situation.

To illustrate the problems involved in this I refer to whiting and cobbler. The lack of comprehensive information on recreational fishing catches is a problem. I suppose it is a bit of a hindrance when considering this issue in some detail. Essentially the only statistics available are those in relation to the commercial take at the estuary. Unfortunately we must rely on figures produced by the Fisheries Department specifically on the commercial or professional fishing industry take.

It is interesting to examine extracts from the recent report "State of the Fisheries" which covers the year 1995 to 1996. I have a couple of tables which I will seek leave to incorporate in *Hansard*. The first shows the total annual catch for the Leschenault inlet over the period 1952 to 1995. The total fish catches in the estuary peaked in 1978 at approximately 300 tonnes. Unfortunately there has been a steady decline since then for which I accept that a number of reasons exist. It is not all as a result of overcatching fish stocks by the professionals. Indeed, in some respects they are using fewer boats and putting less effort into fishing. That is also reflected in the figures. Unfortunately it is not good news for the estuary. There is only one word to describe the situation; that is, overexploited. Worse still, the breeding stocks are on the decline. That means they do not stand a chance of repopulating properly. To demonstrate that point we need only look at what happened since the cut, as it is colloquially known, was built in the 1960s. Again I refer to another table in the "State of the Fisheries" report which compares the annual catch of cobbler from the Leschenault inlet from 1952 to 1995. It shows that stock numbers plummeted after the cut was built in the 1960s. From a peak in 1958 of 150 tonnes the catch has depleted to just one tonne in 1995. It is a very serious reduction.
I seek leave to incorporate two tables.

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

[See page 7281.]

Mr BARRON-SULLIVAN: To demonstrate what I am saying about overexploitation in the estuary, I will quote from the report -

> Throughout the history of fishing for this species in each of these estuaries, there have been short periods when catches have fallen to very low levels. On all previous occasions prior to the late 1980s, when commercial fishers have encountered low catch rates, they have targeted other species and cobbler catches have ultimately recovered. However, under the present decline, there are limited alternative targets. Added to this, there are concerns that the deterioration in the quality of the estuarine habitat is adversely affecting traditional cobbler nesting sites and behaviour and thus breeding success of this species.

The way the report sums up the exploitation of the cobbler fishery stock is simple: Exploitation status - overexploited; breeding stock levels - decreasing in the Leschenault Estuary. That says it all.

Clearly a comprehensive plan of action is needed for this estuary. Part of that plan must involve putting an end to professional fishing in the medium term, in conjunction with a fair compensation system. Fortunately my colleagues have enabled us to go down that path by providing $8m over four years for a buy-back scheme, which is already being geared up and which will have considerable impact in this area. However, this alone will not fix the problem.

We need an extensive regional management plan for the entire south west, including the Leschenault Estuary. Included in that should be proper research, and that involves not only research on the commercial fish take but also consideration of the recreational take. Strategies to maintain existing stocks, or hopefully to improve them, will need to feature as part of any such plan. People have put it to me that the dramatic reduction in cobbler stocks could be reversed through innovative means involving revegetation. Hopefully we can look at those things in due course. Ultimately I am saying that recreational fishermen will be required to share the responsibility of providing a long term solution to the dilemma that we face in the Leschenault Estuary.

The Government has acted in the area to improve the environment - along the peninsula, in the dunal system, in the rivers leading into the estuary and in the estuary itself. As I said earlier, I am delighted that the Minister indicated a couple of weeks ago that the Leschenault Estuary will be one of the first areas to be considered under the $8m licence buy-back scheme. That scheme is shaping up to have considerable success in this area. I will be monitoring it and I have spoken to people in the professional industry and to recreational fishermen, so they are aware of what the Government is doing in this area. Within 12 months we should be in a position to say exactly when professional fishing will cease in the estuary and we should be firmly on the path to a comprehensive fisheries management plan for the whole area. I support the Bill.

DR EDWARDS (Maylands) [10.04 pm]: I will take this opportunity to comment on a report that was tabled in Parliament on 11 September. The report was undertaken by the Department of Local Government at the instigation of the Minister for Local Government and investigated the granting of development approval for lot 560 Manakoora Rise, Sorrento.

The report is a very serious document with serious ramifications. When the Minister tabled it he made a ministerial statement in which he used some amazing language. For example, he pointed out that the report "is a terrible indictment of the City of Wanneroo", that it gave him no pleasure to table such a report and that there were 83 findings in part supporting the conclusion that the management of the council had failed in its duty concerning this development approval.

I intend to present a chronology of some of the events surrounding the approval. My reason for doing that is that many of the people affected by the decision still feel very aggrieved by what occurred. Despite the fact that this report says that many of their feelings over the past two years have been valid, they are now in a position where, having submitted complaints that were rejected, laughed at or ridiculed, they have been vindicated but there is no positive outcome. I will take this opportunity to comment in some detail on the report.

In March 1995, Mr Vic Parin, who owns lot 560 Manakoora Rise, Sorrento, made an application to the City of Wanneroo for approval in principle to construct a house at that site. As a result of that application, the council generated a letter dated 29 March 1995 which was sent to landowners in the same area whom it thought might be affected or interested in the proposal.

Immediately we had one minor problem. One of the people affected, the owner of lot 540 - a Mr Holmes - did not receive the letter because it was sent to a relative living in Duncraig. When he heard about the letter, he contacted the council, presented some of his concerns and asked some questions. He was told that the issue of the R codes was not a problem and that the two people most affected by the development were happy.

Ultimately, none of that was true. However, it meant that Mr Holmes - who lives opposite and up the road from the development and who in my opinion is affected - at that stage thought everything was fine and he took no further action. He thought the two people most affected were happy. It was not until some time later when he spoke to them that he realised that that was not true.

The letter sent to the people living in the surrounding area said that an application had been made to council to approve a dwelling exceeding two storeys. However, the same letter said that the building complied with the residential planning code. The implication was that it complied with the council's building height policy.

I turn to the comments made in the departmental report. Other problems are highlighted, but it points out that the form letter sent out was factually incorrect, that it omitted relevant information and that it was misleading. The report goes on to say that the purpose of the form letter was not made clear to the people who received it and that they were not asked if they had any objections. Nor did it point out that any objection would have triggered a review of the height of the building by the council. The report also details some internal problems in the council system in that the form letter was not checked and was sent out despite the danger of such letters having been raised previously with the council.

The importance of the letter is that it was the first indication to people living in the area that a large building was planned to be constructed that might have an impact on their views and the amenity of the area.

The second issue that arises from the letter is the western boundary fence. This development is on the side of a hill which is a difficult site - there is no doubt about that. The two residents below the development are most affected. One had his block excavated, so his residence is some depth below the building being constructed. The western boundary fence which traverses down the slope therefore becomes important. The owner of lot 561, Mr Del Borello, went to the council with the letter that he had received. He discussed it with the officers and then wrote his concerns on the letter. That letter now resides within the council. The owner of lot 562, Mr Brislin, also had concerns about privacy. Next to the western boundary fence he has a swimming pool, which is very nice, if I may say so. It has a rock garden behind it with ferns. His family enjoys that very private swimming pool very much. The difficulty he foresaw and that has now come to pass is that a three storey building would be constructed about a metre from his fence, which meant that the privacy of his pool was totally lost.

The third person to make a comment was Mr Shenton from lot 536. He wrote to the council that the proposed fence and retaining wall, although not directly impacting on him, could create a widespread problem within the city, if it set a precedent. The response he got was that the fencing, retaining wall and screen walls complied with the council's by-laws and regulations. Mr Shenton was not happy and further correspondence flowed; in fact, at one stage there was even an inspection. When the inspector from the City of Wanneroo visited he looked at the wrong wall. In correspondence back to Mr Shenton he treated the wall as if it created a dividing fence issue rather than a wall which was not complying with the council's codes. The local government report says that the response to Mr Shenton's letter demonstrated a lack of competence and a lack of professionalism on the part of the officers who were looking at his complaint and looking into the whole issue. It is quite clear from the evidence put to me and from the local government report that three objections were raised which dealt with his boundary fence and other issues.

Mr Bloffwitch: What do you think would be a fair result?

Dr EDWARDS: I will get to the end of my speech and will let the member know then.

The three objections were not reflected in a document from the city building surveyor to the town clerk, when he wrote about this application for the retaining wall. In his letter he said that there were no objections, when quite

clearly there had been three. He also said that favourable comments had been received from the two parties most affected. That is another misrepresentation of their concerns.

Returning to the chronology, by December 1995 the City of Wanneroo had approved working drawings for the development. Its approval stated that the plan was approved subject to compliance with the building code of Australia, the residential planning code and a number of other codes. Subsequently, construction started early in 1996. These problems persisted. For instance, in May 1996 Mr Brislin's young daughter was struck by a piece of PVC that fell from the building site. She was rendered unconscious by it, which created great concern to her family and the family next door. Mr Brislin rang the council twice to complain about the accident. He could get no satisfaction. He finally went to a higher authority. At that stage the city building surveyor inspected the site. On that occasion it happened that Mr Brislin had a person from an architect's office visiting his house. The visitor and the city building surveyor got into an argument about whether the building complied with the R codes. The person from the architect's office believed that it did not, but the person was told by the building surveyor that it did. At the end of June 1996 the two most affected parties then served a claim on the City of Wanneroo on the basis of the problems that they felt had been ignored and on the building that was going up. As a result the council held a number of meetings to look at the issue in more detail. There is evidence of the council calling in the designer from lot 560 and of the two most affected parties hiring an architect to represent their views that things were not fitting with the plan. It seems there was disagreement between the parties and nothing at that stage was being resolved.

At the end of July councillors themselves were involved and further meetings about the issue were held. I gather that concerns were conveyed by the councillors to the city's officers. The result was that on 8 August, 1996 the city commissioned Ken Adam and Associates, a firm of architects and town planners, to conduct a review with particular reference to the western boundary and the requirements of the R codes. The review was a very interesting document. In a document dated 9 August Mr Adam points out that when he looked at the setbacks required and the setbacks provided, there were big discrepancies. For example, on the upper floor on the central section the setback required was 8.4 metres but that in place was 3.9 metres. In every other part of the house there were similar discrepancies. At the north end of the mid floor, for example, the setback required was 6.4 metres and that in place was 1.2 metres. There were also smaller discrepancies in the basement. Mr Adam said in his report that these discrepancies were, first, very significant and, second, beyond any sort of discretionary power allowed for the council. He further pointed out that given the difference between what was required and what had happened, under the codes local people should have been notified and their comments sought, which of course had not been done. He also pointed out that the house appeared to contravene the council's height policy. Therefore, he was making comments about setbacks, R codes, the lack of proper consultation and the height policy.

