WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FOURTH PARLIAMENT
FOURTH SESSION
1996

LEGISLATIVE ASSEMBLY

Wednesday, 23 October 1996

Legislative Assembly

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

PETITION - KWINANA FREEWAY BETWEEN NARROWS AND CANNING BRIDGES, SINKING REQUEST

MR PENDAL (South Perth) [11.03 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We, the undersigned citizens from the Electoral District of South Perth request that the State Government consider the sinking of the Kwinana Freeway between the Narrows and Canning Bridges, and with it any proposed light-rail link between Perth and Rockingham-Mandurah. We make this request given that:
>
> (a) this section of freeway, unlike modern sections, sits at ground level, and is having increasing ill-effects on South Perth-Como such as noise, ill-effects which will increase if a railway is placed at ground level;
>
> (b) South Perth-Como paid a high price 37 years ago in accepting a freeway which restricted access to the foreshores and beaches.
>
> 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 55 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 176.]

PETITION - ALINTAGAS, REBATES

MR BROWN (Morley) [11.04 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We, the undersigned call for AlintaGas to establish a scheme of rebates or discounts for senior citizens, pensioners and other low income earners.
>
> AlintaGas is alone among the public utilities in not providing some form of assistance for low income earners and the elderly and we call on it to display social responsibility in conducting its business affairs.
>
> 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 16 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 177.]

PETITION - HOME BURGLARY LEGISLATION

MRS PARKER (Helena - Parliamentary Secretary) [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 citizens of Western Australia:
>
> Request that all members of Parliament co-operate in a bi-partisan way to ensure that the home burglary legislation is debated and passed before the end of this parliamentary session to increase the security of the homes of all West Australians.
>
> 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 79 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 178.]

PETITION - BREAST CANCER RESEARCH, FUNDING

MRS PARKER (Helena - Parliamentary Secretary) [11.06 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> The following signatures call upon the Western Australian State Government to increase its contribution to Breast Cancer Research from $0 to $2 million per year for ten years to the fight against this disease. There are so many families already suffering from the effects of breast cancer, it is imperative that the issue of research into the causes be addressed with urgency.
>
> 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 611 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

When one adds those signatures to the 23 109-signature petition that I presented last week, and the petitions presented by the member for Swan Hills, this petition now has borne more than 25 000 signatures, and is one of the largest petitions ever presented to this Parliament.

The SPEAKER: Order! With due respect, although members from time to time add comments on the number of signatures to a petition - although this petition will never catch the Fremantle railway closure petition which Mickey Mouse signed - generally speaking those comments should be brief.

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

[See petition No 179.]

BILLS (3) - INTRODUCTION AND FIRST READING

1. Iron Ore (Yandicoogina)Agreement Bill.

   Bill introduced, on motion by Mr C.J. Barnett (Minister for Resources Development), and read a first time.

2. Workers' Compensation and Rehabilitation Amendment Bill.

   Bill introduced, on motion by Mr Kierath (Minister for Labour Relations), and read a first time.

3. Water Legislation Amendment Bill.

   Bill introduced, on motion by Mr Nicholls (Minister for Water Resources), and read a first time.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL

Second Reading

MR TUBBY (Roleystone - Parliamentary Secretary) [11.14 am]: I move -

> That the Bill be now read a second time.

This Bill seeks to amend the Building and Construction Industry Training Fund and Levy Collection Act 1990 to implement the recommendations of a review conducted in accordance with the Act, the report of which was tabled in the Parliament on 11 August 1994. The Act, which incorporates the associated Building and Construction Industry Levy Collection Act 1990, established a fund to be administered by a tripartite board, the Building and Construction Industry Training Board. Membership of the board is prescribed by the BCITF Act and consists of employer groups, employee groups and government representatives. The fund was intended to give industry a voice in addressing in a comprehensive way the training needs of the building and construction industry, in addition to training already provided by Government through the technical and further education system. The Act also instituted a training levy, set at 0.2 per cent, which applied to all sectors of the industry. The levy is applied to the estimated value of all residential, commercial and civil engineering construction projects over $10 000. Originally it was $6 000.

The BCITF was established as a statutory authority with powers under section 7 of the Act to ensure the efficient collection of the levy, and to control and administer the fund. Section 32 of the Act provides for a review within six

months, commencing on the third anniversary of the day on which the Act came into operation. Mr Len Hitchen was appointed as reviewer of the Act on 2 March 1994. Advertisements calling for submissions, with a closing date of 8 April 1994, were placed in the Press on 9 and 12 March 1994. The following terms of reference were set, having regard to the provisions of the legislation -

> To review and advise the Minister for Employment and Training on the Building and Construction Industry Training Fund and Levy Collection Act, in particular -
>
> > the effectiveness of the building and construction industry training board established under the Act;
> >
> > the attainment of the objects of the Act, including -
> >
> > > the efficient and effective collection, control and administration of the levy;
> > >
> > > the efficient and effective formulation and implementation of the operational plans; and
> > >
> > > the extent to which the fund has improved the quality of training and increased the number of skilled persons in the building and construction industry;
> >
> > the need for the Act to continue in operation; and
> >
> > any changes that might be necessary concerning the future role, structure and operation of the board and the levy-fund to improve the effectiveness of the intent of the Act should the reviewer recommend the continuance of the Act.

Mr Hitchen, with policy analyst support from the Education Policy and Coordination Bureau, consulted widely, including visits to country centres to talk to builders, employees and subcontractors.

The conclusion of the review was that the BCITF Act had not been an effective mechanism to promote training in the building and construction industry and that, on balance, there was no need for the levy to continue. The review considered that the levy should be abolished. In making this recommendation, the review noted the Commonwealth Government had effectively abandoned the Australian training guarantee levy, the existence of which was used as a justification to impose the BCITF levy in the first place. In the event that the Government determined to retain the fund, the review advanced a series of recommendations to correct the failings of the current legislation.

In considering the report, the Government was mindful of the cyclical nature of the building and construction industry and the difficulties this can cause for the continuing employment of apprentices. Therefore, the views of the employer and employee parties were sought and it was decided that the fund would be extended for a further three years with the reforms advocated in the review. This would allow time for the industry to put in place its own voluntary arrangement if it deems this appropriate. The reforms in the Bill now before the House provide for -

(a) A reduction in the size of the board and abolition of the tripartite membership and voting system, which the review found had not engendered the cooperative approach between the parties that the framers of the Act had envisaged and, as a consequence, had stifled decision making;

(b) an independent chair appointed by the Minister;

(c) members appointed by the Minister on recommendation from the industry, but not representing specific groups as in the current Act;

(d) the objects of the Act to be more specific and capable of effective evaluation and the requirement for sectoral distribution of funds to be removed;

(e) an appeals mechanism to ensure that there are no continuing anomalies in the application of the levy;

(f) organisations which establish their own training arrangements to apply to the Minister for exemption; and

(g) incorporation of a sunset clause after three years of operation.

In the event that the sunset clause is invoked, the Bill makes provision for the Minister to have the power to deal with all the moneys and assets of the fund on its cessation, by transferring them to a trust and to be used at the direction of the Minister for purposes consistent with the original intention of the Act.

Industry groups or enterprises prepared to establish their own voluntary training arrangements will be encouraged to do so. The amendment Bill provides for arrangements whereby project owners may apply for a reduction or exemption from the levy. It is proposed under this arrangement that the Minister will set the policy, while the

applications for reduction or exemption will be made to the board of the BCIT fund. Its decisions are to be based upon the published policy, and provision will be made in the Bill for appeals to be directed to the Minister.

In conclusion, the Government has been made aware of the significant issues surrounding the operations of the building and construction industry training fund. In particular, the overlapping membership and functions of the Building and Construction Industry Training Council and the BCITF Board cause major concerns about conflict of interest when the beneficiaries of the fund are also determining the disposition of the moneys. This Bill corrects that and other problems identified in the statutory review and will allow the fund to better achieve the objects of the legislation, while encouraging the building and construction industry to assume responsibility progressively for its own training. Accordingly, I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

CRIMINAL CODE AMENDMENT BILL (No 2)

Second Reading

Resumed from 22 October.

MR McGINTY (Fremantle - Deputy Leader of the Opposition) [11.20 am]: This legislation seeks to do four things: First, it seeks to make provision at large for a person seeking to prevent the commission of an arrestable offence to use reasonable force. That is unobjectionable and is supported by the Opposition. The other three changes relate to burglaries and what have become known rather provocatively as "home invasions".

First, the Bill seeks to broaden the definition of a dwelling house. This is an amendment of no great consequence and the Opposition supports it. It will extend the definition of a dwelling house from what we regard as an ordinary suburban house to anywhere that people normally reside. The other two changes seek to extend the legislative capacity for a person to use reasonable force where someone has used force to gain entry to a private house or dwelling house and where they believe that an offence is to be committed. This change enables a person to use reasonable force to protect themselves and their property only where the occupier of the house is of the view that the intruder intends to commit an indictable offence. As far as this goes, it is an unobjectionable amendment but it will have no practical consequence. I cannot believe that a householder who wakes in the middle of the night and finds an intruder in his house will scratch his head and ask himself the question: Do I believe that this person is about to commit an indictable offence or a simple offence? It is not a sensible proposition that a householder, being confronted with an intruder, would ask that question, but that is what the law currently requires. It is therefore important to extend the capacity to use reasonable force where any offence is anticipated.

The Labor Party believes this legislation should go further in this respect. A threatening intruder in a house has already broken the law by being there and that should be enough to enable householders to use reasonable force to protect themselves and their property where that property is their private residence. Instead of requiring the invaded householder to come to the opinion in his own mind that an offence is about to be committed - whether it be an indictable or a simple offence - a more reasonable approach and one that would have greater acceptance with the public would be simply to pose the test in terms of the occupant's reasonably believing that the intruder is trying to enter the house without lawful excuse. In certain circumstances a person can come onto premises with a lawful excuse - for instance, in the belief that they have been invited. Quite clearly not every person on the property of another should be subjected even to reasonable force. It would be appropriate if this test were articulated in terms of someone entering the property without lawful excuse rather than requiring the householder to come to the view that the intruder will commit some sort of offence in the house.

Secondly, section 244 of the Criminal Code currently provides that that reasonable force may be used only to prevent a forceable entry into the house. The law should be changed to do away with the reference to forceable entry. Someone might be quite threateningly on someone else's property but not have used force to enter. However, they are still on the property without lawful excuse and with the intention of committing a crime.

This legislation can be improved in two ways: First, by substituting for the reference to belief of by the householder that the person who has entered the household is about to commit an offence the question of whether the person is trying to enter the house without lawful excuse; and, secondly, by changing the requirement in relation to forceable entry to enable the householder to use reasonable force where there has been or is about to be an unlawful entry into the house. Those two amendments would improve the current law, which is highly artificial and not understood by ordinary citizens. I also suggest that in the middle of the night it would not be understood by lawyers, who would not go through that process of legal reasoning to ascertain whether the offence under the Criminal Code that they anticipated to be committed was indictable. This is a step in the right direction at least.

The three changes proposed in the legislation do not go far enough. The Bill will enable reasonable force to be used to prevent the commission of an arrestable offence, and that is unobjectionable. It will broaden the definition of a dwelling house, and that is commonsense. It will also provide for reasonable force to be used where a simple offence is anticipated. These amendments are not formulated in a way that will provide a commonsense approach to dealing with this very vexed issue.

The Bill also deals with the question of graduated penalties. However, it does not go as far as it should in implementing a scheme of graduated penalties depending on the degree of aggravation or the seriousness of the offences concerned. We have a most serious problem in Western Australia with the incidence of people breaking into the homes of other people reaching what I believe is epidemic proportions. I say "epidemic proportions" because it is easy in a debate of this nature to engage in scaremongering through flamboyant assertions which prey on the sense of victimisation felt by members of the community, particularly its older members. It is important to sit back and analyse recent events in Perth in respect of burglary and home invasion.

Most members will be aware of, if not of the precise statistics, the problem of break-ins with culprits either threatening the occupant or stealing the contents of that home. According to the Australian Bureau of Statistics, in 1994-95 more than 100 000 homes in Perth were broken into unlawfully. That is a truly shocking figure, which continues to rise. More than 60 000 of those 100 000 break and enters were reported to the police, but the most staggering statistic of the lot, which should cause enormous alarm - it is a pity the Minister for Police is not here - is that only 12 per cent of reported cases were solved last year. Obviously, the solving of only 12 per cent of crimes provides the greatest incentive for people to break in, assault occupants and steal their goods; the culprits know it is unlikely that they will be brought to justice. This House must deal with the essential problem of burglary and assault; namely, that the culprits are not being caught.

Mr Cowan: You're going to add the requirement for prevention to that, are you not?

Mr McGINTY: I am outlining the problem.

Mr Cowan: If you put the correct emphasis on the Government, police and community dealing with prevention, I would agree with you.

Mr McGINTY: With due respect to the Deputy Premier, that is apparent.

Mr Cowan: It is not. Too many people say that the Government should fix it up. It is a tripartite arrangement, which requires the support of all three bodies.

Mr McGINTY: To put it in simple terms, it is pointless to increase the penalty if the culprits are not caught on whom the penalties are to be imposed.

Mr Cowan: This is only part of the process. A whole range of other things must be put in place. I appreciate that you're confined to speak to the legislation; that is fine. However, at least you must acknowledge that a whole range of other things must apply. If you draw the conclusion of what is the point of increasing the penalty if you catch only 12 per cent of culprits, you do not take stock of a range of matters. This aspect is only part of the equation. We want to raise the apprehension percentage, I assure you of that.

Mr McGINTY: A range of preventive measures should be put in place; that goes without saying. A contribution is needed from local government with lighting in the suburbs; truancy from schools must be addressed as many offences are committed during the day by truants; and a completely integrated approach is necessary. To suggest that merely increasing the penalty for the few people caught will stop people committing these crimes -

Mr Cowan: We are not making that suggestion.

Mr McGINTY: I do not suggest that the Deputy Premier was. Some people, particularly callers to talkback radio, suggest that increasing the penalty is the answer to the problem. However, the bulk of the people committing these offences know that they will not be caught. That is the problem. The approach needs to be multifaceted. Programs must be introduced to prevent home burglary in the first place.

We need a greater police presence on the streets. Commissioner Bob Falconer in a number of public statements has referred to an increased police presence acting as a deterrent. No-one wants to see police on every corner in the community as that is not conducive to the way of life we have come to enjoy; nevertheless, an increased police presence would certainly go a long way to deterring the commission of those offences.

The importance of involving the community in solving the problems cannot be overstated. Agencies such as Neighbourhood Watch, which has fallen into disrepair in recent times, should be reactivated as they are important measures in the policing of crimes.

Experience indicates that the incidence of an offence tends to decrease when a dedicated police squad targets that offence. The best way to deal with an acute problem in crime is to establish a dedicated squad to concentrate on that area. Over the years the Police Service has established the vice squad, the liquor and gaming squad, the sexual assault squad, and a series of other police squads dedicated to dealing with a particular area of crime presenting a problem to the community. The figures I cited indicate that burglary and home invasion is a community problem which dictates the need for improved policing. We need anti-theft squads in each region to target these offences, and to involve the community to develop deterrence strategies. This approach will be a preventive measure and will achieve greater culprit apprehension rates. It is a matter of priority in policing.

It is not good enough to say that general police work will pick up any call relating to burglary. We need a dedicated squad tackling that crime until we achieve a much improved level of case resolving. No level of burglary is satisfactory, but we must achieve a rate significantly beneath the 100 000 homes a year burgled in Perth. Until that is achieved, a dedicated police response is required.

One of the most common issues raised with me in respect of burglary is the sense of invasion and violation experienced by victims. Also, people say that the police response to the victim's sense of invasion is inadequate; they have not responded quickly to the initial call and have not kept people informed of how the investigation has proceeded. Too often, people are brushed off by police. It is the Opposition's view that a Police Service charter is required to set minimum standards of service the public can expect from police investigating crimes of break-in, robbery and assault in people's homes.

A small step towards taking care of the victims of these crimes will be the passage, I hope during the next few weeks, certainly before Parliament rises to go to the election, of the Criminal Injuries Compensation Amendment Bill. We currently have a scandalous situation in which victims of crime are waiting two or three years for criminal compensation to be dealt with by the criminal injury compensation assessor.

I know many people who have been the victims of crime, whose lives have been shattered as a result of particularly violent, physical attacks, quite often with a weapon. Many members of this House may have seen in the media a few months ago a report about a Fremantle resident who was the subject of a savage attack involving a knife. This person received 14 stab wounds to the neck and upper body. The victim was left for dead; he was not expected to survive. He was a technical and further education lecturer. His life and his employment are now in ruin.

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

Mr McGINTY: That person's life has been dramatically affected. He needs the money to which he is entitled under the Criminal Injuries Compensation Act now, so that he can put his life back together. If it takes three or four years for that money - it is a fairly paltry amount - to find its way to him once he has recovered, once he has put his life back together, it will come too late. It might be a nice bonus, but it will not be of any practical assistance to him. I urge the Government to give priority to the passage of the Criminal Injuries Compensation Amendment Bill and to ensure it is brought into this House either this week or next week and passed. I understand it has been introduced in the upper House and I hope it has been passed there. We see it as a priority.

The current limit on the amount of compensation available to victims of crime has not been increased for a number of years. It should be increased. A Labor Party policy paper has been put out saying that we would increase by 50 per cent the maximum amount available as compensation to the victims of crime and we would also enable courts in appropriate cases to award compensation at the conclusion of a criminal trial. That will not be appropriate in all cases, but it would do away with the need for a separate application and a current waiting time of between two and three years before the application can be properly assessed.

I know of two other cases in which victims are waiting to receive compensation. In one case a family of young women were sexually assaulted by their father. Their lives are now in tatters. These young women are desperately in need of counselling and assistance. They come from an ordinary family; they cannot afford to pay psychologists' bills, particularly now they are in a single parent family. A number of the girls in the family are all victims of the same thing. Their schooling has been disrupted and ruined. Their lives need to be put back on track now, but no assistance is forthcoming. That is a tragedy. That is why I urge the Government to bring forward the provisions relating to compensation for victims of crime that should be part of this package. It will make sure we have a well-rounded, integrated approach to dealing with this issue. Rather than simply looking at increasing penalties for the few people who are caught, we must look after the victims and at preventative measures as well. I urge the Government to make sure the criminal injuries compensation legislation is brought forward.

Mr Prince: I point out section 719 of the Criminal Code, which allows a court to decide on the compensation to be paid to a victim.

Mr McGINTY: That is in the general case; it is not the criminal injuries compensation assessment as we ordinarily understand it.

Mr Prince: You are pointing out giving the court that power; I am saying it is there already.

Mr McGINTY: I am talking about vesting in the court the power of the criminal injuries compensation assessor, which would lead to a different approach. In handling the application, the magistrate, the District Court judge or the Supreme Court judge could deal with this matter of compensation on the spot.

I can think of a number of people whose lives are being thrown into turmoil by the Government's failure to amend the Criminal Injuries Compensation Act so that their right to have compensation payments assessed can be dealt with expeditiously, thereby allowing them to get their lives back on track.

I refer to the graduated penalties. This legislation provides for burglary of a private residence to be subject to a heavier penalty than any other form of burglary that does not involve breaking into an occupied residence. It is proposed to increase the maximum penalty from 14 years to 18 years. It also provides for a crime of aggravated burglary. The case of circumstances of aggravation - they can be either the possession of a weapon or acting in the company of others - will be accorded a heavier maximum penalty of 20 years.

This issue was debated seriously in the public arena in May this year, when the Labor Party put out its policy relating to home invasion and burglary. We said that changes to the law would be made. That policy talked about repeat offenders - those who have been caught and punished on a number of occasions for breaking into other people's homes and either assaulting the occupant or stealing goods from the home. We said that a very clear message must be sent to the community and to the judicial officers, who are responsible for enforcing the laws, that the Parliament took a strong view that this sort of behaviour must be deterred. To that end, we wanted the introduction of mandatory minimum sentences for repeat offenders at the serious end of the scale, to the extent that a large proportion of the break and enter cases and the burglaries are committed by a small number of people. The Labor Party policy advocated targeting them and sending a clear message to the court that a term of imprisonment is appropriate on the third and subsequent offence of a similar nature. It was a controversial proposition, but I am pleased to see it has now been picked up and is embodied in the Government's legislation.

People who are associated with the administration of law and who are concerned with the justice system will have strong views about the removal of the judicial discretion and will probably believe imposing a sentence is a bad step. That removal of judicial discretion already exists; for example, the penalty for wilful murder in this State involves a removal of the judge’s discretion as to the penalty to be imposed, if the judge imposes strict security life imprisonment. Judicial discretion used to be the case in the Dark Ages, which were not all that long ago in this State; we might soon be returning to them if the Premier proceeds with his proposal to reintroduce capital punishment. A mandatory sentence is imposed by the courts in the case of wilful murder. The court has no discretion to do that. The notion of mandatory minimum sentencing is not unknown to the law in Western Australia; however, it is unknown in areas such as burglary and some of the mid-range offences. For the crimes at the more serious end of the scale, it is not unknown for the courts not to have a discretion as to the penalty they impose.

Having raised the issue of capital punishment, I sincerely hope, when the Premier calls the election, he will not be tempted to go down the path that he has foreshadowed - to implement his own wrongly formed opinion that capital punishment will be good for this State. It would be bad. It would plunge us back into the Dark Ages. We would be held up to ridicule and contempt generally throughout the civilised world. The sooner the Premier gets the message that capital punishment came from the Dark Ages and belongs back there, and that we should leave it there, rather than trying to score cheap political points in the community, the better.

The legislation fails to go into a number of areas associated with burglary, which I believe it should. If we are to look at a graduated range of penalties for various offences committed during a home invasion or a burglary, new offences should be inserted in the legislation dealing with wilful damage to property committed during a burglary and in relation to persons convicted of rape during a home invasion or burglary. The Labor Party has proposed that where the occupier of a house is raped during the course of a home invasion or burglary, the privilege of parole should not be available to the offender. That proposition has not been taken up by the Government, but I think it will find widespread support in the community. To enable an offender to spend part of his or her sentence in the community is a privilege, and anyone who commits the serious offence of rape while invading another person's property should forgo the right to that privilege.

Similarly, new offences should be introduced so that infliction of grievous bodily harm on a householder or occupant during a burglary or home invasion and assault occasioning bodily harm are treated more seriously than the standard offence of assault occasioning bodily harm in isolation. Some tentative steps are being taken towards graduated penalties for the more serious offences committed in association with a home invasion or burglary, particularly in

circumstances of aggravation. However, this legislation is not comprehensive because it does not deal properly with criminal injuries compensation and with the range of offences that can be committed during a burglary or home invasion. Most importantly, this legislation does not focus on what the Deputy Premier said we should focus on; that is, the 88 per cent of burglaries that go undetected, or at least unpunished, because the policing and the other preventive measures do not exist to prevent these crimes from occurring. Until we move into that area of prevention, we will not be successful in this fight.

MRS PARKER (Helena - Parliamentary Secretary) [11.51 am]: I support the passage of this Bill. There is no doubt that home invasion remains one of the most serious concerns to constituents in the area of law and order. Today I presented a petition calling on all members of Parliament to cooperate to expedite the passage of this Bill so that it can be passed in this session and become law for Western Australians in order to increase people's security.

A number of initiatives have been undertaken by the Government to improve the security of the community. They have included a commitment to put additional police on the streets. In both the former boundaries and the new boundaries of my electorate, new police stations will be built. A new police district complex will be constructed in Mirrabooka, which will cost approximately $5m. A new police station will be constructed in Morley, which will cost $1.8m. This Government has increased not only the number of police but also the amount of equipment and infrastructure provided to the police to enable them to do their job. This Government has also introduced a range of legislation that will impact on crime so that justice can be seen to be done more effectively. The Young Offenders Act has been significant in stopping the revolving door syndrome, which we were elected to deal with. It will take a while to change criminal offence patterns and occurrences because we will have to change the culture and awareness of the people who commit those crimes. However, this year we have started to see the turnaround for which we have waited and worked towards with the change in the legislation, the increased numbers of police, and the extra equipment and infrastructure. For example, car theft in Western Australia has decreased by 17 per cent this year, and homicides have decreased by 37 per cent.

The concern still being raised with me as a member of Parliament this time last year was home invasion. I do not have a legal background, so I have had to do some investigation and research to identify what can be done and what is the root cause of the problem. In the research that I did on behalf of my constituents and because of my commitment to increasing the security of the society in which we live, I found that section 401 of the Criminal Code was amended in 1991 to eliminate the concept of breaking and entering; so the very law that people were calling out for had been removed from the Statutes in 1991 by the former Labor Government. That led to the difficulty that there was no distinction between the burglary of a person's home and the burglary of a shop or warehouse. That became a critical issue, because it affected sentencing.

From the community's point of view, our homes are our castles. Whether our homes are grand or modest establishments, we regard our homes as the place where our children and family can live in peace and security. When we retire to our homes in the evening, we anticipate that they will have been secure during the day and that, more importantly, they will be secure at night while we are at home. I have noticed in my role as a member of Parliament that one can doorknock an entire street and not find anyone at home. That is quite a significant change from what I imagine some of the more senior or long serving members of the Parliament would have experienced even 15 years ago, when a greater number of families had only one adult in the work force and a greater number of people were at home during the day. That change in the way our society lives and works has resulted in a four times greater chance that a person's home will be invaded by day than by night. I became aware from my research that the repeal of that provision which defined the invasion or burglary of a home as separate from the invasion or burglary of a warehouse or other building made it very difficult to sentence in a way that reflected community values. That has certainly added to the increased number of burglaries in Western Australia, and this State does have a sad record of a very high incidence of burglary. I and other backbenchers have been discussing this issue for some time, and I am pleased that this Bill has had a fairly quick passage through the other place and into this place. I am grateful for the support and cooperation of the Opposition to ensure that this Bill passes through this House.

This Bill clearly defines the importance of the family home, which is a fundamental issue in our society. This Bill also allows people to use such force as they believe is reasonably necessary to defend their home or prevent an offence. I caution members of the community, as do police, from taking a very violent stand against home invasion. However, this Bill will allow members of our community to defend their homes if they believe their family members or property are under threat. It is important to allow people to defend their families and their property when they are under threat, if they choose to do so.

Mr Graham interjected.

Mrs PARKER: The issue has been raised throughout the debate. I cannot refer to the actual position at the moment. I am aware of the time, and I prefer to continue.

As mentioned by several speakers, this Bill will introduce mandatory minimum sentences. Although we would normally give some discretionary power in sentencing, under this Bill after a third successful conviction a mandatory sentence will be imposed.

I support this Bill. I am very grateful to the Attorney General for introducing this Bill, and to the Opposition for its support. This is a critical issue in the electorate, and we have great responsibility to provide security for the community, particularly security in people's homes. I urge the passage of this Bill through the Parliament in this session to provide security and safety for all Western Australians.

MR STRICKLAND (Scarborough) [12.01 pm]: I wish to add a few words to the debate because I am very proud of my involvement in the introduction of this legislation. Members of the government back bench have been holding meetings for some time, raising various issues relating to law and order as well as the need to get tough about the number of homes being broken into. This legislation reflects a groundswell of feeling on the government back bench and within the community, because people have had enough.

I attended a public meeting which involved the Karrinyup Neighbourhood Watch in March this year. Many people spoke about the fear in which they were living, and how they had to lock themselves inside their units. Generally these were elderly people living alone. At that stage I decided that we had done enough talking, so I framed a motion which I took to the party room. I also gave notice in Parliament that I intended to call on the Government to introduce legislation to toughen up our laws relating to violent home invasion, including the provision that should people be convicted of three minor offences they should still be sent to gaol. The motion which I framed and took to the party room in March was agreed to unanimously. Eventually the motion found its way to Parliament, and I am very proud of the fact that at least I framed a motion which caused legislation to be drawn up, even though it reflected a strong groundswell of opinion in our party room.

When I was a young child growing up, the grocer used to bring groceries in the back door because it was always left unlocked. In those days, people used to leave their keys in their cars. That was all part of life in Perth in those days. We should be sending a very clear message to people that a person's home is meant to be a safe place. Some people refer to their home as their castle, and people have no right to invade that home. We must send a loud and clear message to the community. To hell with the judiciary and any hang-ups about constraints that will be put on the judiciary when sentencing. The community must receive a very strong message that people must not enter anyone else's home. Even the police must have special approval before they can enter anyone's home. If people break into homes, even if it is considered a minor offence, on the third occasion the offender should end up in the slammer, because that is where people who break the law deserve to be. If a person is involved in home invasion and it is considered a serious matter, under this Bill the offender will end up in gaol on the first occasion.

Those are the sentiments behind my support of the Bill. We must send out a very clear message and work towards returning to the lifestyle that we had when I was young. In those days, Perth was a very warm and friendly place and people felt safe in their homes. All members of this Parliament owe it to the citizens of this State to do what they can to retrieve that situation.

DR CONSTABLE (Floreat) [12.06 pm]: I also support the legislation. In doing so, I point out that it seems to have arisen from the great expression of frustration and anger in the community, as well as among members of Parliament, about the high burglary rate across the State, but particularly in suburban areas of Perth. We need to consider not only the home invasion rate but also the terrible effect on victims of those crimes and other crimes of violence. I am sure that members who have been out doorknocking, in expectation of the coming election, will be aware of the fear people have in their homes. Ten days ago I was doorknocking in Wembley and noted that in one block, all but three houses had a loud barking dog. One of those dogs bit me on the leg, which was not a very nice experience.

Mr C.J. Barnett: That is one of the prices a person must pay for being an Independent - even the dogs bite you!

Dr CONSTABLE: They sometimes bite other people too -

Mr Graham: You didn't have Fred Riebeling with you, did you?

Dr CONSTABLE: No I did not. I can doorknock without the help of the member for Ashburton.
Screens on doors, dogs barking, and the enormous security measures that people need to take, all reflect their fears of home invasion. Not only that, it reinforces the reality, because that fear is based on reality. I have some figures on the crimes committed in the suburbs in my electorate. In the calendar year 1994, there were 1 386 home invasion/burglaries and only 106 clearances of the crimes; that is, a less than 10 per cent clearance rate. The reports of the Police Service indicate a similar situation in other parts of the Perth metropolitan area. This is not special to the electorate I represent; it covers the entire Perth metropolitan area; perhaps in some areas it is worse. To take a suburb such as Floreat, in 1994 there were 136 break-ins and seven clearances. Those figures indicate the reality of

people's fears. In the first half of 1995 there were 719 home burglaries and 57 clearances. No wonder people are fortressing themselves in their homes. It is a great pity that our community is headed in this direction.

The member for Scarborough pointed out that in years gone by people were able to leave their back doors open for deliveries to be made, and even left their keys in their cars. It would be foolish to do that today, because of the likely consequences. One can point to the problems faced by small businesses such as pharmacies and newsagencies and the break-ins that occur in those businesses. A pharmacy just 200 yards from my electorate office has been broken into three times this year. On one occasion both the pharmacist and his wife, who works in the shop, were beaten by armed bandits. The effect on them is just one example of the fear, resentment and anger that people feel when they are treated in such a way when their home or business is invaded. Among other things, this Bill will impose an automatic prison sentence of at least 12 months after the third burglary conviction.

An untold number of calls have been made for tougher sentences, and *The West Australian* and the *Sunday Times* are littered with documentation of those calls. As well as talking about tough sentences, we must talk about sentences being appropriate. The media have reported many instances of repeat offenders of burglary and sexual assault about which the community has been up in arms because it has felt that the sentences that have been given to those offenders have not been appropriate. This Bill attempts to redress that situation.

I draw attention to the fact that important legislation relating to this issue has not been proclaimed. An answer to a question I asked on notice is published in *Hansard* of 15 October and shows that the Sentencing Bill 1995 was assented to on 16 January 1996. It is yet to be proclaimed. Where is the resolve of this Government? Other legislation that went with that Sentencing Bill, the Sentence Administration Bill 1995, was also assented to on 16 January but is yet to be proclaimed. The Sentencing (Consequential Provisions) Bill 1995, which was also assented to on 16 January this year, is yet to be proclaimed. The Witness Protection (Western Australia) Bill is yet to be proclaimed, and so on. I hope some attention will be paid to those Bills, particularly the Sentencing Act, to show the resolve of the Government in this regard. Those Bills were passed in this Parliament well over 12 months ago, yet they are still not in operation. Some explanation is warranted.

During her second reading speech, the then Attorney General made these comments about the Sentencing Act -

> Taken as a package, the new Bills will facilitate the sentencing of offenders and the administration of sentences by consolidating existing sentencing provisions, providing an increased range of sentencing options, making better provision for victims and strengthening the protection of the community while simplifying the sentencing process.

She states further -

> The Sentencing Bill provides powers to the courts to sentence offenders using a range of sentencing alternatives under established rules.

She then points out the importance of the coalition's law and justice policy before the last election, which was presumably presented to the public in 1992, which she says pledges to introduce new consolidated sentencing laws for Western Australia. The Parliament has done its bit: It has passed those laws, but the Executive is yet to proclaim them. I repeat: We need an explanation for that.

Mr Prince: You'll get that.

Dr CONSTABLE: That is why I am asking for it. I thank the Minister.

Mr Prince: You might not like the explanation, but you will get it.

Dr CONSTABLE: As long as we have an explanation. An interesting editorial in *The West Australian* on 7 August this year refers to comments by the Chief Justice, David Malcolm, criticising legal rules and the restricted flexibility of judges when assessing appropriate sentences. He calls for the abolition of the one-third discount on sentences that is given ostensibly for good behaviour. As that leader article points out, it is most unusual for the Chief Justice to comment on public policy in this regard. The leader states that the arguments put forward by the Chief Justice on sentencing reform are compelling.

It is now almost four years since this Government was elected on a platform that addressed those issues. Law and order and these matters of sentencing will be a major issue in the forthcoming election. We must take definite steps forward in dealing with these important issues. We all recognise that the public is searching for answers and looks to us for those answers.