As a result of that, further meetings were held by the council. By 13 August, 1996 a stop work order had been issued as a result of the deviation from the original plans and the failure to comply with the R codes. The feeling among those directly affected was that at last somebody had listened and that something would be done to address their concerns. However, it has been pointed out to me that one of the people most affected had a conversation the next day with the chief executive officer of Wanneroo City Council. He was told that the concerns were not as bad as had been thought and that the deviations were minor. Nevertheless, the stop work order persisted; in fact, new drawings were submitted in August 1996. One problem was despite the fact that there was a stop work order, the third floor building slab was poured during this time. I do not think there is anything wrong with that and the local government report does not comment unfavourably about it. However, the difficulty is one of perception. People were feeling very aggrieved by the whole process. They had complained and not had their complaints heard. They then complained again and finally had their complaints heard. The perception was that something was wrong if there was a stop work order and yet the foundation of a further storey was being poured.

On 10 October, 1996 the Minister for Local Government inspected the site, I gather as the result of an appeal to him. He confirmed the stop work order. On 5 November the stop work order was lifted. The basis for it was that, first, there had been amended plans and, second, there had been negotiations with the owners. When one reads that one would assume that all the affected parties had been negotiated with and some sort of consensus had been arrived at, but in fact local people did not feel the same way about the continuation of the work and continued to be unhappy. As the Minister pointed out in his ministerial speech, he continued to receive complaints after that time.

To continue with the chronology, on 18 February, 1997 an inquiry was instituted through the municipal viability scheme, indicating obviously that the council had some concerns about it. On 22 April, 1997 the Minister caused the Department of Local Government to hold an inquiry into the same issue. I also understand there has been an inquiry into the R codes in which the Minister for Planning had some involvement. It is a slightly different issue on which I will comment shortly. The upshot of this was that on 11 September a report was tabled in this Parliament which revealed 83 negative findings on what had occurred with this development approval. I will comment briefly on some of these findings.

The first issue was the approval in principle. The department's report spells out the approval in principle process in Wanneroo, but it points out that it was not followed appropriately. For example, the report states that there is no record of who checked the approval in principle application at the front counter or who completed the form details. It also states that there was no formal record that plans for lot 560 had been received or whether they were the same plans for which approval was being sought.

The report indicates that there was no evidence that the stated value of $600 000 for the proposed house was estimated correctly. It points out that the prescribed fee was incorrectly calculated.

Further in the report it is stated that senior officers failed to check the approval in principle applications and there is no record of the provisional approval being granted. There is evidence of a considerable breakdown within the City of Wanneroo in granting the approval in principle.

The report raises an issue about setbacks under the R codes. It needs to be acknowledged that it is a difficult site. It should also be acknowledged that the R codes are a planning issue and that planning approval for a single house is not required. I believe that the model scheme text that is being developed under the direction of the Minister of Planning will go some way towards tackling these issues. Nevertheless, there are problems with the setbacks, as I explained when I referred to the Ken Adam report. A further problem is that council had the discretion, but there is no evidence that it used it. It appears that the approval went through without the proper checking being undertaken.

The third issue that arose concerned retaining walls. It is clear from reading the relevant documents and the report that there was confusion about retaining walls, including their height. In some of the letters these issues are linked in a way that is not appropriate.

The local government report said that the council's report on the issue contained both factual errors and was misleading. It said it was not possible to identify which retaining walls were being referred to. It was unclear which retaining wall was to be over the 2 metres height restriction. No justification was given for the reason that a height of greater than 2.5 metres was allowed. With reference to the retaining walls issue there is evidence of inadequate documentation and it is not known who had input and who was responsible for making the decision.

[Leave granted for the member’s time to be extended.]

Dr EDWARDS: In a similar way to the height issue, approval was granted to build in excess of the standard height on lot 560, but as the report said, this approval was not validly given.

I raise this issue tonight because the State Government has done what it can do. I thank the Minister for Local Government for instigating the report. The reason I raise this issue is that the people affected by this decision feel aggrieved by what happened. Although they are happy that there is a report which deals with the issue in some detail and spells out that things went wrong and provides the detail on where it went wrong, from their point of view it is of little consolation. They know that the report said there was weak management, poor supervision and inadequate record keeping. On the one hand the report vindicates their concerns, but on the other hand it leaves them with nowhere to go.

Mr Omodei: Are you talking about all the neighbours?

Dr EDWARDS: Yes, all of them. Presumably the two people most affected will be granted compensation. However, other people who were in touch with the council, asked questions at council meetings and got councillors to inspect the site have been vindicated, but they have nowhere to go. I have seen the building and it is extremely large and it has a detrimental impact on the two houses most affected.

I understand the grievance of the people who lived further up the hill and who once had an empty block near them. They now have a two or three storey concrete edifice near them. Another problem they described to me concerned the written and verbal complaints to the council that were overlooked. They described the conversations in which they were belittled, made to look foolish or given incorrect answers which intuitively they knew were wrong. However, at the time they had to accept the answers were right because the people with the knowledge were giving that information to them.

Perhaps this is highlighted most in the case of Mr Del Borello. When Mr Parin first showed Mr Del Borello his plan, Mr Del Borello assumed that certain parts of the plan would not be passed by the City of Wanneroo. Mr Del Borello is a builder and he had built homes in the immediate area. He had had a lot of dealings with the council and felt he was knowledgeable about its policies and what it was likely to approve. His problem was that when he heard that approval in principle had been given he assumed the council had amended the plan and everything was okay. He did not realise that it was not okay until he could see from his backyard the building being constructed storey by storey. In response to this building Mr Del Borello has had his backyard covered in with a perspex-type material. I would not like to spend summer evenings under that material, but that is what he felt he should do to retain his privacy.

It is a difficult site and generally where there is a vacant block and a house is constructed on it people will have problems. On this occasion there are two other problems. Firstly, the local people raised valid concerns and they were not listened to. Secondly, it has been demonstrated from this case study that the City of Wanneroo's management systems were neither appropriate nor adequate.

I know the Minister has distributed this report to all councils and I urge them to look at it to ascertain what changes they can make to avoid a similar situation arising. I also urge the City of Wanneroo to change its system so that this cannot happen again.

The report pointed out that a $600 000 home approval was a rare event in the City of Wanneroo at that time and the authority should have been more vigilant. I am disappointed that when the report was released the City of Wanneroo responded in the local paper in a manner that was not constructive. It was critical of the report. I urge it to respond more appropriately.

Mr Johnson: They do not like criticism. What you say is true and I agree with you. I can only agree with the report of the Minister's advisory team. The City of Wanneroo should be for more professional and diligent.

Mr Riebeling: I thought you used to run it.

Mr Johnson: The year I ran it, it was perfect.

Dr EDWARDS: I urge all local government authorities to be vigilant about these properties. I also urge the Minister to be vigilant to see whether similar problems have slipped through the system and to determine whether there are other ways that the people aggrieved by this case can achieve some sort of resolution to their frustration.

MR MASTERS (Vasse) [10.39 pm]: I rise to speak in support of this Bill and advise that I should not need to seek more than two or three extensions of time to continue my remarks. In 1972 as a newly graduated geologist from the University of Western Australia I had the great pleasure and honour to walk in the area surrounding Lake Pedder in Tasmania. At that time Lake Pedder was a natural lake that was about to be flooded by the Tasmanian Hydro Electric Commission. It ended up being the focus of many green arguments and debates in opposition to it.

Mr Bloffwitch: Were you carrying a banner?

Mr MASTERS: No. I was there to inform myself of what was happening. This area was a beautiful place. Potentially it could have been a major tourist attraction in Australia. Unfortunately today it is under 20 metres of water. It was one of the defining moments in the conservation history of Australia. I can fully understand why that action by the Tasmanian Hydro Electric Commission caused the typical Australian to show a lot more interest in the environment. I should point out that, following my visit to Lake Pedder, I have spent 25 years working seriously and energetically for the voluntary conservation movement. However, if I have learned one thing it is that it is important always to look at the big picture, not the minute detail with which sometimes people tend to get tied up.

I will talk about the controversy that currently surrounds the decision of the Federal Government to go against the tide and not agree to the greenhouse gas cuts proposed by many countries over the next 10 to 15 years. It is quite easy to understand why the Australian Government is reluctant to reduce greenhouse gas emissions. The Organisation for Economic Co-operation and Development suggested a reduction in greenhouse gases which would have cut Australia's output of non-ferrous metals by about 60 per cent by the year 2000. It would force iron and steel production down by about 30 per cent. The Australian Bureau of Agricultural and Resource Economics said that the effort of the OECD to reduce carbon dioxide emissions from fossil fuel combustion to 10 per cent below the levels of 1990 by the year 2020 would cost Australia approximately $9 000 per person in 1996 dollars. That figure of $9 000 per person - it represents a reduction in our quality of life and our standard of living - would have been about 22 times higher than the loss that was estimated to be experienced by the average European, and about six times the loss estimated to be experienced by people living in North America. ABARE said that because Australia relied heavily on fossil fuels for power generation, it would experience a more significant loss than most other countries if uniform emission abatement targets were adopted.

I refer to a publication entitled "World Resources: A guide to the global environment". I have a photocopy of that publication for which I seek leave to lay on the Table for any member who may be interested in looking at it.

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

Mr MASTERS: To many right wingers in our community, the authors of this book would be considered to be left wingers. The World Resources Institute, the producer of this publication, is funded by at least two United Nations agencies or instrumentalities. I refer to an article in *Business Week* of 29 September this year entitled "Warning: The Greens may be hazardous to our economy". It suggests that if we wish, we could build into this all sorts of conspiracy theories. It states -

> The treaty -

That is, the treaty relating to greenhouse gases -

> - will move the affected industries out of the First World into the Third World. It is a story ready-made for conspiracy theorists. Under cover of the green movement, Third World politicians and their "one world" allies are redistributing economic power away from the industrialized democracies.

Mr Carpenter: Do you believe that?

Mr MASTERS: No. I do not. I am reading it just to let members know what is happening. It continues -

> Poor Americans and poor Europeans are rich by international standards. In the one-world view shared by elites, there is as much justification for international economic redistribution as for domestic redistribution. Correcting the "imbalance of economic power" is what global-warming theories and environmental extremism are really about.

I do not believe that claim; nonetheless I will quote from a document that is written by people whom the conspiracy theorists would say will assist this one-world, green, antidevelopment group of people.

Mr Carpenter: If you don't believe it, why are you quoting from it?

Mr MASTERS: I am doing it to prove to members that the reality of the greenhouse gas situation affecting the world today is not what the member for Willagee and many other people believe. Chapter 11 of the publication is entitled "Atmosphere and Climate". It talks about a greenhouse index which has been proposed by the intergovernmental panel on climate change. Built into this index are emission estimates for each gas; that is, carbon dioxide, methane and chlorofluorocarbons. It comes up with a global warming potential. Countries are listed in terms of their greenhouse index ranking and percentage share of global emissions as of 1991.

If we believe the media or those in the green movement, we will accept the story that Australia is the second worst greenhouse gas polluting nation on this earth. I am sorry to advise members that that simply is not true. In fact, according to this United Nations publication, Australia ranks sixteenth in the world in its greenhouse index ranking, not second as some people would have us believe. This publication also contains a table setting out the relative per capita greenhouse emissions of various countries for 1991. Australia does not come in second, which the media and the green movement are trying to portray. They suggest that because Australia is the second highest producer of greenhouse gas emissions per capita, we should be ashamed, embarrassed and motivated to do something about it. Instead, according to this table Australia sits in ninth place, not too far down the list.