I will comment briefly about a couple of matters in the Bill. One of the issues to which attention has been drawn by the judiciary is that this Bill takes head-on a fundamental principle of criminal law; that is, judicial discretion. I

support the toughening up of measures to try to combat the sorts of crime this Bill deals with. However, we must be mindful that we are changing the direction of what can happen in the courts. Changing this notion of judicial discretion must be addressed with some caution. An explanation is needed of the costs that might emanate from this legislation. That is not to say that members should not go ahead with what the Bill proposes, but that we must know what costs might be incurred with extra prisoners and how many extra prisoners are expected in Western Australia's gaols.

There is in a sense a retrospective element to this legislation because it applies to offences already committed and, presumably, dealt with - particularly those committed by juveniles. There is no guarantee from research that tougher penalties will have a general deterrent effect. I have an amendment on the Notice Paper that would require a review of this legislation after four years so that its effectiveness as a deterrent can be assessed. I am interested to hear the Minister's response to that. Along with tougher penalties such as those proposed in this Bill, perhaps we should also look for alternatives. We should look at the reform of the parole system, of automatic remission laws, and of the one-third discount on sentences that the Chief Justice commented on, as well as the tougher penalties under this legislation. I am concerned that there seems to be no time frame for the convictions. The penalties in this legislation will apply irrespective of the time frame within which the offences were committed. For instance, someone might commit three offences over 20 or 30 years. That is quite different from somebody committing a number of crimes, in the sense of a pattern, perhaps every day or several a day, or over the period of some months. We must consider that aspect of this legislation closely.

A claim is made in the Attorney General's second reading speech that the three strikes provision targets a pattern of repeat behaviour. However, unless a time frame is placed on that, we can hardly call offences that are committed over an unlimited period, such as 15 or 20 years, a pattern of repeat behaviour. It is possible that people will be convicted under this law when their offences - I do not for one minute suggest they are not serious - were isolated episodes over a long period.

This is very important legislation which the Parliament should pass. Also, as important changes are being made to the way in which courts will deal with offenders, we must make sure that information is collected in order to assess the effectiveness of the law. I foreshadow an amendment on the Notice Paper which I shall move in Committee. This will make sure adequate data is collected so that at the end of four or five years we shall be able to determine the effectiveness of the law. It may be found that the law has been extremely effective, and that will be good. However, on the basis of that assessment, it may be necessary to strengthen the legislation.

MR LEAHY (Northern Rivers) [12.21 pm]: In contributing to this debate, I first contest some of the statements made by members opposite about the increase in the number of police officers and the resources available to them. In my electorate the opposite is the case and no doubt other members are in a similar situation. The member for Floreat indicated that the clean up rate on burglaries, which is the main area tackled by this Bill, is in the vicinity of 10 to 14 per cent.

Mr Pendal: And falling.

Mr LEAHY: Yes, it is falling. It is absolutely disgraceful. With a clean up rate of 10 per cent, what chance is there of deterring people from committing an offence? Even if capital punishment were reintroduced, the police are not catching enough people to deter them from offending. Far greater emphasis should be placed on catching offenders in the first place. Then measures can be taken to deter them from reoffending. My unit in Queens Park has been broken into on two occasions, and electrical equipment has been stolen. On both occasions the police refused to attend the scene because they said the offences were not serious enough. On one occasion, I was told by police that they would not attend because the value of equipment stolen did not exceed $10 000.

Mr Prince: A glazier arrived at my place to fix the window that had been broken before the police did.

Mr LEAHY: That is right. It is obvious that the police in this State do not have sufficient resources if they cannot attend at a dwelling which has been broken into simply because the value of property stolen does not exceed $10 000. It is absolutely obscene, and the people in this State deserve a better response from the Police Force. Of course, the police must be in a position to respond to offences of this nature.

In Carnarvon, as in many other country towns, the rate of juvenile crime fluctuates. Among the reasons for this fluctuation are the ringleaders being sent away for a period, during which the rate of offending decreases. When they return to the town, the rate increases. When these juveniles are sent to institutions in Perth they are taught new tricks and skills in crime by the other inmates, and they take those new skills back to the juveniles in the country towns. This problem was tackled some years ago when the Labor Government was in office by establishing a system of school based and community based police officers, and opening a police and citizens' youth club in the town of Carnarvon. For a couple of years it had a profound effect. The crime rate among juveniles dropped considerably

and the people of Carnarvon had some respite from the offences, especially burglary. Home burglary is not a real problem in Carnarvon, because mainly business premises are burgled.

The people enjoyed the respite that resulted from community involvement and community policing, and a more pragmatic approach by the police. The officers talked to young people in the community and the kids did not regard them as being on the other side. They began to recognise that the police could help them. This went along quite well for a while until a problem arose with the number of uniformed police in the town. A shortage arose as a result of holidays, long service leave and lack of replacement staff. Therefore, it was necessary to draw back into the system the community and school based police officers to whom I referred. That created a difficulty because they could no longer be involved in the school and community based activities. They were then regarded as part of the main Police Force and not distinctly and separately as community police officers. As a result, they lost much of their credibility with the juveniles in the town. The officers had not changed but they were regarded in a different light. Their effectiveness in Carnarvon decreased.

I am sure that situation is repeated in other areas. These officers spend a couple of years building up credibility and trust with the juveniles. When they go back to uniform duty their effectiveness declines. The Police Force needs the resources to enable it to maintain those school based and community based officers in their core role working in the community. That is not the case at the moment and until that area is addressed these problems will continue.

I am sure the lack of resources applies statewide, and the biggest complaint I hear from officers in different areas is that they do not have the capacity to respond to community concerns and they cannot provide adequate foot patrols. We all recognise that in country towns one of the biggest deterrents is foot patrols, so that people see uniformed policemen walking the streets. However, I am told by the police that they do not have the capacity or time to undertake foot patrols, and that they are still tied up to a huge extent with paperwork. The Government must continue its current trend, begun under the previous Government, of making sure much of that paperwork burden is taken from operational police officers and given to clerical staff. It is ridiculous that highly trained police officers should do clerical work, bashing away on a typewriter with two fingers, when a skilled typist could be doing that work. The Government must accelerate that process.

Mr Lewis: That is not the modern practice. Most people are keyboard literate and use word processors. That applies in all offices.

Mr LEAHY: Whether it is a typewriter or a computer, many of these officers are still using two fingers to type. They are still not skilled.

Mr Lewis: Typing pools are a thing of the past.

Mr LEAHY: I am not talking about typing pools. I am talking of police officers still typing their own charge sheets, whether on a typewriter or computer.

Mr Lewis: They must write them in some form.

Mr LEAHY: They do not need to write them. They are put in an occurrence book in the police station.

Mr Lewis: You are out of the ark.

Mr LEAHY: I worked in that area for 20 years; when did the Minister work there? I still go to police stations and I know what is going on. The information to which I refer is in the offence report and the occurrence book at the police station. It can be transcribed by a typist, and it is not necessary for a police officer to do that. I have regular contact with police officers and I am reporting what they tell me. If that is typical of the response from the government side of the House, I suggest a few of its members should talk to police officers. In fact, I was commending the Government on the current trend. It is going down the right track, but needs to accelerate the process.

Mr Prince: It is called modern practice.

Mr LEAHY: I urge the Minister to listen to me and not to his colleagues in this regard. The Government should continue with this practice.

I am critical of one aspect of this Bill, which was mentioned by the member for Floreat. Members of the judiciary are calling for more flexibility, not just in periods of remission for good behaviour but also in responding at the other end of the scale. If they were given proper flexibility, they could respond to the circumstances of each case. I do not object to the penalties available to the courts being increased. High penalties should be provided for and the judiciary should be able to respond appropriately when a high penalty is justified. However, I object to mandatory penalties. It is not sensible to put in place mandatory penalties so that the judges do not have the capacity to respond

to circumstances that may require either a more lenient or a heavier penalty. The judges are highly trained and highly paid officers. They are far more skilled to do the job than we are and they should have the capacity to carry out their duties and impose proper penalties. I do not advocate mandatory penalties; in the main they serve no good purpose and it is better to rely on the skills of our judiciary in the imposition of proper penalties.

If our judiciary does not display those skills, a mechanism should be in place by which we can change judicial officers more easily than we do now. If they do not reflect public opinion, like members of Parliament they should in some way be subject to change. We are subject to re-election every four years. If the community does not think we have reflected its will, we can be voted out of office. I am certainly not saying that I favour election of judicial officers. God help us if we went down the American path. However, we should at least be able to have some influence on their tenure if the community feels their penalties do not reflect what the public expects. The vast majority of members of the judiciary will respond in a positive manner to a wide range of penalties.

I do not agree with members opposite that police resources have been bolstered. Much more can be done. It is disgraceful that the offence clean-up rate is something like 10 per cent to 14 per cent. More resources should be given to the Police Department. Increasing the penalties for those who are apprehended will not change the situation.

MR PENDAL (South Perth) [12.31 pm]: Like other members, I like to think that some of the provisions are before the House as a result of my efforts to raise the level of community concern, particularly about the huge number of home burglaries which go unsolved.

We are told in the second reading speech that the purpose of the Bill is threefold: First, to reflect the gravity of home invasion offences by creating the new offence of home burglary with a more severe penalty; secondly, to give effect to the Murray review's recommendations that a higher penalty should be applied when aggravation accompanies burglary; and thirdly, to apply a mandatory minimum sentence when an offence forms part of a pattern - in other words, the three strikes and one is out rule.

I regret to say that the electorate of South Perth is one of the key targets for home burglaries in Western Australia. I have constantly sought to put before this House and the Minister for Police people's concerns over what appears to be a problem of not only epidemic proportions but also a low clearance rate.

I have expressed concern before in this House that over 16 years police personnel in Western Australia have increased by 22 per cent, yet the burglary clearance rate has fallen by approximately half. I say again that that indicates that something is seriously amiss within the Police Force. I recall referring in the House to the alarming statistic that 16 years ago approximately 22 per cent of all reported burglaries were cleared. When I last checked, that figure had fallen to 11 per cent statewide.

In South Perth the problem is worse. I recall drawing attention to the fact that in 1994, 93 per cent of burglaries in South Perth were left unsolved. Of the 7 per cent that were the subject of arrests - that involved 35 people - the Government was unable to tell me how those people fared once they reached the court system. In one respect it means that today, commendable as the Government's action is in introducing this Bill - I support it and will vote for it with alacrity - we are still acting blindly.

I pointed out to the Minister for Police some months ago that it does not matter that we look as though we are being tough by increasing the penalties; the result will be much the same if the courts do not act to impose them. I must admit to a degree of confusion over who is to blame in all this. On one hand I read statements by leading members of the judiciary that Parliament is at fault. On the other hand I repeatedly read people’s observations that the judiciary has the penalties at its disposal, but is reluctant to use them. Therein lies the confusion. I have not found a satisfactory answer to that. However, I proposed - I suggest that the Government should consider it even at this late stage - that some analysis be undertaken of what happens to people when they reach the courts. The Minister said that he was not prepared to put the resources into determining that. If we do not know the fate of those offenders, as I said earlier, we are acting blindly. We simply place cases before the courts, albeit a minority of 7 per cent in the case of my electorate, but we do not know their fate once they have begun their process through the courts. If we do not know that, we can only wonder whether we are doing the right thing today, although I hasten to reiterate that I will support the Bill.

It still troubles me that, as I believe the member for Northern Rivers correctly said, attempts to solve the crime of burglary have been scaled down in the scheme of things within the police culture. I have spoken to many retired senior police officers who say to me that, not in the good old days, but as recently as 15 years ago, the crime of burglary, particularly home burglary, warranted the attendance of a police officer. Often that does not occur today. That means that not only the culture of the Police Force but also its attitude to the seriousness of the crime has changed. That is not just anecdotal comment on my part.

I draw the attention of the House to a letter I received as a result of a report I tabled in this House earlier this year written by Shannon Callaghan. He is a young Curtin University graduate whom I asked to undertake some analysis which would provide answers to some of these assertions to which I have seen no answers over the years. As a result of the tabling of that document, - and a fine piece of work it was on his part - I was contacted by a retired chief superintendent from the forensic squad, a Mr John Horton, who, apart from having headed that squad, was the holder of an Australian Police Medal. He wrote to me as a result of the publicity outlining the changes he believed were needed if we are to make the parliamentary changes work properly. None of these things works in isolation. What we do in the Parliament today of itself will not be effective unless we know how these things travel once they reach the courts; we do not and therefore we are travelling blindly as I said earlier. However, neither do these things act in isolation from the way in which the police treat the crime, the point made by retired Chief Superintendent Horton. He believes that initiatives needed to reduce the number of burglaries include as far as possible a forensic examination of all crime scenes. He asserted to me with all those years of experience that the weakness in the investigative process in Western Australia is that when a burglary takes place, it is attended by a uniformed officer and often a very junior officer and that officer makes the initial report and then decides whether to call for a forensic technician. As Mr Horton pointed out to me, the problem with that approach is that the vital decision on how a crime scene is to be examined is left to someone with little or no forensic experience.

Again I say that we cannot act in isolation. We cannot create new penalties and new offences or new concepts like third time out if we leave other vital areas unattended, as Mr Horton has suggested. He advised me that forensic technicians now examine only half of the crime scenes in the metropolitan area. Therefore, all of those things that were once the subject of an experienced policeman's power of observation are to a large extent lost if he or she does not observe, and he or she cannot observe from a distance. Therefore, that forensic examination is utterly vital.

The member for Northern Rivers was a little over-generous when he said that resources were stretched. That is not true. The figures that I tabled in this House earlier this year in the Callaghan report show that in that 16 year period when our clearance rate halved our police strength in Western Australia increased by 22 per cent. One is entitled to ask therefore why the clearance rate for home burglaries has halved when there has been a 22 per cent increase in police strength in precisely the same period. Again I ask the Minister to accept that we cannot act in isolation in these things. They are part of a wider mosaic. If one or two of the pieces are left out, we may be back here next year still coming to grips with a burglary epidemic.

For all that I congratulate the Government for biting the bullet. However, I am concerned that it will not solve the problem for the reasons that I have mentioned. That will be a great pity because not only will it be a waste of this Parliament's time in the end but also it will mean that our constituents are yet to be served a real solution. I am left with the suspicion that none of our judicial officers will apply the penalties that we will put in place today. For example, the new penalty for home burglary, to use the colloquialism, will be 18 years in prison. At the moment I believe it is 14 years. I have asked on a number of occasions when the last time was that a person was sent to gaol for 14 years. No-one has answered me. However, I will bet my bottom dollar that probably half a century has passed, if ever, since a person has been sent to gaol for burglary for the maximum term as referred to in the Criminal Code. That reveals something of a culture in the courts also. I do not think the courts share the culture that comes through in the Minister's second reading speech. The Minister was quite right when he said in the second reading speech -

> The Government shares the community's concerns about the prevalence of home invasion offences and acknowledges the devastating effect which such offences can have on the lives of victims.

That is true. I am pleased that we have got so far that the Minister has been able to say that in his speech. However, that sense of outrage has not been reflected in the courts. It has happened in my home. I was surprised at the attitude of my wife to that home invasion. A male has a different attitude from a female. To me the house had been burglarised. I had lost things like signet rings and other things - merely chattels - and I put it out of my mind. My wife's feeling was that she had been invaded. It was almost a feeling that one has when one has been raped. The person went through her cupboards and her clothing. That sense of invasion referred to in the Minister's speech was experienced by my wife. A couple of weeks ago I was contacted by a woman in South Perth, whom I will identify as Mrs L. That sense of outrage that she had because her home had been burgled is what the Minister is trying to emphasise.

Although the Minister handling the legislation is not the Minister for Police, his experience in the law might help us. I would be interested to know therefore, the thinking behind our creating an 18 year penalty in one case and a 20 year penalty for aggravation, when I know in my heart of hearts that no judicial officer will impose those penalties. That is why I have asked for a review of sentencing patterns for this offence. I cannot imagine, now that I understand it more from a woman's point of view, a more offensive crime other than a physical or sexual attack on a person, because that sense of invasion is involved.

Moving on to the third part of the trifecta, I am pleased that we as a Parliament are doing what many people say we should not do; that is, play a more active role in saying to the courts what they must do. I am often surprised to hear people say that it is not up to Parliament to tell the courts what to do. The Parliament set up the courts and parliamentarians are the people who cop it in the neck every day of the week, as they should, when listening to what people have to say. In the end the people are very rarely wrong about these things. Therefore, the message that has got through to us has got through to the Government, which has reflected it by having part of the second reading speech read -

> . . . if a person convicted of an offence of home burglary has two or more previous convictions for such an offence, the court must sentence the offender to a minimum of four months' imprisonment.

To that I say, "Hooray!" If members share the belief I have tried to express in the past 15 minutes that these offences are an enormous attack on people's liberty and sense of security, then the Parliament must quickly put this into the Statute books. Above all else we must be in a position, through the Minister, to know how the new laws are working and whether they are working at all, because, if they are not, people like me will be on their feet again ensuring that something better is found. I support the Bill.

MR BROWN (Morley) [12.52 pm]: First, I shall put in context some comments that were made earlier in the day about the measures that have been taken by the Government so far in its term to stop what is colloquially termed the revolving door. The member for Helena claimed, no doubt after reading the former Attorney General's so-called factual statement, that the revolving door had been shut by the Government's 1993-94 amendments to the Bail Act, the Young Offenders Act and the Criminal Code. Although that definite statement was in the material put out by the Government, when we put a question on notice as to what research had been done to justify the statement or whether it was simply government propaganda, we found that no research had been done - none at all. It was just a broad claim that the revolving door had been slammed shut. When we look at the figures, we can see what a lie it is. I am quite happy when people raise facts in this place, but when they continue to repeat propaganda which is not based on research and which causes people in the community considerable distress, I get pretty angry. When some of my constituents are told these things have been resolved, when the propaganda sheets are out there, they know they are not true.

I shall go through some of the facts which show that statement is untruthful. I only hope that these amendments contain a great deal more honesty than the other amendments put forward by the Government to the Criminal Code, the Bail Act and the Young Offenders Act. Let me go through some of the facts rather than the propaganda. In *Hansard* of 4 April 1995 I asked this question of the Attorney General -

> Since the Bail Act was amended in March 1994, -

That was about 12 months earlier.

> - how many juveniles released on bail have had their bail cancelled as a consequence of their being charged with a serious offence?

Was the answer none? No. Do members know what the number was as a result of this successful program? Do members know how many people were charged in the year after those changes were made? The number was 528; yet the Minister was out there issuing a statement saying, "We have closed the door; we have been successful. Only 528 young people have been charged with committing criminal offences while on bail." That is the Government's success rate. It produced no statistics for the previous situation, but this is an alleged success; this represents the closing of the revolving door.

In March of this year, I asked the Minister representing the Attorney General whether there was to be a general study on the recidivism issue. Was this just propaganda and the same old rubbish we had been told before? In answer to question on notice 92 of 1996, the Minister confirmed that there would not be a study of recidivism rates. The Government was not interested in doing that, because it would interfere with its propaganda.

If we look at the number of offenders in juvenile institutions in each of the six months from October 1995 to March 1996, we will see the statistics. The question was asked as to how many offenders were in each institution during those months and how many of those offenders had been convicted of previous offences prior to the offence which caused them to be in prison. I will read the figures, the first of which shows how many detainees were at the institution and the second how many of those detainees had been convicted of offences prior to the offence for which they were then detained. For Longmore the figures at 1 October 1995 were 34 and 34; 1 November 1995, 27 and 27; 1 December 1995, 39 and 39; 1 January 1996, 28 and 24; 1 February 1996, 26 and 25; and 1 March 1996, 53 and 52. We see a similar pattern at Riverbank, which shows the Government has not had such a raging success closing the revolving door.

I asked the Minister assisting the Minister for Justice the following question: In 1995-96, how many juveniles had been placed on the supervised bail program; of the number placed on that program, how many were still on it; and how many juveniles breached the conditions of the program? The reply was that during the financial year, 106 juveniles were placed on the supervised bail program. We were told how good the program was and how the Government had shut the revolving door. The Government said, "That is it; it is closed. We have shut it and fixed it. " We asked how many were still on it at that stage. We asked how many breaches there were. Do members think that there were none, one, three or five breaches? No, there were 43 breaches, which is a failure rate of more than 40 per cent. However, the Government tells us that it has closed the revolving door.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on page 7082.]

Sitting suspended from 1.01 to 2.00 pm

VISITORS AND GUESTS

Commission on Government Members

THE SPEAKER (Mr Clarko): I welcome to the Parliament today the members of the Commission on Government, headed by Commissoner Jack Gregor.

[Applause.]

[Questions without notice taken.]

ELECTRICITY AMENDMENT BILL

Second Reading

Resumed from 27 June.

MR THOMAS (Cockburn) [2.35 pm]: I am pleased to have the opportunity to speak on behalf of the Opposition on this matter. On the face of it, this Bill is a fairly routine piece of legislation. It is a regulatory Bill, rather than a principal Bill, dealing with the electricity sector. This Bill does not relate to the Electricity Corporation Act, which constitutes Western Power; it will become an Act. It relates to an Act which places certain powers on inspectors and requirements on people participating in the electricity industry - whether as sellers of appliances or as electricians and other workers on electrical tasks. The Minister's second reading speech begins by saying this Bill is part of the reform of the energy industry which has been undertaken by the Government, the primary form of which is found in the Electricity Corporation and Gas Corporation Acts. Those Acts formed the Western Power Corporation and AlintaGas, breaking up SECWA and establishing the Office of Energy as a separate body. That heralded the reform of the energy industry in this State which, for the most part, the Opposition supported. This Bill is considered as the completion of that process. In a sense, that is true - although that is around the margins.

For the most part, I wish to talk about the way in which the Minister and the Government have been managing the reformed industry. I will comment about the substantive material contained in the Bill, as well as our proposed minor amendment.

Mr C.J. Barnett: Are you indicating that you will make a general speech on energy policy?

Mr THOMAS: The Minister should sit back and listen. He will find out what I am about to say.

Mr C.J. Barnett: You just made a statement that you will make a general speech about the energy industry.

Mr THOMAS: I am placing the Bill in its policy context. The Minister's second reading speech placed the Bill in its policy context by stating it was part of the transformation of the energy industry, for which the Government was claiming credit. It is true; that is part of this change in the energy industry. However, the Minister should not be allowed to claim credit for it without it being placed in context. The break-up of the State Energy Commission into the Electricity Corporation and the Gas Corporation - Western Power and AlintaGas - occurred following a report by Sir Roderick Carnegie. The Energy Board of Review was commissioned by my colleague, the current Leader of the Opposition, the member for Victoria Park, when he was Minister for Energy. The direction in which the State was heading was established some time prior to that.

An element of the structure under which the energy utilities operate is to do with accountability. When the transformation of the energy industry began, a number of improvements in the system of accountability were already

in place. This year the Government has introduced legislation which requires directors in all statutory corporations to be subject to Corporations Law or its equivalent. Hitherto, it was already the case that the directors of Western Power and AlintaGas were subject to those powers. However, we must acknowledge that a substantial degree of accountability had already been introduced relating to the responsibility of the directors of SECWA, as it was, when the former Government introduced provisions which said that if a Minister directed the board - that is, if directors were constrained in their actions by ministerial direction - that information had to be reported to the Parliament.

Dr Turnbull: Did you know that the former Labor Government did not actually introduce that? It was left out and it was my amendment that made sure it was included in the legislation.

Mr THOMAS: When did the member for Collie amend it?

Dr Turnbull: About two months after I got into Parliament in 1989.

Mr THOMAS: I congratulate the member for Collie. Her amendment had the support of the then Government.

Dr Turnbull: I supported the position of accountability.

Mr THOMAS: It was a recommendation pursuant to the recommendations of the Burt Commission on Accountability. That is the point I am making. These things go back quite some time. As the Minister must be aware, a number of matters concern me greatly. One of them is that the main provision for accountability in the electricity arena at least - equivalent provisions exist in the Gas Corporations Act - is a statement of corporate intent. The Opposition believes the energy utilities should not be laws unto themselves; they should be accountable. They are owned by the public and were created to serve the public. The public is rightly concerned about the way in which they operate, about the services they provide to the public and about the extent to which they engage in financial transactions. Ultimately, it is the public purse that is exposed.

Debts they acquire must be serviced by the people who pay electricity and gas bills. If the utilities are unable to meet their commitments, the public guarantee stands behind them. That is not just an academic point. In the past, taxpayers' money had to be used to bail out the State Energy Commission as it was, from gas sales agreements which were unable to be sustained. In 1985 taxpayers' money had to be used to bail out the State Energy Commission from its difficulties. If that had not been done, it is unlikely that the North West Shelf export phase would have eventuated.

Dr Turnbull: As a result of that decision in 1985 we must now use a lot of gas inventory.

Mr THOMAS: Precisely. That related to a decision made in 1978 and a subsequent one in 1980. That series of decisions goes back a long way.

Mr Bradshaw: Do you think that we should decorporatise the organisations?

Mr THOMAS: No, but I think they should be accountable. The Minister believes they should be accountable. Sections 52 to 60 of the Electricity Corporation Act provide for a document known as the statement of corporate intent. In his second reading speech in 1994 the Minister said that the statement of corporate intent was the primary tool of Western Power's accountability. Similar comments applied to the AlintaGas Bill.

Under the Acts, AlintaGas and Western Power are obliged to prepare statements of corporate intent. Each statement sets out a number of areas of finance and policy under which the organisation plans to operate for the forthcoming financial year. The utilities must prepare their statement of corporate intent two months, I think, prior to the financial year for which it will apply. It must be sent to the Minister and I think it must have the concurrence of the Treasurer. One of the matters contained in it is dividend policy.

The public and the Parliament are properly concerned about a number of matters involving the energy utilities. The Minister would like to think that the Government has set up those utilities and has given the directors responsibilities under Corporations Law so that they can do their job with very little interference from him. Seemingly the Opposition should mind its own business and let them get on with their job; that is, the public and the Parliament are not entitled to be concerned or have views about the way the corporations operate.

Those areas involve very important matters such as dividend policy. The public of Western Australia is very properly concerned about the amount that Western Power or AlintaGas will pay as a dividend to the consolidated fund. We know that Western Power wants to dismantle the uniform tariff policy. It tried to do that in Esperance, but some government members were uneasy about the impact that could have on their areas.

I have received representations from operators of private schools in remote areas who are concerned about the impact a uniform tariff policy could have on their operations. I hope that the Minister in his capacity as Minister for Education is also concerned. He is no doubt aware of the excellent, cost efficient job the Catholic school system in the Kimberley is performing in Aboriginal education. It is probably the leader in that field. A substantial impost will

be placed on that group if the uniform tariff policy is not continued. The ways in which the tariffs are constructed are legitimately matters of public concern.

Mr C.J. Barnett: You will know that has not been a big problem because tariffs have not increased in our term of government.

Mr THOMAS: They did not occur in our term of government.

Mr C.J. Barnett: That is not true.

Mr THOMAS: When was the last time they went up?

Mr C.J. Barnett: The last increase occurred in 1992. Were you not in Government in 1992?

Mr THOMAS: We were in Government for 10 years before that. We pegged tariffs under the Family Pledge and they did not increase.

Mr C.J. Barnett: Tariffs have not increased at any stage during our term of government. No other government can claim that.

Mr THOMAS: That is because this Government has been in office for only four years.

Mr C.J. Barnett: We are doing all right. We have covered probably close to 17 per cent.

Mr THOMAS: I congratulate the Government for continuing the policy of the previous Labor Government of not increasing electricity charges.

Dr Turnbull: You made that policy nine months before you lost government.

Mr THOMAS: The Government stole our policy.

Mr C.J. Barnett: You must face up to the fact that you did not perform. You failed as a Government.

Mr THOMAS: Let us talk about failures.

The SPEAKER: Order! I prefer the member for Cockburn to speak about the Bill.

Mr THOMAS: I am coming to that, Mr Speaker. This is a very important part of the panoply of legislation that affects the energy industry in Western Australia. The statement of corporate intent is required to be produced by Western Power and sent to the Minister and the Treasurer, who approve it. It then becomes the statement of corporate intent for the forthcoming financial year. If they do not agree, the drafts pass backwards and forwards between Western Power and the Minister before eventually reaching agreement. The statement of corporate intent, which is the policy framework under with the utility will operate for the forthcoming year, is then supposed to be tabled in this Parliament. Today is 23 October, the third week in October. The statement of corporate intent for Western Power for this financial year has still not been produced.

If the Minister wants to talk about failures, when he was introducing the Electricity Corporation Act in 1994 he said that this was the main tool of accountability under the legislation.

Mr C.J. Barnett: It is proving to be so.

Mr THOMAS: I am concerned when a major utility with a very substantial turnover and exposure to public debt - approximately $2b -

Mr C.J. Barnett: It is not $2b.

Mr THOMAS: Give or take a couple of hundred thousand, but it was a very substantial amount of money and it involved the exposure of public funds. Therefore, the public is very properly concerned about such an organisation. The public is informed about how the organisation is operating through the document tabled in the Parliament and the debate on it. The document is not here. What is going on between the Minister and Western Power that means that we cannot know the basis on which Western Power is operating three and a half months into the financial year? The areas I mentioned earlier to be contained in the statement of corporate intent go to such matters as tariff policy, dividends and the extent to which the organisation performs community service obligations. How can it possibly be acceptable for an organisation such as this to operate on the basis of a secret document? This happened last year as well, so it is not the first time the system has broken down and a major utility is operating in this State on the basis of a secret document. Last year when the statement of corporate intent was not published on time and I surmised on the basis of the legislation that the organisation was operating on a draft statement of corporate intent, I entered a freedom of information request for the draft statement of corporate intent. On that occasion the organisation was out

of time by only a couple of weeks, which was not all that serious. However, that request was denied and I was not able to see the draft statement of corporate intent, notwithstanding the fact that it was a legislated document because the organisation was operating on the basis of that document. The reply was that I could not see the draft statement of corporate intent because it was a ministerial document.

Mr C.J. Barnett: Of course you were not allowed to see it. You are not part of executive government. You do not bear the responsibility and you are not accountable.

Mr THOMAS: I am an electricity consumer.

Mr C.J. Barnett: You are, but not a sworn Minister.

Mr THOMAS: I am a member of the public, which ultimately must bail out Western Power, if it is not run prudently. It has happened once before.

Mr C.J. Barnett: It was in your time of government, not ours. You could not manage it.

Mr THOMAS: It was caused by a former Liberal Government. We were looking at $7b worth of debt. I use that to illustrate the point that this is not an academic principle. The public of Western Australia is quite entitled to be concerned and to take an interest in the way in which Western Power is operating. The legislation provides that the public is entitled to have certain information presented to it about the way in which Western Power will operate in the forthcoming financial year, so that it can be debated and people can form opinions about whether it will be operated correctly. The Minister said in 1994 that that was the cornerstone of the accountability measures in the legislation.

Mr C.J. Barnett: It has proven to be so.

Mr THOMAS: It is a sham. It is a great measure on paper, if one reads the document, because we have the capacity to debate in advance what Western Power will do. To find out only afterwards may be better than not knowing at all. However, we are not in a position to influence the course of events but merely hear the news after it is all over. If it is bad news, we can do nothing about it. Let us compare that with the situation we had with the North West Shelf gas agreements, which were signed in 1978 and 1980. In 1985 the State faced $7b worth of debt, which was unserviceable.

Point of Order

Mr C.J. BARNETT: I do not in any way deny that the issues the member is raising are of public importance. This Bill is about the energy efficiency labelling of household appliances and not about a statement of corporate intent or North West Shelf gas contracts. I really fail to see how the member draws the link.

The SPEAKER: Order! I believe there is merit in the point of order that the Minister has raised. It is also true that it has been the practice in second reading speeches for the lead spokesman for the Opposition to begin by making generalised remarks about the issues as a whole. He has done that. I think he is nearing the end of that period. I urge him to address his remarks much more specifically to the issues in the Bill.

Debate Resumed

Mr THOMAS: I am about to end that phase of my presentation. I am trying to set the Bill in the policy context. When I previously did that the Minister had the gall to say that we had no right to see the draft statement of corporate intent.

Dr Turnbull: That is not true.

Mr C.J. Barnett: I did not say that at all; that is absolutely misleading.

Mr THOMAS: "You are not entitled to see them" is what the Minister said. He went on to say that I was not part of executive government.

Mr C.J. Barnett: I have no authority to provide you with draft documentation. I would not do it. That is a misrepresentation of the position and you should know it. I thought you were experienced enough to know the responsibilities of executive government.

Mr THOMAS: I will put a simple proposition to the Minister, which is not too complex for him to understand. Under the legislation, if the statement of corporate intent is incomplete, the organisation operates on the most recent draft statement of corporate intent. Is that correct?

Mr C.J. Barnett: What do you mean by "operate"? The document is dynamic and management of Western Power continues. I have commented previously about the statement of corporate intent and said that there are some flaws in the process. It is an item of accountability but it is also a management tool. I have confidence in the management of Western Power.

Mr THOMAS: I am concerned as a member of Parliament representing a considerable number of constituents who has a particular responsibility on this side of the House -

Mr C.J. Barnett: Not one constituent out of all the electricity consumers has written to me asking for a copy of the statement of corporate intent. In due course it should be made public when it is finalised and I regret it has not happened.

Mr THOMAS: Under the provisions of the legislation it should be made available before the financial year in which it will operate.

Mr C.J. Barnett: This must be the twentieth time you have raised this.

Mr THOMAS: They were the terms of the Minister's second reading speech in 1994. That is so that the organisation is accountable and the public can form an opinion as to whether it is being run in the right way and make representations, as can members of Parliament. Motions may be moved in Parliament and ultimately the organisation may be sent in a different direction, if that is what people think should happen. That is what democracy is all about. Democracy depends on the flow of information. In the Minister's speech in 1994 that was the key piece of information. Under the legislation, if the statement of corporate intent is not approved, the organisation operates on the most recent draft. Does the Minister agree with that statement? The Minister chooses not to answer the question.