So that members can understand what is really happening, I am trying to make the point that the countries which are today making the major impact on greenhouse gas emissions into our atmosphere include, in this order, the United States, the former Soviet Union, China, Japan, Brazil, Germany, India, the United Kingdom, Indonesia and Italy. From those 10 countries, three are the most populous on Earth - China, India and Indonesia. Those three countries have a total population of almost two billion. I do not know whether members in this place have visited those countries; however, I must tell them that the people who live there are human beings just like us. They want the same standard of living as those opposite and I now enjoy. Their per capita output of greenhouse gas is so low that per capita they do not even rank in the top 50 nations in this table. Nonetheless, because so many people live in those three countries, they are in the top 10 countries in terms of the total input of greenhouse gas emissions into our atmosphere.

Some people may believe those countries will increase their standard of living significantly. That view is commonly held around the world. Any reduction in greenhouse gases that Australia can achieve over the next 20, 50 or 100 years will be absolutely nothing compared with the increases in the greenhouse gas emissions that will come about because of economic development in China, India and Indonesia. If Australia had any sense - I hope this will have bipartisan support - it would be saying to the rest of the world that it does not matter what greenhouse gas output we make in Australia. Instead, we should be sending our technology to those three countries - China, India and Indonesia - to make sure they do not make the same mistakes we have made over the 200 years of our economic development.

Mr Carpenter: How do you think it will be received?

Mr MASTERS: If we give them the technology Australian experts have developed over the years, they will welcome us with open arms.

Mr McGowan: Your Federal Government is cutting back on aid for these countries.

Mr MASTERS: I will not agree or disagree with that statement. I am telling members the direction in which this

country should be heading in addressing the greenhouse gas problem. At the moment Australia is producing between 1.1 per cent and 1.5 per cent of the greenhouse gases going into the atmosphere. China, which has an extremely low per capita output of greenhouse gases, is third on the list of polluting countries and produces 9.9 per cent of the greenhouse gas going into the atmosphere. We must get serious about this and tell the Federal Government we support its efforts to convince the world that it is not the industrial nations that should be cutting back significantly, and at great economic expense, to reduce their greenhouse gas emissions, but that the message must be conveyed to the developing nations. If that means Australia must give China its technology, such as solar power and photovoltaic cells, and even sell it uranium if it chooses to go down the nuclear path, then that must be Australia's responsibility to the rest of the world.

Mr McGowan: Do you think we should go nuclear?

Mr MASTERS: Not at this point. I realise time is short, so I will conclude with three final points.

Some weeks ago a meeting was held between Australia and the South Pacific nations. Those nations severely criticised Australia for its greenhouse gas emissions because they believe that as those gases warm the atmosphere and raise the sea levels, eventually their countries will be inundated by those rising sea levels. I refer to an article in the *New Scientist* magazine of 4 October 1997. It is written by Clive Wilkinson who coordinates the Global Coral Reef Monitoring Network. I will read four passages from this article as follows -

> . . .a few island states have been panicked by the predictions of global climate change into making the wrong decisions about their reefs. In response to the message that "the sky is falling and sea levels rising" they are choosing engineered beach defences rather than careful, slow remedial action to gradually reverse the damage of sewage pollution, and the ravages of reef mining. . . .
>
> A healthy coral reef can grow at the rates that have been predicted for sea level rise, but only if they are free of long-term human disturbance. . . .
>
> But increasingly, developing countries are falling prey to fashionable science, hosting projects on climate change, sea level rise and biodiversity that were dreamt up in some far-off snowbound laboratory. Yet I know of no coastal ecosystem that has been severely damaged by climate change -

He gives one possible exception. It continues -

> Since 1990, much effort has been wasted on fashionable science projects, rather than obvious and practical solutions. International agencies have established task forces and commissioned studies on the impact of climate change on coral reefs. I chaired one in 1994, which reported that current human impacts on reefs were far more threatening than any vague threat of future global climate change.

Mr McGowan: Do you disagree with the greenhouse effect?

Mr MASTERS: No. I totally agree with the greenhouse effect.

Mr McGowan: Why are you quoting things which say the opposite?

Mr MASTERS: I am afraid the member for Rockingham was not listening. I am saying the greenhouse effect may well be real but there are many other practical things that could be done. For example, I referred to the World Resources Institute document that listed a number of characteristics of the so-called greenhouse effect about which there is no consensus. There is general agreement that carbon dioxide going into the atmosphere is changing the fundamental physics of the greenhouse effect. There will be increased heat as a result of greenhouse gas emissions, but there is uncertainty in the scientific community about the details of the greenhouse effect in the next 25 years. There is uncertainty about whether there will be an increase in tropical storms, and great uncertainty in relation to local details of climate change. There is great uncertainty about the whole issue. The important point is that we should give practical and realistic assistance to those countries, which anyone who looks more than 20 years ahead will recognise, will be the major polluting countries, and will leave Australia in their wake.

A couple of days ago Greenpeace activists orchestrated an invasion of Kirribilli House and put solar panels on the roof of the Prime Minister's residence. I support the principle that Greenpeace is espousing; it is trying to make people realise that there are alternative ways of producing energy. One newspaper article stated that the 12 solar panels placed on the roof of Kirribilli House were worth $15 000. However, that was only enough panels to provide 40 per cent of that household's needs. In other words, it would cost $37 500 to produce 100 per cent of the electricity requirements of that household.

Mr Barnett: How much energy was used in the production of the solar panels?

Mr MASTERS: That issue is not raised by these groups very often. The bottom line is that the technology in some

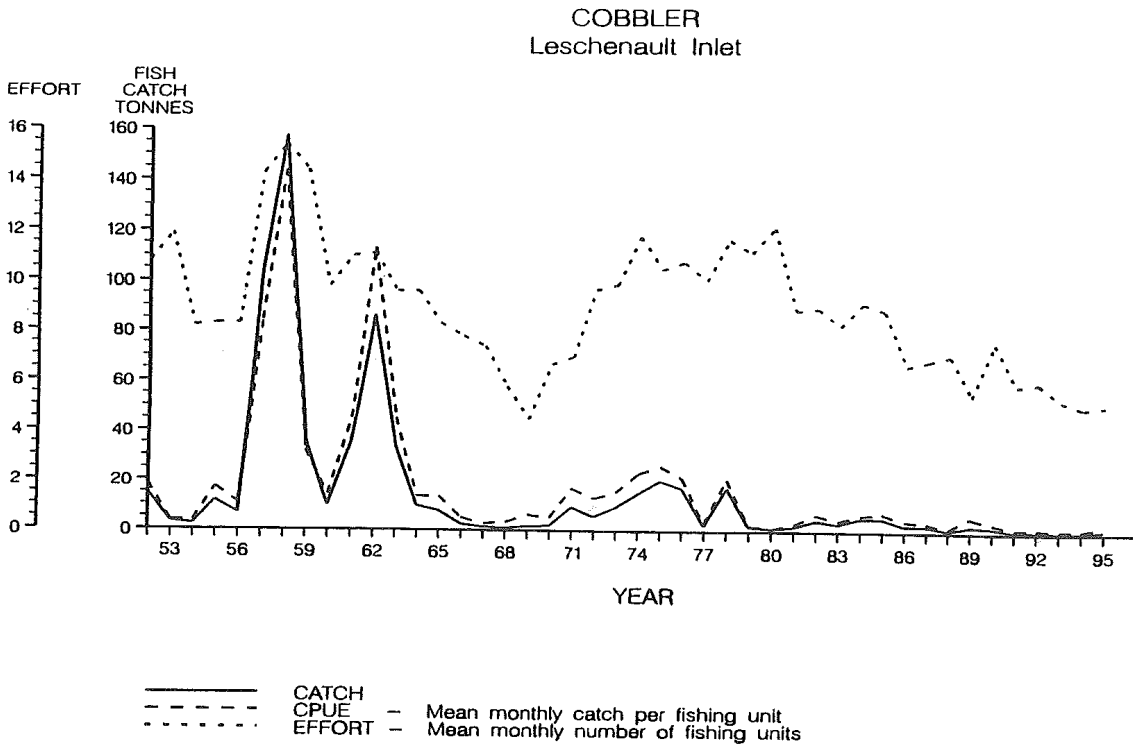
areas is well proven, although in other areas there is still much work to be done. I support Greenpeace in its endeavour to raise public awareness, but this was a cheap publicity stunt. Nonetheless there is a message in it.

On the front page of *The West Australian* of 7 October was a headline about the greenhouse effect. The Australian Government had been criticised because whereas the Prime Minister had said that reducing current energy levels to the 1990 level would cost $46b in new projects, the actual figure was only $12b. Whether that amount is $12b or $46b, if one assumes that $1m of capital expenditure in mineral processing, manufacturing and other areas is required to create one permanent job, $12b of lost investment over the next 23 years would mean the direct loss of 12 000 jobs. Using the multiplier effect, it would equate to 48 000 jobs. That is something worth fighting for. There has been deliberate distortion of the truth in relation to greenhouse gas emissions. Australia is on the right path but it must take up the cudgels and go to the developing countries of China, India and Indonesia to make sure they do not repeat the mistakes made by countries in the developing world over the past 200 years.

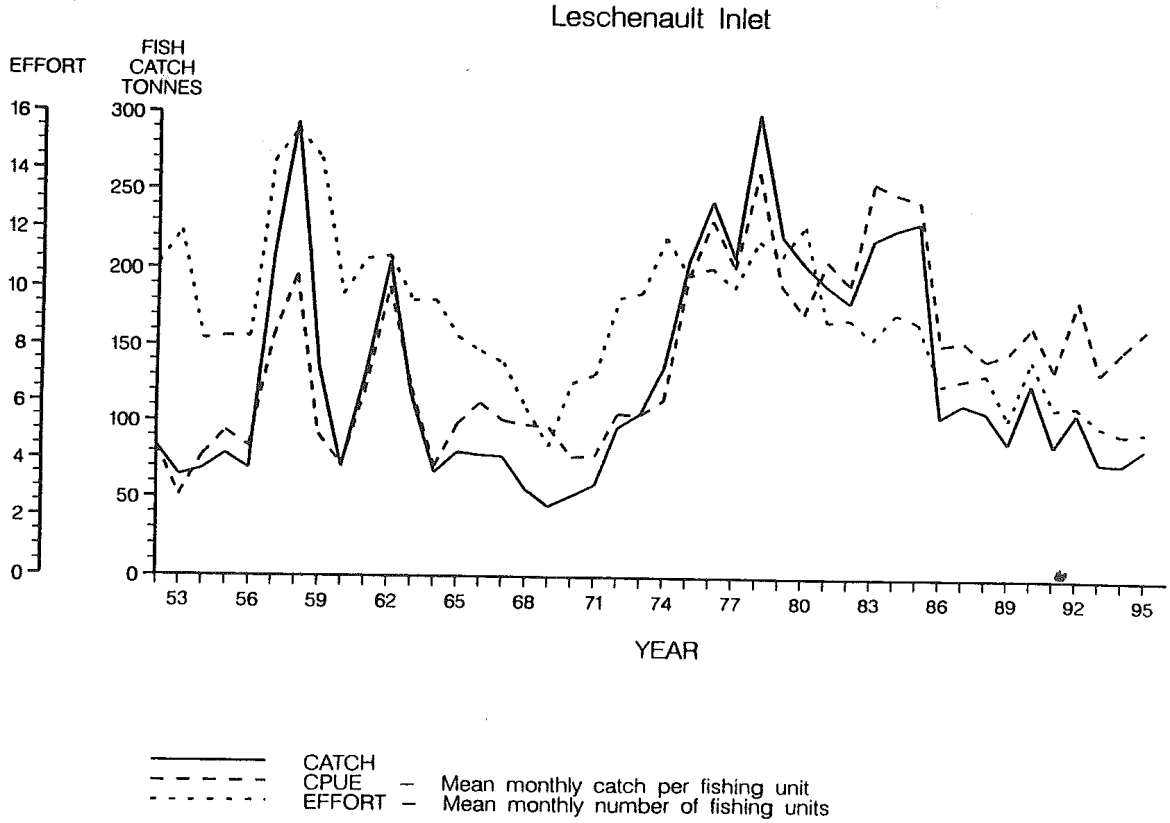
Debate adjourned, on motion by Mr McGinty.