Mr C.J. Barnett: I was not listening.

Mr THOMAS: Will the Minister confirm that where the statement of corporate intent process is not realised, the most recent draft operates?

Mr C.J. Barnett: The document under discussion or negotiation -

Mr THOMAS: Yes or no?

Mr C.J. Barnett: Listen, my friend, you may ask a question but the one thing you cannot do is dictate how a person answers it.

Mr THOMAS: Let me tell the Minister that the answer is yes. It is quite clear and explicit; there are no ifs, buts and maybes and no mumbo jumbo about dynamic documents.

Mr C.J. Barnett: Big deal! Of course the document that people are working on is the latest draft. Why would they work on an earlier draft which has been superseded? This is hardly Einstein stuff. You should get up to speed!

Mr THOMAS: Under the legislation Western Power is obliged to operate on the basis of its statement of corporate intent. The statement of corporate intent that was tabled in this Parliament for 1995-96 has expired. Western Power no longer has a statement of corporate intent under which to operate. The legislation says it must operate under the most recent draft for 1996-97; no ifs, buts or maybes. The Minister for Energy says that we are not entitled to see that document, so the largest utility in the State is operating on the basis of a secret document. Does the Minister think that is acceptable?

Mr C.J. Barnett: Yes. This is a farce. You have made this speech about 30 times. I have said publicly in this House that the timing for the statement of corporate intent has not worked. That is the one error in the legislation. Some issues need to be discussed. For instance, it is not a secret that one of those issues is the dividend and debt policy. We have agreed to 99 per cent of it. It is not a secret. I have said it before in this place publicly.

Mr THOMAS: The Minister for Energy has not said it before. I have asked the Minister. I have suggested it several times, and the Minister has sat there with a blank face. I challenge the Minister to find a *Hansard* reference in which he has stated that.

Mr C.J. Barnett: I have talked about that openly. One of the issues is that Western Power would like some of the debt converted into equity. That has no practical implication in the day to day, even the year to year management of Western Power. It does have implications for the long term development of that business enterprise. That is an important issue in total state finances. That is an issue that is being discussed and a couple of other minor issues; big deal!

Mr THOMAS: It also has some implications in Western Power's capacity to pay a dividend, and, hence, for a Government that is coming up to an election and is suffering the consequences of a Howard-Costello budget. I am

pleased that the Minister has confirmed that. I was interested to hear him say that he has said that before, because I have asked him on several occasions by interjection and once or twice by question and he has not said a word. For three and a half months the Minister has been toing-and-froing on the issue, despite the fact that he has a legal obligation to table the document. The Minister said that his big regret with the energy corporations Acts is the existence of this provision about a statement of corporate intent.

Mr C.J. Barnett: You misrepresent me.

The SPEAKER: Order! Members will recall I commented on the points of order by the Leader of the House and Minister for Resources Development. I indicated that the member for Cockburn may care to close that broad coverage of energy that he was dealing with. I do not know; however, I presume that the statement of corporate intent is not in any way related directly to this legislation. The member for Cockburn has spoken about it a great deal, and I think he should return more specifically to the nature of this Bill.

Mr THOMAS: I was about to do that, Mr Speaker. The Minister made a statement that required a response and if you would give me five minutes or so, I will do that. The point I will make during that five minutes is that in 1994 the Minister said that this was the most important accountability requirement in the energy legislation. When this Government was elected in 1993, accountability was a word that was used often. Here we have an important issue of accountability.

Dr Turnbull: It was necessary to use it following the activity that had gone on, and had not gone on.

Mr THOMAS: Mea culpa; that is true. However, it is still the case in 1996; things have not changed. Those principles are just as important. In 1992, part 2 of the report of the Royal Commission into Commercial Activities of Government and Other Matters said that a vote without knowledge is pointless. If a person has a vote, and does not have any knowledge of what the Government is doing, the value of that vote is substantially diminished. That is a profound statement. It is one which I am sure members opposite, when they were members of the Opposition, would have been quoting and bandying about. In 1996, the Minister sits arrogantly as a member of the Executive - as he calls himself - having been in government for the best part of four years and says, "You are not entitled to it; you are not a member of the Executive." If Brian Burke had sat back in that chair during the 1980s when members opposite led by the then Leader of the Opposition, the then member for Murdoch, asked for information and said, "You are not entitled to it; you are not a member of the Executive" they would have screamed. They did scream, and they were entitled to. Members opposite now in government, as members of the Executive as they like to describe themselves, are singing a different tune. That is the point I wish to make.

The Minister began his second reading speech on this Bill by stating that this is an important part of the reform of the energy industry in this State. We agree that it is. All is not well with those reforms; there is something wrong in the state of Denmark, because the system is not working in the way it was envisaged in 1994 when the Minister brought forward that information.

Mr C.J. Barnett: I have conceded that to you publicly before.

Mr THOMAS: We are putting different spins on it. The Minister is saying it is not working, because it is too onerous to be accountable.

Mr C.J. Barnett: I have not said that.

Mr THOMAS: The Minister has said that. In order to satisfy the criteria of the Burt Commission on Accountability, the Royal Commission into Commercial Activities of Government and Other Matters, and now the Commission on Government the Minister must satisfy the requirements of the statement of corporate intent. That is an explicit recommendation of COG. No ifs, buts or maybes; that is what the Minister must do to satisfy standards of accountability for government trading enterprises. The Minister is saying that it is all a bit onerous; everything is great, except for the fact that the Government must be accountable. The Minister has been in government too long. He is getting too comfortable.

Dr Turnbull: You are dreaming. You are fabricating and extrapolating. There are mental conditions which describe people who have a piece of information and distort and extrapolate it. The Minister has given you the information, and you are now going on to extrapolate and exaggerate it.

Mr THOMAS: Member for Collie, I do not want to stretch this point, because I wish to talk about other matters. However, the Electricity Corporation Act states clearly that the public are entitled to know certain things.

Dr Turnbull: That is not your end argument

Mr THOMAS: I am concerned.

Dr Turnbull: And the Minister agrees with you.

Mr THOMAS: The Minister does not. He says that I am not entitled to know.

Dr Turnbull: He did not say that.

Mr THOMAS: Yes, the Minister did. I submitted a freedom of information request and he said I could not have that document because I am not a member of the Executive. He said, "Go away, only members of the Executive are allowed to see that".

Dr Turnbull: You are filibustering and obfuscating, because the Minister has already stated that he has a concern and he is in the process of dealing with it.

Mr THOMAS: Before 30 June the Minister had a statutory two months to sort that out; that was his job and he did not do it. I guess one could accept an extension of one week or two weeks; it would be like one of his students when he was lecturing at Curtin University of Technology obtaining an extension. He was probably tolerant if a student asked for an extension on an essay if he said that it was all a bit hard and he needed an extra week.

Mr C.J. Barnett: I rarely did.

Mr THOMAS: The Minister is a hard man with double standards. The Minister cannot get his essay in on time; it has been three and a half months! This is not a student putting in an essay; this is an important statement to the Parliament about the way the largest business in the State will operate.

Dr Turnbull interjected.

Mr THOMAS: But it must be right so that we can do our job. We must oversee the operations of Western Power. The Minister and I have a different view of the way in which the Parliament should oversee those operations - he does not think we should be very concerned -

Mr C.J. Barnett: There are minor differences of opinion about implications in the statement of corporate intent, and dividend policy and capital structure are part of that. That can be resolved in a number of ways - and I want it resolved sooner rather than later. I might be happy with what is proposed but the board may not agree. We can either reach agreement, agree not to agree and take it out of the statement or I, as Minister, can give an instruction. I want to reach agreement; I want a commitment agreed by government and accepted by Treasury and the board. We may delete some things, not because they are controversial but because the board does not agree. Those matters relate to the capital base of the organisation.

The SPEAKER: I advise the member for Cockburn to approach the content of the Bill much more directly.

Mr THOMAS: I try to but the Minister makes statements that are very hard to leave hanging in the air. He said that I am not entitled to see it, but the law says that I am.

The SPEAKER: You have made that point very clearly.

Mr THOMAS: The Minister dealt with this in his second reading speech, so why should I not do the same?

Mr C.J. Barnett: The second reading speech was about the Bill, which relates to household appliances such as stoves, kettles, refrigerators and washing machines.

Mr THOMAS: It does many other things too. The Minister talked about energy policy in general.

The Bill provides for comprehensive updating of fines, penalties, damages and fees to ensure that they are relevant to today's circumstances. When we get to Committee we will be very interested in discussing these issues in some detail. In some cases they appear to be quite onerous increases. I understand that there are good reasons for these changes. In fact, the Opposition received a briefing on this legislation, for which we were most appreciative. However, during Committee we will be seeking an explanation of some of the increases, which in some cases have gone from a couple of hundred dollars to tens of thousands of dollars. There have been some quite steep increases.

Mr C.J. Barnett: Over the past 30 years.

Mr THOMAS: Yes; nonetheless, to go from hundreds of dollars to tens of thousands of dollars is a fairly significant leap.

It is also proposed to change the definition of private generators. The current definition refers to anyone who is generating electricity for anyone other than themselves. The legislation was originally introduced when there were many small electricity generators, both private and municipal. The Act gave them powers to dig up roads, put up

poles and so on. They are significant powers. This change will reduce the number of people who will have those responsibilities and quite significant powers.

The Minister stated that two new electricity generators will be established under the restructured electricity industry. He referred to that issue at some length in his second reading speech. Those two new generators are Mission BP and the Goldfields Power Station. Mission BP is interesting because it sells electricity to BP for the Kwinana oil refinery.

The definition of electricity supplier is redefined so that it does not include someone who generates electricity for their own purposes, nor does it include someone who generates electricity for one other party. Therefore, the powers and responsibilities that accrue as a result of being a utility selling electricity at large do not apply to those entities.

Part 3 of the Bill is interesting in that it provides an extension of the powers for the approval of electrical appliances for safety purposes. Appliances must have certain standards of labelling in relation to safety before they can be sold; they must be certified as safe. At present the power to certify resides with the Director of Energy Safety. By increasing the scope of this provision it is intended to make it possible for the director to delegate that power to other people. The bodies mentioned in this respect included Standards Australia or some other body that can authoritatively investigate appliances and say that they are safe and should be able to be sold.

The Opposition has some concerns about this and I will deal with them in more detail in Committee. We are concerned that that process should not be able to be used to set up a system of self-regulation or self-certification - where manufacturers of appliances can certify their own appliances as safe. We want the present situation involving an independent body, separate from the manufacturers, which has the highest standards and which is in a position to make judgments authoritatively. However, I am prepared to concede that organisations such as Standards Australia and others could be used on occasions to assess the safety of appliances. The Opposition will move an amendment in Committee to ensure that it is not done by organisations that have a financial interest in the sale of a product.

This matter is affected by the mutual recognition agreements between the States. That is, an appliance certified as safe and able to be used in another State is able to be sold in Western Australia in any event. I understand that this matter has been the subject of ministerial council negotiations and, subject to the amendment the Opposition will move in Committee -

Mr C.J. Barnett: Have you put that amendment on the Notice Paper?

Mr THOMAS: I drafted it only this morning.

Mr C.J. Barnett: I am not necessarily against what you are proposing, but I am wary of accepting an amendment without having the wording of it checked carefully.

Mr THOMAS: I will deal with one aspect of the safety matters. There is not a large manufacturing industry in Western Australia. I have some experience with the gas appliance industry and the manufacturing of gas appliances. They, too, must be certified. The operation of an efficient, user-friendly safety certification scheme is most important in ensuring that the industry can operate properly. This element of the industry affects its costs and its ability to get products to market. It is most important that the certification process is efficient so that products can be assessed quickly without a great deal of compliance costs to the firms that submit their products for certification. As I indicated earlier, not a great deal of electrical appliance manufacturing is undertaken in this State, so it is not a large problem for those local firms. It is more of a problem within the gas industry, and I guess we will debate that matter on another occasion.

We welcome part 4 of the Bill, which regulates the energy efficiency aspects of electrical appliances. Members will be aware, if they have purchased a refrigeration or other electrical appliance within the past decade, that those products have a star rating; that is, a measure of their energy efficiency. This provision makes it mandatory for appliances - a schedule lists all the electrical appliances, the whitegoods people buy for their homes except electronic goods - to have a rating, so that people do not have to be electrical engineers to be aware that the appliances they buy have varying energy requirements for their operation and if they buy energy efficient appliances, firstly, they will be doing a good thing for the environment by reducing the overall level of energy consumption; and secondly, they possibly will be saving money.

I have said in this House and other places that the Parliament and the public must remind the utilities that the utilities are established to serve the public; they are not private sector organisations out to make a profit without any other considerations. The utilities are much more than a company, and even companies are said to have social responsibilities. I am very concerned about the marketing of the energy utilities, which seems to promote the sale of their product and the consumption of their product - that is, energy, either gas or electricity - without necessarily having the best interests of the consumer at heart. I hope an authoritative energy information service will be established to counter, in part, the marketing of the energy utilities. I would very seriously restrain the marketing of

the energy utilities which, in my view, in some cases is simply corporate self-aggrandisement and in other cases just sale of the product without regard to the best interests of the consumer, let alone the environmental concerns.

The labelling of appliances makes that possible. Mr Speaker, I have a sore throat.

The SPEAKER: I know how you feel.

Mr THOMAS: Mr Speaker, I am sure you will be saddened to know that I cannot continue my remarks.

DR EDWARDS (Maylands) [3.25 pm]: I, too, have a sore throat, so I will be brief.

The SPEAKER: That makes three of us.

Dr EDWARDS: It must be the air-conditioning. I direct my remarks to part 4 of this Bill, which looks at the mandatory labelling of common household appliances to indicate relative energy efficiency. We welcome this part very much. The labelling of the minimum standards for items such as refrigerators and freezers is also important. When we speak to people, we find they are aware of the threat of global warming and of the need to limit the emission of greenhouse gases. One of the most popular means proposed to reduce global warming is to limit emissions of carbon dioxide from fossil fuel to power stations; however, alternatives are not easy to find or fund. The conservation-type measure proposed in the legislation is extremely welcome.

I will make a few remarks about energy conservation because, being the opposition spokesman on the environment, I am concerned about it. Some of the articles I have read have said that the potential to save energy, through energy conservation, might be as high as 50 per cent and that we could do that at that level and still have a prosperous economy; however, my further reading leads me to doubt that figure. I think that is much too ambitious. There are many reasons people will conserve energy, but to conserve energy to that level would need significant behavioural change. Many studies show the public may not be willing to make the behavioural change that is needed.

However, the public is willing to buy appliances that are energy efficient. Recently I bought a new refrigerator. I went around the shops and checked the number of stars and the safety rating on the brands, and I was extremely happy with the one I got. However, when we start to tell people they should limit the length of their showers or the amount of electricity being used in other ways in the household, their resistance becomes a little stronger and we are dealing with a larger problem.

In the articles I have read quite a lot has been said about price. Given the range of articles I have read, the comments are contradictory. Some articles coming out of Sweden say that price is a strong motivation for individuals to conserve energy. They speak of research that was carried out that showed when tariffs were increased, people changed their behaviour and used energy at different times and conserved energy. I am pleased the Government has initiated that for those households who are able to take advantage of the change. I will be interested to see the final outcome and the impact it has on energy usage.

Mr C.J. Barnett: You are talking about the off-peak tariff?

Dr EDWARDS: Yes, and the new meters in new houses and the ability to tap into off-peak supply. I was fascinated when I read that in Sweden the meters are read only once a year. It was argued that if the meters were read more often, the electricity usage would be more visible. Every time I get a bill, I think my family should be turning off lights or taking minor steps to reduce energy consumption in the household.

I will relate one Swedish study I read. It showed the difficulty of people making the connection between the environment, energy conservation and behaviour to conserve energy. The study compared two towns of very similar population, with similar socioeconomic status. One of the towns, Umea, relied on hydro-electricity and the other, Vaxjo, relied on nuclear power. There is a very strong move in Sweden away from nuclear power. For the latter town there was a possibility that nuclear power would be phased out and would be replaced by gas fired power stations. In the first town, where the population was mainly students, one thought they would have got the environmental message more strongly. There was also strong concern in that town that more hydro dams would need to be built and there was concern about the local environment and the effect on the rivers. However, there was no correlation between antinuclear sentiments and an understanding of the environment and a willingness to conserve energy. That reveals that a huge lack of awareness remains about conserving energy. That is one area we must investigate.

I was interested in a comment in the article about Sweden, and a comment I have seen in other literature, on demand-side management - that is, getting the consumer to use less electricity. That feeds in to what is happening with these appliances. The article refers to a reduction in demand-side management that is causing utilities to postpone building new plants, to shut down old inefficient plants, and to reduce peak power demand. Does the

Minister have a comment on whether Perth is too small a city for that to have much of an impact? I welcome part 4 of this legislation and look forward to its being in action in the near future.

MR C.J. BARNETT (Cottesloe - Minister for Energy) [3.31 pm]: I thank members opposite for their comments. The member for Cockburn spoke at length about the statement of corporate intent and the like. I do not dispute that he has a point; however, it is not the point of this Bill. We have debated that matter before and I am sure we will debate it again, even before this session is finished.

Mr Thomas: Will we get the statement of corporate intent before the end of the session?

Mr C.J. BARNETT: Yes.

This Bill will update a number of fines and penalties and tidy up a number of Acts and matters to do with electricity legislation. Most significantly, it addresses the issue of energy efficient labelling - the so-called star rating system. Star rating systems have been around for some time in various guises. One of the problems consumers have faced, perhaps without their knowledge, is a lack of consistency in measurement. A relatively inefficient appliance measured in different ways can give differing results. It is easy to contrive a result and make an appliance appear efficient when it may not be. The legislation will provide on a national uniform basis across all States and Territories an accepted methodology for measuring energy efficiency and applying the star rating. Therefore, reliable and consistent information will be available to consumers. I agree with the member for Maylands that that is a prerequisite for people making efficient choices about appliances and energy conservation and efficiency.

A number of other things are taking place in the renewable energy and energy efficiency area. This State has achieved more than other States in renewable energy. Examples of that are the wind farm at Esperance; the photovoltaic unit at Kalbarri, which is an application of solar that works both technically and commercially; and, significantly, the development of the hydroelectricity power scheme on the Ord River that now provides for Wyndham and Kununurra and for the future expansion of the Ord River scheme.

Mr Thomas: Another one of your secret deals.

Mr C.J. BARNETT: The member for Cockburn is not very gracious sometimes. Work is also being done to determine whether it is possible to develop an application of tidal energy in the north. That may come to fruition. The use of methane from tip sites has also been captured.

This Bill and the appliance rating scheme are important to energy efficiency. Similarly, an appliance rating scheme has been put in place for housing and housing design, which is obviously even more complicated to do. That is important so that when people make a choice when having a house built or when buying a house, they will be aware of the energy efficiency of the building and of cooling and heating costs and the like. About two months ago the Government announced a renewable remote area power scheme subsidy for applying renewable energy in remote locations. Suitable applications are the pastoral industry and parts of the farming industry, isolated tourist destinations, and Aboriginal communities. I hope that will not only prove to be popular and successful, but will encourage the development of the renewable energy industry in this State.

The member for Maylands referred to the introduction of off-peak tariffs. Smart power was a commitment the coalition made in the last election campaign. It took some time for that to come to fruition. We must sit back and see the rate of uptake of that. I hope that it is rapid. If the new home building industry gets behind it, I envisage that with the right sort of promotion, over a couple of years it will become standard for a new home to be built with smart power. I hope that home builders incorporate that as part of the price of building. A few other things have also been done.

The member for Maylands commented on the uptake of renewable energy. It is an interesting area. People respond to price if there is an alternative and often a switching behaviour is shown. That in itself can present problems. One of the problems of encouraging greater application of solar hot water systems, for example, is that it is relatively efficient to switch to gas. An argument can be made that if solar hot water systems depend on an electric booster, they may not provide the same environmental benefits as a gas hot water system. What seems obvious with solar hot water systems may in fact not be true. It is often difficult for consumers to distinguish. However, I would like to see the solar industry develop and grow. That is a consideration, and there are several others.

The experience in California is that people will make decisions, even at their cost financially, to support renewable energy or to save energy - so-called green power. Sometimes people will make large contributions of up to $20 000 to have a solar collector on their roof and to have the ability to buy or sell into the grid. There is no way that decision can be justified on straight financial or commercial grounds, and even the environmental benefits may be modest. However, people will pay the money and modify their behaviour so they feel they are contributing to the

environment - and they are. Some powerful motivations and forces are at work. I thank members for their support of this legislation. It is one part of an ongoing process of energy reform and modernisation in this State.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Mr Strickland) in the Chair; Mr C.J. Barnett (Minister for Energy) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Fines amended -

Mr THOMAS: Clause 4 contains details of the amended fines. It is difficult to know the impact of these increased fines if one does not have a copy of the principal Act. The Minister advised in the second reading speech that some of the penalties had not been updated since the 1960s, and others had been updated more recently; therefore, it is not surprising that the penalties should be increased after that 30 year period. However some of the increases are remarkable. The Opposition has received some briefings on these matters and knows to what some of them relate. However it is important that the Committee be informed about the reason for the substantial increases - up to a hundredfold - set out in this clause. It is inappropriate that the Parliament should impose such penalties without a more adequate explanation than that given in the second reading speech. These are not quantitative changes one would expect with the passage of time; they are qualitative changes that warrant an explanation.

Mr C.J. BARNETT: The member is correct in saying that the penalties have been substantially increased. Part of the explanation is that many of these penalties have not been adjusted since the mid-1960s, and I think there is broad agreement that they be updated. Another consideration is that the penalties originally applied to relatively minor independent power producers. However, there are now significant independent power producers in this State, such as BHP's large power stations in the Pilbara, similar installations in the goldfields, the Ord Hydro Pty Ltd scheme, and the BP-Mission Energy cogeneration plant in the south of the State. It would make no sense to impose penalties of a few hundred dollars on major corporate entities. The substantial increase in penalties reflects both the passage of time and the change in the nature of independent power producers, which are no longer small, backyard operators.

The increase in penalties, for example, in section 33B(6)(d) relates to the safety of appliances. I think members will agree that if a manufacturer tries to sell to the public an unsafe electrical appliance, the maximum penalty should be severe. I am advised a similar act of promoting or providing an unsafe electrical appliance under trade practices law would attract a penalty of $200 000. I think members will agree with the Government and the advice it has been given that such breaches and scant regard for the public safety in something as dangerous as electricity and electrical appliances should attract potentially large penalties.

Mr THOMAS: I am grateful for the explanation. However, the Minister mentioned the Ord Hydro scheme when he spoke of electricity suppliers. Of course, that group sells power only to Western Power and the grid is operated by Western Power. I understand this legislation does not apply to Western Power which is covered by its own legislation. This Bill applies to only six generators in the State, including Hamersley Iron Pty Ltd, BHP, Western Mining Corporation Ltd, and the Rottnest Island Board. That is the jurisdiction of this clause. I am interested to know the extent to which there is commonality of provisions between those on the Western Power grids and those using grids operated by private utilities. I understand there is some variation in the penalties applied. I do not know why that should be the case. If a person is stealing electricity or tampering with a meter, whether the victim is Western Power or Western Mining Corporation, the penalty should be the same. If there is no commonality in penalties between the various utilities, why is that the case?

Mr C.J. BARNETT: There are differences in legislation, particularly that which applies to Western Power, which means the provisions do not match exactly for various reasons, including definitions and the like. However, there is broad commonality in the penalties that apply to Western Power under its legislation and to an independent power distributor under this legislation.

Mr THOMAS: Is it the Government's intention to bring the penalties into line?

Mr C.J. Barnett: They are broadly in line.

Mr THOMAS: That is not my understanding. They should be precisely in line.

Mr C.J. Barnett: For practical reasons it has not always been possible to equate one penalty in one Act with another penalty in another Act.

Mr THOMAS: The various offences by individuals - not necessarily those by the utilities - that fall within the scope of this legislation are essentially the same as those that would fall within the scope of the legislation covering Western Power. Stealing is the same, no matter who the victim is. It is not necessarily a matter of great moment, but I do not understand why the penalties should be different. Although the Minister said they are broadly similar, they should be precisely the same. If that is not the case, it may be that the legislation covering Western Power should be updated. Perhaps the Government should prepare legislation to ensure the penalties are precisely in line. If the offence is the same, the penalty for that breach should be the same whether it is an infringement against Western Power or Western Mining Corporation.

On the other side, if the offence is being committed by the utility, presumably it should be the same again, whether it is the Western Mining Corporation or Western Power. The organisations that are dealt with by this legislation are not small, private or municipal generators that existed in years gone by. They are substantial organisations. Most of them are bigger than Western Power in their size and operation, if not in their electricity generating operation. The Rottnest Island Board would be the exception. Is it the Government's intention to eliminate those anomalies?

Mr C.J. BARNETT: I am not aware of any specific plan to do that. As any legislation comes up for review or amendment, we would, as a matter of course, try to standardise definitions and penalties between legislation. I am not aware of any significant difference. There is broad comparability at present.

Clause put and passed.

Clauses 5 to 11 put passed.

Clause 12: Section 33B amended -

Mr THOMAS: Paragraph (a) effectively gives the Director of Energy Safety the power to recognise other bodies. As I said during the second reading debate, that could conceivably allow a system of self-certification or self-regulation. That is potentially serious. For some time in this country it has been recognised that, because of their nature, electrical appliances should be certified as being safe. That is an important element of consumer protection. Formerly the State Energy Commission and now the Director of Energy Safety certified appliances. The statement contained in paragraph (i) is a good idea. It should not be necessary to reinvent the wheel. If an appliance has been certified as safe in Victoria, New South Wales or another State, it should be safe here. It should not be necessary to duplicate that certification. However, it is another thing altogether for somebody who is not one of those duly constituted authorities having that power.

As I indicated earlier, I am not averse to an organisation such as the Australian Standards Association or a university department setting itself up to do certification work if it has people on staff who have the appropriate skills. A laboratory at Murdoch University does that work on gas appliances. That is good. However, my concern is that, if this clause is passed without my foreshadowed amendment, it will be possible for the director, if he were of a mind to do so, to say that companies can certify their products as being safe. That is obviously an unhealthy situation because there is the potential for a conflict of interest. These days there is a move in the private sector for quality assurance and for companies to produce products that are safe and of high quality. There is a tendency to trust companies that do that. A person manufacturing an appliance may be technically competent to certify the appliance as safe. However, he or she will also have an economic interest in ensuring that it has that degree of certification. Therefore, I move -

> Page 7, after line 19 - To insert the following subparagraph -
>
> (iii) the Director shall not accept the approval of a person who has a financial interest in the product concerned in exercising his powers under this section.

Mr C.J. BARNETT: The member for Cockburn raises a valid point. This clause relates to the approval of household appliances on grounds of safety. In principle, a conflict of interest exists if someone approving a safety requirement has a financial interest in the manufacture, sale or lease of an appliance. The Director of Energy Safety has just examined the amendment. If it is acceptable to the member for Cockburn, I am prepared to accept the spirit of the amendment. However, I would prefer to use more precise wording. That will avoid unintended conflicts.

Mr THOMAS: I am happy to accept the Minister's alternative wording.

Amendment, by leave, withdrawn.

Mr THOMAS: I move -

> Page 7, after line 19 - To insert the following subparagraph -

(iii) the Director shall not recognise the approval or mark of a person who may have a financial interest in the manufacture, sale or hire of the particular appliance.

I thank the Minister and his advisers for their assistance in drafting a more appropriately worded amendment. The previous amendment I moved provided an opportunity for a person who had a financial interest to have the capacity to recognise appliances and this amendment removes that opportunity.

In any event, we are really at the mercy of matters which are beyond our control. This is an area where coordination between jurisdictions will be needed. Under proposed subparagraph (i) appliances which have been approved by duly constituted authorities in other States will be recognised. Under the mutual recognition laws an appliance from another State can be sold in this State. In a sense, that subparagraph is redundant. Unless there is competent cooperation between the jurisdictions it will be possible for appliances which normally would not be permitted on the Western Australian market to be available.

On a number of occasions we have debated the notion of uniform laws. With the cooperation of the States it is possible in areas like this to have good standards applying throughout Australia without the need for federal intervention. The States cooperated in scaffolding and rigging laws, with which I have been involved, prior to and since Federation without the involvement of the Commonwealth. State jurisdictions can cooperate to ensure that the appropriate standards are applied. This is one area in which all States must cooperate if these standards are to be protected. I am sure all members will agree they should be protected.

Mr C.J. BARNETT: I agree with the comments made by the member. In fact, there is close cooperation between the States and Territories on these issues. Mr Conick chairs the relevant committee in this regard.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 13 to 21 put and passed.

Title put and passed.

Bill reported, with an amendment.

MINIMUM CONDITIONS OF EMPLOYMENT AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr C.J. Barnett (Leader of the House), read a first time.

CRIMINAL CODE AMENDMENT BILL (No 2)

Second Reading

Resumed from an earlier stage of the sitting.

MR BROWN (Morley) [4.06 pm]: Prior to the lunch suspension I made the observation that claims made by government members on the various changes the Government has made to the Bail Act, the Criminal Code and the Young Offenders Act have not closed what the coalition termed, prior to the last state election, the revolving door syndrome. I was quoting the figures which have been provided to me in answer to a series of questions on notice about the degree to which the Government has been successful in closing the so-called revolving door. For the benefit of members it is important that I put those figures on the record. I refer members to question on notice 478, which states -

(1) In the 1995-96 financial year, how many juveniles have been placed on the supervised bail program?

(2) Of the number placed on the supervised bail program, how many are still on the program?

(3) How many juveniles breached the conditions of the program?

The answer to the question states -

(1) 106.

(2) Seven.

(3) 43.

In other words, over 40 per cent of the juveniles placed on the supervised bail program breached the conditions of bail. Members will recall that the claims made by the former Attorney General were based on the claim that the revolving door had closed and that meant the juveniles who were on bail were, as a result of the changes made by the Government, not offending while on bail. However, clearly over 40 per cent had breached their bail conditions.

I also asked a question at that time about the Young Offenders Act as it applied to youth supervision orders. I was advised that 445 intensive youth supervision orders had been issued between 1 July 1995 and, presumably, a date close to when the question was answered, and that was in late April 1996. There was no advice at that stage about how many of the orders had not been complied with. In relation to the Young Offenders Act and offenders imprisoned and released on parole under a supervised release order, it was said at that time that 114 orders had been not complied with, and 359 orders had been complied with. Therefore, the failure rate was about 30 per cent.

I also asked questions in relation to youth community based orders, but no information could be provided to me on the number of those orders which had not been complied with. Likewise, I also asked for information on conditional release orders. Until the time of the answer in May 1996, some 300 conditional release orders had been issued, but again no information could be provided on the number of those orders which had not been complied with.

We can say from that information, or at least from as much of it that was provided by the Attorney General, that no hard information substantiates the grand claim that the revolving door has been closed. Indeed, it seems there is a paucity of information in a range of these areas.

You may recall, Mr Deputy Speaker, that earlier this year the Premier was advancing the notion that one should bring back corporal punishment in schools to instill a sense of discipline and improve the position of young people in our society. I asked question on notice 626 of 1996 to the Attorney General in these terms -

(1) Has the Government/Ministry of Justice carried out any research to determine the degree to which, if at all, the juvenile crime rate will decrease if schools are permitted to cane disobedient and recalcitrant children?

(2) Has the Government carried out any research whatsoever on the degree to which the -

(a) availability;

(b) non-availability;

of corporal punishment in schools affects the -

(c) juvenile crime rate;

(d) crime rate?

The answer was that the Government had carried out no such research; it did not know the answer. We again hear the grand statements: If we do certain things, everything will be okay, but no research is conducted and no justification is provided for such statements.

Around the time that the Young Offenders Bill was introduced, the Government made great play on the fact it was introducing compensation and restitution orders. Claims were made in the media about the set of orders by which parents of offenders would be made to meet the cost of the damage imposed by their children if the child offender refused to pay or could not pay. I remember the headline in the paper saying the scheme would work successfully.

However, a constituent of mine can attest that it has not worked successfully. He had an order issued by the Children's Court on 24 March 1995 under which the offender who had stolen and damaged his car was required to meet the cost of certain damage. My constituent was amazed to find out that he had to take responsibility for enforcing that compensation or restitution order.

Mr Prince: It was always the case.

Mr BROWN: Not being a well person, or a person who claims to have a great deal of knowledge about the justice system, he was at a loss to know what to do about the order. It might always have been the case, but the Government made grand claims when these were introduced. It said the provision would force parents to pay for damage caused by their children. The Government simply omitted to tell victims that if people do not pay after an order is imposed, the victim must take responsibility for enforcing the order and face the possible associated problems that may arise from that action; in other words, they must deal with any offender payback or any other such behaviour. Someone like my constituent, who is a senior citizen, does not have the financial or psychological strength to enforce that order. Therefore, the system is an absolute joke.

Mr Prince: Restitution has always been collected in that way. Overwhelmingly, offenders pay. There are some who do not.

Mr BROWN: My constituent knows one offender who does not pay. My constituent brought the newspaper clippings to me and said, "This is what the Government said at the time of the announcement for the restitution orders, but what do I do now?" I indicated that I had taken it up with the relevant Attorney General, who said, "It's bad luck, mate." My constituent no longer believes the claims made by the Government or various Attorneys General.

I hope with the substantial increase in penalties for burglary this Bill will lead to a reduction in that crime. However, some members of the community remain very sceptical.

Another constituent of mine wrote to me in January of this year. This constituent and her husband were both assaulted at their home and a fine was imposed on the offender. They wrote to me, 20 weeks after the order was made, when nothing had occurred in the collection of that fine. My very articulate constituent wrote to me in these terms -

> My husband and I have received the jail sentence. We have to live in a house like Fort Knox. The Police suggested it was not safe for me to walk in the street. I believe . . . criminal records and subsequent threatening behaviour supports this suggestion. This then affects me being no longer able to catch the train or bus to work. It would put me at considerable risk walking the street in the area where he lives. It is not safe for us to be at the front of our house. . . . and his associates drive or walk up and down the street from time to time and loiter at the front of our property.
>
> We have to incur the expense of paying for a parking bay in the city each month so that I can travel to and from work and avoid being caught in the street by . . . We have the expense of paying somebody to mow our lawn. We have the expense of another person to look after our garden at the front of the house. Even the young fellow who looks after the front garden reported to us he felt uneasy about some strangers he saw watching him in the garden while they were loitering on the road outside our property.

She states in a later letter that she will not open the front door to visitors and is afraid to answer the telephone because of her recent experience of threats. She asks: In reality, who is living in poor circumstances and who is paying for this crime? She states that her situation is a drop in the ocean compared to the plight of some other victims of crime.

This person then wrote to me, and I agreed to take up the matter with the current Attorney General. I do not have time to go through all the correspondence, but as a result of correspondence from the Attorney General, my constituent wrote to me again and asked me to clarify certain things. She wrote that initially she and her husband were unaware the person who had carried out the assault was on probation at the time of the assault, and she questioned why the offender was only fined. She pointed out that while the penalty was imposed in August 1995, the offender did not fulfil the order and was able to apply to the court to have the penalty changed because it was not convenient for him. The penalty was duly changed by the court. She asked, "Exactly when is this person in default of the order of the court? It seems that nothing is being done to enforce the order."

In addition, although my constituent and her husband had completed victim impact statements, those statements were not presented to the court, and she asked me to ascertain why those statements had not been presented and why the Ministry of Justice had not taken any action to enforce the default orders. I duly wrote back to the Attorney and received a further reply. Letters are still going backwards and forwards. In June, I wrote to the Attorney General again, requesting that he meet with my constituents and me to discuss their concerns. By way of an attached schedule to that letter, a variety of issues were nominated for discussion. These included what the Attorney General considered to be a reasonable period for an offender to comply with default orders, or any alternative orders imposed by the court. When no reply was received from the Attorney, I wrote to him again on 15 July, drawing his attention to my letter and saying that I had not received a response. When I received no response to that letter, I wrote to the Attorney again on 6 August, saying that two months had now passed since my last letter and requesting a response. I again wrote to the Attorney General on 20 September, three months after I had first written to him, requesting a reply.

Finally, after much badgering, we received a three paragraph response from the Attorney, which was very bland and totally unsatisfactory, in which he said that he was not prepared to meet with my constituents. The experience of my constituents in this matter is that all of the changes that have been made to the Criminal Code, the Young Offenders Act and the Bail Act have not provided my constituents adequate protection. Almost 16 months after the event the matter has not been resolved.

No doubt the Government will spend some money on advertising to tell the public of Western Australia what a great job it has done in passing this Bill, but there will be a great deal of cynicism about that while the administration of justice in this State continues to operate in this way.

MR W. SMITH (Wanneroo) [4.25 pm]: In my contribution to the debate I will touch on violence by young people generally, which at times results in the invasion of people's homes, with some disastrous consequences. I will touch also upon the tough but fair approach that we should adopt with regard to violence in our community, which the coalition Government has tried to include in this Bill.

I have come to realise that in our streets not only here in Western Australia but nationally we have an increasing number of violent youths. Their behaviour at times is so violent that it should be recognised for what it really is. I will describe them as predators, which I believe is a term that many people in the community are now starting to use, because they prey on innocent and law abiding citizens who are at rest or asleep in their homes. A man's home is his castle and should not be invaded. However, there is now quite a lot of home invasion, and it is incumbent upon the Government to give home owners some guidance about how to handle certain situations that are presented to them.

In touching on these matters, I will not be speaking as an expert on juvenile crime, because I am certainly not that, although I have experienced the consequences of youths being violent in our streets, having spent 16 years in the Police Force. All I can do is tell members what I have experienced as a police officer for those 16 years and refer to what I have heard, seen and read and to what people have spoken to me about almost daily. What I have experienced has made me frightened and apprehensive about the direction in which the community is going with regard to youth violence. In the past five or six years, the situation has become markedly worse. The State's media outlets have certainly reflected on what has been happening to taxi drivers, home owners and the like as a result of the behaviour of these violent offenders. The reasons for the increase in juvenile crime are quite obvious. A number that stand out are drugs, negative peer group pressure, the growing number of gangs, and lack of family structure. One does not need to be a statistician to come to the conclusion that all abused and neglected children may end up offending. If these children have not received the necessary care and nurturing in the first 10 years of their lives, how can we expect to rehabilitate them? That question often confronts Governments when trying to be fair and tough in the way they approach law and order problems in the community.

Young people are raised in the glare of ceaseless violence and incitement to every depravity or act. Movies, television, videos and other media, even video amusement entertainment areas, feature scores of killings. The media vie to show even more violence, which is no doubt quickly imitated in the streets. We are talking about young people's minds. Television and other advertisements teach young people that to be with it, every couple of months they must have a new pair of sneakers worth $180. How can they obtain those items from their parents who may not be in a position to afford them? How can they get the necessary money, if the parents cannot provide those material goods? The answer lies in the increasing number of home invasions.

Major corporations make and sell music exhorting listeners to brutalise and disrespect women, the police and other authority figures.

[Leave granted for speech to be continued.]

Debate thus adjourned.

GRIEVANCE - DATABIZ COMPUTING, GOVERNMENT TENDER

MR CATANIA (Balcatta) [4.35 pm]: I direct my grievance to the Minister for Disability Services. It relates to Databiz Computing, a computer company which has employed 15 people. In desperation last Thursday, Margaret Kerle, the managing director of the company, came to me. She said that her company was about to go into receivership, because a government tender had been cancelled, even though she had been led to believe her tender was successful. The tender was to supply an information technology system to the Disabilities Services Commission. She believed that the tender had been awarded to her company, as a result of a letter received from a Mr P.R. Heath, the manager of information services at the commission. In part, that letter states -

> I am pleased to formally advise you that Databiz Computing has been recommended for appointment as the provider of information technology services to the Disabilities Services Commission for the next five years . . . The delay in this final approval is an administrative rather than a technical or management issue.

After reading that letter, one can feel some sympathy for Mrs Kerle. The contract was worth $5.5m, and the company expected to make a profit of 10 per cent of that amount. On the basis of the letter from the Disabilities Services Commission, the company purchased products valued at $169 000 and paid $80 000 on wages to ensure that the tender was lodged, and to contract software and hardware. She was not contacted by Mr Heath, the manager of information services at the DSC, therefore she contacted the commission. She was told that Mr Heath did not have

the authority to award the tender, and that the tender would be readvertised. Mrs Kerle contacted the Deputy Premier, who referred her to the Minister for Disability Services.

Does the Minister consider that his department has any responsibility for the letter written by the manager for information services, Mr P.R. Heath? If so, what comfort can he offer to Mrs Kerle? She did not receive any comfort last Wednesday. What legal advice, if any, has the Minister received in order to be able to provide some comfort to Mrs Kerle?

This company is about to go into receivership, 15 employees will lose their jobs, and the directors of the company are in danger of losing their homes. Mrs Kerle has a very sick mother, and will be forced out of her home if no compensation is received from the Disabilities Services Commission, which appears to be responsible for her situation. Has the Minister for Disability Services investigated the validity of the letter? In the past, has Mr Heath awarded tenders, and did he have that responsibility? Who eventually was awarded the contract? Can the Minister advise whether he has any suspicion of corruption in the awarding of this tender?

I have a copy of another letter which was pushed under Mrs Kerle's door. This letter implies that Fujitech - the letter is on a Fujitech letterhead - would not offer any inducement to a person at the Disabilities Services Commission, because Fujitech was not to be awarded the tender; that is, it would be awarded to Databiz. From this letter, one can come to the conclusion that the worms are at work at the commission. Perhaps this is not a tender process, but a process of corruption. The Minister has a responsibility to examine the situation. I have not examined all the evidence which probably can be provided in this case. I believe that the Disabilities Services Commission has some responsibility because Mr Heath, the manager of information services at the commission, wrote a letter to Databiz which led the directors of that company to believe they had won the tender, and they spent large amounts of money on the basis of that letter.

MR MINSON (Greenough - Minister for Disability Services) [4.39 pm]: I thank the member for his grievance about which we had some discussion behind the Chair. This is one of those difficult situations involving someone who acted way outside his authority and another who was at best naive about the interpretation of a letter. I have the greatest sympathy for Margaret Kerle and her company. There is no question that she received a letter which, on the face of it, induced her to believe that her company was successful in winning a tender.

Unfortunately there is insufficient time to discuss this matter in depth. Obviously the member has been contacted by Margaret Kerle. I can offer the member a confidential, private briefing. The matter is very complicated. The member may be aware that Peter Heath is the subject of internal discipline in the Disability Services Commission. The police fraud squad became involved because the second letter to which the member for Balcatta referred, which was slipped under the door and which is purported to come from Fujitech, is alleged to be a forgery. That provoked further investigation by the fraud squad. As all the matters are before the court, particularly those that followed from investigations by the fraud squad, I may compromise court proceedings if I reveal any details.

The State Supply Commission issued the tender. At no time did Disability Services issue a tender notice. I direct the member's attention to four paragraphs: Firstly, the tender document is headed the "State Supply Commission". Secondly, concerning the acceptance of tenders, it reads -

> - Unless otherwise stated in this Request for Tender, Tenders may be for all or part of the requirement and may be accepted by the Commission either wholly or in part.

It clearly refers to the commission.

Thirdly, at item 2.13 it reads -

> 2.13 TENDERERS TO INFORM THEMSELVES
>
> Tenderers shall be deemed to have . . .
>
> (b) examined all further information relevant to the risks, contingencies, and other circumstances having an effect on their Tender which is obtainable by the making of reasonable enquiries . . .

Fourthly, at 4.6 it reads -

> 4.6 PUBLIC INFORMATION ON AWARD OF CONTRACT
>
> Following the posting of Letters of Acceptance . . .

Bearing in mind that this is State Supply Commission letterhead, I am happy to table that document for the member's perusal.

[See paper No 649.]

Mr MINSON: All that is cold comfort to Margaret Kerle because there is no doubt that her company has had to cease trading. When I met her last week I was in the difficult situation of being not only the Minister for Disability Services but also the Minister for Supply.

When this matter first came to a head some time ago allegations were made of irregularities in the tendering process and of Mr Heath's having a conflict of interest. I emphasise that they are allegations only. It was a most difficult situation for me. I sought legal advice which I cannot table. The result of the consistent toing-and-froing between the Crown Solicitor's office and my office was that I should not meet Margaret Kerle.

A couple of weeks ago the Deputy Premier, as Minister for Small Business, approached me and requested that I meet with Margaret Kerle. I considered the case and, as it had reached the stage where someone had been charged, there was no real reason that I should not meet her. I therefore allowed her that meeting. Although I have the greatest sympathy for her, the Crown Solicitor advises more strongly than ever that the Disability Services Commission has no liability in this matter. Mr Heath knew that he was acting way outside his jurisdiction.

Mr Catania: Mr Heath was still employed by that department.

Mr MINSON: That is right. However, not only did Mr Heath know that he was acting outside his jurisdiction, but also the letter contains provisos that another step must be taken. I agree that he goes over the top with encouragement, but he says "recommend for the appointment". The tender document has nothing to do with the Disability Services Commission.

Mr Catania: Margaret Kerle did not know that he did not have any authority; she accepted that he did. That point should be investigated.

Mr MINSON: The end result of that matter from Margaret Kerle's point of view will rest on whether the Disability Services Commission and the State Supply Commission put sufficient checks and balances in place to ensure that people in their employ do not behave in an irresponsible way, and make it clear in the tender documents that the only body that can advise is the State Supply Commission. The Crown Solicitor's advice is to the effect that both those requirements are satisfied. As a Minister, I am bound by that, no matter how sorry I feel for Margaret Kerle, and I feel extremely sorry for her. Soft stories were the making of WA Inc.

GRIEVANCE - PLANNING STRATEGIES, LOCAL AUTHORITIES POWERS

MR BOARD (Jandakot) [4.47 pm]: My grievance is directed to the Minister for Planning. It may seem a bit of a paradox that I begin my grievance to the Minister by congratulating him on what I consider are some very constructive and broad-based, long-term planning policies that have been introduced into Western Australia since we were elected to government and since he was appointed Minister. Those broad brush planning strategies have created a predictability in planning which did not exist prior to 1993.

Mrs Hallahan: That is rubbish.

Mr BOARD: It is exactly right. That vision is being frustrated to some extent by another tier of government; that is, some local authorities which do not have vision and which in some instances create difficulties for people wanting to fulfil planning strategies. Members may be aware that the reason Western Australia, particularly Perth, has had such strong growth over the past decade is that it has available some of the cheapest land and housing lots in Australia. It is one of the reasons people not only from around the world but also from the Eastern States come to settle here. They find those prices very attractive and build a lifestyle based on being able to provide themselves with quality, affordable housing.

The Western Australian Planning Commission was established in 1995 as the premier planning authority in the State. The commission is ensuring improved coordination in land use planning, and is attempting to provide a whole-of-government approach to urban infrastructure and services to developers. The State planning strategy was also launched in 1995. One of the most significant initiatives of the State Government was a large planning strategy of vision which takes us through to, I think, the year 2020 when probably more than 2.5 million people will be living in the City of Perth.

The strategy is broad brush and provides an environment for developers to look to where future urbanisation may be taking place in Western Australia. Members might reflect on what happened in the late 1980s and early 1990s when large numbers of people were camping out in Perth, in particular, trying to get hold of a shortage of land created by short-term planning strategies and minor amendment processes. To the credit of the Minister, through amendment processes, large areas of land have been brought on stream. Approximately 10 000 acres have been zoned for urban use through 22 or more major amendments that have come before the Parliament over the last few years. Much of the effort has been focused on providing a long-term vision for planning, maintaining the affordability of blocks and bringing on low cost housing for which Western Australia and particularly Perth is famous.

One of the problems facing development at the moment is the unrealistic demands by some local authorities which are frustrating that development process. It has come to my attention in my own areas and those close to my electorate that, prior to development approval, local authorities have been asking for funds from developers for such facilities as parking, local road infrastructure, bike paths, footpaths, refuse collection, environmental studies, water studies - myriad costs which in the end are passed on to the consumer. They are causing an unrealistic increase in the price of blocks in Western Australia. We no longer have the cheapest blocks in Australia because we are beaten by South Australia. The real cost of providing blocks to the market is getting higher every year. Much of that cost is not brought about by land shortage and market conditions, but by local authorities making unrealistic demands which are then passed on to the customer.

Mrs Hallahan: What is unrealistic about it?

Mr BOARD: The Minister can deal with that. The other issue I shall deal with in the short time I have left for my grievance is the strategy of providing Perth with urbanisation or infill coupled with a sense of bringing the community back by planning strategies, particularly by local town planning schemes. The vision for Perth is for sensible, mixed development which provides a good quality of life and opportunity for people in the future to be able to work from their homes and access public transport close to their homes.

Many of these strategies are again being frustrated by local authorities which continue to want to maintain a wholly single residential status and do not see the opportunities and excitement created by mixed development in the city of Perth. I put it to the Minister that some coordination on a whole of Government basis is required in Western Australia if we are to give full effect to the initiative brought about by the Government.

MR LEWIS (Applecross - Minister for Planning) [4.54 pm]: I thank the member for Jandakot for bringing this grievance to the House. I am appreciative of his kind remarks. I want the House to reflect on the situation that existed four or five years ago. As the member has said, young aspiring home owners faced a shortage of housing land. From time to time they were forced to camp out for up to a week at a time in order to secure a housing allotment. On coming to Government we recognised that and, indeed, made quite large changes to the way that matters were dealt with when assessing and reserving land.

Mr Leahy: Now they are camping out permanently.

Mr LEWIS: I absolutely reject that statement from someone who obviously has not got his finger on the pulse. I accept that perhaps he has not because he is a country member and is not really aware of what happens down this way.

Mr Leahy: The member for Jandakot said that the price has sky-rocketed.

Several members interjected.

The DEPUTY SPEAKER: Order!

Mr LEWIS: It is true that we have done quite a lot for the provision of housing land in our Perth region. We came to Government with a promise to bring on 10 000 hectares for urban zoning. We have exceeded that and it is more like 14 000 ha. We have provided for 430 000 people to live in the Perth region. The House has to appreciate that at the same time we have increased regional reservations in the Perth area by 90 per cent. We have added another 32 000 ha to the 36 500 that existed in 1992. We have provided 80 per cent more land for parks and reserves than for housing or urban use. That in itself tells the story.

The member's grievance was principally that local authorities were acting outside their responsibilities and jurisdiction when making unrealistic and what I consider to be improper and sometimes immoral demands of local owners who wish to develop their land. At the moment I am having discussions with the peak council of local government, the Western Australian Municipal Association, on the basis of getting together a peer group to speak to councillors so that they may be educated as to the extent of their powers and the responsibilities of local authorities with regard to land and the town planning laws of Western Australia. It is unfortunate that some councillors are very ignorant of that process, and the extent of their responsibilities and how they should administer planning law.

The facts are that local government administers a power devolved from the Acts of this Parliament through the responsibility of the Minister and the Western Australian Planning Commission. Local authorities have never had the power to approve town planning schemes. At the end of the day, that power has always been the responsibility of the Crown. The basis is that a town planning scheme is considered an Act of this Parliament. This Parliament has authorised the Minister of the day who has the responsibility of approving a town planning scheme or amendment. Some local authorities believe that they have power over the direction of town planning schemes, and they say to proponents that they must do this or that. Sometimes, without any authority, they make demands that are fundamentally a tax on development. Some local authorities have demanded either a percentage of gross revenue

of a development as a tax to be paid into the rate revenue of a council or a straight lot fee of $1 000 or $2 000 for something that has not been specifically identified. Those local authorities demand that those moneys be paid into a general fund for what they call social infrastructure, which is very hard to identify.

Western Australia has prided itself - the previous Government as well as this Government - on the highest standard and the most affordable housing in Australia by a country mile. This Government has set its sights on ensuring that the quality of housing relative to its cost continues to lead the rest of Australia. Local authorities must realise that they are part of the process, and they should not try to exercise powers they do not have to place unrealistic demands on land owners.

GRIEVANCE - PUBLIC SECTOR, GOVERNMENT PLANS

MR BROWN (Morley) [5.01 pm]: My grievance is directed to the Minister for Public Sector Management and concerns the plans that the Government may have for the public sector if it is the will of the people that the Government is returned at the next election. The Minister may be aware of some public comment, and certainly some private discussion, about the nature of the Government's alleged plans for the public sector. A number of people have asked me to put their concerns about those plans. Is it the Government's intention to create a range of super-ministries? The number of ministries varies according to the people to whom one talks; however, it certainly will be fewer than the number of ministries at present. The results will be numerous and varied with fewer Ministers and, perhaps, more assistant Ministers. More particularly, it will result in the amalgamation of departments and agencies and the bringing together of administrative arrangements in such a way that there will be redundancies or, at least, jobs disappearing from the public sector.

Public sector employees are well aware of the provisions of the Public Sector Management Act which enable the Government to order public sector workers to take up jobs in the private sector at 80 per cent of their rate of pay, or to face disciplinary action if they fail to comply with an order of that nature. They are also aware of the manner in which redeployees in the public sector have been treated. A number of redeployees have been allocated empty offices without anything to do; and Westrail employees are being psychologically forced out of employment, simply on the basis that Westrail or the government employer wants to get rid of them. This is an opportunity for the Minister for Public Sector Management to put on the record whether any consideration has been given to those ideas, and, if so, what the implications are for public sector workers. Those public sector workers to whom I have spoken are, to put it mildly, nervous about the future. A number of public sector workers who are members of the Civil Service Association still have the volume of the CSA journal that was published prior to the last election which contains the Premier's election promises to them, and they contrast those with the actions of the Government. They also have the newspaper clippings of the then shadow Minister for Labour Relations, now the Minister for Labour Relations, who stated that he would resign immediately from the Parliament if any public servant was sacked. They also have that Minister's later public statement in which he claimed public servants meant salaried public servants and not government workers. This time around public sector workers will look very closely at the Minister's plans. I want to report faithfully to those people what the Premier will put on record in his capacity as Minister for Public Sector Management. The Premier can choose whether he will answer. However, this is an opportunity for him to place his plans on the record. If the Premier chooses not to do that, it will carry a certain message to public sector workers.

I find it incredible that Ministers in this place continue to answer questions on notice by hiding behind a provision of the Public Sector Management Act which allegedly enables them not to answer questions about promotions in the public sector. Those Ministers claim that section 105 of the Public Sector Management Act precludes a Minister from reporting to the Parliament on certain promotional matters. If that is the view of Ministers, it is in stark contrast to the view of the Commissioner for Public Sector Standards. The commissioner says that the Public Sector Management Act does not preclude Ministers reporting to this Parliament details of promotions within the public sector, and that Ministers can do that if they wish. I wrote to the commissioner earlier this year to obtain his views. However, despite the views of the commissioner being made known to Ministers, they continue to respond in this place and say that they cannot provide information or simply will not provide information on promotions in the public sector on the basis that they are prohibited from doing so under section 105(1)(a) of the Act.

I ask the Minister for Public Sector Management to respond so I can report faithfully to those people in the public sector who speak to me about, first, the Government's intentions and, second, whether he intends to instruct his Ministers to comply with the advice of the Commissioner of Public Sector Standards.

MR COURT (Nedlands - Minister for Public Sector Management) [5.08 pm]: I thank the member for Morley for raising this issue, which has been raised both inside and outside the House on other occasions. I appreciate the opportunity to put on record the discussions that have taken place and what our proposals will be if we have the privilege of being re-elected to Government. The member does not have to worry about scuttlebutt. The issue of the structure of departments in the public sector has been debated and discussed openly. The Government arranged

a seminar earlier this year to discuss this issue. Along with most of the Cabinet, about 40 or 50 chief executive officers attended that seminar. That seminar was facilitated by outside people. We ran through all the different scenarios, including the current structure, the structure that operates in other States and in some countries and what we thought would be the best arrangement for Western Australia. Our structure is certainly quite different from that of other States. For example, we have about 49 main departments, Victoria has eight and Queensland has 18. However, we also have a number of smaller operations that have CEOs. Some are so small they simply do not have and cannot have the expertise required to assist them with some of their basic reporting functions, particularly as we are moving to a sophisticated accrual accounting system across government.

As a result of that discussion, and very much in line with what the Government would like to do, it was agreed that we should not move to the so-called Victorian model, which involves a small number of very large departments. That would not be a workable proposition in Western Australia because of some of our regional characteristics. However, there was broad agreement to cut the number of departments. It is absurd to have well over 100 CEOs and duplication in some of the smaller operations. I cannot give the member a precise figure for the optimum number of departments. There will certainly be a rationalisation, but we will not implement the Victorian model with eight super ministries. I am only too well aware that that creates both efficiencies and inefficiencies. I see the need for a greater number -

Mr Brown: So you are looking at Queensland with about 20?

Mr COURT: No. The consensus of that meeting was that we should rationalise the number of departments. We left that discussion with the agreement that we would come back with the preferred practical groupings that would enable us to rid ourselves of the large number of very small operations.

Mr Brown: Have you done that?

Mr COURT: We have not completed that. We meet regularly with the CEOs and have workshops, which I attend. We will not put forward a proposition that does not have the broad support of the CEOs, because they are responsible for implementing government policy. One thing that we have done well is work closely with that body and we have addressed the recommendations that it has made.

Mr Brown: What are the employment implications?

Mr COURT: The member does not want to be too cute about redundancies and reducing the size of the public sector because the Lawrence Government ran quite major redundancy programs, and some areas of the public sector were cut considerably.

We do not envisage the need to cut the numbers to anywhere near the extent we have in our first term of government. We have made most of the major changes in size. However, we do have a shortage of certain skills that are now required. That will require us both to recruit those skills and to retrain within the public sector. For example, when government runs on a simple cash accounting system it does not need many people with accounting qualifications. However, when it uses a sophisticated accrual accounting system it needs skilled accountants. Because we have a shortage in that area, we are recruiting and encouraging people already in the public sector to train themselves further. The other shortage of skills is in the contract management area. I cannot provide the precise number, but I believe we have already put about 300 or 400 people through contract management training courses. I will provide the member with a more precise figure. That is a good example of retraining within the public sector.

A working group chaired by Dr Des Kelly is addressing the recommendations of the Fielding report covering a number of areas that the member mentioned. It will report on the CEOs' perspective of those recommendations.

We do not mind having a public debate on public sector management; it is healthy. We do not have a hidden agenda; we have been quite upfront in working through these matters with the stakeholders.

GRIEVANCE - PARKING FEES TO ACCESS BEACHES, PROPOSAL

MR BLAIKIE (Vasse) [5.15 pm]: From the outset I place very firmly on the record my opposition to the notion of local governments with coastal foreshores charging parking fees. The enjoyment of these areas by Western Australians is very important. It is a rather extraordinary privilege. People in other parts of the world comment time and again about public access to our beaches. Of course, in many countries such access is not available. That public freedom and enjoyment should be continued.

My opposition stems from two very salient points. I have been involved in local government and I have a very great regard for it. However, I am very much aware of what happens once precedent is established. If one local government starts charging for parking, others will follow suit. The area that I represent is one of the principal tourist attractions in Western Australia. Notwithstanding what local government does, there is the danger that big brother

government will follow in the same footsteps. Along with my parliamentary colleague the member for Warren, I represent the Leeuwin Naturaliste ridge. Only a short time ago - six or seven years - the Department of Conservation and Land Management proposed that people pay to go to the beaches in that area. Not only the visitors but also residents would pay. I am sure that CALM would now very strongly deny that that proposal was put forward, but I was around when it happened.

It does not matter whether it is applied to the beach at Yallingup, Prevelly, Gracetown, Hamelin Bay or Bunkers Bay. About a million people a year go into the Leeuwin-Naturaliste National Park. What a bonanza charging a fee for entry into that park would have been for the Department of Conservation and Land Management. If local government charges a fee for people to park their vehicles so they can access the beaches, I have not the slightest doubt CALM will do exactly the same in the D'Entrecasteaux National Park, notwithstanding there are some traditional users of it, because the precedent will have been set.

I refer to the principles I have sought to have established when this debate arose before. I firmly support CALM being able to charge fees when it establishes facilities of some significance in national parks. In my electorate CALM has been involved in establishing some comprehensive walkways near Ellensbrook House. For those projects fees can be charged, and should be. By the same token within the same national park a system of caves has been established which provides a very important avenue for tourists, and members of the public pay to go into those caves. I support that principle. Visitors are charged a fee to access the facility at the Cape Naturaliste Lighthouse. I am endeavouring to encourage CALM to use the best of its resources to extend that facility, to establish an ecomuseum within that area. Once CALM has established a major infrastructure, I would be delighted for it to charge people to view it.

However, going to the beach has been part of our lifestyle and I am implacably opposed to charging people to park on roads that are funded by local government, and I will continue to be opposed to it. Depending on when the election is held, I might be in this Parliament next year. However, after this Parliament rises, I will not be in the next one. It is important that I set the record straight and to take the opportunity during this speech to pass on my views to people who may represent my electorate in the future.

Local government has the ability to charge, innocent as it may be, but once it is applied, it establishes a precedent. Once that happens, given the propensity of CALM to milk the public purse, I have no doubt future Governments will allow that to continue. It is a matter of concern to me that we continue to observe the principle of permitting public access to beaches without the payment of fees. Going to the beach is a privilege that all Western Australians enjoy. Within my area the tourism industry is worth about $100m a year. Local government has the ability to levy charges and to provide benefits to the whole of the community. A vastly different set of circumstances applies to my electorate from those that apply to the Gold Coast which has a population of a quarter of a million. I implore the Minister for Local Government to ensure local government authorities do not proceed down the path of charging the public to park so they can have access to the beach.

MR OMODEI (Warren - Minister for Local Government) [5.23 pm]: I thank the member for Vasse for presenting his grievance. There is a lot of common ground in what he said. As the member said, we share some of the same territory with the Leeuwin-Naturaliste National Park being in my electorate, and there is a lot of public access within the Warren catchment in the lower south west area. Yes, the member and I and others have been opposed to the Department of Conservation and Land Management charging the public to get to some of those broader areas. A very recent project is the tree-top walk in Walpole in the Valley of the Giants. In that case there is a valid reason for CALM charging people a fee to access that facility.

Mr Blaikie: CALM invested a lot of money in that.

Mr OMODEI: It was about $2m. Last weekend or the weekend before about 3 000 people went over the walk. As it gains notoriety that number will increase which will provide CALM with revenue to do other things in the national park.

If the local government authority or CALM charged an entry to the reserve under council control that is adjacent to Salmon Beach in Windy Harbour - one of the icons in the lower south west area - we would have civil unrest. Commonsense dictates that that should not occur. It is coincidental that the member should raise this issue today, when yesterday the Cottesloe Town Council was considering a proposal for payment for parking to access Cottesloe Beach. Although the council has not made a decision yet, there is apprehension within the community that the council may proceed with that proposal.

There are facilities along the coast - for example, Observation City where there is a parking facility - for which people already pay, and that can probably be justified. If the Cottesloe Town Council were to proceed - I do not think this

Parliament would let it proceed - it would create a precedent, with every other local government authority in the State going down the same path.
Part and parcel of the Australian psyche and the Australian way of life is to be able to access a beach to go for a swim. It would be most unusual if a local government had to pursue a person in the courts for not paying a fine that was incurred as a result of not putting money in a parking meter while he was at the beach. Can members imagine a local government authority fining a person for, in effect, going for a swim? Associated with that default is the possibility of that person losing his driver's licence. What about the council fining a local lifeguard who provides a voluntary service to some beach goers?

Mr Board: The exception to that is that the local government can charge users for local parks and local roads.

Mr OMODEI: It certainly does. It highlights the fact that when politics are introduced into an issue, as has been the case today by the Opposition in trying to promote this issue, commonsense often goes out the window. There is a need to allow local government to go through its due process. At a public meeting 350 people demanded the Cottesloe Town Council conduct a survey about whether it was viable to institute an arrangement for payment for parking along the beach. The results of that survey will go to a committee. The committee has supported the proposition and the recommendation will go to a full council meeting for a final decision. The decision has not been made, yet public comment has appeared in all media outlets as though the proposal were already law.

I will go through the relevant parts of the Local Government Act to allay some concerns of the member for Vasse. In that way, he will know about the local law making power, which replaces the old by-laws, which have been transferred into the new legislation as local laws. I recommend all members read section 3.5 of the Local Government Act because it is quite thorough. It states that the State Government may make regulations about the purposes for which local laws are not to be made or the kinds of laws that are not to be made, and a local government authority cannot make a local law about such a matter or for such a purpose. It goes on to talk about model local laws. Section 3.9 states that the Governor may cause to be prepared model local laws and the model local laws have no effect, except to the extent to which they are adopted. Section 3.9(3) states that the Governor may, by notice published in the *Gazette*, amend a model local law published under that section. The Act then goes on to talk about the creation of offences and prescribed penalties. More importantly, it refers to the local law and how it is to be advertised. A copy of the proposed local law may be inspected at any time. As soon as the notice is given, a copy of the local law and the notice are to be given to the Minister, and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister as well. After making the local law, the local government is to publish it in the *Government Gazette* and give a copy to the Minister. The Minister may give directions to a local government requiring it to provide the Parliament with copies of the local laws it has made and any explanatory or other material relating to them. The local law comes into effect after the fourteenth day. The most important part is that the Governor may amend or repeal local laws and that the Minister is to give a local government notice in writing of any local law the Government is to amend.

The powers are strong. The Minister, on recommendation from the Governor, may control the law making power of the local government. When the Government says that people will be able to go to the beach without paying, it is making it clear to the public that that is what will happen.

The ACTING SPEAKER (Mr Johnson): Grievances noted.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Second Reading

Resumed from 25 September.

MRS EDWARDES (Kingsley - Minister for Fair Trading) [5.33 pm]: The Commercial Tenancy (Retail Shops) Agreements Act was introduced by the Labor Government in 1985. It featured specific provision for a comprehensive review after five years of operation. I suppose many people would say that given the length of time the review has taken, it is about time for another review. Consistent with that commitment, a statutory review program was conducted by the Small Business Development Corporation. That program was completed and a report of its findings and recommendations was tabled in Parliament in December 1991. The report recommended that the Act continue tp operate, subject to changes to the Act and associated regulations. The reason for the Act at that time was to give rights to tenants that they felt they did not have under common law to address some of the practices by landlords. The former Government, however, for reasons of its own, chose not to progress the outcomes recommended in the review report.

Further consideration of amendments to this legislation, which everybody will agree is complex and controversial, did not occur until after the election of the present Government in 1993. I was heavily involved in the consultation process in those early years prior to the coalition coming into government and I attended many public meetings at

which serious concerns were raised by many tenants, not just through the tenant organisations. It is important to reflect on the fact that many tenants still feel that they cannot comment about the operation of their leases and the practices of the landlords because they are concerned that that could affect their livelihood. Many tenants mortgage their homes when they go into shops. They work extremely long hours, often for what seems to be little reward, particularly in climates in which little retail activity is occurring. Anyone who does not recognise that cannot have spoken to shopping centre owners and their tenants.

Hon Gordon Hill as the opposition spokesman for small business introduced a Bill in early 1993 to amend this Statute. That was despite the inactivity of the former Government for some 14 months after it tabled the report in Parliament. In 1993 Hon Hendy Cowan, the Minister for Small Business, directed the Small Business Development Corporation to convene an independently chaired consultative group of key industry stakeholders to review the report that was tabled in Parliament in December 1991 and to develop amendment recommendations for consideration.

As a consequence of those recommendations and arrangements, in September 1993 Cabinet approved the development of an amendment Bill to incorporate changes relating to the interpretation of definitions, assignment and subleasing questions, rent reviews, contributions to landlord expenses, determination of the existence of a lease, and consequences of avoiding provisions in retail shop leases.