House adjourned at 10.59 pm

APPENDIX A



Cobbler Figure 3 The annual catch, effort and catch per unit effort (CPUE) for cobbler from the Leschenault Inlet over the period 1952-1995.



Estuarine Figure 3 The annual catch, effort and catch per unit effort (CPUE) for the total finfish fishery of the Leschenault Inlet over the period 1952-1995.

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

MINISTERS OF THE CROWN - MINISTER FOR POLICE

Staff

1747. Mr RIPPER to the Minister for Police; Emergency Services:

(1) What are the names of each staff person working in the Minister's office as at 1 December, 1996?

(2) What are the names of each staff person working in the Minister's office as at 11 March 1997?

(3) What are the names and levels of each staff member?

(4) Which staff members are -

(a) full time public servants;
(b) part time employees;
(c) term of Government employees;
(d) other; and
(e) if other, what type of employment?

(5) How many of these have a Government motor vehicle allocated for their use?

(6) How many of these have a mobile phone allocated for their use?

(7) Which of these staff members have a Government credit card allocated for their use?

Mr DAY replied:

(1) As at 1 December 1996, the following staff were employed:

Mr Peter Middleton
Ms Vinka Zupanovich
Ms Jo Harrison-Ward
Mr John Farrell
Mr Mark Thompson
Mr Richard Rejek
Mr Peter Wren
Sergeant Ross Pengilly
Mr Robert Kennedy
Ms Jill Kennedy
Ms Gemma Brown
Ms Monica Lee
Ms Helen Raykos
Ms Melva Malarkey
Ms Renata Gruszka
Ms Samantha Lead

(2)-(7) As at 11 March 1997, the following staff were employed:

Mr R Reid	Level 8	term of government contract
Ms H Sharp	Level 6	term of government contract
Ms J Harrison-Ward	Level 6	term of government contract
Mr M Thompson	Level 6	term of government contract
Mr R Kennedy	Level 5	term of government contract
Mr P Wren	A/Level 5	permanent public servant
Ms D Stratton	Level 4	term of government contract
Ms J Kennedy	Level 3	permanent public servant
Ms M Lee	Level 3	permanent public servant
Ms H Raykos	Level 2	permanent public servant
Ms M Malarkey	A/Level 2	permanent public servant
Ms R Gruszka	A/Level 2	permanent public servant
Ms S Burgess	Level 1(temp)	permanent public servant

As at 11 March, 1997, five of the above had government motor vehicles allocated to them, four had mobile phones and none had government credit cards for official purposes.

WATER RESOURCES - EXMOUTH

Preventive Maintenance

1941. Dr GALLOP to the Minister for Water Resources:

(1) Given the severe reduction in permanent staff to the Water Corporation's Exmouth division, is the Minister aware of the concerns of the Exmouth Shire about the lack of ongoing preventive maintenance to the town water supply?

(2) What programs are in place toward the preventive maintenance to the town water supply?

Dr HAMES replied:

(1) The Shire of Exmouth has not made either me or the Water Corporation aware of any concerns regarding maintenance of the two water supply and wastewater systems in Exmouth. There are currently three Water Corporation employees in Exmouth, compared to four 2 years ago. This reduction has been possible with the recent introduction of a Supervisory Control and Data Acquisition (SCADA) System to automatically operate the Town Water Supply and provide early warning of faults.

(2) Maintenance of the water supply scheme in Exmouth is conducted in accordance with an Asset Management Plan. Specific programs include the replacement of the borefield collection mains and power supply to the borefield.

SEWERAGE - EXMOUTH

Upgrading

1943. Dr GALLOP to the Minister for Water Resources:

(1) Is the Minister aware of the concerns of Exmouth Shire about the effect the Water Corporation's sewerage facility will have on the future urban development of Exmouth?

(2) If yes, what steps is the Minister taking to alleviate these concerns?

Dr HAMES replied:

(1) The Water Corporation has been in communication with the Shire of Exmouth regarding the capacity of the existing wastewater treatment plant.

(2) The Water Corporation has planned a capital project to relocate the wastewater treatment plant to a more appropriate site to facilitate the necessary capacity expansion and urban development. Definition and design work has commenced. The Shire is currently negotiating the acquisition of suitable land from the Australian Navy, for the new wastewater treatment plant site.

HOMESWEST - HOMEFRONT MAGAZINE

Cost and Distribution

1972. Mr CARPENTER to the Minister for Housing:

(1) How often is Homeswest's official magazine *Homefront* published?

(2) How much does each publication cost to produce?

(3) How many magazines are printed in each publishing run?

(4) Who is the printer?

(5) How many people are employed full-time and part-time in the publication?

(6) Is the cost of their employment included in the production cost?

(7) If not, what is the cost of employment of people in relation to publication of the magazine?

(8) How widely is the magazine distributed?

(9) To whom is the magazine distributed?

(10) Why is the magazine distributed to those people or organisations?

(11) What is the purpose of the publication?

Dr HAMES replied:

(1) Bi-monthly.

(2) It varies depending on the number of pages with the last edition costing $2264.00 and the previous edition costing $2017.00.

(3) 1 000.

(4) Park Printing Company.

(5)-(7) No one is specifically employed to produce Homefront with the responsibility being shared amongst the staff who fit its production/compilation around their existing duties.

(8)-(9) One copy to all Homeswest staff, Government Employee Housing staff, Rural Housing staff, Members of Parliament, Minister for Housing's staff, industry groups and organisations who have requested a copy.

(10) They have expressed an interest to be on the mailing list.

(11) Homefront is the staff magazine to deliver information on the organisation's business and social activities.

HOMESWEST - ROEBOURNE

Properties Sold and Built

2064. Dr GALLOP to the Minister for Housing:

(1) How many Homeswest properties have been sold in the Shire of Roebourne since January 1993?

(2) How many Homeswest properties have been built in the same period?

(3) What is the average rental charges within the Shire of Roebourne for -

(a) a two bedroom house; and
(b) a three bedroom house?

Dr HAMES replied:

(1) Based on settlements to 1 September 1997, 235 properties have been sold. 230 of these properties have been sold to the tenants in occupation.

(2) 57. The current waiting time for three bedroom accommodation in Karratha is approximately nine to ten months.

(3) Homeswest rents in the Shire of Roebourne are:

Karratha
(a) $165.90
(b) $180.00

Roebourne/Wickham
(a) $106.00
(b) $115.00

HOMESWEST - CARNARVON

Building Program

2069. Dr GALLOP to the Minister for Housing:

(1) What is the demand for public housing in Carnarvon?

(2) How does the Government intend to meet that demand for public housing?

(3) Will the Minister outline the Homeswest building program for Carnarvon over the next three years?

(4) What opportunities will be available for local builders to take part in this building program?

Dr HAMES replied:

(1) As at 8 September 1997, there were 100 applicants on Homeswest's rental waiting list for Carnarvon.

(2) The demand in Carnarvon is considered to be low in comparison with other country areas. However Homeswest is currently undertaking an Estate Improvement Programme in South Carnarvon. This will include the redevelopment, refurbishment and replacement of existing stock.

(3) There is one five bedroom house for victims of domestic violence programmed for Carnarvon in 1997/98. I have requested Homeswest to reconsider its building programme for Carnarvon during the first quarter budget and programme Review to replace stock sold off in the Estate Improvement Programme.

(4) Local builders are eligible to tender for properties to be constructed in the building program. Through the Regional Purchasing Policy a five percent (5%) preference to a maximum of $20,000 is available for regional contractors on government housing projects.

WATER RESOURCES - QUALITY

Metropolitan Domestic Consumption - Testing

2102. Mr GRAHAM to the Minister for Water Resources:

(1) Is the quality of water supplied for metropolitan domestic consumption tested for quality?

(2) If no to (1) above, why not?

(3) If yes to (1) above -

(a) who carries out the testing;

(b) who pays for the testing?

Dr HAMES replied:

(1) Yes.

(2) Not applicable.

(3) (a) All testing is carried out by external laboratories;

Microbiological:	Path Centre QE II Medical Centre Nedlands
Inorganic:	Societe Generale de Surveillance (SGS) 80 Railway Parade Queens Park
Organic:	Analytical Reference Laboratory 55 Wittenoom Street East Perth
Radiological:	Western Radiation Service Unit 15, 88-90 Briggs Street Welshpool

(b) Water Corporation.

HOMESWEST - SOUTH HEDLAND

Road Verge Tenders - Number

2105. Mr GRAHAM to the Minister for Housing:

(1) How many tenders have been let by Homeswest in South Hedland for blue metal infill to road verges since 1 January 1995?

(2) Who were the successful tenderers in each case?

(3) What was the value of each tender?

Dr HAMES replied:

(1) Under Government policy contracts under $50,000 are not required to go to tender. With respect to the contracts for blue metal infill in South Hedland, Homeswest requested expressions of interests in the North West Telegraph for firms to provide landscaping, reticulation and blue metal infill services. The

Contractors were short listed following an interview process and contracts have been awarded on a competitive quote basis among the short listed Contractors. However, a Homeswest officer recently contracted out work for blue metal infill without receiving competitive quotes. This matter is now being investigated.

(2) The short listed Contractors were:-
- Ramirez Contracting
- K & S Bobcat Hire
- Baillies Landscaping

(3) The successful contracts for each of the Contractors were:

Ramirez Contracting		
February 1996	-	$4,130
June 1996	-	$6,040
June 1996	-	$5,040
K & S Bobcat Hire		
June 1996	-	$6,839
February 1997	-	$20,426
Baillies Landscaping		
May 1996	-	$20,000 (only $1,000 of contract related to blue metal infill).
October 1996	-	$20,000 (only $3,000 of contract related to blue metal infill).