During that developmental phase the Government became aware that industry consensus did not exist on many of the amendments to be featured in the Bill. Members will recognise that the various stakeholders who will have an interest in the commercial tenancy legislation will not agree on everything that each stakeholder would like to see in the legislation. However, the consultation process that was undertaken and the Bill we are debating at the moment have tried to reach, not a consensus approach, but an approach by which there is something for everybody. That is the only way we can deal with legislation that is complex. Although the member opposite said that the legislation was simple and not controversial -

Mr Catania interjected.

Mrs EDWARDES: It is controversial; the amendments can be simple. It is often a matter of working through these issues. In that developmental phase by which government became aware that industry consensus would not exist on many of the amendments that were featured in the Bill, there was a responsibility to ensure that further consultation of all stakeholders occurred. In February 1994 drafting was transferred from the Small Business Development Corporation to the Fair Trading portfolio and further consultation with the key industry stakeholders was undertaken, vindicating the Government's concerns about the absence of industry consensus. In the interim, the terms and conditions of some of those earlier proposals were redeveloped to better reflect some of the industry views and concerns. The process was further complicated to some extent by the need to accommodate what was identified only recently as legal deficiencies in the apportionment of operating expenses under strata title arrangements. Members opposite will acknowledge that.

Notwithstanding those difficulties and the need for further lengthy and complex consultations, the Government has remained committed and has continued to progress the development of important amendments. The Government does not want bad legislation introduced into this Parliament.

Mr Catania: Are you saying the Opposition's legislation is bad legislation?

Mrs EDWARDES: I will go through some of the concerns which the Opposition's Bill does not address. I am pleased to advise members that I met with industry stakeholders on Monday afternoon.

Mr Catania: How many times have you met with them?

Mrs EDWARDES: I have met them many times since taking over the portfolio. On Monday we went through the amendments to this legislation. It was presented as a package and that was important because of the various interests involved, and the concerns on the part of the tenants that the Government should meet the commitment it made in its policy platform at the last election. The Government wants to ensure that the concerns of small businesses are addressed.

The Government's Bill aims to address a variety of industry issues about the operation of the current legislation. That includes assignment and subleasing, and tenants' contribution to sinking funds. That was of major concern to many people, particularly where deficiencies had been identified and it was put to the tenants that their contributions should be increased. It also includes auditing requirements. Operating expenses, such as strata management fees, and land tax were major issues in the industry. For example, when a landlord had more than one property and land tax was passed to the tenants, often that land tax was based on properties in which the tenants had no interest. That is one of the key issues the industry raised with the Government. The amending Bill also addresses the auditing requirements for operating expenses, and the consequences of voiding provisions in retail shop leases. No amount

of juggling by me, the Government or the Ministry of Fair Trading would result in a Bill that satisfied every individual, stakeholder or group involved. That is a known fact. As a result, the Government is considering how it can achieve an outcome that all groups will accept as being in the best interests of the retail industry. Following the briefing on Monday, the Government is looking for support from those representative organisations and others who have an interest in the matter.

The Opposition does not deal with several areas in its Bill, which are addressed in the Government's proposed amendments. For example, section 3 of the principal Act is the interpretation section. The definition of "retail shop lease" is of major concern to many tenants. The provisions under section 3(2) have consistently resulted in cases being brought before the Commercial Tribunal. The Government has been addressing those matters before the tribunal in an endeavour to rectify the problems in the legislation. This should reduce the workload in the tribunal and improve the service it provides. Last week the registrar's report was passed to the Attorney General, who has responsibility for the Commercial Tribunal. He will obviously consider these aspects. However at this stage the Government is considering those matters it can address within the Commercial Tenancy (Retail Shops) Agreement Act. In its amending Bill the Government proposes to clarify the definition of a retail shopping centre whose premises may cover more than one floor of a building. It has been identified as an important matter which requires attention in the first instance to prevent disputes and to overcome the need for costly dispute resolution procedures. The legislation contains a definition for a "retail shopping centre". Both the Government's Bill and the Opposition's Bill clarify the extent of that term. It is limited in its application to groups of at least five collocated shops. However, the Opposition's Bill does not address, and does not consider, circumstances in which a centre covers more than one floor.

Section 11 of the principal Act deals with rent reviews. The Government's proposed section 11(1) provides the formula by which to determine market rent. Some of the practices caused much concern to the industry, and the Government's amendments will address the practice of one lease providing for more than one method of arriving at the tenant's rent following a rent review. Section 11(2) deals with the market rent review principle and both the Government's Bill and the Opposition's Bill clarify the definition of market rent. However, the Opposition's Bill does not insert time limits for initiating those rent reviews. Again this is a matter of concern to the industry.

Section 11(5) deals with the resolutions. Although the Opposition's Bill has addressed some concern regarding the powers of the registrar and the tribunal, it is not as comprehensive as the Government's Bill in this regard. The Government's Bill will clarify the registrar's part in resolving disputes in much more detail, and the measures will have greater potential to help resolve disputes rather than the parties going through the more expensive resolution procedures. One of the reasons for introducing these amendments is to provide a less costly, less time consuming resolution of disputes between the various stakeholders.

Section 12 of the Act deals with the contribution to landlords' expenses. Section 12(1)(a) provides that tenants pay only those operating expenses detailed in the lease. Under proposed section 12(1)(c)(i) the landlord must provide annual estimates of the operating expenses referred to in paragraph (b)(ii). Both the Government's Bill and the Opposition's Bill seek to provide full disclosure between tenants and landlords. That follows the intent of the Bill when it was first introduced in 1985. However, the Government's proposed amendments will reduce the opportunity for disputes between the parties. We must address in the legislation the cost and time that disputes take.

Mr Catania: The report by the Chairman of the Commercial Tribunal which dealt with disputes is an absolute disgrace. The solicitors who attend that tribunal on behalf of respondents delay cases an inordinate amount of time for one reason only; that is, so the tenants will fall off the perch or go into liquidation and they do not have to respond.

Mrs EDWARDES: That is why legislation must reduce the opportunity for disputes between the parties so they do not get that far.

Some aspects of the Opposition's legislation are open to interpretation. Where it is left open for interpretation disputes arise. For instance, there are no time limits in respect of the market rent review principles. By inserting time limits we will clarify when those rent reviews will be done. It is important to try to reduce the potential for disputes in legislation. The same principle applies to the contribution to landlords' expenses. The Opposition's legislation should have provided greater detail so that the opportunity for disputes between the parties is reduced and parties do not go to the Commercial Tribunal on what are essentially very small issues, but which become very time consuming and costly.

Section 12 also deals with contributions to landlords' expenses by the tenant for operating expenses. That is now to be limited. The industry recognises there are some rogue landlords around and nobody likes rogue landlords. However, we have to ensure that the legislation states clearly what rights and responsibilities exist, to reduce the opportunity for disputes between the parties. The Government's Bill further clarifies the relationship between the

tenants and the landlords in an attempt to overcome potential disputes. Proposed subsection (3) deals with the definitions of operating expenses on strata titles. The Opposition's Bill does not address that. Major concerns in the industry have arisen out of a Commercial Tribunal decision. That must be addressed. The Government's Bill clarifies the operating expenses definition and includes a provision which clarifies tenant and landlord obligations relating to retail shop leases in strata titled premises. It will address an unfair interpretation of the current Act which was never intended. Everybody recognises that has led to some very unfair legal interpretations and unfair consequences for some tenants. The Act was amended to deal with those retail shop leases in strata titled premises.

Proposed section 12B deals with hours of operation. I can again clarify the situation for tenants' rights. This Government does not have an agenda. It is not considering further deregulation and I have put that in writing.

Mr Catania: Why can't you get the Premier of this State to put in writing that he will delay deregulating trading hours further?

Mrs EDWARDES: As the Minister appointed by the Premier to be responsible for this area I say categorically on behalf of the Government that it does not have an agenda for the further deregulation of trading hours.

Mr Catania: Until after the next election.

Mrs EDWARDES: Before or after the next election. It has not been contemplated or considered. Further, the Retail Trading Hours Act does not come up for review under the competition agreement until 1998. As members opposite will know, that will involve a very public consultative process.

Mr Catania: It took you three years to do the last one.

Mrs EDWARDES: The Government does not have an agenda for before or after the election to further deregulate trading hours.

Mr Catania: We do not believe you.

The DEPUTY SPEAKER: Order! I will have to formally call the member for Balcatta to order in a minute. The interjections are unacceptable.

Mrs EDWARDES: Another issue of major concern that is not addressed by the Opposition's Bill is the void provisions. Void provisions are those sections in the lease agreement which do not apply to the tenant. When a tenant examines the lease documents, he or she may decide that the lease conditions do not apply to him or her. However, the document contains a clause which states that if the lease does not apply, it is void and the lease stands as a whole. Circumstances have been reported to me in which landlords have found later that those provisions apply to them and they have done the wrong thing. Tenants are not fully aware of their rights and obligations. Tenants have wanted full clarification of their rights and obligations and of what the legislation means for them and how they can best deal with disputes, particularly in relation to the conditions which are said to be void.

Many matters have not been addressed in the Opposition's Bill. Because this Bill is a later version of the Opposition's 1993 version, it does not catch up with some of the interpretations which have come out of the Commercial Tribunal and it does not address other issues which arose out of further consultation. I know the member said that consultation was a waste of time and we have been sitting on the legislation. Will it not be better when we bring in well-drafted legislation following full consultation?

Mr Catania: You could have brought that in three years ago. All of these problems were there three years ago. They were there five years ago.

Mrs EDWARDES: No.

Sitting suspended from 6.00 to 7.30 pm

Mrs EDWARDES: I reiterate that the Government's Bill proposes to deal with a number of issues in a much more comprehensive way than does the Opposition's Bill. It has addressed some of the concerns of the industry and the various stakeholders which the Opposition's Bill does not address. One of the proposals underpinning the Government's legislation is to reduce the level of disputes and to make the definitions much clearer so that the costs to the parties which find themselves in dispute and the time involved in taking any of those matters to the tribunal will be reduced. Therefore, the Government will not support this Bill.

MR TRENORDEN (Avon) [7.33 pm]: I was delighted to hear the Minister's comments on this Bill. I was in the same position as the member for Balcatta some five or six years ago when I moved amendments to the commercial tenancy legislation. In fact, some of the sections of that Act are referred to as the Trenorden sections. Therefore,

I do have sympathy for the member for Balcatta. I know what it is like to be on the opposition benches and to have a point of view and to have compassion for people affected by existing legislation.

I acknowledge that this is not the right forum in which to discuss what will be in the Government's Bill. Obviously, I have had an insight into what will be in that Bill and I am pleased with the outcome. I know the member for Balcatta will say, "Why not amend my Bill and pass it because it will save time for everyone involved?" He is justified in saying that because I said almost the same thing when I wanted the previous Government to accept the amendments I moved to the 1990 amendment Bill. I realised after the events of 1990 that the provisions of a Bill which goes through the government system are likely to be much tighter than those in legislation introduced by the Opposition.

In 1990 I drafted an amendment to the clause dealing with the assignment of leases. I did that on the run and with the expertise I had at the time. The Minister of the day accepted the amendment and it was included in the legislation. Members know that many people have been getting around that provision. My amendment was made with the best of intentions but, even though it dramatically improved the legislation, it was not perfect. Both the Opposition's Bill and the Government's Bill tighten up that provision. The Government's Bill will ensure that when an assignment occurs costs will not accrue beyond the date of the assignment. I am delighted at that prospect.

One of the reasons the member for Balcatta should feel less aggrieved than he does is that the Government's Bill will be much tighter than his Bill. When he has the opportunity to read the Government's Bill he will find that there are more benefits from it than from his Bill. I must admit that there are some provisions in his Bill that are not included in the Government's Bill.

Mr Catania: Will the Government's Bill pass through the Parliament before the next election? That is the point.

Mr TRENORDEN: If I could answer the question, I would be Premier.

Several members interjected.

Mr TRENORDEN: I will refer to some of the provisions which are included in the Opposition's Bill and, because they are of concern to the industry, are also included in the Government's Bill. Over the years there has been considerable discussion about the penalty for breaches of the legislation. We have a debate in this place almost every week on whether provisions should be included in legislation with or without consultation with the community. One of the things which has worked well and which came out of the 1990 legislation is having the registrar involved in many of the disputes. The registrar has done a very good job, although some people would say he has not done a perfect job.

Legal fees which apply to the preparation of the lease has been a bone of contention for a long time and both the Opposition's and the Government's Bill deal with this question and the costs that landlords pass on. Management fees is another bone of contention which is dealt with in both Bills. Anyone involved in a commercial transaction has total control over the transaction. As hard as it has been for some people to accept, the truth is that there have been many cases where retailers have been virtually handing over an open cheque. It is grossly unfair and has caused a lot of pain. It has been proposed that loss of income insurance should be one of the issues deleted from the variable outgoings. Debate on variable outgoings goes back to 1985 when the first piece of commercial tenancy legislation was introduced into this House. Prior to that, members will recall that there was no commercial tenancy legislation. Between 1980 and 1985 there was considerable argument about the New South Wales code of practice, which has not worked. I have a truckload of information on that and the Queensland experience, but I will not go through it and bore this House. For 10 years members have had the opportunity to try to resolve the arguments that arise between the shop owners and the tenants.

An argument which will never be accepted by some people - although I firmly believe it to be true - is that those protected from the situation are not the tenants, but the shopping centres. The planning process in urban Australia gives a monopoly to shopping centres. It gives a licence to print money to the very big people. Not even moderately wealthy people can set up a shopping centre; we are talking about major corporations and mostly superannuation funds and insurance companies. These companies have the ability in urban planning to pick up a site registered for commercial activity, rape the surrounding countryside of small business and force businesses into the shopping centre. The movement comes from demand - I accept that - but it also comes from a commercial decision to focus activity in the shopping centre.

One cannot go over the road and buy 50 houses and build a shopping centre on that site; the planning laws would not allow it. These centres concentrate not only the commercial but also the social and transport efforts. All roads lead to Rome. Therefore, the shopping centres place a demand on local government to provide parking bays, and the public transport requirement to move a large number of people through the area.

Look at Galleria, which was used as an example in debate last week. The agreement Act delivered all the concessions in the world to a group of people. I have the Morley Shopping Centre Redevelopment Agreement Act before me today, which I do not intend to go through at length. The agreement is between the State of Western Australia and the Morley Shopping Centre Pty Ltd and Colonial Mutual life Insurance Society. Someone picked up a nice little earner from the sale of Galleria on the back of the Western Australian taxpayers and, to a marked degree - other members may want to refer to this point - the ratepayers of the Morley region.

Therefore, an artificial climate is created in shopping centres. People are drawn into the shopping centres and tenants have extraordinary pressure placed on them.

In the 1990s some people are still paying rent on turnover. In certain circumstances, tenants are submitting monthly returns to the shopping centre manager and paying rent on turnover. In cases in the past, shopping centres would hawk those figures around Australia to get the best possible tenancy rate for the premises. Realistically, what right does the owner of the shopping centre have to use an excellent small business proprietor's skill, blood, sweat and tears in that way? Some turnover rent exists, but these days they are under some sort of agreement. It was not an unusual event in the past to have tenants reporting to the shopping centre manager with turnover. Pressure was applied to tenants.

Also, people moving into these small businesses inside the major shopping centres must fit out the shops. Huge arguments rage about lease periods. Both Bills talk about a minimum lease period. A lot of pressure has been applied to me over the years to apply a five-year lease minimum, as both Bills will apply. Also, a lot of pressure was applied to include an option. Retailers argue that one needs at least five years to return capital, and the extra time is required to make sure the business is a viable option for the operator. On the other hand, one must concede that a shopping centre owner would not want to lock in a non-performing business for 10 years. Therefore, one has volatile conflicts.

Security bonds are another issue of some considerable note. A current hot issue is land tax. Personally, I am not as hot on land tax as are some other people. When one has a fixed cost such as land tax, the tenant will pay it no matter what. If one bans land taxes from being applied directly to the tenant, the landlord will build that land tax into the rent. Even though the land tax argument is a moral issue, no reasonable outcome will be achieved in that area. The landlord will say, "Part of my fixed cost is land tax; therefore, land tax should be covered through my ability to draw funds out of my asset."

Management fees are a different story. These are being charged on activity not generated by the tenant, but often for the benefit of the landlord. Nevertheless, he is passing those fees on to the tenant. One of the real anomalies of the system, and one which the Bill introduced by the member for Balcatta does not quite address, is ratcheting laws. It is ridiculous to have a commercial agreement indicating that rent can only stay at the same rate or increase; that is, that rent cannot go down.

Mr Catania: It addresses that point in clause 11. We ensure there is a formula for market agreement.

Mr TRENORDEN: I am not having a go at the member for Balcatta, but he will find that the Minister's Bill is more defined in that area. The member might be happier about that change.

Huge debates have ensued over the 10 years of tenancy laws about defining market rent. The member has had a go at dealing with market rent, and he rightly identified many of the problems in the area. However, it is important that a definition of market rent apply. Many of the disputes in the community have been over market rents.

Variable outgoings has also been a hotly contested area. In his second reading speech, the member for Balcatta pointed out cases of charging for variable outgoings even though funds were in account. There have been ample cases in the long-recorded debate on commercial tenancy of people being charged with outgoings which have not been expended at all.

Mr Lewis: It is subjected to audit, is it not?

Mr TRENORDEN: Now it is. I refer to the past. It is only fair that anyone who enters a contract should pay for matters which are required under the agreement. If air-conditioning is part of the deal, people pay for air-conditioning.

If the gardening and upkeep are part of the deal, which is not often the case, they should know exactly what they are paying for. Those amounts are audited, and they get either a monthly or yearly fully audited statement of their variable outgoings. In many cases in the past, capital items were on the list of variable outgoings and people were paying a second rent on their variable outgoings, which was outrageous. Since 1990, there has been an improvement, although not enough to warrant no further action being taken on commercial tenancies legislation.

Sinking funds were notorious in the early days of this legislation, but they have now been outlawed, which is what should happen in that area. Assignment and subleasing is another area about which I argued strongly in 1990, and I managed to get the Government of the day to accept an amendment from the National Party. That caused a considerable amount of debate, because in the past, while the lease of a shopping centre was alive, no matter how many times it was assigned the original lessee could be, and often was, pursued by the landlord.

Mr Catania: That was fixed in 1990.

Mr TRENORDEN: I tried to fix it up in 1990, but people have been getting around it by various means in recent years.

Mr Catania: If they are doing that, they are going against the provisions of the Act.

Mr TRENORDEN: That is right. We always get the extremes. We are not arguing about reasonable people dealing with reasonable people. We are not arguing about well managed shopping centres and the tenants within those shopping centres. There will always be people who want to play around the edges.

When I was active in the insurance industry as an Australian Mutual Provident Society agent in the 1980s and until I was elected to Parliament in 1986, the AMP's return on its property portfolio increased by about 8 per cent a year. Every year, AMP went into the shopping centres that it owned and turned the knob tighter and tighter. At that time, an increasing number of people were turning to shopping centres because they wanted one-stop shopping. However, we know what happened at the end of the 1980s to property values. The AMP Society had to write-down its assets by around $1.6b in both its share market and property portfolios. National Mutual was affected so badly that it had to sell to the French. The reason that National Mutual was floated on the Stock Exchange recently is that it was crippled by the enormous write-downs in the 1980s. That also basically crippled the AMP Society, which has also reached the stage where it does not have a large enough asset base to continuing trading as a mutual fund. In the 1980s, the value of shopping centres was increasing by around 8 per cent year in and year out, and people thought that would continue forever. In those days, the insurance companies were selling shopping centres to each other so that they could continue ramping up those figures, and they came down with an almighty crash.

Mr Bradshaw interjected.

Mr TRENORDEN: They deserved everything they got, but the problem is that we have paid the price, because as a dedicated insurance buyer, I look at the value of my contracts with the AMP Society, and they have dropped substantially because of these activities.

Leasing is a vexed issue. Unfortunately, there always seem to be people who want to take over the poor person who has gone bankrupt. Someone is always game to have a go in small business, and no-one in this Chamber would not encourage those people to have a go. However, we have been trying to say to those people for some years that they must get a plan, get good advice about the probability of succeeding, and then have a go. People need time, no matter what sort of business they are in. The people who have the agreement Act in the north west to build an iron ore mine, to which the Minister for Resources Development referred this morning, need time to recover their capital and get a benefit for themselves and their families.

For most business people, the business is the superannuation policy. It is the growth of the business that is important. I understand that at Garden City Shopping Centre right now, the AMP Society is not renewing leases because it is deciding whether to redevelop that shopping centre. Nothing is more off-putting for those people than to have that question mark hanging over their heads as the days and months go by, because they are buying stock to put on the shelves and they need to get people through their premises to keep that stock turning over, and they need to have certainty into the future.

Mr Shave: They just want to whack up the rents so they can capitalise at over 10 per cent and sell it off to the next fellow. The poor battler who is working in the shopping centre is getting screwed to the wall.

Mr TRENORDEN: The member for Melville is right. As I said earlier, it was not AMP and National Mutual but the policy holders who paid the price of the constant ramping up of the activity, the constant lifting of the capital price, until it all collapsed. That correction in the property market has devastated many people. Many people had been sitting on their superannuation benefits and insurance bonds in the belief they would get close to the return that the insurance companies kept telling them they would get, only to find that a very large slice of it vanished because of the collapse of both the property and share markets.

The question of rent is important. The member for Balcatta's Bill has put it at a minimum of five years, and that is a fair outcome -

Mr Catania: A five by five option enables a small business to plan and to get some goodwill out of that business.

Mr TRENORDEN: The member will see from previous debates that I have always argued for a five by five option because that provides continuity. However, as I said earlier, I recognise that the owners of shopping centres want to be able not only to get rid of non-performers at some stage but also to ensure that the mix of businesses within the shopping centre keeps on changing so that the attractiveness of the shopping centre is maintained. We must be reasonable about it, and that is why I will not go to the line on the five by five option, although that is my preference, and I have argued that with the Building Owners and Managers Association of Australia Ltd over the years. That is an important question, and I am pleased it has come out.

Retail trading hours, which is very much linked to commercial tenancies, is also boiling away as a side issue, because small business people feel very aggrieved if they are required to open seven days a week and deal with the paperwork and administration which is required of a small business and are not able to see their kids play sport or play sport themselves, or engage in whatever recreation they choose, and cannot determine for themselves whether to be involved in that situation. In this debate it is important to recognise the small retailers in shopping centres who do not want to be locked into a particular trading situation. A certain socialist attitude exists in shopping centres, because retailers say, "one in, everyone in", and if a retailer closes his shop he may penalise other traders. That may be true, but a person must have the right to decide whether to open his shop in the shopping centre. The member for Balcatta has not addressed that aspect.

Mr Catania: It should be addressed in the trading hours.

Mr TRENORDEN: The member is right, but it must be addressed in the leases.

Mr Catania: Once it is detailed in one lease it can be put in all the others.

Mr TRENORDEN: That aspect will be addressed in the Bill which will be introduced next week. We will see what happens next week.

Not every business has a high turnover. Some businesses are very specialised and do not need to be open on Thursday nights, because people do not seek that type of shop all the time. People should have the option. Retail trading hours are important, and members will see those matters addressed in the Bill which will be introduced next week. I think that the Minister will be capable of progressing that Bill through both Houses. Small business retailers are very keen to have this matter settled. I could not count the number of calls that I have received over the past three or four years -

Mr Graham: I could tell you exactly how many you have received.

Mr TRENORDEN: It is not the round number that the member for Pilbara is thinking of.

Mr Graham: I am talking about the calls that I sicked on to you.

Mr TRENORDEN: Exactly! It is a very contentious issue, and many small retailers wish that they could take commercial tenancy off the agenda so that they can plan their lives. I have some sympathy for the member for Balcatta because we will kill this Bill in a short time. I have been in exactly the same position in opposition. When our Bill is introduced I hope that the member for Balcatta will consider the issues involved. The most important benefit will be that our legislation will flow from the system and, therefore, will contain tighter provisions which will be very difficult to avoid.

MRS PARKER (Helena - Parliamentary Secretary) [8.02 pm]: I find myself in the curious position of addressing what is fundamentally a Bill that was presented to this House by my predecessor. It is almost like the ghost of Gordon coming back to haunt me. As the member for Balcatta mentioned in his second reading speech, this Bill is very much styled on the Bill presented in 1993 by the former member for Helena. In fact, the member for Balcatta's second reading speech in the main quotes much of the former member for Helena's second reading speech of three years ago.

Mr Catania: By intention!

Mrs PARKER: I do not criticise the member for that. It is just a curious position in which I find myself debating a matter which was introduced by the former member for Helena -

Mr Catania: You should be supporting this legislation, member for Helena!

Mrs PARKER: I know he is very much alive, but in this Chamber the ghost of Gordon prevails. Apart from commenting on the ghost of Gordon in this place, I am also pleased to have the opportunity of speaking about commercial tenancy, because of all the issues that have been raised with me by retailers in the community this is an issue of great concern. We are all aware that the margins in retailing are very small, and those who have been in small business or still have contact with small business will be aware how difficult things are in the community. If

one has some business link to the resource sector, things are looking up. Recently a steel supplier spoke to me. He was from a Perth-based company. Normally it is considered the supply of 10 or 11 tonnes of steel a week to be enough to keep the wolf from the door. This company supplies between 90 and 100 tonnes of steel a week without any extra effort. Therefore, businesses associated with the resource sector are beginning to feel the benefits. That comment was made to me some months ago, and we expect to see in the new year and throughout 1997 the effect starting to flow to the retail sector.

After retailers have been burnt by high interest rates, the previous recession, and other great difficulties, it takes a long time to restore a credit situation and start to grow and take the risks that small business people take. Sometimes the family home is placed at risk, and certainly people face extra hours at work and stress, and four weeks' holiday each year becomes a thing of the past. Life is still difficult for small business people, particularly in the retail sector.

The member for Avon said that he felt some sympathy for the member for Balcatta, but I do not know that I will weaken to that position.

Mr Catania: You should!

Dr Edwards: The member for Balcatta is a very wise man!

Mrs PARKER: I agree with the sentiments expressed in the Bill. In the time she has held this portfolio, the Minister has vigorously pursued the issue. It is not simple to arrive at a correct draft. I understand that the Bill to be introduced in this place next week has undergone 15 drafts to get it right. There has been consultation with the industry, and the industry is now happy about the position that the Bill finally presents and is keen for our proposed Bill to proceed. There are great similarities between the two Bills.

However, I want to take a moment to comment on two issues that have been raised with me consistently. As members of Parliament it is important for us to retain contact with our constituents so that the common threads are reconfirmed contact after contact. Not everyone has the same concern, but consistent concerns are raised across a range of portfolio areas. One of the main concerns that come to me from tenants relates to compulsory opening times in large shopping centres. In a number of centres, a fine is imposed if a tenant does not remain open for the prescribed opening times for the entire centre.

When one has a business that might not attract trade, for example, on Saturday from 3.00 to 5.00 pm and business dwindles, it is rather unfair for the retailer to be required to stay behind in the store with essentially little or no passing trade - certainly not enough to pay the costs of staff. The retailer would probably be far happier leaving the store at 3.00 pm, going home and catching up with the family or playing a game of cricket or some other sport such as tennis or netball, or doing something else instead of standing by the compulsory requirements of the previous Act by keeping the store open. That issue is addressed here and, I understand from the briefing I have had, in the Minister's proposed Bill. That issue needs to be dealt with.

Another issue is disproportionate charges on lettable areas. Smaller tenants are consistently being charged a range of costs disproportionate to the amount of space they lease. A small tenant may be leasing 10 per cent of the floor space but find he is being billed for much more than 10 per cent of it. Those small tenants have no recourse over disproportionate charging. That anomaly must be addressed. It becomes extremely difficult for retailers to balance their costs and outgoings against their income. The Act must be tidied up. As I said, the Bill introduced by the member for Balcatta is an attempt to do that. He has revamped the Bill that was presented to this Parliament in 1993.

Mr Catania: That Bill mirrors what the coalition agreed to in 1992. You should have amended that to include some of the things with which I agree. This legislation could have been passed months ago.

Mrs PARKER: I do not disagree with the member for Balcatta. However, the Minister has had the portfolio this year and the industry has indicated that it is pleased with the increased vigour she is applying to this issue. I remind the member for Balcatta that in his second reading speech he said that the Building Owners and Managers Association had ensured that the Court Government would not introduce changes to the Act prior to the next election. It would be inappropriate for us to be beholden to any group, whether it be retail traders or the Builders Owners and Managers Association. A Government is obliged to find an appropriate balance of the requirements in the community. The member for Balcatta was a little over zealous with those comments in his second reading speech.

I look forward to the Government's Bill, which I believe has been drafted 15 times. I understand from briefings -

Mr Catania: Have you had a briefing on the proposed Bill? Why did I not get one?

Mrs PARKER: Yes. It is only a draft; the member should not get too excited.

Mr Catania: It is only a draft and you intend to present it next week?

Mrs PARKER: The member for Balcatta should watch this space! I did not get the opportunity to finish my address on small business during private members' time last week. The ability for shops to open or close by choice rather than by compulsion is an important issue. Although I support more flexibility for retailers, I am opposed to any extension of trading hours. I am not aware of any market driven force that is calling for increased trading hours. Geographically, Perth is one of the largest cities in the southern hemisphere. It is not a high density city but comprises a fairly disparate group of communities. Twenty-four hour retail trading hours are appropriate in higher density areas where those trading hours are more viable.

I support in principle the efforts of the member for Balcatta and the Bill introduced by my predecessor. However, a more comprehensive and detailed Bill is to be introduced. Therefore I do not support this Bill.

MR LEWIS (Applecross - Minister for Planning) [8.15 pm]: The House will know that my family has an interest in a shopping centre. I am therefore declaring that interest. Notwithstanding that, I will vote in the normal way.

MR BOARD (Jandakot) [8.16 pm]: I congratulate the member for Balcatta for bringing this issue to the House. A little like Captain de Groot, who rushed in and opened the Harbour Bridge prior to the Premier, we are debating legislation on which the Minister for Fair Trading has been working for some time in consultation with the industry, which is relevant to 1996, not 1993.

Mr Catania: If I had not brought this Bill to the House, you would not be keen on putting yours through.

Mr BOARD: Judging from the second reading speeches of both the member for Balcatta and Hon Gordon Hill their Bills are interchangeable. We are a progressive Government and would like to pass a Bill that is relevant. Since 1993 changes have occurred which make the member's Bill irrelevant. I congratulate the Minister for taking those matters into account and ensuring that a relevant Bill will be introduced into this House, I think, very shortly.

It is an important issue for small business, which we all know is the heartland of Western Australian industry, particularly the retail sector. More and more people are entering the retail industry in Western Australia because of early retirement or multiculturalism, for example. The retail sector is very attractive to people hoping to earn extra money as well. In Western Australia people find themselves involved in retail beyond the odds which they could expect in any other State in Australia. It is a well-known fact that we have more retail outlets per head of population in Western Australia than any other State. That is because we have a propensity for single residential development and small retail complexes embodied by large retail complexes on the outskirts and in the heartland of residential areas. As a result we have a much higher ratio of retail mix to housing development.

Many more people are therefore affected by commercial tenancies. Commercial tenancies affect people's livelihoods and the way in which they invest in their future and earn their income. It is an important issue. It has been important to me in the past and will continue to be. Not too many members in this House have owned more than 30 retail shops. I am one of them and have been involved in more than 30 different retail leases over a period. In one year I had 15 leases. I can assure the member for Balcatta that the variation in retail leases and in commercial tenancy mixes throughout Australia is of great concern to the people who earn their livelihood producing goods and services in Western Australia and raise their families on the strength of their investment in and commitment to a retail situation. As a result of some of our larger retail complexes, many people are tied to commercial leases that in many ways do not favour small business. By their very nature they are structured towards larger retail outlets. It is no secret that the Coles Myers, Woolworths and Liquorlands of this world are favoured in the retail mix because they are drawcards. Therefore, they pay a lesser amount for square footage and outgoings than a small retailer who pays for the favour of trading off those drawcards in a larger complex. Small retailers know that when they go into those complexes.

Even though we cannot support this Bill because it is not updated to 1996, has not incorporated what has happened over the last three or four years and is not at the cutting edge of change, it goes to the heart of the fact that people in small businesses in these complexes have, in many ways, lost control of their destiny. Their real concern is their outgoings and all those things are beyond their individual control. They include promotion, capital improvements, management fees, rent reviews, insurance, legal costs, loans and security. All of those things are on the move. Many small businesses locked into tenancy mixes, particularly in larger complexes, lose control of the amounts of money they must put forward each month to cover those overheads. Although they can organise their own businesses' markups, staff, advertising and outgoings, they do not have the sort of control they need to organise their businesses in an overall sense because of those hidden costs which come through from variable outgoings. Those outgoings are important to small business. We are talking about large amounts of money. It is not uncommon for a small business which might occupy a quarter of the size of this Chamber in a commercial tenancy in one of the larger retail complexes to be paying in the order of $8 000 to $10 000 per week. The reality is that, with retail turnovers these days, they would need a turnover in the vicinity of $80 000 or $90 000 per week to justify that kind of outgoing. In addition the variable outgoings might vary between 5 and 15 per cent.

Mr Catania: It is usually 30 per cent.

Mr BOARD: It could be, and that is why we must bring in legislation to control those outgoings. The issue is important. I am not arguing against the need for the Bill but against the fact that the member for Balcatta has brought in a Bill which is a little outdated, not accurate and not at the cutting edge. There has been a lot of input since then. The Minister has been working for some considerable time on this. We will have a far better, more accurate Bill for the industry with which the consumer will be happy. With those short comments, I support the Minister with her Bill -

Mr Catania: She hasn't got a Bill! What are you supporting? You are supporting a drafting document.

Mr BOARD: I am supporting the effect, but we cannot in our hearts support a Bill which is outdated. Why stand here and amend an outdated Bill when we have something at the cutting edge?