HOMESWEST - SOUTH HEDLAND

Road Verge Tenders - Advertising

2106. Mr GRAHAM to the Minister for Housing:

(1) Are all tenders for blue metal infill to road verges advertised by Homeswest in South Hedland?

(2) If yes to (1) above, where are the advertisements placed?

(3) If no to (1) above, why not?

Dr HAMES replied:

Please see answer to question 2105.

SEWERAGE - JARRAH ROAD

Overflow - Notification of Residents

2129. Dr EDWARDS to the Minister for Water Resources:

(1) Can the Minister confirm whether the Water Corporation has contacted the Mundaring Shire regarding the overflow of effluent from the subsurface soak drain in Jarrah Road into the Jarrah Roadside drain?

(2) If so -

(a) what efforts have been made to notify residents along Jarrah Road of the spill, and;
(b) what efforts have been made to notify residents who may have dams, bores or use creek water along the affected areas as to possible health threats?

(3) What measures has the Water Corporation taken to rectify the problem of effluent overflow into the Jarrah Roadside drain?

Dr HAMES replied:

(1) Yes.

(2) (a) Discussions have been held with concerned local residents.

(b) None - the effluent that overflowed is highly diluted with stormwater, enters the stormwater drain, is indistinguishable from stormwater, is suitable for reuse and, therefore , is not a health threat.

(3) Temporary measures will be in place by Monday, 22 September 1997 to rectify the overflow, and a permanent solution is being discussed with the Department of Environmental Protection.

HOMESWEST - KARAWARA REDEVELOPMENT

Profit

2136. Dr EDWARDS to the Minister for Housing:

(1) What profit does Homeswest expect to make from the Karawara redevelopment project?

(2) Why does Homeswest insist on its original proposal when an alternative proposal is no more expensive to Homeswest, assuming that the $250 000 to be administered by Mr Phillip Pendal, MLA, for environmental projects, is relinquished?

Dr HAMES replied:

(1) Homeswest has short listed several firms following a public registration of interest and is currently in the process of appointing a Project Manager from the private sector to manage and coordinate the estate improvement programme for Karawara. The costings and financial projections will be part of the submission by the successful firm.

(2) Homeswest assessed both options having regard to:

- the expectations of the Karawara residents.
- a cost estimate of the proposal, and
- anticipated delays.

It was considered the original proposal was the best option.

ENVIRONMENT - SWAN RIVER

Diesel Spills by Ferry Companies

2143. Dr EDWARDS to the Minister for Water Resources:

(1) In the past year, ferry companies refuelling their boats at the Barrack Street Jetty have been reported as responsible for diesel spills in the Swan River on five separate occasions. Has the Minister been made aware of the spills when they have occurred?

(2) What is the date, estimated volume of the fuel and likely cause in each of these five cases?

(3) What action has been taken to regulate refuelling by ferry companies with whom the Department of Transport has commercial lease agreements?

(4) If none, why not?

(5) Has the Swan River Trust identified the company responsible for the most recent spill on 4 August of this year?

(6) If so, will the Swan River Trust take any punitive action?

Dr HAMES replied:

(1) Yes.

(2) The five spills occurred on:

11 September 1996
10 February 1997
19 May 1997
3 August 1997
29 August 1997

The volumes are estimated to be between 5 to 25 litres, however, it is difficult to gauge the actual quantity of diesel spilt as it forms a light slick which is trapped around the piles under the jetties. The likely cause is careless vessel fuelling practices resulting in over filling tanks, spilling contents of the bowser hose at the completion of refuelling or discharging bilge water contaminated with fuel.

(3) The Swan River Trust is negotiating with ferry operators, the Department of Transport and Shell Oil to make changes to refuelling practices and equipment, including installation of anti spill devices and automatic shut off systems. The Trust, together with the Department of Environmental Protection, is investigating the creation of a regulation governing vessel fuelling that binds the owners and/or managers of the Barrack Street Jetty.

(4) Answered by (3).

(5) No.

(6) Answered by (5).

HOMESWEST - PORT HEDLAND

Applications - Number and Waiting Time

2180. Mr GRAHAM to the Minister for Housing:

(1) How many applications have been submitted each month for housing in Port Hedland since 1 January 1996?

(2) What is the estimated waiting time for successful applicants to be housed?

(3) What is the real waiting time for successful applicants to be housed?

(4) How many priority applications have been submitted each month for housing in Port Hedland since 1 January 1977?

(5) How many of the applications in (4) above were successful?

(6) How many of the applicants in (4) above were housed?

Dr HAMES replied:

Note: The following responses do not include transfer applications, and relate to Port and South Hedland.

(1)

1996	1997
January - 19	January - 16
February - 20	February - 19
March - 22	March - 18
April - 15	April - 16
May - 25	May - 20
June - 18	June - 23
July - 13	July - 28
August - 21	August - 25
September - 17	
October - 32	
November - 16	
December - 8	

(2)-(3) It is Homeswest's target in the country and North West localities to keep waiting times down to between twelve to eighteen months however, this is subject to the vacancy rate. Homeswest is aware that this objective is not being met and has responded by increasing the building programme in 1996/97 and has a substantial programme in 1997/98. The current month of allocation for applicants according to bedroom size is as follows:

Bedroom	1	2	3	4	5
Month of Allocation	December 1995	December 1995	January 1996	November 1995	October 1995

(4) Homeswest does not keep records of this information back to 1977. The question has been assumed to relate to 1997 and is as follows:

January - 19
February - 18
March - 22
April - 20
May - 17
June - 20
July - 25
August - 23

(5) 37.

(6) 16 as at 22 September 1997.

ANIMALS - FERAL

Culling

2280. Mr PENDAL to the Minister for Primary Industry:

(1) I refer to the problem of feral animals in Western Australia and ask what numbers of feral -

(a) camels;
(b) donkeys;
(c) goats;
(d) pigs; and
(e) other animals,

have been culled in each of the past five years?

(2) What numbers of each are believed to be currently in existence?

(3) What numbers of -

(a) foxes;
(b) rabbits,

have been culled in each of the past five years?

(4) What numbers of each are believed to be currently in existence?

Mr HOUSE replied:

(1) The management of feral and declared animals is the responsibility of the landholder. Agriculture Western Australia provides a service of inspection, advice and audit as well as undertaking control measures where there are significant public benefits. These activities are co-ordinated through the Animal Pest Management Program. Over $7.3 million has been allocated to this program for 1997/98. The primary objective of this management is to minimise the impact of feral and declared animals on agricultural production and conservation values within Western Australia. Information on the numbers culled is limited to control activities in which Agriculture Western Australia is directly involved (see below). Culling undertaken by landholders for all these species is unknown.

AGRICULTURE WESTERN AUSTRALIA CULLING FIGURES

Species	1992-93	1993-94	1994-95	1995-96	1996-97	Total
Camels	435	561	153	517	866	2 532
Donkeys	26 636	16 621	10 483	5 150	8 669	67 559
*Goats	30 110	223 291	140 408	200 255	162 559	1 027 262
Horses	123	194	33	285	203	838
Starlings	42	624	379	267	46	1 358

*includes abattoir and live export numbers

(2) There are no current estimates available.

(3) Agriculture Western Australia does not cull foxes and rabbits. Control of these species is the responsibility of landholders.

(4) See (2) above.

COMMITTEES AND BOARDS - MEMBERS

Appointment and Remuneration

2292. Dr CONSTABLE to the Parliamentary Secretary to the Minister for Justice:

(1) With reference to the Minister's question on notice 46 of 1997, who are the current members and chairpersons of the following -

(a) Criminal Injuries Compensation;

(b) Equal Opportunity Tribunal;
(c) Guardianship and Administration Board;
(d) Law Reform Commission Board;
(e) Legal Aid Commission Board;
(f) Parole Board;
(g) Retirement Villages Disputes Tribunal;
(h) Small Claims Tribunal;
(i) Supervised Release Review Board; and
(j) Western Australian Financial Institutions Authority Board?

(2) When was each member appointed and for what period of time?

(3) How much remuneration is each member paid?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1)-(3) See paper No 802.

LAND - DEPARTMENT OF LAND ADMINISTRATION

Cape Range Resort Proposal - Recommendations

2333. Mr BROWN to the Minister for Lands:

(1) Prior to the commencement of this calender year, did the Department of Lands receive, examine, or become aware of the proposal by Trade Centre Pty Ltd to develop a resort on the west coast of Cape Range?

(2) When did the department first become aware of the proposal?

(3) Were any departmental officers involved in any meetings, discussions or in any other way with the proposal?

(4) In what way were such officers involved?

(5) Were any recommendations made by the department on the proposal?

(6) If so, what recommendations?

Mr SHAVE replied:

(1) Yes.

(2) 1 March 1995.

(3) Yes.

(4) Department of Land Administration (DOLA) officers were involved in numerous conversations with the proponent to provide advice on the process and procedures involved in issuing a lease for evaluation purposes over the area proposed for the resort. Following identification of a suitable site within the evaluation area, public release of a tourist development site could proceed. Meetings between DOLA officers and officers from the Western Australian Tourism Commission and the Department of Conservation and Land Management to discuss the proposal also occurred.

(5)-(6) No. However, DOLA did suggest that instead of treating the issue of an evaluation lease followed by the public release of a tourist development site as separate tasks, it may be preferrable to issue an "Evaluation and Development" lease via a public release process. The successful applicant could then undertake an evaluation and eventually purchase and develop a suitable site.

COURTS - NEWMAN

Interview Rooms

2371. Dr GALLOP to the Parliamentary Secretary to the Minister for Justice:

(1) Is the Minister aware of the lack of basic facilities, such as interview rooms, at Newman courthouse?

(2) What action does the Minister intend to take to ensure people's basic right to privacy is available when using the court system?

(3) When can the residents of Newman expect to see action taken in relation to this unsatisfactory situation?

Mrs van de KLASHORST replied:

(1) Yes.

(2)-(3) Every care is taken to ensure people's rights are protected within the limitations of the existing facility. In view of the level of court work carried out at Newman, it is not considered a priority for funding at this time.

PRISONS - DRUGS

Management Strategy - Details

2422. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

(1) Is there a drug management strategy within the Western Australian prison system?

(2) If yes to (1) above, what is its premise and how long has it been running for?

(3) Can a drug-free prison system ever be realised, and, if so, how?

(4) If no to (3) above, why not?

(5) How are drugs getting into the prison system and what are the known avenues?

(6) What methods are being used to prevent drugs from entering the prison system for each answer given to (5) above?

(7) How easy or difficult is it for a relative or friend visiting a prisoner to pass drugs on during a contact visit?

(8) How closely monitored are the contact visits?

(9) By what means are the visits monitored?

(10) Is it an effective method and, if so, why?

(11) If no to (10) above, why not?

(12) Are visitors checked for drugs before a contact visit?

(13) If no to (12) above, why not?

(14) If yes to (12) above, what percentage of visitors are checked and what means are used?

(15) Would non contact visits be an effective means to controlling drug trafficking and usage within prisons and, if so, why?

(16) If no to (15) above, why not?

(17) If a visitor is caught bringing drugs into the prison system on one occasion, can they visit a prisoner again and, if so, why?

(18) If no to (17) above, why not?

(19) How are prisoners encouraged not to use and traffic drugs within the prison system?

(20) Statistically, are prison related drug offences and drug usage in prisons on the rise?

(21) If yes to (20) above, is the Government finding effective solutions to lower the incidence of drug usage in our prisons?

(22) Based on drug test results, what is the most commonly used drug within the Western Australian prison system?

(23) Have there ever been instances where prison authorities have been alerted to a potential prison drug deal, but due to the minor amount of drugs involved, police have not pursued the case?

(24) If yes to (23) above, what authoritative action was therefore taken?

(25) In terms of drug addiction, how are jailed heroin addicts (not those on methadone programs before they were jailed or pregnant and HIV positive prisoners) medically dealt with or treated in prison?

(26) Is the Government going to expand the methadone treatment program within the Western Australian prison system?

(27) If no to (26) above, why not?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Yes.

(2) The current comprehensive strategy was put into effect in 1993, a development of earlier strategies dating back many years.

(3) No.

(4) The realities of human nature and the prisoner population is that a proportion of prisoners are likely to seek access to mind altering substances.

(5) Drugs are believed to have entered the prison system via
- visits.
- secreting in items entering prisons (vehicles, mail, industrial goods).
- propelled over walls (eg in tennis balls).
- by prisoners, in body cavities.
- by prisoners, in their alimentary canal, in a protective membrane.
- trafficking by staff or other visitors to prisons on or near prison property.
- drug drops near prison perimeter.
- growing cannabis on or near prison property.
- trafficking by trusted minimum security prisoners.

(6) Visits - random and targeted strip searching of visitors and prisoners.
- surveillance of visits.
- drug detection dogs.
- intelligence information.

items entering prisons - regular searches.
- intelligence information.

items propelled over walls - regular searches.
- intelligence information.

body cavities - nil vaginal or anal searches - other cavities by inspection.

alimentary canal concealment - placement of targeted prisoners in separate observation cell for a 24 hour period.
- intelligence information.

trafficking by staff or visitors - random searches and acting on intelligence information.

drug drops - surveillance.
- intelligence information.

growing cannabis - observation and surveillance.
- intelligence information.

trafficking by trusted minimum security prisoners - intelligence, strip searches.

(7) In a maximum or medium security setting - relatively difficult due to high levels of staff supervision and electronic monitoring. Supervision levels are lower in minimum security.

(8) By direct line of sight and, in the male metropolitan security prisons, by electronic monitoring.

(9) See (8) above.

(10) Yes. Drug trafficking is detected by this process.

(11) Not applicable.

(12) Yes. Visitors are strip searched on a random and targeted basis. Drug dogs are deployed.

(13) Not applicable.

(14) It would not be in the public interest to give this detail

(15) Yes, but it would create serious prisoner management problems and would not eliminate drug trafficking in prisons.

(16) Not applicable.

(17) Yes. There is no statutory provision for indefinite bans and it would not be in the public interest, in respect of the rehabilitation of offenders, to apply such bans.

(18) Not applicable.

(19) By a range of incentives (eg Home Leaves) and disincentives (loss of privileges).

(20) While there is no conclusive data, it is believed to be on the rise in proportion to rising drug use in the community.

(21) Yes.

(22) Cannabis.

(23) Section 69 & 70 of the Prisons Act are designed inter alia to finish drug dealing and therefore it is the norm to pursue Prisons Act remedies.

(25) Detoxified, either in own cell placement or infirmary, appropriately medicated according to symptoms.

(26) No.

(27) The outcomes of initiatives in other jurisdictions will be monitored and discussed with the WA Government Drug Abuse Strategy Office. Currently research studies indicate that retention on a methadone program in prison does not reduce the prospects that the prisoner will reoffend on release.

PRISONS - DEATHS

Prisoners at Risk - Assessment

2423. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

(1) I refer the Minister to a story which appeared in *The Sunday Times* of 21 September 1997 headlined, "Prison and the death epidemic", was the man - identified as being "at risk" of suicide or self harming behaviour - kept in a medical observation cell for four days without being seen by a psychiatrist?

(2) If yes to (1) above, what was the official reason for the delay?

(3) Was the man moved to Graylands Psychiatric Hospital after Deaths in Custody Watch Committee (WA) executive officer Kath Mallott threatened to expose the matter in the media?

(4) Is the Minister aware, or has the Ministry of Justice received reports about, prisoners suffering depression who are disguising their depression so as to avoid being sent to a medical observation cell?

(5) If yes to (4) above, what is being done to rectify this situation?

(6) In each year since 1993, how many prisoners have died in custody and in which gaols?

(7) How many of these were -

(a) suicides;

(b) natural causes;

(c) other?

(8) In each year since 1993, how many prisoners have attempted suicide in custody and in which goals?

(9) How many prisoners - who either committed or attempted suicide - were on remand and how many were Aboriginal?

(10) How are prisoners classified as being at risk of suicide or self harm and who within the prison system has the authority to determine this?

(11) Of the prisoners who committed suicide while detained in Western Australian prisons, had any been previously identified as being at risk;

(12) If yes to (11) above, how many?

(13) Once a prisoner is recognised as being at risk, does he/she automatically receive counselling?

(14) If yes to (13) above, by whom?

(15) If no to (13) above, why not?

(16) What provisions are made for the diagnosis, assessment, treatment and rehabilitation of prisoners with a psychiatric illness?

(17) If prisoners are not diagnosed as having a psychiatric illness or being at risk upon being admitted to prison, what ongoing process and/or assessment criteria is applied to determine if they have developed an illness or become at risk of self-harm?

(18) How big is a typical medical cell and what are the facilities contained within it?

(19) Is there a maximum time a prisoner can be held within a medical cell?

(20) If yes to (19) above, what is it?

(21) If no to (19) above, will the Minister consider setting such a limit?

(22) Are prisoners held within medical cells seen by a psychiatrist or psychologist?

(23) If yes to (22) above, under what circumstances, how frequently and for what purpose?

(24) If no to (22) above, why not?

(25) How much money is allocated in the 1997-1998 Budget for psychiatric services in Western Australian prisons?

(26) What services are provided by the prison psychiatric services?

(27) How many FTEs are employed by the Ministry of Justice to deliver prison psychiatric services?

(28) What level are the positions and where are the FTEs located?

(29) Has every prison cell now had every possible attachment point from which prisoners can hang themselves removed?

(30) Does the Ministry of Justice have a policy to double bunk prisoners believed to be depressed or distressed?

(31) If yes to (30) above, what is it?

(32) If no to (30) above, why not?

(33) Do prison officers receive training to help them detect psychiatric disturbance and distress in prisoners?

(34) If yes to (33) above, how many hours of training are dedicated to this purpose and what does the training consist of?

(35) How many prisoners were detained and what was the average length of their stay in medical cells in -

(a) 1997;
(b) 1996;
(c) 1995;
(d) 1994;
(e) 1993?

(36) What is the longest time a prisoner has been detained within a medical cell?

(37) How many Western Australian prisoners were psychiatrically assessed in -

(a) 1997;
(b) 1996;
(c) 1995;
(d) 1994;
(e) 1993?

(38) Who within the prison system determines that a prisoner is at risk and should be psychiatrically assessed or sent to a medical observation cell?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Yes, however he was seen by a psychologist during that time.

(2) The services of a consultant forensic psychiatrist are not available 24 hours/day. Prisoners are seen in accordance with the assessed clinical priority. In this case, it was assessed that the prisoner's problems were largely behavioural and the case was being well managed by members of the health staff based at Casuarina.

(3) The intervention of Ms Mallot was a factor in the decision to have this prisoner moved to Graylands Hospital. Ms Mallot expressed concerns about this prisoner to Prison administration and the prisoner's psychiatric assessment at Graylands Hospital was expedited. Her raising of this matter therefore reinforced other efforts which were made to address this issue.

(4) Yes.

(5) The majority of cases are detected, and managed accordingly, including assessment by a forensic psychiatrist. Weighing the pros and cons of such placement is done in the best interests of the offender.

(6) Deaths in Custody By Year and Prison

Broome - 1 (1995), 1 (1996)
Canning Vale - 1 (1993), 1 (1994)
Casuarina - 1 (1993), 1 (1994), 1 (1995), 3 (1996), 5 (1997)
CWC Remand Centre - 3 (1994), 1 (1995), 1 (1996), 2 (1997)
Greenough - 1 (1994)
Karnet - 1 (1997)#
Pardelup - 1 (1993)
Wooroloo - 1 (1996)
Hospital - 2 (1995)* note: both offenders were from Casuarina Prison
Home detention - 1 (1993)

Total - 29
The prisoner at Karnet died at home whilst on Home Leave

(7) Of the above deaths:

(a) 17 were suicides

(b) 6 were from natural causes

(c) 6 come under the category of "other".

(8) This information is not in a form which is readily available.

(9) Of the prisoners who committed suicide:

(a) 11 were on remand

(b) 6 were Aboriginal.

(10) Every prisoner has a comprehensive at risk assessment upon admission. This interview is conducted by the nurse/hospital officer on duty. Relevant questions are also asked by prison officers working in reception.

(11) This information is not in a form which is readily available.

(12) This information is not in a form which is readily available.

(13) Yes, according to individual needs.

(14) A range of professional and other support staff depending on need.

(15) Not applicable.

(16) A qualified medical practitioner in the first instance and if the medical officer requires a further opinion in the handling of a difficult case he may consult a forensic psychiatrist.

(17) Prison officers will inform nursing/medical staff. Such prisoners will be assessed by nursing staff/general practitioner and treated accordingly. They will be referred to the psychiatrist for follow up management.

(18) A typical medical observation cell measures approximately 3m x 4m and is designed to have no hanging points. The cells have a foam mattress covered with plastic, two doonas and a toilet basin with flushing external to the cell.

(19) No.

(20) Not applicable.

(21) No, this is a medical decision.

(22) Not necessarily.

(23) Depends on individual needs.

(24) They may be seen by a medical practitioner who may admit that prisoner to a medical observation cell or the prisoner may be discharged from a medical observation cell by a medical practitioner who is responsible for making that decision.

(25) $219,600.00

(26)

Casuarina	- 4 sessions/week
Canning Vale	- 1 session/week
Remand Centre	- 2 sessions/week
Bandyup	- 1 session/week
Karnet	- 1 session/fortnight
Wooroloo	- 1 session/fortnight

Most regional prisons have access to local psychiatrists on a regular sessional basis or as required.

(27) None. Sessional employment does not involve FTE.

(28) Not applicable.

(29) No.

(30) Yes.

(31) Double bunking is one option in the handling of depressed/distressed prisoners and depends on availability of double bunking cells and willingness of occupant to share.

(32) Not applicable.

(33) Yes.

(34) Recruits are provided with a full day of training on "special needs awareness". Three hour refresher courses have been introduced for prison officers already in the system.

(35)-(37) This information is not in a form which is readily available.