Mr Catania: Do you agree with land tax?

Mr BOARD: The member has prematurely rushed through a Bill, trying to get political advantage with something which is a little outdated. We are at the cutting edge with the full picture, which people are about to see unfold.

MR CATANIA (Balcatta) [8.26 pm]: I have been very interested in what has been stated about the Opposition's Bill by the members of the Government. I scrutinised the Government's proposed Bill. The Commercial Tenancy (Retail Shops) Agreements Amendment Bill 1996 is substantially the 1993 Bill presented by the then member for Helena, Hon Gordon Hill. That Bill was agreed to by the National and Liberal Parties prior to 1992 after all the investigation had been carried out. I did that purposely because the present Government had agreed to all those amendments. If the Government were determined to ensure that the legislation went through this House, all it would have to do is amend my legislation. I brought in this legislation in private members' time, not government time. The Government has given no priority to the commercial tenancy legislation. Tonight the Minister has given us a summary of what she intends to do, not what she will do. No Bill has been prepared. When one reads the briefing note to the industry one notes it is substantially the same as the Bill I presented except for three changes, which relate to the time limit on the review of the rent period, the tightening of the assignments and the compulsory operating times. Trading hours are also mentioned.

I agree with much of what the member for Avon has stated. I am sure he will agree that the correct place to amend trading hours is in trading hours legislation, which the then Minister for Fair Trading, the Attorney General, promised he would change at least one and a half years ago. He said he would change the Act to ensure that tenancy shops would not be forced to open during the hours when the owners of the shopping centres wanted to open. He said he would give them that concession through the trading hours Bill.

Mr Trenorden: You are not quite right, because there are a couple of others.

Mr CATANIA: I will go through the others. I have examined the Government's proposal which is in the industry briefing of proposed amendments to the Commercial Tenancy (Retail Shops) Agreement Act. It is all here. I have gone through it, and the differences are minimal. If the Government intended to ensure that this legislation went through before the next election, it would have amended my Bill. I would have graciously accepted the amendments. There is one basic difference. We on this side of the House give an absolute guarantee that there will be no further deregulation of hours. The Premier has stated on radio that he cannot give that guarantee, but we give the commercial tenants in this State that guarantee. The second guarantee we give is that we will not allow the transfer of land tax from the owners to the tenants. We give another guarantee that we will change the formula for the assessment of land tax by the Valuer General. Instead of assessing land tax on the basis of rental values only, the Valuer General has added outgoings. This has caused huge increases in land taxes, and tenants have been forced to pay. The increases are not solely due to refurbishment of premises. The Opposition gives the absolute guarantee that it will review that situation, which is a huge impost on tenants. Land tax has increased by over 200 per cent. Does the Government think that the viability of commercial tenants will not be tested with charges increasing from $17 000 to $32 000 in a year?

Mr Trenorden interjected.

Mr CATANIA: The Deputy Premier, the member for Avon's party leader, said that he would not interfere and that the Valuer General had taken it upon himself to reassess that land tax. Fancy the Deputy Premier saying that! I have some respect for the Deputy Premier, but it is garbage for him to say that this Government did not know about or would not interfere in this. It is like the Minister for Police saying "It is an operational matter". I do not believe the Deputy Premier. Fancy there being a major policy such as that and the Deputy Premier not knowing about it, and stating that he would not interfere in the reassessment of land taxes! What a load of garbage. It is a major policy change.

The Opposition gives an absolute guarantee that land taxes will not be passed onto the commercial tenants.

Mr House: You are right about that, because you do not have the numbers.

Mr CATANIA: This is a serious debate, and I would not like the Minister for Primary Industry to treat it in any other way. It is a serious issue for the commercial tenants of this State, who are experiencing difficulty, and if the Minister does not know that or cannot sympathise with them, I can tell the Minister that is the case. They are experiencing hard times.

Mr House: About as hard as some of the woolgrowers in my electorate.

Mr CATANIA: The Minister should not treat it as a joke.

Mr House: That was a smart alec comment. You are well known for that sort of comment.

Mr CATANIA: The Minister is treating this as a joke, which it is not.

Mr House: You are a joke.

Mr CATANIA: The Opposition has been waiting for a change since 1993. The Minister for Fair Trading has stated that she has had lengthy consultation with the parties which, by the way, is not what the retailers and stakeholders tell me. They do not say that either the current or the former Minister for Fair Trading has consulted them at any length during the time of this Government, although they credit the current Minister for Fair Trading with giving them more time during the past two years than her predecessor; however, that is not much!

Mr Trenorden: I thought you said you were going to be gracious.

Mr CATANIA: The views of the member for Avon do not differ very much from my views, so I can be gracious.

Mr House: That must be a real worry for the member for Avon.

Mr CATANIA: The Minister for Primary Industry should not be such a snotty little bloke. He should sit down and listen and he might learn something. He has learnt nothing during his 12 years in this place, but he might learn something tonight.

While we were waiting on the new legislation from the Government, the Opposition tabled legislation in 1993. The Minister could easily have amended that legislation. I have given examples in this House of various instances where tenants have been brought to their knees by unscrupulous landlords. Does the Minister know that has occurred because they do not have the legislative backing to defend their positions? The landlord has the whip hand and the smart solicitor. If a tenant makes a complaint to the Commercial Tribunal, the owner's smart solicitor will defer that hearing for a year or two. They wait for the tenant to fall off the perch or go bankrupt. That takes place, because they do not have the backing of the Government. The Government would demonstrate its support for commercial tenants if it amended the legislation and cooperated with the Opposition on this issue. If that legislation were introduced, it would receive bipartisan support and would pass through this Parliament.

Mr Trenorden interjected.

Mr CATANIA: I am so anxious for the passage of commercial tenancy legislation that the Opposition would support it with one or two amendments for housekeeping, such as changes to land taxes. The Opposition would support such legislation because it would be similar to the legislation that we introduced. Our legislation might require three or four changes.

Mr Shave: If we introduced a Bill next week under a time management motion, would your leader support its speedy passage through the Parliament?

Mr CATANIA: When will the Government bring the Bill to the House?

Mr Shave: You have not answered the question.

Mr CATANIA: I will not agree to support anything until it is brought to the House.

Mr House: You are backing off.

Mr CATANIA: I am not backing off. What a load of garbage.

Mr House: Typical; you have no courage.

The ACTING SPEAKER (Mr Ainsworth): Order! The Minister for Primary Industry will come to order.

Mr CATANIA: The Government has a proposal; it has not even drafted the damn thing! How do we know what will be in the new Bill? The Government has presented a paper to the industry. When it brings the Bill to the House the Opposition will cooperate, because it has some regard for commercial tenants. The Opposition will cooperate because it is anxious to ensure the passage of that Bill. As with every other important piece of legislation that comes to this House, it should be properly scrutinised and debated.

Mr Shave: I see; so you will stall it?

Mr CATANIA: It is not stalling. The Opposition has introduced two Bills into this House and waited three years for the Government to act.

Mr Shave: They will read this speech and they will wake up to you straightaway.

Mr CATANIA: I have brought a number of examples to this House. The tenants in Farrington Fayre are bringing a class action in the Commercial Tribunal against the owners of that shopping centre. It has taken them a year to get the case to the tribunal, because the matter has been deferred by the owners. They went to the tribunal last week. At the moment they are waiting for the chairman's decision. In the meantime, one of the tenants, acting for the tenants, searched the business names register and discovered that Farrington Fayre was not registered. That person immediately registered Farrington Fayre under her name. We have poetic justice. The owners of Farrington Fayre own the shopping centre but not the name. The owners have gone to the tenants and asked for their name back. The tenants said, "Give us a couple of million dollars and we will give you your name." I wonder how the owners feel when the shoe is on the other foot? What an ironic situation. There are many Farrington Fayre scenarios in Western Australian shopping centres.

The fact that there have been no amendments to the commercial tenancies legislation in the past three years has caused a lot of pain and trauma among small businesses that must take up commercial leases in shopping centres. This Government has not prioritised this legislation. It will not ensure that this legislation is passed through both Houses before the next election. It is stating to the industry, "Here is our legislation, but you will have to wait until after the next election before it becomes law."

Mrs Edwardes: We have not said that.

Mr CATANIA: Once the election is over, and if the present Government is returned, there is no guarantee that those amendments will be passed for at least another year. If certain stakeholders in this situation, such as the Building Owners and Managers Association, have their say it will be deferred for another 12 months.

The other issue that the Government has not addressed is the fact that there are no penalties for breaches. That is a very important deterrent. It is no use telling a landowner or managing agent that they have breached the provisions of the legislation if there is no penalty. When the tenant wants to take a landowner or managing agent to the Commercial Tribunal because of breaches of the provisions of the legislation, it is a legal process - it is a cost. If there were a monetary sanction in the Bill, those landlords would be required to pay for any breach of the provisions. Before the Minister introduces the legislation in the House next week - I am not holding my breath - she should consider including penalties for breaches. The Opposition legislation contained such penalties.

The Opposition legislation has been introduced and reintroduced. I asked the Minister for Fair Trading the following question on 2 May 1995 -

(1) Are any amendments to be introduced to the Commercial Tenancy (Retail Shops) Agreements Act 1985?

(2) If not, why not?

(3) If yes, when?

(4) Are these amendments in line with industry recommendations?

The Minister replied that they would be introduced during this session. In the final days of this Parliament she is telling the commercial tenants of this State, "I will introduce new legislation; I will satisfy you 30 seconds before the next election. But it will not become law for some time." She is throwing them a carrot and they are seeing right through that tactic. A number of them have come to me expressing their very grave concern.

This Government could have moved three or, at the most, four amendments to the Opposition's legislation and it would have mirrored its own legislation. If it had included a provision prohibiting passing land tax from the owner to the tenants, it would have contained exactly what the Opposition has been trying to get through this House to protect the many commercial tenants who are hurting because they have no legislative or government support. They have no support in legislation or in relation to the deregulation of hours. There is no doubt that after the next

election, if the Government wins, trading hours will be deregulated and we will go down the Kennett path of open slather on hours. I believe Kennett has stated that he will not review his decision until he sees more bankruptcies, and that if there are more suicides, he will consider revising trading hours in Victoria.

I am disappointed that the Government has not supported the Opposition's Bill. It should have introduced a raft of amendments, which we would have accepted with the addition of an extra amendment. We would then have had a perfectly good piece of legislation that would have satisfied the industry, which is yearning for change. The Government has not shown any commitment and it will not, because it will not have its commercial tenancies legislation through the House before the next election.

Question put and a division taken with the following result -

Ayes (16)

Ms Anwyl	Mr Graham	Mr McGinty
Mr Brown	Mr Grill	Mr Ripper
Mr Catania	Mrs Hallahan	Mrs Roberts
Mr Cunningham	Mr Kobelke	Mr Thomas
Dr Edwards	Mr Leahy	Ms Warnock *(Teller)*
Dr Gallop		

Noes (25)

Mr Blaikie	Mr McNee	Mr W. Smith
Mr Board	Mr Minson	Mr Strickland
Mr Bradshaw	Mr Nicholls	Mr Trenorden
Mr Cowan	Mr Omodei	Mr Tubby
Mrs Edwardes	Mr Osborne	Dr Turnbull
Mr House	Mrs Parker	Mrs van de Klashorst
Mr Johnson	Mr Pendal	Mr Wiese
Mr Kierath	Mr Shave	Mr Marshall *(Teller)*
Mr Lewis		

Pairs

Mr Riebeling	Mr Day
Mrs Henderson	Mr Bloffwitch
Mr D.L. Smith	Dr Hames
Mr M. Barnett	Mr Court
Dr Watson	Mr Prince
Mr Marlborough	Mr C.J. Barnett

Question thus negatived.

MOTION - COMMONWEALTH BUDGET CUTS, IMPACT ON STATE BUDGET

DR GALLOP (Victoria Park - Leader of the Opposition) [8.50 pm]: I move -

> That this House requires the Ministers for Health, Education, Housing and Police and the Ministers representing the Ministers for the Environment and Transport to advise the House of the precise impact of the cuts in the federal Budget on proposed 1996-97 expenditures in their portfolios.

Tonight we are dealing with the issue of accountability. The people of Western Australia deserve to know what the impact of the federal Budget will be on the state Budget. They deserve to know two things: First, what are the facts about the impact of the federal Budget on the state Budget; and, second, how the Government proposes to respond to that impact. So far the Government of Western Australia, through the Premier and Treasurer, has not been accountable to the people of Western Australia through this Parliament in relation to those basic questions about the finances of this State. Tonight we will give Ministers an opportunity to be honest and frank with the people of Western Australia about the impact of the federal Budget cuts on our State's finances.

We all know that at the Premiers' Conference in June 1996, our State Government agreed with a program of cuts to be made by the newly elected Howard Government to both the general purpose payments and the specific purpose payments to the States. We know it was agreed that in 1996-97 Western Australia would lose $60m; in 1997-98, $64m and in 1998-99 $30m. We also know that specific purpose payments will be cut by $30m in 1996-97 and by

an undisclosed amount in the following financial years. There will be an impact of $90m in this year's Budget. We also know the sales tax exemption for a certain category of government vehicles will be removed until 1999-2000 at a cost of about $3m this financial year. That is the estimate the State Government was given. We know the total cuts in 1996-97 are $93m. This simply represents the cuts to Western Australia's Budget; it does not take into account the impact other cuts in federal programs may have through an indirect process on the state Budget or cuts that are made in federal programs for which there is no state component, but which impact on the economics of Western Australia in various ways.

We are now aware of what the Premier has been saying about this issue. In a statement on 18 June this year the Premier said that there would be no new taxes or charges. It is interesting that he focused on no new taxes and charges, but was very vague about whether services in Western Australia would be cut. He went on to say that he would meet the Ministers individually, starting in that week, to "identify specific measures to be implemented during 1996-97 to ensure that this State's contribution to the Commonwealth can be met." Those are code words for cuts in services. The Premier made a further statement in August 1996 in which he said that the cuts would be absorbed in efficiencies and reprioritising departmental operations. Those are code words for cuts in government services.

Mr Lewis: Not necessarily.

Dr GALLOP: I would like the Minister to illustrate precisely where the cuts are coming from, and we will determine whether it means a cut to service.

Mr Lewis: You are saying that because you have a level.

Dr GALLOP: That is a theoretical proposition being put forward.

Mr Lewis: You have never run a business.

Dr GALLOP: The Minister keeps putting forward those sorts of comments. It indicates his very narrow view about the way our modern world works. Is the Minister saying that the university sector is not the real world?

Mr Lewis: It is not the real world; it is fairyland.

Dr GALLOP: I will repeat that for the record: The Minister for Planning thinks the university sector is fairyland. Does the member for Melville endorse that? Is it fairyland?

Mr Shave: I will answer, if you let me. Many people with university degrees are dills when it comes to business.

Dr GALLOP: Does the member for Melville agree that universities are fairyland?

Mr Shave: For some people, yes.

Dr GALLOP: The member is saying that for some people universities are fairyland, but not all. He would say that, given the number of academics who are currently in the electorate for which he will stand at the next election. I will be very happy to tell all of them what he has just said. It is just as well my friend the Minister for Planning is retiring this year, because he would lose the votes of half his electorate with those comments.

Savings measures of $40m were said to be identified, but the Premier did not bother to tell us where they were coming from. Once again, he said that there would be no reduction in programs and no increases in taxes and charges. In an article in *The West Australian* the Premier said that asset sales were part of the identified $40m; however, again, he did not say which assets would be sold. He has consistently refused to say where the additional cuts will be made. In this place he said that he would inform the Parliament where the specific purpose grants would be cut; however, he has not yet provided any details.

What sort of accountability is this from the Government? It is in charge of the finances of this State; it has all the information available to it, but it is not in a position to tell the people of Western Australia what are the impacts of the federal Budget. That is a complete failure of accountability on the part of this Government. This evening I will give the Government the chance to be accountable and to tell us what the impacts will be.

Let us contrast the statement of the Premier about the impact of the federal Budget on the State's finances with statements that have been coming out of two other States. Let us start with Queensland, a State that is run by a conservative government. The federal Budget came down and the Queensland Government had to respond. I will quote from the response of the Queensland Government through its state Budget 1996-97 budget paper No 2 -

> However, further reductions in Commonwealth funding were foreshadowed in the Federal Budget, including a downward revision to Financial Assistance Grants and a discontinuation of funding under the Building Better Cities program. While the details of the composition and impact of the Federal Budget on payments

> to Queensland were not available at the time of finalising the State Budget, it is estimated that the final impact may be of the order of $250 million.

It states further -

> In order to address the Budget task and provide for the implementation of key Government policy commitments, substantial savings needed to be achieved, involving firstly a rigorous review of previous Government policy initiatives and commitments; and secondly a review of base expenditure and programs of all agencies

That is what the Queensland Government had to do. It had to look at some of the commitments it had given and it had to review some of its basic expenditure programs. It was clear that the federal Budget had a significant impact on the Queensland Government's ability to deliver services. The Treasurer of that State, Joan Sheldon, was frank with the Parliament about what that would mean. The Queensland Government went on to say that in looking for these savings, it would use the following criteria -

> identifying inconsistency with Government policy commitments;
>
> minimising impact on core service delivery;
>
> reducing corporate and administrative overheads;
>
> improving the efficiency of service delivery;
>
> improving rational use of services through more appropriate user charging; and
>
> reducing low value adding non-core services.

As a result of the federal Budget in Queensland there were cuts, cuts, cuts, and increases in charges. Let us go south to New South Wales. The Government of that State increased taxes because of the impact of the federal Budget on the New South Wales Budget. The press release of the Treasurer in New South Wales states -

> The NSW State Government will introduce this week the . . . (Howard and Costello) Tax Amendment.
>
> This will recoup part of the $900 million stolen by Prime Minister John Howard and Treasurer Peter Costello from the NSW budget.

It is interesting that a conservative Government in Queensland says that it must cut services and increase user charges because of the federal Budget, and a Labor Government in New South Wales says it must increase taxes as a result of the $900m that was taken from that State in the federal Budget. What did the Treasurer of Western Australia say? Let us remind ourselves: "There will be no new taxes and charges and no cuts in services." Of course, the difference between the Treasurer of Western Australia and the Governments of New South Wales and Queensland appears to be that there is no election on the way in Queensland and New South Wales. That leads members on this side of the House to question whether the Treasurer is providing all the information to the Parliament about this important matter.

Mr Shave: Did he put any taxes up last year?

Dr GALLOP: Is the member for Melville aware of the figures?

Mr Shave: Aware of what figures?

Dr GALLOP: The impact of the federal Budget on the State's finances?

Mr Shave: You're implying that as soon as the election is over, he is going to put taxes up. He didn't do it last year and he didn't do it the year before.

Dr GALLOP: I will tell the member what the Opposition is implying. One of two things will happen: Either taxes will be increased or services will be reduced, or there might be a mixture of both, as we have seen in Queensland.

I draw that analogy to raise an issue. The Treasurer and his Ministers in major portfolios such as Health, Education, Transport and the Environment are the only people in the position to address it. We give them the opportunity to do so. The Treasurer is going around the State talking about financial accountability. Let us see a bit of this financial accountability from the Government of Western Australia. We certainly have not seen much of it so far in this crucial issue that impacts on Western Australia's citizens.

I note one other thing: The cuts in the commonwealth grants to Western Australia also impact on our State's economy. The people of Western Australia deserve a much more vigorous response to those cuts than they are

getting from the State Government. Let us consider one simple example - the cuts to the higher education sector. Only recently I was at the university in my electorate, Curtin University of Technology, and I talked to people there who were involved in negotiating for the university on a range of issues. It is clear that over 100 jobs will go from that university. They will be taken out of the Western Australian economy. They are good jobs; jobs that create jobs because the university sector has been outward oriented and has attracted to Western Australia many students from overseas. Curtin University has been a major player in that game. The jobs the Federal Government is taking away will make it more difficult for the State to create jobs, because jobs create jobs in the university sector through its export orientation. That is the foolishness of the Federal Government strategy. The Treasurer and the Minister for Education have been as weak as water in defending our university system against those cuts.

Cuts will be made in many other areas. Where has the Fix Australia, Fix the Roads campaign gone? It has vanished now that a conservative Federal Government is in power.

Dr Edwards: The wheels have come off it.

Dr GALLOP: It fell into a great big pothole created by the Howard Government in its budget strategy.

Mr Lewis: Was the Fix Australia, Fix the Roads program wrong?

Dr GALLOP: It was a blatant political program.

Mr Lewis: Wasn't it laudable that we were trying to get more money for roads?

Dr GALLOP: Why is the Government not doing that now?

Mr Lewis: We are.

Dr GALLOP: The Federal Government has not changed its position. I heard the federal member for Forrest, Geoff Prosser, on radio the other day. Even a Western Australian representative like he was rattling on, defending the current situation.

Mr Lewis: Should we get more money for roads? You're not prepared to answer that.

Dr GALLOP: We are getting less money for roads from the Howard Government and the Labor Opposition has attacked its strategy. There is the answer to that question. We have attacked the strategy of the Howard Government that has cut back on roads. Of course we have said that the Federal Government should spend more money on Western Australian roads.

Where have been the protests of the Government to the prospect that 8 000 commonwealth public sector jobs will go from Western Australia? That will impact dramatically on regional Western Australia. It is already happening with the cuts to Medicare offices. More jobs will be taken from country Western Australia as a result of the Federal Government. That will impact on the State's economy and also on its revenue raising potential. The failure of the State Government in respect of the Federal Government is twofold: First, it has failed to provide information to the people of Western Australia through the Parliament on the impact of those cuts; in fact, it is concealing the impact of the cuts. Second, it has failed to defend the interests of this State in the federation and in the face of the Howard Government, which will be a much nastier and much more centralist Government than the Keating and Hawke Governments ever were.

Mr Cowan: Impossible.

Dr GALLOP: No. There is a big difference. I have said this before: Of course Hawke and Keating were centralist in their approach. I must qualify that: Hawke was not; Paul Keating was a centralist.

Mr Cowan: He was less so.

Dr GALLOP: No, Hawke tried to bring about a reform of federal-state relations, if the member will recall. The Labor Government supported that. The difference between Paul Keating and John Howard is that Paul Keating was an expansive centralist and John Howard is a stingy centralist. Do members recall when he was Treasurer in the 1980s?

Dr Turnbull: This epitomises the fact that you have never in your life earned and created your own money.

Dr GALLOP: I have always been employed.

Several members interjected.

The ACTING SPEAKER (Mr Ainsworth): Order! This debate was progressing reasonably well until there was an interchange between members on both sides of the House. I ask the Leader of the Opposition to direct his remarks to the Chair, and perhaps we will avoid the cross-Chamber exchange which has occurred in the last minute or so.

Dr GALLOP: I will continue to contribute and add value to the Western Australian Parliament in my speech tonight, just as the member for Roleystone added value to the Western Australian economy through his very distinguished teaching career, and just as the Minister for Resources Development added value to the Western Australian economy through his academic career before he entered Parliament.

Mr Minson: What is wrong with my farming career?

Dr GALLOP: Nothing. The Minister for Mines also added value to the Western Australian economy.

Let us consider the impact of the federal Budget on health. It was said in the Estimates Committee that there will be a 1.4 per cent cut in the Health budget which amounts to $12.3m - $1.7m in corporate reductions and more than $10m in slippage in the capital works program. What is that? Will the Government tell all the communities that will not have capital works funds spent on them next year where that slippage will be? Has it, with all the honesty and accountability about which the Premier talks, told the communities in Western Australia that will experience this slippage in capital works?

Mr Cowan: How much slippage was there under your Government?

Dr GALLOP: Let us learn about the slippage of this Government. Will it be in the upgrading of some of the regional hospitals in electorates represented by members of the National Party, or in the upgrading of the Fremantle Hospital? The people of Western Australia need the answer to that question but it is not being provided.

With respect to special purpose grants, we know that the funding to the blood transfusion service is down 5.3 per cent, the dental program down 3 per cent, and the home and community care program down 2.8 per cent. Details of the effect on these services of these funding cuts has not been made available. We see here a great big operation of concealment by the Government. It does not want to tell the people of Western Australia the full impact in Western Australia of its federal colleagues' actions. We heard the Minister for Health slip and slide on this issue in question time today. This Parliament should know in specific terms where the corporate reductions will be made, where the $12.3m will be lost, and where the $10m in slippage in the capital works program will occur.

The Minister for Health will have every opportunity tonight and it will take him only five or 10 minutes to tell the people where those cuts will be made. We can then judge whether the Premier was telling the truth when he said they would have no impact on services. We know the cuts in special purpose grants will have an impact, and that is no better illustrated than in the blood transfusion service, the dental program and HACC. Where are the protests and the vigorous opposition to these cuts? There is only silence from the Minister for Health and the Premier. Where is the defence of Western Australia in the face of this stingy Howard Government, which is taking away basic resources needed to build up the infrastructure of this State? This Government is weak. I compare it with the conservative Government of the 1970s which put up a better fight against its federal colleagues than has the weak lot opposite at the moment, who are undermining the State's development because of the cuts in these basic infrastructure services.

I turn now to education. The Minister representing the Minister for Education in the other place said the Education budget was insulated from this 1.4 per cent cut, and it had cut only $4m from its budget or 0.3 per cent. If that is true, let us hear from the Parliamentary Secretary representing the Minister for Education, who is now in the Chamber, where this $4m will come from. It is interesting to note that when the crunch came in the Estimates Committee the Chief Executive Officer of the Education Department said the final cuts were still being negotiated and it was not yet possible to say where the savings would be made. In other words, there is still a problem. The Premier said there were no problems when this issue was raised in June. However, when one gets down to the nitty-gritty it is clear from the departments that there are problems. It was said in the Estimates Committee that stopping some new programs was an option. If that option is available to the Government, where is the credibility of the Premier's line that there will be no cut in services in Western Australia? He has no credibility at all.

With regard to special purpose programs -

Mr Lewis: You ask a question and then answer it yourself.

Dr GALLOP: I am asking a question so that the Government can answer it in response to the debate, because no answers have been given to the people of Western Australia through the Parliament so far. No clear statement has been made about the effect of special purpose program cuts on education. Perhaps the Parliamentary Secretary will tell us where all those special purpose programs that feed into the Education budget of Western Australia will be cut.

I now turn to Homeswest. No cuts have been made to the general purpose or specific purpose payments because Homeswest is independent of this funding. However, important changes are being discussed with the Commonwealth in relation to the formula. That could mean a cut of $50m to Western Australia in 1997-98. Questions were asked in the Estimates Committee in the other place on 14 October. The representative of Homeswest, Mr Joyce, said that these negotiations were still going on and it could cost the State $50m. However, he said that that figure was not confirmed and had not been confirmed by any modelling. Such a cut would have a severe impact on the State's housing programs. Again, the Government is not being accountable on this basic issue.

I now turn to Family and Children's Services. Cuts to services in this portfolio have not yet been determined. The Minister for Transport in the other place said that he is on the Cabinet estimates committee and the exact impact of the federal budget cuts has not yet been worked out. He said he did not have the details with him of the $40m in savings already identified. We need honesty from the Government rather than evasion. The Minister for Transport then said that the Government will consider selling assets to make up the shortfall in Commonwealth funding. There will be an impact, but it does not know what it will be! In relation to the Commerce and Trade portfolio, we were informed in the Estimates Committee that no decisions have been made on how a 1.4 per cent cut in outlays will be made. How can the Premier say there will be no impact on service delivery in Western Australia if the department has not worked out where the 1.4 per cent will come from? The Premier has been evading these questions and he has been less than frank with the Parliament of Western Australia on these issues. It is about time we had an honest statement about the impact of the federal government cuts.

I referred earlier to the fiasco with roads. Most of the federal cuts will come off the federal highways program which will have an indirect impact on State Government funds, but which, directly speaking, is a Commonwealth responsibility. Nevertheless, we have seen the collapse of the Fix the Roads campaign because we now have a federal Liberal Government in power.

Mr Cowan: You are wrong.

Dr GALLOP: Will the Deputy Premier vigorously protest against the cuts?

Mr Cowan: You said the Fix the Roads campaign has been abandoned; it has not.

Dr GALLOP: This is like the Ghost who Walks! It is there, but it is not.

Mr McGinty: It is a silent campaign!

Dr GALLOP: A very silent campaign. Even the Phantom has a more obvious presence in this world than the Fix the Roads campaign currently.

We have seen from this very quick summary of what was said in the Estimates Committee in the other place that federal budget cuts will have an impact on the delivery of services in Western Australia. However, the Government of Western Australia is either not in a position or does not want to be in a position to be open to the people of Western Australia about what those cuts will mean. The reason for that is that it is protecting its federal colleagues and it does not want to be in a position to have to tell the people of Western Australia that it has its budget forecasts wrong because of what the Federal Government has done. That is not open and accountable government. This debate will provide the Government with an opportunity to be open and accountable with the people of Western Australia. The best way to do that is to consider each item and give time to the Minister to respond in the Parliament. This evening, we will engage in a mini-estimates debate. We call on the Government to participate in the spirit of that debate; that is, to indicate to the people of Western Australia what is the true position of the State's finances. Would the Deputy Premier agree that would be a useful process to have this evening?

Mr Cowan: I do not think it would serve any purpose at all.

Dr GALLOP: He is very negative these days.

Mr Cowan: Do you want me to tell you why? The moment someone tells you we have been able to maintain services because of the work we have done within each department, you will immediately protest and say it is not true. So it would be a complete waste of time.

Dr GALLOP: Tell us the facts.

Mr Cowan: Even if we presented you with the facts, you would not have the intelligence to recognise them nor the integrity to acknowledge them.

Dr GALLOP: No intelligence, no integrity! Has the Deputy Premier ever played football? Did he always go for the man? It appears the Deputy Premier does not like playing by the rules.

Mr Cowan: I will tell you what I would have done. Had I been fortunate enough to play against you, I would have run right through you in the first minute.

Dr GALLOP: We are really seeing the true nature of the Deputy Premier coming out. It is not a pleasant sight.

The Deputy Premier still has not indicated to the Parliament the facts about these cuts. It is incumbent upon him to do that, because unless he does, there will have been a massive concealment operation in place in Western Australia.

In summary, this is an accountability issue. We are asking the State Government to answer two questions: What will be the impact on Western Australia of the federal government budget cuts? How will the Government of Western Australia respond to those cuts? They are two very easy questions which require an answer. The Government is in a position to answer them. The Opposition has facilitated an honest and open debate in this Parliament about a fundamental issue for the people of Western Australia as they prepare for the forthcoming State election. Let us see if the Government of Western Australia responds to that challenge. Let us see if the Government of Western Australia does what it should do and accounts to the Parliament for the finances of this State. Let us see if it is open and accountable enough to tell us what is the true position of our State's finances.

MR McGINTY (Fremantle - Deputy Leader of the Opposition) [9.26 pm]: This is the second debate in as many days that we should not be having in this Parliament. Yesterday the Labor Opposition moved a motion requiring the Government to bring on for debate the most urgent, outstanding piece of legislation, rather than treating it with contempt and leaving it to one side to be dealt with some time next year if government priorities allow for that. That legislation is the most important Mental Health Bill. That Bill is supported by both sides of the Parliament and is crucially important. It took the Labor Opposition's insistence that the Government give it priority for the Government to bring it on for debate. It has now been shelved again. The Government had a notional debate about some of the issues yesterday, a debate in which not one government member participated, and it has been shelved. I doubt whether we will see it again. It will not be passed by the Parliament. The Government was under pressure. It made a gesture of calling it on for debate yesterday as a result of pressure by the Opposition and it has now been put to one side.

This debate tonight is again a simple, self-evident proposition. It revolves around the simplest proposition one can imagine. I thought it would have been accepted without question by both sides of the Parliament. That simple proposition is for the Government to be open and honest and tell us the facts. We know that something in excess of $90m has been taken out of the state Budget as a result of either federal taxation imposts on the State - I refer to the executive motor vehicle fleet impost, a relatively minor amount in the overall scheme of things - or specific cuts to federal grants to States either in the form of specific purpose payments or general purpose grants. The question is simple: How many dollars and cents have been cut from the Budget, and how will the Government accommodate those cuts? If the answer is there will be no cut in services because the Government will reduce Health by $10m, $20m, or $30m and Police by so much, we need to know by how much that budgetary allocation will be reduced, out of which areas in the Budget it will be taken, and how that will result in no reduction in services. That is not an amazing proposition. In days when the words "accountability" and "financial honesty" flow freely from everyone's lips, that should be a simple proposition. However, every time we ask the Premier to identify where the cuts will be made, we get a three part, rhetorical answer from the Premier refusing to detail answers to that question. The first point he makes is that the Government will achieve $60m in savings and efficiency gains. He also said that the Government had identified $40m, but he would not tell the Opposition where it was. He then went on to say that it was normal to make adjustments throughout the year. That is polly speak. Every time the Opposition asks for details, the Treasurer cannot provide the answers and he does that either deliberately or because he is trying to hide something. To put it bluntly, we have a dishonest Treasurer. I say "dishonest" because he refuses to be honest and disclose details to this House which he knows for one simple reason; that is, an election is looming and he does not want to tell the Parliament or the people about the cuts that will be made in the state Budget he delivered in May this year because he fears the political backlash. It is dishonesty. The Treasurer will go down as an absolutely dishonest Premier and Treasurer because he refused to be honest to the Parliament.

It took Health Department bureaucrats in the Legislative Council Estimates Committee to be honest in the answers they gave to the questions they were asked for the Opposition to gain a glimpse of what is going on. The Treasurer has deliberately set out to deceive this Parliament by his dishonest tactics and his consistent refusal to answer the most simple questions. The Opposition knows that the Health budget will be reduced by $12.3m, in a global sense. It also knows that certain capital works will be delayed. In other words, a hospital or a health centre will not be constructed, even though it was promised, and that will achieve savings of approximately $10m. The Opposition also found out, even though the Treasurer refused to acknowledge it in this place, that Treasury had issued an instruction to all departments to reduce their expenditure by 1.4 per cent. Why could not the Treasurer tell that to this House? Why has he tried to cover up, mislead and deceive members in this House by refusing to simply say, "Treasury has issued instructions for every budget to be cut by 1.4 per cent and that will achieve a saving of $40m." It is not hard

to say that; I just said it! Why cannot the Treasurer say it? He should be able to tell this Parliament what is going on with the finances of this State.

The Opposition also knows that in addition to the $12.3m which will disappear out of the Health budget there will be further cuts. For example, $9m will come out of dental care. In Victoria a program to fight similar cuts has been initiated by the Kennett Government; it is titled, "Bite back" and is designed to get the money that has been taken out of dental care in Victoria back into the state Budget. The Opposition knows that $1m has been taken out of the blood transfusion service. What does that mean to people requiring blood transfusions? What does the $9m which is coming out of dental care mean to people on the waiting list for dentures and emergency dental treatment? These are the issues about which the government side of politics is not prepared to be honest. All the Opposition wants is the answers. If someone can reel off the answer outlining what services will be cut, it would be appreciated by the Opposition. If the cuts will not impact on services, the Government should tell the Opposition how it will be done. The Government is not prepared to do that. All the Opposition is asking is that, for example, the Minister for Health stand in this place and explain what has now become a cut of $20m to the Health budget, if one includes the cut in dental care, and outline which health care services will be reduced. Whether that is offset by efficiency measures and the like can be discussed, but the Opposition has a right and a need to know the facts.

I urge members to support this motion. It is a debate that we should not be having. If the Government had been honest, open and accountable it would not have been necessary for the Opposition to move the motion. It is interesting that in the last few weeks of sittings prior to a general election this Government has become a Government of secrecy which has its priorities wrong and refuses to divulge the true situation affecting the finances of this State. This debate gives the Government the opportunity to rectify that.

MR KOBELKE (Nollamara) [9.34 pm]: The Leader of the Opposition clearly stated that the Court Government is less than honest with this Parliament and the people of this State. It is failing to tell the truth and the statements made by the Treasurer sit at odds with the facts that have been presented. I will refer to some examples in education which will clearly illustrate that this Government is failing to tell the truth about how it will handle the federal Budget cuts as they affect Western Australia.

Within the Government there is a false belief that there is a lot of fat in the education system and the Government can make cuts but it will not reduce the quality of education services. Earlier this year the Government had to meet the cost of increased salaries to teachers. According to the Minister for Education, in the 1996-97 financial year the cost of the salary increases was $78.4m. The cost was to be met in part by $21m derived from numerous efficiency measures across the department including, according to the Minister, refocusing on program delivery, trade-offs in working conditions, professional development of teachers in their own time and the stricter enforcement of the staffing of schools within the agreed formula. The department has already set out to save $21m from its budget and it has cut services and reduced the quality of education. From where will the extra money be found? There is no more fat to cut and services will be cut. For the Treasurer to glibly say that services will not be cut is totally false. If the Treasurer knows something that the Opposition and the people in the Education Department do not know, why will he not say? Clearly, the conclusion one must draw is that the Treasurer is not telling the truth. If cuts are made to the education system, the quality of the service will suffer.

It is not as though a lot of money is spent on education in Australia. The figures indicate that Western Australia spends less than the national average on each student. Most other States spend more educating their children than does Western Australia. If we consider what other developed western countries spend per child on education, we find Australia is near the bottom. From the anecdotal information I have, the quality of education in Western Australia is comparable with the best provided in developed western countries. One cannot argue that Western Australia has an inefficient education system. What inefficiencies in the education system can be cut without affecting the overall system? They simply do not exist.

Mr Lewis: Who is listening to you?

Mr KOBELKE: I know the Minister has difficulty listening to an argument and I will not waste my time talking to him. However, I hope he will participate in this debate and address the facts rather than attack the person as he does on a regular basis.

I refer to the comments made by the Minister for Education on 20 March 1996. He said that one of the trade-offs to meet the salary increases was to reduce the school development grant by $5m. What happened? There were many cuts in programs to schools and you, Mr Acting Speaker (Mr Ainsworth), will be aware of the effect they had on country schools. Many of them could not afford to attend sporting carnivals and the Minister agreed to put back $1.5m. It really covered only country week and a few specific things. Most of the programs were simply cut.

A Labor member attended an official program some months ago in which a number of schools were invited to be involved. Half a dozen or more private schools and one government school were represented by students. All the private schools judged that it was to the educational advantage of their children to attend that program. It did not matter whether the government schools took into consideration the educational value because they simply said they could not afford to send their children. The quality of education is being cut as a result of the budget cut to school grants. That is one simple example.

Let me give one other example: Visiting teachers are employed by the Education Department. They cover the whole State, and they visit government and non-government schools to assist children who are visually or hearing impaired or have other disabilities and need special assistance. However, most of the visiting teachers do not help students on Fridays because insufficient funds are available in the budget to meet their travel costs; therefore, they sit in an office across the road from here. I am sure that they make good use of their time, but they are not available to help serve the children they are employed to help.

A year or two ago those teachers were helping children all week, but the budget cuts determined that travel costs could not be met. Clearly, an argument could be made that those teachers need time for duties other than teaching with professional development. Nevertheless, they were put into the system to meet a need, and extra teachers are needed because this service has been reduced. The demand for this service is large and growing and it is not being met.

I am sure the Minister for Disability Services will take a keen interest in this matter. We have found that the assistance given to disabled students has reduced as teachers are unable to travel on Fridays because of budget cuts. They are two examples of how the last budget cuts are affecting the quality of education in the system.

The Court Government believes it can trumpet claims that it is responsible for financial matters, but it is responsible for not speaking the truth. It says, "Anything will do. Let these matters slip by; we need not be accountable for speaking the truth." However, I make clear what the Government has stated. On 18 June, the Treasurer said -

> I will, therefore, meet each Minister individually, commencing this week, to identify specific measures to be implemented during 1996-97 to ensure that this State's contribution to the Commonwealth can be met. The Government will not introduce any new tax measures or levies to meet this additional cost.

On 20 August the Treasurer said, "To date we have identified $40m in saving without affecting the level of service." I do not have time to refer to the problem of the specific purpose payments, which are also vague and unknown. The Treasurer has emphasised repeatedly that services will not be cut, but cuts in education are evident.

A 1.4 per cent cut was sought from the Education budget which would have delivered nearly $18m of the $40m the Premier claimed to have found. However, on 14 October 1996, in the Legislative Council Estimates Committee hearings, Hon Norman Moore said, "The department is looking at saving $4m." That saving is about 0.3 per cent of the department's budget. Instead of the $18m required to meet the Treasurer's identified savings. We find that the biggest single department, the Education Department, can consider a saving of only $4m, which is $14m short of what must be found in that area.

Contrary to the Treasurer's comments, the Director General of Education said in the estimates hearing -

> We negotiated with Treasury to bring the percentage back to a manageable amount. We are planning for that now. The planning is not complete, so I am unable to give any specific areas.

That is completely at variance with the Treasurer's statements to the House on many occasions. He has said that $40m has been identified, and that the Government has identified the savings and no cuts to services will be made. How can he say that no cuts will be made to services unless the savings are clearly identified?

We know that in Education, the biggest single budget item, savings have been identified only at a fraction of the amount claimed by the Treasurer. Where is the truth in the Treasurer's statements? The Treasurer and the Minister for Education can present information on how the savings have been made. They can pull the rabbit out of the hat and deliver what they said they would deliver. However, unless they can show those savings without cutting services they will be shown to be speaking untruths. In that case, their credibility on the truth will be reduced to absolutely nothing.

Adjournment of Debate

Mr MARSHALL: I move -

> That the debate be adjourned.

Mr Ripper: Mr Acting Speaker, will we not have a response from the Government?

The ACTING SPEAKER (Mr Ainsworth): Is this a point of order?

Mr Ripper: I am speaking to the motion that debate be adjourned.

Mr Tubby: Our understanding is that the member for Wanneroo will make a second reading speech at 9.45 pm.

Mr Ripper: That was to happen if there was sufficient time after this debate. We said five or 10 minutes could be used if some time was left. We thought the Government would respond to the motion. We do not want to move on to the next order of the day.

The ACTING SPEAKER: There is no scope to debate the motion before the Chair.

Question put and a division taken with the following result -

Ayes (25)

Mr Ainsworth	Mr Kierath	Mr Shave
Mr Blaikie	Mr Lewis	Mr W. Smith
Mr Board	Mr McNee	Mr Strickland
Mr Bradshaw	Mr Minson	Mr Trenorden
Mr Court	Mr Nicholls	Dr Turnbull
Mr Cowan	Mr Omodei	Mrs van de Klashorst
Mrs Edwardes	Mrs Parker	Mr Wiese
Dr Hames	Mr Pendal	Mr Marshall *(Teller)*
Mr House		

Noes (16)

Ms Anwyl	Mr Graham	Mr McGinty
Mr Brown	Mr Grill	Mr Ripper
Mr Catania	Mrs Hallahan	Mrs Roberts
Mr Cunningham	Mr Kobelke	Mr Thomas
Dr Edwards	Mr Leahy	Ms Warnock *(Teller)*
Dr Gallop		

Pairs

Mr Day	Mr Riebeling
Mr Bloffwitch	Mrs Henderson
Mr Prince	Mr D.L. Smith
Mr C.J. Barnett	Mr M. Barnett
Mr Johnson	Dr Watson
Mr Tubby	Mr Marlborough

Question thus passed.

MARTIAL ARTS CONTROL BILL

Second Reading

MR W. SMITH (Wanneroo) [9.50 pm]: I move -

That the Bill be now read a second time.

For members' information, I have available the draft regulations which can be obtained from the Bills and Papers Office. For someone on the outside of martial arts, it may appear extremely dangerous, whereas it is not so for a person who is appropriately skilled in the art. However, regulation is needed, otherwise the way may be left open for people controlling the art to create dangers for others, and perhaps even death, in some of the very strong contests in martial arts, such as kick-boxing. Therefore, because there may be some dangers if the sport is not regulated properly, a martial arts control Act and regulations should be established to ensure that what are called fringe operators, or unqualified or unsavoury people, are brought under control.

As a result of my experience within the martial arts industry and that of others who practise the art, and also the experience of the general public, there is reason to support legislation to provide for the control and orderly development of the martial arts industry. There have even been instances where police commissioners have directed police officers to dissociate themselves from a particular martial arts organisation. In such instances, there has been no authority to investigate any complaints. In fairness to both the complainant, whether it be the Police Commissioner or a member of the public, and the martial arts organisation to which the complaint refers, the Bill will

ensure that a martial arts control board is established to deal with complaints and respond with appropriate action. The disarray in the martial arts industry and its inability to develop any form of self-regulation to address concerns raised by the public and a number of martial arts organisations and, of course, the police, has encouraged me to tackle these concerns by this Bill. Some concerns include -

> The economic self-interest of some professional proprietors, promoters and contestants who presently organise contests and forms of instructions with little, if any, regard for proper standards of safety and conduct.
>
> Unqualified backyard martial arts instructors who are unaffiliated with any of the recognised martial arts organisations are similarly free to operate without even basic regulatory standards for coaching, training venues, the conduct of martial arts contests, and business practice.
>
> The present lack of uniform safety standards and practices to protect martial arts contestants, instructors and students. There is real evidence that very serious, if not fatal, injury may occur in the future.
>
> A history of intolerance, rivalry and, at times, blatant active hostility between exponents of different disciplines and even within the same discipline. There is no proper recognised forum for dialogue or exchange of views.
>
> Little, if any, equality of opportunity exists for women in the martial arts.
>
> Promoters who might use money obtained by criminal methods to fund promotions, similar to what was reported in boxing prior to controls being imposed on professional boxing; that is, laundering of money activities.

In summary, the objects of the Bill are to control the sport of full contact martial arts, both amateur and professional; establish safety standards and procedures for participants; eliminate malpractice; remove backyard and cash in hand operators from the industry who do not declare profits, as do legitimate martial arts instructors and promoters; support the principle of public accountability; and review any real or perceived discriminatory practices regarding women and respond to the needs of women in martial arts to increase their participation.

The martial industry involves thousands of participants and is a growth industry involving hundreds of thousands of dollars annually. This Bill will give the public assurance of quality instruction and value for money; make the industry publicly accountable; weed out those who have no place in the industry; work towards equity and equality of opportunity; and, encourage interdisciplinary dialogue and tolerance for the benefit of the martial arts industry and the public generally. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

ACTS AMENDMENT (ASSEMBLIES AND NOISE) BILL

Returned

Bill returned from the Council without amendment.

MINING AMENDMENT BILL

Second Reading

Resumed from 20 June.

MR GRILL (Eyre) [9.56 pm]: The Opposition does not oppose this legislation in any sense. However, three or four speakers want to comment on this legislation because it is important for the goldfields. The goldmining, nickel mining and base metal industries represent the biggest industries in the State. This Bill will amend the Mining Act 1978 in three distinct areas: To reform the registration of dealings under the Mining Act with regard to mining tenements; to provide for the recommendation of the Minister for the Environment in respect of state forests and timber reserves outside the south west mineral field, rather than concurrence, to mining activities within those reserves; and to incorporate changes to special prospecting licences for gold, which will make it more beneficial and easier for prospectors to gain access to exploration and prospecting licences.

Difficulties and deficiencies have been apparent for quite some time in respect of the registration procedures under the Mining Act regulations. Those deficiencies were recognised by the Australian Mining and Petroleum Law Association Ltd in 1989 when that body gave a brief to an academic lawyer at the University of Western Australia, Alex Gardner, to research some draft recommendations to bring those registration procedures up to date. The present Mining Act is not very old; it was brought down in 1978 and replaced the very old 1904 Mining Act. There was considerable concern in mining and prospecting circles when the new Mining Act was presented. The new Mining

Act needed to be amended even before it came into existence, and many of the concerns that were expressed about the new Mining Act proved to be correct. Over intervening years, a number of amendments have been made to the Act. One of the areas of deficiency was the registration of instruments and dealings, as they were termed in the Act, in respect of mining tenements. Those dealings were registered not pursuant to the provisions of the Act but pursuant to the regulations under the Act. It was thought by the lawyers initially examining these provisions - Alex Gardner and his associates in the Australian Mining and Petroleum Law Association - and subsequently by the Department of Minerals and Energy, and the industry, that these areas could be substantially improved by taking the registration procedures from the regulations and incorporating them as a discrete section under the Act in an easily definable and followed section of the Act. Basically they are the amendments being discussed now.

They also make changes to the procedures for registration. The starting point for any Mining Act registration activity must be to provide a good or secure title to any tenement holder. It is fundamental to the success of exploration and the development of mining and petroleum to have a system of secure title. To have such a system of secure title we need an easily understood, clear, effective and simple process of registration of dealings. As I said, that was recognised by lawyers a long time ago, and I hope that these provisions will bring that about. Whether they will make dealings under the Act more simple and certain, only time will tell. A reading of the provisions indicates to me that we are heading in the right direction, but as time passes, and as the new system is tested, we will discover whether it will be as simple and as easy as the proposers of the amendment hope. In saying that, it should be recognised that the current system, which is about to be amended, has been too complex. I am told that certain dealings, especially in relation to joint ventures, have simply cluttered up the registration procedure and the registered title. They have not been removed at appropriate intervals when they have become moribund. I was told that recently. I do not have first-hand experience of the situation. However, the officers who provided a briefing on this Bill this morning informed us that is the case. I hope this system with its more simple process and its greater rigour and scrutiny will ensure that that does not happen in future.

The second reading speech sets out in a clear way what the proposers of the amendment want to do. I refer here to the review undertaken by the mining industry, and DOME after the Australian Mining and Petroleum Law Association brief was provided. The second reading speech reads -

> The focus of the review was to make the dealings registration system more simple and certain with the general aims being to require the registration of legal interests in mining tenements by way of transfer and mortgages; that equitable and contractual interests in mining tenements be protected by a system of caveats to give notice of a prior interest; and that the administration of the register of mining tenements be updated and inserted into the Act.

I have already mentioned that we are very hopeful that this system will be more simple and clearer. The Act expands the number of ways in which a person or company could caveat an interest in a mining tenement. It is proposed that only legal interests can be registered as such, but that equitable and other interests not amounting to the definition of a legal interest would be protected by caveats. There will be three forms of caveat rather than the two under the Act that previously applied. The first form of caveat already provided under the Act is the hostile caveat which would protect an interest by a third party, and which could be removed or would lapse where another instrument was registered, 14 days from the date of lodgment of the interest unless it was objected to by the caveator. Where there is an objection by the caveator the matter would go before the warden who would make a decision on the matter.

The second form of caveat is a consent caveat. As the name suggests, this caveat is registered by one or both of the parties where an agreement has already been entered. Most forms of agreement would be for the sale of the tenement at some future date, with the price to be determined in the future or which may already have been determined. That will protect the right to sell or purchase the tenement at a future date, at a determined price, or protect some other agreed interest. Normally that caveat would be for a defined time. At the end of that time it would lapse.

A new and third form of caveat provided by this Bill is one which is called "subject to claim". This morning at the briefing we were told that the subject to claim caveat would normally be registered to protect a royalty or to protect a tribute agreement or something of that nature. Although we agree that this is a welcome addition to the Act, it is an interesting addition and we would like to see how it will work in future. It is rather innovative. This caveat will remain in place even where subsequent dealings in respect of the mining tenement take place. Therefore, the caveat will remain in place to protect that interest - I presume I am correct, but I may stand corrected - even when there is a transfer or mortgage of the tenement or where another dealing is involved. I think I heard that correctly this morning -

Mr Minson: That is my understanding. You are a lawyer and you have the jump on me.

Mr GRILL: We were briefed only this morning. I am parroting what we were told. However, I want to place this on the record. If there is advice to the contrary I would like to hear it some time during the debate. I do not in any

way pretend to be an expert on this new area of mining law. As I mentioned a while ago, disputes on these caveats are normally decided by the warden. In recent years the Minister has seen many of these disputes on mining matters end up in the Supreme Court and even go on to the High Court.

As members know, special licences can be applied for on prospecting licences, exploration licences and mining leases. It is essential for applicants for mining leases to obtain the consent of the registered owner of the tenement before such a special prospecting licence can be granted. It is not essential to obtain the consent of the tenement holder for special prospecting licences over prospecting or exploration licences. I think in the Act it is referred to as the primary tenement holder. Where there is a dispute about whether SPLs should be granted, the matter will go before the warden.

Mr Minson interjected.

Mr GRILL: The Minister is right. He also knows that considerable discontent has arisen in most of the goldfields by prospectors because they have been locked out of what they call land. They do not have access to land. Prospective land has been tied up by the major mining companies with large exploration licences and prospectors feel that they have been excluded. As the Minister pointed out in his second reading speech, a number of attempts have been made to alleviate and correct that situation. However, it was exacerbated to some extent last year when Parliament passed legislation regarding retention licences. They allow big mining companies to tie up extensive areas of land for very long periods where an uneconomic deposit is on it.

In the interval between the time that legislation was passed and today, the abuse which I thought could take place under that section has not occurred. Nonetheless, it is early days and there is still plenty of scope for big mining companies to tie up land in which minerals exist for up to 21 years with the right to renew. I think the jury is still out on that issue. There is no doubt that prospectors and small mining companies have been most unhappy with the operation of the 1978 Mining Act in the sense that it has allowed big mining companies to tie up very large tracts of land for long periods. A number of improper, but legal ploys have been put in place over the years by some of those companies to continue those practices.

Mr Minson: I have been travelling since taking over from Hon George Cash and I am astonished at the size of some of the tenements. They are very large.

Mr GRILL: There is no limit to what they can do; therefore, except in established goldfields, very large tracts of land can be tied up. That is the cause of the discontent. This State continues to owe much to prospectors.

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

Mr GRILL: History will show that prospectors have found the majority of major deposits in this State. Interestingly, since I made the remarks in 1978 in opposition to what we then called the new Mining Act, even whole new fields have been opened up by humble prospectors. Areas that have been overlooked by big mining companies have been opened up by at least one prospector who made a lot of money from it. It was a lone man who went into the wilderness and found the new mineral fields. Companies have not done that, although they have been fairly good at finding deposits in established fields and at following up the work of prospectors.

I think there was a view that prospectors were on their way out in 1978. Their numbers indicate that they have been very much on the way out since then but that is because they have been locked out of the land. Nonetheless, they continue to play a significant role in the mineral affairs of this State.

The modest attempts before us tonight to ensure that to some degree at least prospectors are able to carry on their business are welcome. As the Minister conceded in his second reading speech, the amendments before us were driven by the Amalgamated Prospectors and Leaseholders Association. They are aimed at making easier access by prospectors to exploration and prospecting licences held by companies. The changes can be listed in this fashion: First, prospectors will be allowed to hold three, rather than just one, SPL on prospecting and exploration licences. Secondly, in future, the right to make application for a special prospecting licence will be limited to individuals, not to companies. This morning a question was put to Roy Hudson, the officer who gave us a briefing, about whether companies held SPLs. We were told that they did not, although companies had made application for them in the past.

Another area that will make it easier for prospectors to obtain a special prospecting licence on ELs and PLs is the reporting requirements where the matter has come before the warden in dispute; that is, where a prospector has made application for a special prospecting licence and it has been opposed by the primary tenement holder the matter will go before the warden for determination. In the past the warden could call for a report by Geological Survey of Western Australia encompassing inquiries about all the possible matters that could be taken into account under the Act.

In future the report of the Director of Geological Survey of Western Australia will be limited to information which is held in reports filed by the primary tenement holder in respect of the primary tenement. The officer undertaking the work under the Director of Geological Survey will not legislatively be able to go beyond the scope of those reports. Those reports are required by regulation to be filed periodically by the company. The matters which the Geological Survey takes into account will be limited to the matters set out in the reports. I understand that a whole range of extraneous matters are at present taken into account in the reports. By limiting information to the contents of the reports, I think we will find a willingness by the primary tenement holder to be as comprehensive and as honest as possible in the reports that are filed. There is a view that quite often companies are not as comprehensive and honest as they should be in the filing of these reports because of the fear that they will be disclosing information to possible rivals or persons hopeful of pegging special prospecting licence area or other tenements on the primary tenement and that they will be giving them some advantage. This is a considerable step forward.

It was also pointed out to us this morning when we were briefed that the whole system had bias in it up to the present time. It was brought about because present day mining tenements are for all minerals and special prospecting licences are for gold only. To the extent that the primary tenement holder is looking for gold or has gold within the repertory of minerals that can be explored for, there will be an overlap between the two. It is therefore very easy for a primary tenement holder to contend that he too is looking for gold and that there will be a detriment to his operations if an SPL for gold is granted for his tenement. As the Minister pointed out by way of interjection, that will be made harder from now on because the warden will have to take into account not only whether there is a detriment to the primary tenement holder but also whether there will be an undue detriment. That represents a significant change to the Act. Together with the fact that the report from the Geological Survey will be limited to matters contained in the final reports, it should remove all the bias to which I referred earlier.

This Bill will also put some new flexibility in the hands of the warden in the extent of the depth to which he can grant an SPL. Most SPLs are applied for on the basis of alluvial gold deposits and therefore the prospectors would not be interested in the ground or dirt below about two or three metres. In most cases the prospector applying for an SPL would be satisfied with the grant of a few metres. The warden will have the right to make a grant up to 50 metres. In the past SPLs were for areas up to 50 metres in depth. The prospectors believe if the SPLs can be limited to shallower areas of land, there is likely to be less objection from the primary tenement holder. I think they are right and so more SPLs will be granted by consent or as a result of the warden deciding whether there is undue detriment.

I will not have time to move to my third point relating to the reserves. However, I will make a few remarks in respect of timber reserves and state forests. In 1992 the Department of Conservation and Land Management unveiled a report called the Draft Goldfields Regional Management Plan. If one looks at the map which accompanies it, one sees it really blankets huge sections of the goldfields and the western Nullarbor region with various types of reserves. My view, which I expressed very publicly at a meeting to CALM, is that the reserves serve no purpose and could be detrimental to the environment in many respects, in the sense that once we place reserves over huge areas of land and exclude any other activity, including pastoral activity, we remove the voluntary environmental officers who police those areas and shoot dogs, foxes and dingoes, and make sure fires are put out. There is a classic case where the equivalent of CALM in South Australia blanketed a large area of the Nullarbor in the hope of protecting flora and fauna, particularly hairy-nosed wombats. By securing a reserve and not putting any resources into it, it ensured the heavy decimation of the rather large colony of hairy-nosed wombats - I do not know whether they were entirely wiped out. We must be very careful. I have not gone into the amendments to this Bill because they should be covered by my colleagues.

MR RIPPER (Belmont) [10.29 pm]: The Opposition supports the Bill. It contains planned amendments to the Mining Act in three categories. The first is amendments which change procedures for giving consent to mine in state forests in the goldfields region. The second amendment changes the way in which dealings against mining tenements are registered. The third amendment changes the conditions on which special prospector licences for gold prospectors are issued.

With respect to state forests, I understand that 12 timber reserves and two pastoral stations are owned by CALM in the goldfields area. They are situated in a region that is highly prospective for minerals. In 1992 CALM issued the Draft Goldfields Regional Management Plan, which recommended that those 12 timber reserves and two pastoral stations be converted to state forest. That has implications at least for the pastoral lands for the access which mining companies might have to mine on those lands. The Mining Act provides under section 24(6)(a) that "Mining may be carried out on land" - such as the land I have been talking about - "referred to in subsection 1(d) with the written consent of the Minister who must refuse his consent or give his consent subject to such terms and conditions as are specified in this consent."

Section 24(6)(b) states -

> Before giving his consent, whether conditionally or unconditionally the Minister shall first consult with, and obtain the concurrence thereto, of the responsible Minister.

The responsible Minister in the case of state forests is the Minister for the Environment who is responsible for the Department of Conservation and Land Management. Were we not to make any amendments to the Mining Act and were these timber reserves and pastoral stations to become state forests the concurrence of the Minister for the Environment would be required before the Minister for Mines could give his consent for mining on any of this land. This legislation asks us to change that procedure so the Minister for Mines can give his consent following a recommendation from the Minister responsible - in this case, the Minister responsible for CALM - rather than the concurrence of the Minister for Mines. That change will apply outside the south west mineral field; in other words, only to state forests in the goldfields region. The Opposition thought about this proposal and on reflection decided to support those categories of amendments. Those amendments will allow for pastoral stations, in particular, to be converted to state forest without damaging consequences for the mining industry.

Mr Minson: I admit it sounds a strange move; however, we either change the CALM Act and create these sorts of reserves or do it this way. I am glad the member for Belmont agrees it is probably the most efficient way of doing it.

Mr RIPPER: It is obviously preferable when CALM is managing the pastoral stations not as pastoral stations, but effectively as timber reserves, that the appropriate legal regime apply. At the moment I imagine that CALM has some responsibilities, because the land in question relates to pastoral leases which are not precisely appropriate to the purpose for which CALM is holding the land. This will allow an appropriate legal regime to be applied to this land without having a detrimental effect on the mining industry. The mining industry would be concerned at any perception or actuality of access to land in this highly prospective region being restricted. There will be less opposition from the mining industry to further reservations for state forest in the goldfields region. One can see that there is some sort of trade-off here between, broadly speaking, conservation interests and mining interests. Conservation interests will have the possibility of more land being reserved in the goldfields region; on the other hand, the mining industry will find that its access to that land for mining purposes is improved to a certain extent. We might be dealing here more in perceptions than in realities. The responsible Minister for the CALM land which, in this case, is the Minister for the Environment, could still frustrate the Minister for Mines in giving that consent to mining on this land, simply by not providing a recommendation. If the Minister responsible did not provide a recommendation at all the Minister for Mines will still be prevented by this legislation from giving consent to the mining. The matter would no doubt end up in Cabinet. The perception is that access will be improved for the mining industry; however, I have doubts about whether the reality of the situation has been changed in the ultimate to any great extent.

I have said that there is a balance here between conservation and mining interests. However, another industry is involved as well; that is the nascent goldfields timber industry. I had the privilege last year of being given a tour by CALM of woodland in the goldfields region. I was very impressed by the briefing which was given and the potential which exists in this area for a low yield, but high value timber industry. There is a capacity for a boutique timber industry to produce timbers which are required by niche markets. For example, some of these goldfields timbers are suitable for the manufacture of musical instruments, and some for use in the wine industry.

Mr Grill: We do not need them to be state forests for that.

Mr RIPPER: Technically the member for Eyre is probably right. We do not need a timber reserve or state forest for that to happen. However, state forest is usually managed to allow a timber industry to progress. It is probably a net advantage to the timber industry to have these state forests, although I agree with the member for Eyre that the bottom line is it is not absolutely necessary for that industry to have those reserves. It is not simply a matter of balancing conservation and mining; another industry will also make use of the land and it is possible that industry will undergo significant growth. What impressed me about the woodland tour which CALM organised was the extraordinary powers of recovery of that woodland. Most of the woodland that we saw had been extensively logged to support the mining industry in the past 100 years. It was difficult to tell the regrowth woodland from the untouched woodland. Clearly this type of woodland, given sufficient time, can make a pretty extraordinary recovery from logging. A possibility exists for this type of timber industry to grow in the goldfields. It is the type of timber industry which will be very suitable for small business operators. I look forward to further developments in that area. It might be that the Minister has some comments to make about this, given his former responsibilities in this area.

Another group of small business that will be advantaged by the changes proposed in the legislation is prospectors. The legislation before us contains provisions for granting special prospecting licences on primary tenements - for example, land subject to prospecting licences, exploration licences or mining leases. Those provisions will be more favourable for prospectors and make it more likely that these special prospecting licences will be granted than do the existing provisions. The emphasis on assisting the small operator is demonstrated in the amendments which will

restrict the availability of special prospecting licences to natural persons. While no companies are presently taking advantage of the provisions to obtain small prospecting licences, in the future it will not be possible for any company to obtain one of those licences as a result of this legislation.

The availability of special prospecting licences will also be enhanced by raising the limit on the number of licences in which people can have an interest from one to three for any individual. In addition, it will now be possible for special prospecting licences to be granted with a range of conditions as to the depth covered by the licence. At the moment, a special prospecting licence covers any depth up to 50 metres below the lowest point of the natural surface. Under these amendments, conditions will be able to be placed on these licences specifying the precise depth up to 50 metres that can be covered. This will make it less likely that the primary tenement holder will object to the granting of the special prospecting licence, which should make it more likely that more of these special prospecting licences will be available. If there are objections from primary tenement holders to the granting of the special prospecting licences there are also provisions that will make it less likely that those objections will succeed and frustrate the granting of the licence.

At the moment, the Director of Geological Survey of Western Australia must report on whether the special prospecting licence will have an effect on the activities of or cause a detriment to the primary tenement holder. I am advised that when the warden hears the objection, he is likely to take fairly close notice of a report from the Director of Geological Survey to that effect. The way in which the reports are structured means that it is quite likely that an objection would be upheld. This legislation will change the way in which the Director of Geological Survey reports: He is not to report on the effect on the primary tenement holder but on the exploration work reported by the primary tenement holder. The warden will express an opinion on whether a detriment is likely to be caused by the applicant for the special prospecting licence. Not only will the warden rule on the question but also the test has been tightened and he will be required to find that there is undue detriment to the primary tenement holder for the objection to succeed. The combination of those two measures will mean that, if primary tenement holders object to the issue of a special prospecting licence for gold, it is less likely that the objection will be upheld.

On the one hand, more licences will be available for prospectors and primary tenement holders will be less likely to object to the issue of those licences and, on the other hand, if they lodge objections, those objections are less likely to be crucial in preventing the issue of a licence.

The Opposition strongly supports these changes. Historically, the Labor Party has strongly supported small gold prospectors and the work that they do. These people are often battlers. Some are lucky, but most do not make a huge amount of money out of this activity. Nevertheless, they make a significant contribution to the overall exploration efforts of the mining industry, particularly because they are individuals, they are not bound by the bureaucratic rules of big companies and they have the freedom to take initiatives and to think laterally.

Mr Minson: It keeps them off the streets as well.

Mr RIPPER: In an economy that is developing in a way that denies opportunities to people who do not have academic, technical or trade skills, this is one activity that is still available. Increasingly, those opportunities are diminishing in our society. It is a good thing that people can still go out and, with a very small show, maintain themselves and prospect for gold. We support these changes, which will support those people. We support them for the same reason we oppose a royalty on gold production and the introduction of a federal tax on the income that prospectors make from the sale of mining tenements. In particular, we oppose the retrospective elements of that taxation regime. In addition to introducing these amendments, we would like to see the State Government opposing the gold royalty and the federal tax. For internal party reasons, members opposite might have difficulty being as vigorous in their opposition to a gold royalty as they should be, but surely they can take a public stance on the federal tax proposals that will impact very significantly on the income and incentives available to the very people that this legislation is designed to help. Why does the Government not take this one step further and adopt a whole package of measures to assist these people, including the amendments before the House and the other measures that I have suggested?

The third category of amendments relates to the registration of dealings against mining tenements. Unlike my colleagues from the goldfields, I do not have a legal professional background, therefore it is not easy for me to work out whether these changes to the legislation will produce the desired effect. However, on the basis of my reading and the briefing, it appears that they will be an improvement on the current situation. My understanding is that currently both legal and equitable interests in mining tenements have been entered on the Department of Minerals and Energy's tenement register. I am advised that there has been a problem with that process, because agreements relating to tenements that have become defunct - for example, joint venture agreements governing exploration efforts - have remained on the register. There has not been the required degree of certainty and clarity. When people have looked at the register, they have not been able to determine without further investigation whether a registered interest is a

continuing interest or has become defunct. That defeats the purpose of a register, which is supposed to give people certainty when they are undertaking dealings that could otherwise be risky in mining tenements.