(38) Medical practitioners, psychiatrists, trained social workers, psychiatric nurses and the superintendent of the prison and/or his nominee.

AGRICULTURE - PINDONE USE

2476. Dr EDWARDS to the Minister for Primary Industry:

At what location have trials using the bait Pindone, been carried out in Western Australia in -

(a) 1996;
(b) 1997?

Mr HOUSE replied:

(a) No trials using the poison Pindone were carried out in 1996.

(b) Pindone was used in rabbit control research trials in 1997 at Rockingham Golf Course and the Kwinana Golf Course. These trials began on 13 March 1997 and concluded on 16 May 1997.

QUESTIONS WITHOUT NOTICE

FAIR TRADING - MINISTRY

Real Estate Business Unit - Report

741. Ms MacTIERNAN to the Minister for Fair Trading:

Last year the Minister's predecessor commissioned as a matter of urgency an independent investigation into the activities of the real estate business unit of the Ministry of Fair Trading. Can the Minister explain why he has not bothered to read the report of that inquiry even though it was presented to his department more than six months ago?

Mr SHAVE replied:

In a radio interview this morning on 6WF the member for Armadale referred to the fact that this report had been with the department for over six months.

Ms MacTiernan: I am glad the Minister has taken some interest in his portfolio for a change.

Mr SHAVE: It is nice of the member for Armadale to ask a question.

This report was commissioned as a result of the Frances Mary Chan case. On 10 June I received advice and a summary of the issues raised in a draft report which had been received from Mr Smith by the Ministry of Fair Trading. Copies of the draft report were also given to the Chairmen of the Real Estate and Business Agents Supervisory Board and the Settlement Agents Supervisory Board. In mid-July the Chairman of the Settlement Agents Supervisory Board requested a further copy of Mr Smith's draft report and requested a minor factual change to part of the report, so in July this year the issues in the draft report were still under consideration. The verbal advice I have received is that the ministry accepts Mr Smith's recommendations and currently is in the process of addressing the issues raised by Mr Smith. The reason I have not tabled the report -

Ms MacTiernan: Or read it.

Mr SHAVE: - or read it, is that I have not received it.

Dr Gallop: What about taking a bit of interest in it?

Mr SHAVE: I know the Leader of the Opposition has had a particularly difficult morning, but he should listen to what I have to say.

I am told the report is 800 pages and requires a lot of assessment.

Mr Brown: No wonder you have not read it!

Several members interjected.

Mr SHAVE: The member is quite right, and I am glad he recognises that I am a very busy person.

Several members interjected.

Mr SHAVE: I did receive -

Ms MacTiernan: Tell us something about your lunch engagements. Obviously you have a gruelling schedule of lunch engagements!

Several members interjected.

The SPEAKER: Order! We have reached the situation where far too many members are interjecting.

Mr SHAVE: I appreciate the member for Armadale's concern about my lunch engagements. I understand from a mutual friend that today she had a very nice luncheon at Kings Park with Channel 7.

Ms MacTiernan: I had a glass of mineral water.

Mr SHAVE: That is nice to hear.

Several members interjected.

The SPEAKER: Order! Perhaps the Minister would get on with it.

Mr SHAVE: I know members opposite are anxious for me to read the 800 page report as quickly as possible. However, I received advice and a summary of the issues on 10 June. The report went out for further comment to see whether there had to be any amendments to it before the final report was received by me. I am told that was the undertaking given to the people involved when the report was commissioned, and it is the proper process to occur.

This report was the result of the Frances Mary Chan affair. The member for Armadale raised the issues associated with Mrs Chan and I understand these issues have, in part, been addressed by the board. The board is sympathetic to the plight of the claimants in regard to the Chan issue. To make a payment, the board must make sure that a defalcation has occurred; that is, the agency has been dishonest and misappropriated the client's fund for the personal benefit of the agent. Any delay that has occurred in providing compensation to these people has been a result of the ministry staff endeavouring to assist the claimants to present to the board their best possible case that might support a payment to the claimants. It is most unfair of the member for Armadale, who is normally a very fair person, to, in these circumstances, be criticising these hardworking public servants.

FAIR TRADING - MINISTRY

Real Estate Business Unit - Report

742. Ms MacTIERNAN to the Minister for Fair Trading:

Is the Minister telling the House that this independent report is currently being altered by members of his ministry?

Mr SHAVE replied:

The short answer to the question is no.

Ms MacTiernan: What is the real answer?

Mr SHAVE: The long answer, and I am sure the member for Armadale wants to hear it, is that an undertaking was given to certain parties to ensure that the details in the report relating to the board's activities were factual and, therefore, correct.

Ms MacTiernan: Is it getting changed by Mr Smith?

Mr SHAVE: That will be a decision Mr Smith must make.

FISHERIES - WEST COAST PURSE SEINE MANAGEMENT PLAN AMENDMENT 1997

Disallowance - Consequences

743. Mr BLOFFWITCH to the Minister for Fisheries

Last night the Legislative Council passed a motion of disallowance relating to the management plan of the west coast purse seine fishery. What will be the consequences of that decision?

Mr HOUSE replied:

This State has a very well deserved reputation for fisheries management. That reputation has been hard won over a long time under a number of governments and Ministers. Last night in the Legislative Council members saw fit to reject a management plan for the west coast purse seine fishery. Previously that fishery had not had in place a management plan of that detail. It sought to limit the exploitation of fish in a fishery in which that exploitation has doubled in the past 12 months. The plan was put in place after full consultation with the industry, after a properly constituted management advisory committee set of recommendations to me, and after the scientific advice I had received from the departmental officers was accepted and adopted in full. Yet a group of people, for whatever political reasons, have overturned that decision. Members of the Australian Labor Party, the Australian Democrats and the Greens (WA) have combined to put a natural resource in this State at severe risk of exploitation - in fact, it could wreck that fishery. The consequence of that is dramatic for this State, for its reputation, for the people in the industry, and for the way in which we go about our business. This is not the first time - it is the second time - a management plan has been overturned by members in the Legislative Council flexing their so-called political muscle. The risk associated with that course of action is to take the management of fisheries in this State out of the hands of the scientists, the industry and the proper decision making process, and to come up with political answers that could be devastating for that fishing industry. As I say, it is an industry for which we have a very good reputation around the world. I urge those people to reconsider their decision and to take the advice of the industry, the scientists and those who manage that fishery, and to make sure that they do not do anything quite as silly again.

FAIR TRADING - MINISTRY

Annual Report - Extension of Time

744. Ms MacTIERNAN to the Minister for Fair Trading:

Last month the Minister gave the Ministry of Fair Trading an extension of time within which to table its annual report.

(1) Is the Minister now able to explain why the annual report of the Ministry of Fair Trading has not been tabled, even though the extension of time granted to it expired more than a month ago?

(2) Are there figures in the report that the Minister would rather we do not see?

Mr SHAVE replied:

(1)-(2) The Ministry of Fair Trading asked for an extension for reasons related to the finalisation of the report, which had to do with general information in the report, rather than issues that someone might have been trying to hide. The member also asked whether I was concerned that people might be trying -

Ms MacTiernan: The date of the extension passed more than a month ago. It was on 16 September and the report is still not with us.

Mr SHAVE: I think the last part of the question was whether I was concerned that people at the Ministry of Fair Trading were trying to fiddle the figures. The answer is no. I have total confidence in the ministry.

HEALTH - ATTENTION DEFICIT DISORDER

Adults - Recognition and Research Funding

745. Mr MARSHALL to the Minister for Health

The coalition Government recognised and began to fund programs in schools for children with attention deficit disorder. There is a similar need for funding for programs for adults suffering from this disorder. Adults with attention deficit disorder can disrupt society in a number of ways, such as family violence, drug abuse, constantly having to lie or exaggerate and extreme mood changes. There are numerous other examples of disruption caused by ADD sufferers. I ask the Minister to advise the House whether he is aware of this adult disorder and whether money is available to assist the problem.

Mr PRINCE replied:

I thank the member for some notice of that question. The Government, at the instigation of the former Minister for Family and Children's Services, set up a technical working party on attention deficit hyperactivity disorder in children. That involved the ministries of Family and Children's Services, Education, Health and Disability Services. The working party was headed by Professor Lou Landau. The report was presented last year. At the same time the Commonwealth, through the National Health and Medical Research Council, put out a much bigger and more far reaching report, also for public comment, on attention deficit disorder. Both reports were available for public comment until the beginning of this year. A good deal of comment was received. It is a matter that should be addressed on a nationwide basis and it should not be taken up by one State to the exclusion of all others, because it clearly affects the totality of Australian people. The technical working party report, although it specifically targeted children, addressed to a certain extent attention deficit disorder among adults. The matter has now been in the hands of the mental health division of the Health Department for advice for some time, and I have had a number of discussions with Professor George Lipton on the subject. I want to take the matter forward, and we are considering how to progress the matter at present.

Members who have an interest in this subject will know there is a good deal of scientific debate on the subject about how the disorder should properly be diagnosed and the most appropriate method of treatment, particularly with one or other of the drugs commonly used or any other form of drug that should be used. It is being debated by the experts and scientists. I await the outcome. It is a matter of grave interest to the Government, which wishes to progress the matter when it can.

UNIVERSITIES - EDITH COWAN

Bunbury Campus - Minister's Decision

746. Dr GALLOP to the Minister for Education:

I refer to the Minister's admission in the *South Western Times* recently that his decision was critical in resolving conflict over the future of the Bunbury campus of Edith Cowan University, and ask -

(1) Given the Minister's claim that he needs to be "totally informed" before he can make a decision, when does he expect to be informed on this issue?

(2) When will he make a decision?

Mr BARNETT replied:

(1)-(2) I am conscious that the Leader of the Opposition has publicly supported the case put forward by Murdoch University to take over that campus. I am also conscious that a number of members of Parliament, particularly on this side of the House, also support that position.

I have not been impressed by the behaviour of the two universities involved in this matter. It is not becoming of tertiary institutions to have the public spats that have taken place. As members are fully aware, the Commonwealth Government is responsible for the funding of tertiary education places. I have had several discussions with the Commonwealth about this and I have tried on several occasions to broker a compromise agreement between the two universities. I have discussed it with the former federal Minister, Senator Vanstone, and more recently with the newly appointed Minister David Kemp. The Commonwealth handed over to me only in the last two weeks the responsibility to make that decision to resolve the matter. Until that stage I had no power and could only try to play a conciliatory role. I cannot put a time limit on the resolution, but I am sure the Leader of the Opposition, given his background, will agree that I should not jump at a decision one way or the other. There are issues to consider relating to continuity of courses, students and so on. I have concerns about the smallness of the faculty and its capacity to continue.

My proposal, to which the universities have yet to agree - it may sound bureaucratic - is to have an independent assessment of all the relevant issues. A full assessment of all the pros and cons could be done within six weeks, and I will continue to strive to reach an agreement between the universities. It is not appropriate for me to make a decision. I may have a preference but it would not be sound in terms of tertiary education planning to make a decision on that basis. I am disappointed by the issue and I have a reasonable expectation that universities and the tertiary education system will conduct themselves in a more mature way.

SCHOOLS - PRIMARY

East Busselton - Local Content of Contract

747. Mr MASTERS to the Minister for Works:

I refer the Minister to a press release that he issued last week announcing the contract for the new East Busselton Primary School, and ask: Will local subcontractors and subsuppliers in Busselton and the surrounding area get a fair slice of the contract work, given that the tender was won by a Bunbury company?

Mr BOARD replied:

I thank the member for some notice of this question. East Busselton will get a new primary school. It is a $3.9m contract, which has been won by a regional building company, Perkins Bros Builders, in Bunbury. It is too early to indicate the exact amount of work that will go to subcontractors in the Busselton-Bunbury region, but if the other primary schools in regional areas are any indication, it is likely that about 80 per cent of that $3.9m will be used for electrical, floor covering, reticulation, plastering and similar kinds of subcontract work. The vast majority of that work will go to local subcontractors.

This will be a state of the art primary school, with 14 general classrooms and two preprimary classrooms, a library, a specific art and craft room, a music room, a covered assembly area, and a canteen. I am delighted that a specially equipped education support unit for students with special needs will also be incorporated into the school. Fibre optic cabling to link schools with the latest information technology networks is now standard for these state of the art primary schools. These schools are also being designed in an environmentally friendly way with regard to lighting, maintenance and sound, and they use local products. These schools are first class -

Mr Thomas: Why do we get these boring questions each day?

Mr BOARD: Members opposite do not want to hear that 80 per cent -

Mr Thomas: It is a misuse of question time.

Mr BOARD: I will tell members opposite why we need to tell the community -

The SPEAKER: Order! I remind members that all interjections are disorderly, and I intend to tighten up on interjections that have little to do with the question.

Mr BOARD: The member for Cockburn would know that members on his side have been critical of the Government's contracting agenda and of the amount of work that is going to small business.

Mr Thomas interjected.

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

Mr BOARD: I am endeavouring to highlight that the contracting agenda is bringing about better results for the community and taxpayers, and also that 80 per cent of that work is going to small business. Members opposite do not like to hear that, but that is a fact. I assure members opposite that the people of Busselton are getting a good return for their taxes because some of that money will flow on through that building company to the local community. The people of Busselton are delighted that they will get a new primary school. Regional areas around Western Australia are being well served by our contracting agenda, and regional small businesses are also doing quite well out of it.

ENVIRONMENT - GREENHOUSE GAS EMISSIONS

Kyoto Conference

748. Mr THOMAS to the Minister for Energy:

(1) Has the Commonwealth briefed the State Government on the progress of international negotiations in the lead up to the Kyoto conference?

Mr Trenorden: Boring!

The SPEAKER: Order! I formally call the member for Avon to order for the first time.

Mr THOMAS: I continue -

(2) Has Japan offered to relocate steel mills to Western Australia to use the gas resources in this State if Australia will soften its stance on proposed greenhouse gas emission levels?

(3) Has the State Government made any representations to the Commonwealth about what Australia's negotiating position should be; if so, what has it sought?

Mr BARNETT replied:

(1)-(3) The issue of greenhouse gas emissions and the Kyoto conference covers many portfolios, including Energy, obviously, but falls primarily within the responsibility of the Minister for the Environment. The Commonwealth Government has been in consultation with the State Government, and the Commonwealth will brief the State probably within the next two weeks on its position on Kyoto. To my knowledge, there has been no discussion about any relocation of steel mills from Japan to Australia, although I have no doubt that as international awareness and concern about greenhouse gas emissions gathers momentum, we will see a progressive shift of more energy intensive industries to places such as Australia. If we are genuine about greenhouse as a global issue that is probably logical.

When I was in Japan last week I noted public commitments at a political level, and increasingly industrial levels, to try to reduce emissions by 10 per cent below 1990 levels by 2010. That is an admirable objective, but there is some doubt about whether it can be achieved. To achieve that objective, Japan will have to install 20 nuclear power stations between now and 2010. That gives a scale of the economic, social and political issues that will arise in trying to meet greenhouse targets. It is an incredibly important issue and one that this Government, through a number of portfolios, and the Premier are taking most seriously.

TAXATION - COMMONWEALTH-STATE TAX ARRANGEMENTS

Reform

749. Mr OSBORNE to the Premier:

Will the Premier please update the House on the Government's progress in developing options to reform commonwealth-state tax arrangements?

Mr COURT replied:

I tabled a background paper last week titled "The Case for Reform". I said then that I would table a further document when it was completed. That work is now completed.

[See paper No. 803]

Mr COURT: The second document lists some of the principles we would like to achieve in changes to the revenue sharing arrangements. The main principles we have outlined are to try to eliminate the vertical fiscal imbalance by getting rid of the grants, to give the States more autonomy in revenue raising, to give them access to broad based growth taxes and to rationalise the commonwealth and state taxes so that some can be eliminated.

The States in total receive about $40b a year in grants from the Federal Government which is more than the total revenues collected by the States. We accept that there would be a need to keep a small component of grants in place to help smaller States or States that are struggling; we see that as appropriate.

The Government believes that it is important that the States again have a share of the income taxes that are collected. That was the case until 1942 and we believe that in effect that is the only way we can get rid of the present major imbalance. Similarly we should have access to a share of a broad based consumption tax in whatever form that is finally worked through. In putting the list of the taxes on the table, if we move down the path of a broad based consumption tax that would be an opportunity to get rid of the many taxes that make up the narrow tax base the States have. We are trying to highlight the fact that in effect, Australia is the only federation in modern, major western economies in which this crazy imbalance occurs. All the other federations have the ability to raise the revenues they need. We will try to continue to have as well informed debate as possible on these issues.

It concerns the Government that the federal Labor Party leader sees tax reform as a second or third rate issue.

Dr Gallop: He sees the consumption tax proposal in that light. He is right too.

Mr COURT: No; my friend. He said he regards taxation reform as a second or third rate issue.

The star of new Labor, Cheryl Kernot, has a novel way of solving the problem. She says, "It seems that perhaps the obvious way to go is to get rid of the middle man by abolishing the States." That is one way to solve the problem. In tabling that document, we will continue to put forward options on these matters.

EDUCATION - TEACHERS

Remote Areas - Priority Transfer Rights

750. Mr RIPPER to the Minister for Education:

Given that more than 850 school principals and others in country school promotional positions are now stranded in the country with their expectations of transfer to the city dashed by the Government's acceptance of the Equal Opportunity Commission's demand that the teacher transfer system be abolished immediately, I ask -

(1) What is the Minister doing to -

(a) encourage good teachers to take the risk of seeking country appointments for 1998; and

(b) to honour the department's contractual obligations to those who, in good faith, accepted country appointments in recent years?

(2) Has the Minister sought legal advice on the financial liability of the department if it fails to honour these commitments to allow teachers to transfer back to Perth?

Mr BARNETT replied:

(1)-(2) The Equal Opportunity Commission's decision to effectively rule out the transfer system creates significant management problems in the education system. However, the Government will not try to appeal, oppose, or in any way circumvent that decision. It was the appropriate decision, probably not before time. Even prior to that decision, without particular knowledge of what was coming up I foreshadowed at a number of forums with teachers that the system of the appointment, transfer and promotion of teachers was antiquated and that it was the next major area for change in the education sector. I have already indicated to the State School Teachers Union of WA and others that there will be a major forum on those conditions towards the end of this year. The Government will restructure and modernise all appointment conditions for teachers. I accept the point the member makes. It is often difficult to find good, experienced teachers to work in some of the more remote and isolated parts of the State. The Government must make that proposition attractive. My colleague, the Minister for Housing, will agree - he is helping in this regard - that one of the key aims is to improve dramatically the quality of housing for teachers. Many things must be done. Frankly, I wish both this Government and previous Governments had tackled the issue of teacher appointments and conditions years ago. This action is long overdue. The equal opportunity decision has forced our hand to the limit. That is a good result. The Government must do something about this matter.

Mr Ripper: What about your obligations to those who accepted appointments in the past?

Mr BARNETT: I cannot answer that off the top of my head.

Mr Ripper: Have you sought advice?

Mr BARNETT: I have not; the department may have. The Government recognises it will be a difficult issue to handle. However, we will do it in a cooperative way, and I think we will be able to manage it properly.

EDUCATION - TEACHERS AND STUDENTS

Training in Resuscitation Techniques

751. Mr BAKER to the Minister for Education:

In view of the obvious benefits of teaching school age children resuscitation techniques, will the Minister consider making such training compulsory for both physical education teachers and all school children?

Mr BARNETT replied:

All members will agree that knowledge of resuscitation techniques and skill in using them is important for both teachers and students. Resuscitation techniques are included in the curriculum; however, they are not mandatory. Making them mandatory would be against the spirit of the curriculum. Schools are able to select the detail of their syllabus from within that curriculum. I note that resuscitation techniques are included in the Education Department's K-10 health and education syllabus. In year 7 students are asked to demonstrate expired air resuscitation techniques. In year 10 they are asked to demonstrate cardiopulmonary resuscitation techniques. Post-compulsory education offers a number of vocationally orientated courses in which the learning of resuscitation techniques is compulsory; for example, physical education studies, health studies, senior science and nautical studies. Students studying physical education teaching at the University of Western Australia are required to do either a bronze medallion or an Austswim qualification, which includes resuscitation. Edith Cowan University provides the opportunity to do similar qualifications that include resuscitation techniques. Over 70 per cent of students undertake that. It is widespread in Western Australia's education system. I would not support making it mandatory, but I encourage schools to follow that part of the syllabus.

SCHOOLS - PRIMARY

East Maddington - Crisis

752. Mr RIPPER to the Minister for Education:

How long does the Minister intend to allow the crisis at East Maddington Primary School to continue before he intervenes to resolve the issue?

Mr BARNETT replied:

Members will be aware that the so-called crisis at East Maddington relates to two young boys. It has been an issue because it is important those boys receive an education. Reports indicate the elder boy has been a particularly difficult student in the school and injunctions have been taken out by a teacher. There is great concern among the teachers and the parent body at that school. The Director General of Education, Cheryl Vardon, is personally handling this situation, and is spending a great deal of time with the mother and with teachers at the school, the union and parent groups. I do not know whether she has been successful. My understanding is that at one stage the mother of the boys agreed that the elder boy, probably the more troublesome one, would be put in a transition program into high school and that the younger boy would be able to be taken back into the school. The situation is regrettable. I do not discount the difficulties associated with these two children; however, they are young children. I share with members the desire that they be returned to a proper educational environment. It is unfortunate that the issue has attracted much publicity and that the taint of racism has come into the issue. That has exacerbated the situation, rather than resolve it so these two kids and their school can continue in a more reasonable way. I am confident the matter will be resolved.

Mr Ripper: This week?

Mr BARNETT: I cannot put a deadline on something like this. This is an extremely emotional and difficult issue on which people are taking extreme positions. I regret they do that. I urge the member opposite and those involved to consider the situation of those two young boys and their educational needs. They are difficult children to deal with. However, let us deal with those two kids and put them, not some grandstanding on issues, first.