I understand that the amendments will see transfers and mortgages registered, but other interests in tenements protected by caveats. Three types of caveat will be available: First, absolute caveats, also referred to as hostile caveats, where people lodge a caveat to prevent any dealing in the specified tenement; second, subject to claim caveats, that will register an interest in a tenement under which dealings can be finalised for the tenement if the claim mentioned in the caveat is taken account of and recognised; and, third, caveats lodged by consent which formally place on the register, interests in mining tenements arrived at by agreement.

On the basis of the briefing and my reading of the legislation, the Government's claim that this system will offer better protection and will be less cumbersome is correct, therefore the Opposition will support this part of the legislation. It seems to me that a system, where caveators are required to be notified of proposed dealings in a tenement which might affect their interests offers those people better protection. Because caveats expire if they are not acted upon or if the warden makes an order against their operation, the register might become cluttered with defunct registrations of interest.

The introduction of the subject to claim caveat also seems to be a commendable streamlining of the system. That caveat can continue to be on the register without hindering a transaction, provided the interest recognised by the caveat is encompassed in the new transaction. The whole system for registering dealings against mining tenements is taken out of the regulations and put into the legislation. This system will be more accessible for people who want to read the Act. It should offer better protection and be less cumbersome.

I repeat: I am no expert on this area. However, I am principally encouraged in my support for this part of the legislation by the advice that all those who are experts in this area and all those who represent the key interest groups in this area think this will be a better way of protecting these interests. I will take their advice as the system begins to operate. We will maintain a watching brief on how this new registration system meets the needs of those in the industry who must deal in tenements. This is an interesting piece of legislation which, on the whole, makes some very sensible changes, and the Opposition is pleased to support it tonight.

MS ANWYL (Kalgoorlie) [10.35 pm]: I support the Bill, but I do so with some trepidation, given the comments by the Leader of the House today. I do not know what important legislation I am holding up by making some comments on this legislation, which is very important to the goldfields and the mining industry generally. It was a source of some puzzlement to me that, according to the Leader of the House, that the Opposition controls the business in this place. That was not my previous understanding of events.

Mr Ripper: It is news to me.

Ms ANWYL: It seems to be news to our leader of business, too.

Mr Minson: All you are doing is keeping us out of bed, so don't worry about the legislation too much.

Ms ANWYL: I do not intend to keep the Minister out of bed for too long.

I support the fact that the legislation will streamline procedures for registration and the protection of interests of prospectors generally. There is a real need to lessen the current administrative burdens on the Department of Minerals and Energy and the extreme pressures that are currently being faced by the Warden's Court.

The current lack of facilities for withdrawal of joint venture agreements on the registration of title has led to a degree of cluttering; therefore, amendments to existing section 103 by the insertion of proposed section 103A will be welcomed by those who must deal with the fairly cumbersome nature of encumbrances on titles at present.

I do not seek to explore the issue of caveats at any great length. The implications are particularly important to the Warden's Court. We have heard about the hostile caveat. It means that where there is to be registration of an interest, a 14 day period is given to the caveator in which to apply to the Warden's Court to ensure the registration of a new interest is not taking place. The beauty of the subject to claim caveat is that a new sale can be registered so long as there is an acknowledgment of the existing tribute or royalty agreement. That will alleviate some of the pressures on the Warden's Court. The current hostile caveat system is unwieldy in terms of protecting those tribute or royalty interests.

Two types of caveats are in force. The subject to claim caveat is quite similar to the position that exists for land titles administered by the Department of Land Administration. There is some precedent for allowing registration of new interests, subject to existing encumbrances. In my view that is an extension of the land title system, and I am sure it will work smoothly.

It is important to ensure the current burden is lifted from the Warden's Court - that is what will happen in these subject to claim caveats - because the goldfields, in particular, has some problems in terms of there being only one permanent warden located in Kalgoorlie; that is, the local magistrate. He does an extremely good job under difficult circumstances. Currently the various matters before the Warden's Court are listed well into 1997. Given the amount of exploration being undertaken in the mining industry, it does not make sense to have very large tracts of land tied up in disputes before the Warden's Court. One exacerbating factor in the goldfields has been the lodging of huge parcels of claims. I believe about 90 claims have been lodged in one parcel. So far only about 12 have been listed for hearing. If each of those claims is listed in the usual way, the entire court time for 1997 will be taken up by those cases.

The magistrate, Kieran Boothman, has offered a number of times to sit on Saturdays. Given the level of work he does at present, he should not have to make that offer. I hope that some relief can be afforded to that magistrate, particularly given that some time ago he was injured in a serious car accident that occurred while he was travelling between circuit courts, which he is required to do. Those who live in the city often overlook the fact that magistrates must travel long distances. Some of them do not have that time factored into their official listings. They are required to be in court by nine o'clock or 10 o'clock and must travel by road distances up to 400 kilometres. In considering any relief of listings it makes good sense to restrict the number of applications that will come before the court, so long as the rights of litigants are protected. That will occur for the smaller prospectors with the subject to claim caveats being made available.

I have referred to the difficulty for the wardens. Under the system, acting wardens travel from Perth to Kalgoorlie because there is such a large amount of court work. It is normal for an acting magistrate to sit in Kalgoorlie while the resident magistrate is elsewhere in the goldfields. This in turn creates problems with part-heard matters because when there is a visiting warden, it is not appropriate to have a part-heard matter adjourned to the next visiting warden or the resident warden. Therefore, cases are frequently part-heard, with large delays of up to six or seven months between the hearing of those cases. I understand that some matters are about to be listed for hearing that date back to about 1993. Fairly important operations are being affected. It does not make sense to react to a boom period in the minerals industry by underresourcing the Warden's Court.

It was of particular interest to me that this week a magistrate was due to relieve, but no accommodation was available - I am not sure why it was not prebooked - so the magistrate was not able to sit. A former client of mine contacted me recently. He was due to have a District Court trial this week for a longstanding case involving a mining accident in which he was seriously hurt. His trial had to be adjourned from the District Court. Kalgoorlie gets only three civil sittings a year. It missed out on one because, again, no booking was made for the judge and his entourage. There are serious problems in making adequate provision to ensure that country people get the same level of services as those in Perth.

The large tracts of land that have been taken up by some of these disputes is not the only cost to the industry from these delays. Matters may be listed for 10.00 am, but not start until at least midday because of the pressure on the warden. It is important to note the cost to industry of these delays in tying up the ground and in the financial cost of employing solicitors and a variety of expert witnesses. The costs involved can be great.

The simple solution would be to appoint a second magistrate, or, as I suggested previously, to have a specific magistrate designated to be a warden based in Kalgoorlie, which is the centre of action for the court because of the number of plaints.

The other advantage I see in this legislation is the greater flexibility that will be provided through special prospecting licences. That will be positive for the industry. Although the member for Eyre points out that the majority of those prospectors look for alluvial deposits, from time to time there can also be the start of a greater interest in larger deposits. I am sure the relaxation of those factors working against the smaller prospectors will be welcomed.

I note that there has been wide consultation on this legislation. I believe that all the usual bodies, including the Chamber of Minerals and Energy of Western Australia, the Amalgamated Prospectors and Leaseholders Association, the Australian Mining and Petroleum Law Association Ltd and the Association of Mining and Exploration Companies, have been consulted. It is important to note that under amended section 56A the warden will look at undue detriment. That is a significant change that will work for the benefit of the mining industry generally. Another change is that one must be a natural person in order to apply for a special prospecting licence. I was interested to note at the briefing this morning that no corporation currently holds special prospecting licences, so it is not as though one could say that there will be a disadvantage for those corporations - certainly not on current statistics.

I commend the Bill. I am encouraged by the streamlining of procedures that should result in a reduction in waiting times and administrative burdens on the Department of Minerals and Energy and also less litigation by way of caveat applications and the like in the Warden's Court.

MR MINSON (Greenough - Minister for Mines) [11.07 pm]: I thank members who have spoken for their support. There is across the board support for these changes. Part of the reason for that is probably that the drive for most, if not all, of these changes came from the industry bodies. To a certain extent the reason some of them do not go as far as they might is that they were not in response to an approach by a particular interest group, but rather, were generated from the industry.

The Mining Industry Liaison Committee was formed to review the 1978 Act. The committee comprised representatives from the Chamber of Minerals and Energy of Western Australia, the Association of Mining and Exploration Companies, the Australian Mining and Petroleum Law Association Ltd, the Amalgamated Prospectors and Leaseholders Association and the Department of Minerals and Energy. There was consensus before the Government became involved in a formal sense. That is the reason that, first, they do not go as far as they might in some areas, and, second, there is broad support.

With regard to the comments on the caveats, I have some sympathy with the member for Belmont when we have two lawyers with us, both of whom are representatives of electorates in the goldfields. They, of course, are far more aware of the legal aspects. I understand the change streamlines the process and allows for the transfer of a caveat if the encumbrance is noted by the purchaser. That simplifies the whole process. Comments were made by all speakers on those three main sections. I will deal with those and then comment on the contribution by the member for Kalgoorlie.

With regard to the special prospecting licences, the comment by the member for Eyre that the 1978 Act perhaps reflects the consensus that prospectors were on the way out is probably true and sheds some light on the way in which this is worded. There is no doubt about the increased pressure from the weekend warriors and those who make their living by surface prospecting. Some make a reasonable living from it. The concept of undue detriment will be an interesting one to watch as time goes by. I was at a large mining operation recently and I raised the question of how that organisation handled the problem of people fossicking and prospecting. I was told by the manager of that operation, and his answer surprised me, that as long as they clean up after themselves and do not cause strife the company is happy to have them there. He said that with its large equipment it was working on the main lode at some depth and it would not be economically viable for a large consortium, which was about to go into open-cut mining, to chase the small deposits of alluvial gold, even though they might be substantial for an individual.

The member for Eyre referred to the debt we owe prospectors. That is a very valid point. I suppose all goldfields in their genesis were discovered by prospectors. The flexibility provided by the new special type of prospecting licence will satisfy many people who want to go about their business quietly and to work on their own. It is quite possible that they will be able to discover new finds.

The warden's ability to vary the depth is important, because if the main lode bearing body is at a depth of 20 or 30 metres the surface prospector will not be a problem to the leaseholder. However, if the main lode were one or two metres under the earth, it could create a headache for the main owner. It is important to give the warden the flexibility to vary the depth, and this provision will solve some of those problems.

The point made by the member for Eyre that the reporting should be comprehensive and accurate is a good one. To a certain extent this will remove some of the impediments to accurate and comprehensive reporting.

Mr Ripper: Might it be argued that accurate and comprehensive reporting will assist the tenement holder to resist a prospecting licence, whereas inadequate reporting would have the opposite effect?

Mr MINSON: Exactly. I do not know that inadequate reporting would go against him, but certainly accurate reporting may help him in the Warden's Court if he has the evidence before him and wants to limit it to a certain depth.

Many people share the concern of the member for Eyre about the reserves report. The member made a valid point that the pastoral industry, which traditionally occupies and manages many of these areas, has performed a great service by controlling feral animals such as goats, donkeys, rabbits, pigs and so on. It is unfortunate that there are now 21 million hectares of public land in Western Australia and we cannot manage it as well as we would like. This State does the best it can, and one of the best arguments for keeping the pastoral industry viable is to make sure there is somebody with a vested interest in controlling those feral animals and making sure the land is cared for so that they and their descendants can make a living from it.

The whole question of timber reserves and the State purchasing and holding pastoral leases causes a problem if the Government then wishes to change part or all of that land to state forest. Members have acknowledged that such a classification brings a lot of baggage with it which is not appropriate for these areas. The legislation and guidelines under the environmental process which pertains to state forest are not appropriate for the semi-arid areas, whereas they are appropriate for the south west.

Mr Ripper: Why is the Government proceeding with this change?

Mr MINSON: The Government is giving it a name and bringing the land under the CALM Act. All speakers in this debate have agreed that it is not desirable to bring all the baggage that goes with that. The Government acknowledges that environmentally this land is far different from the south west forest region, but an administrative procedure is needed to manage the land. Unless the Government tries to create another species of forest - it may be necessary to have several - it is better to deal with the land as state forest to be managed for timber production, but to allow the mining industry traditional access without the baggage that is attached to, and is necessary for, the south west region.

The registration of dealings is a fairly minor change. It will have a large effect and, as the member for Belmont pointed out, it will tidy up the register. I am informed that is the case, but we will wait and see. The member for Kalgoorlie raised an interesting point about the backlog of work faced by the mining warden in that area. That is acknowledged. The last time I was in Kalgoorlie I met with the staff of that department and the magistrate, who outlined the problems he was facing. Of course, only the Attorney General can appoint magistrates to those positions. It is not easy to find people who are willing to move to Kalgoorlie and work there on a full time basis. It is focused work and a long period in that field professionally limits further scope. However, we are working on that. I and the Government acknowledge the need and it is a problem we must solve.

I thank members for their support. I believe the changes will be welcomed by the industry and by the small prospectors who have been waiting for some time for these changes so that they can go about their business unfettered and in an expanded way without unduly interrupting main tenement holders.

Question put and passed.

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

ADJOURNMENT OF THE HOUSE - ORDINARY

MR COWAN (Merredin - Deputy Premier) [11.20 pm]: Before adjourning the House I indicate to members that it is highly likely that the House will sit tomorrow night. I move -

That the House do now adjourn.

Question put and passed.

House adjourned at 11.21 pm

QUESTIONS ON NOTICE

JUSTICE, MINISTRY OF - VIOLENT AND SEXUAL ASSAULTS BY MEN, BEHAVIOUR CHANGE INITIATIVES

1552. Dr WATSON to the Minister assisting the Minister for Justice:

(1) Further to question on notice 155 of 1996, in order to "prevent violent and sexual assaults" has the Government/Police Service undertaken any initiatives to change the behaviour of men who perpetrate these assaults?

(2) If yes, what are they?

(3) If not, why not?

Mr MINSON replied:

(1) Yes.

(2) There are 17 programs managed by the Ministry of Justice - both prison and community-based - throughout the State which directly address changing the behaviour of men who commit sexual offences. Alternatives to violence programs are also conducted in both prisons and the community. A specific violent offenders treatment program should be operational in early 1997.

(3) Not applicable.

COWAN, EDITH - SEVENTY-FIFTH ANNIVERSARY, GOVERNMENT CONTRIBUTIONS

1767. Dr WATSON to the Minister for Women's Interests:

What contributions, if any, has the ministry or the Government made to the celebrations of the seventy-fifth anniversary of the election of Edith Cowan?

Mrs EDWARDES replied:

Specific contributions across government include -

(i) A celebratory luncheon for all Western Australian women who had served or were serving in the State or Federal Parliaments.

(ii) Distribution by the WA Electoral Commission of an information sheet on Edith Cowan's achievements.

(iii) Sponsorship of a participant in the Women in Agriculture conference to be held later this year.

(iv) Plans for a law lecture late in 1996 by Chief Justice David Malcolm to recognise Edith Cowan and her contribution to the Western Australian legal system.

In addition the contribution of Edith Cowan has featured in publications such as the Women's Advisory Council's newsletter and functions addressed by the Minister for Women's Interests.

YOUTH EMPLOYMENT - GOVERNMENT DEPARTMENTS; APPRENTICESHIPS; TRAINEESHIPS; CADETSHIPS

1880. Mr BROWN to the Minister for Labour Relations; Housing; Lands:

(1) How many -

(a) apprenticeships;
(b) traineeships;
(c) cadetships,

were made available to young people -

(i) under the age of 21 years;
(ii) between 21 and 25 years,

during the 1995-96 financial year, by each department and agency under the Minister's control?

(2) How many young people not employed on apprenticeships, traineeships or cadetships were employed by each agency and department under the Minister's control in the 1995-96 financial year?

(3) How many young people described in (2) were -

(a) under 21 years of age;
(b) between 21 and 25 years of age?

Mr KIERATH replied:

In question (2) the member has not made it clear as to what age he considers young. Therefore for the purposes of this question, young has been interpreted to mean up to the age of 25 years.

Department of Productivity and Labour Relations:

(1) No apprenticeships, traineeships or cadetships were made available to young people under the age of 21 or between 21 and 25 years during the 1995-96 financial year. However, three young people under the age of 25 were employed under the graduate scheme during this time. One of these was under 21.

(2) There were 14 young people not employed on apprenticeships, traineeships or cadetships employed by this department in the 1995-96 financial year.

(3) (a) Five.
(b) Nine.

Commissioner of Workplace Agreements:

(1) None.

(2) One.

(3) (a) One.
(b) None.

WorkSafe Western Australia:

(1) None.

(2) Nine.

(3) (a) Nil.
(b) Nine.

WorkCover WA:

(1) (a) Nil.
(b) One.
(c) Nil.

(i) One.
(ii) Nil.

(2) Eleven.

(3) (a) One.
(b) Ten.

Department of the Registrar, WA Industrial Relations Commission:

(1) This agency did not provide any apprenticeships, traineeships or cadetships to persons under 25 years of age during the 1995-96 financial year. The department however provided ongoing in-house training and career enhancing opportunities for all staff irrespective of age.

(2) Nine.

(3) (a) One.
(b) Eight.

Homeswest:

(1) (a) Nil.
(b) Ten.

(c) Nil.

(i) Five.
(ii) Five.

(2)-(3) (a) Twenty.
(b) Eighty-three.

Government Employees' Housing Authority:

(1)-(3) Nil.

Rural Housing Authority:

(1)-(3) Nil.

Department of Land Administration:

(1) (a) Nil.
(b) Six.
(c) Nil.
(i) Nil.
(ii) Six.

(2) Seventy-eight.

(3) (a) Thirteen.
(b) Sixty-five.

WA Land Authority (LandCorp):

(1) (a) Nil.
(b) One.
(c) Nil.

(2) Fifteen.

(3) (a) Eight.
(b) One.

MINING - MOSHAB, UNDERGROUND MINING EXPERIENCE

2434. Mr BLOFFWITCH to the Minister for Mines:

(1) In regard to the decision making process for underground mining regulations what are the names, ages, genders and occupations of the individuals who make up "Moshab"?

(2) What is the underground mining experience of these individuals?

(3) Who were the individuals consulted in 1995 during the development of the three successive drafts of the regulations prior to final approval for proclamation of the Mines Safety and Inspection Act 1994 in December 1995?

(4) What were the genders and qualifications of the individuals consulted?

(5) What were the experience and expertise of the individuals involved in the consultation process of the regulations and from what fields and range of sources was their expertise drawn?

Mr MINSON replied:

(1)-(2) See table below.

(3) No detailed log of individuals was kept. The groups included mine managers and safety coordinators; miners, supervisors, safety and health representatives, occupational health professionals; trade union organisations - primarily via the TLC; and several hundred persons drawn from all skills and disciplines at regional meetings across the State.

(4)-(5) The available pool of experience and expertise represented in the individuals and groups involved in the consultation process covered all of the mining industry in the State and a most comprehensive range of disciplines, both general operating and specialist.

MOSHAB

Name	Occupation	Date of Birth	Underground Mining Experience
Kenneth Perry	Director General DME	20.1.50	Nil
James Torlach	Director - Mining Operations Division - DME	14.12.38	25 years plus 12 years as State Mining Engineer
Christopher White	Acting Director - Policy and Information- WorkSafe WA	4.5.59	Nil
Patrick Gilroy	Deputy Chief Executive Officer - Chamber of M&E	22.3.35	Nil
Anthony Finucane	Chief Adviser Public Affairs - Hamersley Iron	21.3.41	+ 15 years
Dennis Courtney	Manager Human Resources and Public Relations - Worsley Alumina	18.5.46	Nil
Mark Cutifani	Manager Nickel Operations WMC	2.5.58	20 years
Robert Bryant	Health and Safety Officer-TLC	8.12.45	Nil
Gary Wood	Coal Miners Industrial Union - Secretary	7.10.53	+ 10 years
Frank Saville	Employees' Inspector - DME	2.3.42	34 years
Robert Leggerini	Employees' Inspector - DME	22.10.45	+ 30 years

MINIM COVE DEVELOPMENT - GRAHAM EMERY & ASSOCIATES, WORK; PROJECT MANAGER APPOINTMENTS

2454. Dr CONSTABLE to the Minister for Lands:

(1) What are the details of the work Graham Emery & Associates has performed in relation to the Minim Cove development and, in respect of each item, what was the remuneration?

(2) On average, what percentage of LandCorp projects have a project manager appointed from outside LandCorp?

(3) When was the decision made to appoint an outside project manager to the Minim Cove project?

(4) As a general rule, are project managers appointed to LandCorp projects following a tender process?

(5) In relation to the position of project manager for the Minim Cove project, were tenders invited or was the position advertised?

(6) If yes to (5) -

(a) where was it advertised, and
(b) how many applications/tenders were received?

Mr KIERATH replied:

(1)

Subdivision Planning Design	$62 165
Subdivision Landscape Design	$29 006
Subdivision Civil Engineering	$12 191

(2) Currently 50 per cent of residential projects are managed externally.

(3) An outside project manager has not been appointed to the Minim Cove project. Graham Emery & Associates commenced work on subdivision planning and landscape design in June 1993.

(4) Yes.

(5) No. The project is managed using in-house resources.

(6) Not applicable.

QUESTIONS WITHOUT NOTICE

HOSPITALS - PRIVATISATION

606. Dr GALLOP to the Minister for Health:

I refer to the Minister's press release of 21 October in which he describes the privatisation of Mandurah hospital as "the most efficient and effective way of providing an appropriate range of high quality services for patients". Given the Minister's ringing endorsement of privatisation, which other public hospitals are targets for privatisation?

Mr PRINCE replied:

No other hospitals are targets, as the Leader of the Opposition alleges. The former Labor Government built a hospital in Mandurah with 32 beds, when it should have been at least three times that size. This Government is building a hospital with 110 public beds, 20 private beds and a much expanded range of services, which simply do not exist at present, all of which not only is needed now but was needed in 1988 when the former Government built a hospital that was too small.

HOSPITALS - JOONDALUP HEALTH CAMPUS

Health Care of Australia, Revenue Stream

607. Dr GALLOP to the Minister for Health:

Is the Minister concerned that the chief executive of Health Care of Australia which now owns and manages Joondalup Health Campus has said -

> From the moment a patient feels a bit crook, we are interested in the revenue stream that HCOA could participate in.

Just how far is the Government willing to go to jeopardise the State's public health and hospital system?

Mr PRINCE replied:

Patients come first. The whole of the health care system, whether one is talking about general practitioners in private surgeries or hospitals of any size, public or private, runs on some form of monetary budget. A revenue stream runs through the delivery of all health care services, whether in hospitals, in the general community, in the remote areas, or Aboriginal medical services. Of course, Health Care of Australia is interested in the revenue; if it were not it would not be such an efficient operator, and it is an extremely efficient operator. It runs a significant number of hospitals not just in this State, but elsewhere and overseas. It is managing its operations very well. The fact that it is interested in the revenue stream means, among other things, it is interested in efficiency, value for money and putting patients first.

ATLAS SITE, MIRRABOOKA - INDUSTRY RELOCATION, LABOR CANDIDATE COMMITMENT

608. Mrs PARKER to the Premier:

Some notice of this question has been given. At a public meeting on Monday evening the local Labor candidate made a commitment to relocate industry presently on the Atlas site. Does he have an estimate of what such a move might cost the State?

Several members interjected.

Mr Kobelke interjected.

The SPEAKER: Order! The member for Nollamara.

Mr COURT replied:

We now know why members opposite will not support a debt management strategy. They have a policy which indicates they will close a tip and move the existing industry from that site, including a new digester which is not yet operational. On the basis of a submission to the Western Australian Planning Commission earlier this year the minimum estimated cost of moving the industry from that site before the completion of the digester is $50m. If members opposite want to make this sort of promise, they must tell the House how they will fund it. It was to be removed next year. The Opposition is committing $50m to only one project and that money would build another Joondalup hospital or another Mandurah hospital.

Several members interjected.

Mr Kobelke interjected.

The SPEAKER: Order! I formally call to order the member for Nollamara for the first time.

Mr COURT: It is interesting that members opposite do not have any discipline in financial matters. I am sure the local member will agree with respect to this site that Homeswest sold off land in the buffer zone to get some money. It allowed residential development next door to the rubbish tip and that is one of the main reasons for the problem which exists there today.

Several members interjected.

Mr Kobelke: What will you do about it?

Mr COURT: The Labor candidate has made a commitment.

Mr Leahy: The Liberal Party's Burrup candidate has pledged $50m to seal the road from Karratha to Tom Price. Do you stand by that?

Mr COURT: All of the Government's road programs are publicly funded.

Several members interjected.

The SPEAKER: Order! It is outrageous to have so many members interjecting at the same time. Members know I am prepared to allow a certain number of interjections, but that level of interjection is intolerable. If members keep up that level of interjection, I will take firmer action.

Mr COURT: The Labor candidate says that what has happened on this site is awful and is bad planning. The Labor Party made the commitment and I ask it to tell the Government how it will be funded.

MENTAL HEALTH BILL - COMPLETION PLANS

609. Mr RIPPER to the Leader of the House:

(1) Having brought on the debate on the Mental Health Bill suddenly yesterday in response to pressure from the Opposition, will the Leader of the House inform the House when debate on this Bill will resume and give a guarantee that sufficient time will be allowed for the completion of the debate on it?

(2) If the Leader of the House cannot give that guarantee, what does it tell us about his management of House business yesterday?

Mr C.J. BARNETT replied:

(1)-(2) The question reflects the calibre of the member's understanding of this situation. The Mental Health Bill was debated for several hours yesterday. I hope there will be further debate on it this week.

Mr Ripper: Will you guarantee that it will be debated by the time Parliament rises?

Mr C.J. BARNETT: It is certainly the Minister for Health's hope, which I share, that this legislation will pass through this Chamber.

Mr Ripper: Through both Houses?

Mr C.J. BARNETT: It is interesting to listen to members opposite squawk and carry on. They gave all sorts of public commitments about the early passage of the firearms legislation. It did not happen. They now claim that the Mental Health Bill will go through.

Several members interjected.

Mr C.J. BARNETT: The firearms legislation was meant to go through this House last week, but it did not happen. This House spent fourteen and a half hours debating that Bill.

Several members interjected.

Mr Ripper interjected.

Several members interjected.

The SPEAKER: Order! I formally call to order the opposition leader of House business and the member for Balcatta. If members keep interjecting like this, question time will be shortened.

Mr C.J. BARNETT: We had fourteen and a half hours of debate on the firearms legislation last week and probably another one or two hours -

Several members interjected.

Mr C.J. BARNETT: Now members opposite want to make mental health a priority. We called the Opposition's bluff yesterday and brought on the legislation for debate. We will bring it on for debate again -

Several members interjected.

Mr C.J. BARNETT: Members opposite should not go running to the media as they did at the weekend. If they genuinely want to see that legislation passed, they should limit the number of speakers and concentrate on the points of merit. Yesterday we witnessed members opposite running around the corridors trying to round up speakers to spin out the debate. We will get the Mental Health Bill through if members opposite concentrate on what they believe are the substantive issues.

MENTAL HEALTH BILL - COMPLETION PLANS

610. Mr RIPPER to the Leader of the House:

A number of members on this side spoke about mental health problems affecting members of their own families.

The SPEAKER: Order! I ask the member to desist from that path and to ask the question.

Mr RIPPER: The Leader of the House demeans the contribution of our members.

Let us get this clear: Is the Leader of the House refusing to guarantee the passage of the Mental Health Bill through both Houses before Parliament rises for the state election?

Mr C.J. BARNETT replied:

It is not within my authority or even ability to guarantee that any legislation will go through this House or the other House. If members opposite cooperate, we will do everything we can to expedite the passage of that legislation. We will also deal with the firearms legislation in the upper House, the budget Bills and a number of other important pieces of legislation. Will members opposite guarantee that, after three hours of further debate, the Bill will finish its passage through this House?

Several members interjected.

ATLAS SITE, MIRRABOOKA - MAYOR OF BAYSWATER, STATE PLANNING COMMISSION APPOINTMENT

611. Mrs PARKER to the Minister for Planning:

At a public meeting in Noranda on Monday evening, concerned residents gathered to discuss activity on the Atlas site in Mirrabooka. The Mayor of Bayswater told the meeting that he had opposed the existing activity on the site for some years. I ask the Minister -

(1) Is it a fact that the Mayor of Bayswater was a member of the State Planning Commission and more recently of the Western Australian Planning Commission from 1988 until June 1996?

(2) If so, in what capacity did he serve?

(3) Will the Minister also list the approvals given for the Atlas site by the State Planning Commission and Western Australian Planning Commission during the mayor's membership of the commission?

Mr LEWIS replied:

(1) Yes.

(2) Mayor D'Orazio was first appointed to the State Planning Commission on 19 July 1988, was appointed Chairman on 10 May 1994 and continued as a member until its dissolution on 28 February 1995. He was appointed a member and Deputy Chairman of the Western Australian Planning Commission on 1 March 1995 and served in that capacity until his retirement on 17 June 1996. He was a member of the Committee for Statutory Procedures, which deals with development applications under the State Planning Commission legislation, from 19 November 1988 continuously until his retirement. He was appointed to the Statutory Planning Committee - the equivalent committee - on 28 April 1995 and he stood down on 17 June 1996.

(3) On 20 November 1990, the State Planning Commission approved a concrete batching plant with conditions on the Atlas site. On 4 February 1992, additional access for Alexander Drive was approved by the Western Australian Planning Commission, principally by the committee for statutory procedures, of which the mayor was a member. On 22 December 1993 approval was given for support facilities for brickworks and a refuse disposal site, an office showroom, outdoor display areas, builders' display areas, waste reduction research and mechanical workshops.

Several members interjected.

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

Mr LEWIS: An office was approved with conditions in October 1994. An application was withdrawn for an anaerobic digestion and composting facility. An anaerobic digestion and composting facility was approved with conditions on 30 November 1994. This is really hurting people opposite, is it not?

Several members interjected.

The SPEAKER: Order!

Mr LEWIS: Regarding support facilities, an office ancillary to secondary waste treatment facility was approved with conditions on 31 May 1995. A storage shed was approved with conditions on 31 August 1995.

The SPEAKER: Order! I ask the Minister to conclude his answer.

Mr LEWIS: The continuation of an existing concrete batching plant and landfill facility was approved with conditions on 31 August 1995.

I add that the north west corridor amendment, which proposed that the site to be reserved be changed in its zoning from parks and recreation to industry, was considered by the Western Australian Planning Commission in February 1996 and recommendations were made to me. Mayor D'Orazio was a member of that committee.

HEALTH DEPARTMENT - RESTRUCTURE

612. Mr McGINTY to the Minister for Health:

If I can come back to the real issues which affect people and relate to the forthcoming election -

Several members interjected.

The SPEAKER: Order! Members on my right will come to order.

Mr McGINTY: All the cheap personal attacks in the world have never created one job; they are not debating the issue of concern to the people of this State!

Several members interjected.

The SPEAKER: Order! I direct the member to come to his question forthwith.

Mr McGINTY: I am. Direct your comments to the people interjecting, not me.

The SPEAKER: Order!

Mr McGINTY: I ask -

(1) Will the Minister for Health confirm, notwithstanding the statements made by the former Minister for Health, the member for Riverton, in November 1995 that health restructuring would be completed in six months, that the organisation of the Health Department at all levels is in chaos?

(2) Will the Minister also confirm firm that following the loss of 21 senior Health Department officers over the last 18 months, at least five of the most senior management positions in the central Health Department have not been permanently filled or are currently vacant?

Mr PRINCE replied:

(1)-(2) No, the system is not in chaos at all. That accusation is made against the department as such. I have been at pains since I became Minister to visit as many departmental facilities as possible to speak to officers involved. They have had five restructures in eight years, which seems to be far too many. It was anticipated that the current restructure would be finished by August, but some positions are yet to filled and permanent officers appointed. It is a lengthy process, and one handled under the Public Sector Management Act by a process completely divorced from any political interference. It is my earnest hope - I have said this to many in the department - that the restructure be finished and bedded down as soon as it can be, obviously doing it properly, and the department and the systems be left to get on with the job.

I have said that as far as I am concerned this is the last restructure for some time. It is not chaos, but I freely confess it is taking a lot longer than it should have.

HOSPITALS - CHIEF EXECUTIVE OFFICER POSITIONS, VACANCIES

Sir Charles Gairdner, Privatisation Plans

613. Mr McGINTY to the Minister for Health:

I refer to vacant senior positions in the Health Department.

(1) Can the Minister advise why the chief executive officer positions of both the major teaching hospitals in the State have been vacant for 12 months?

(2) Can the Minister advise when the chief executive officer positions at Royal Perth and Sir Charles Gairdner Hospitals will be advertised and filled?

(3) Can the Minister positively rule out current speculation that Sir Charles Gairdner Hospital, or its management, will be privatised after the next state election if this Government is returned to office?

Mr PRINCE replied:

(1)-(3) I will deal with the last rumour first. It was raised with me about two weeks ago. I have absolutely no plans nor heard any speculation, other than that which has come forward from the Opposition, with regard to the privatisation of Sir Charles Gairdner Hospital. The advertisements for the positions of the chief executive officer of Royal Perth and Sir Charles Gairdner Hospitals will go out this weekend - I know I have signed approval for them - calling for people to apply for the vacancies.

Mr McGinty: Why so long?

Mr PRINCE: It has taken that long to get the process in place. I think I have answered the situation regarding the other positions. All of the restructure is in the process of being bedded down, and I hope it will happen sooner, rather than later.

PARKING FEES - AT BEACHES PROPOSAL

614. Mr BOARD to the Minister for Local Government:

Can the Minister outline the reasons the local government amendment Bill, proposed to be introduced by the Leader of the Opposition that would prohibit councils from introducing parking fees near beaches, is not necessary?

Mr OMODEI replied:

This is yet another stunt by the Leader of the Opposition, falling into the trap of his predecessors. The Leader of the Opposition knows very well that the Local Government Act contains provisions to stop the introduction of such parking fees. Both the Premier and the member for Cottesloe have said that they oppose emphatically any such parking fees. When I met with the deputy major and the chief executive officer of the Cottesloe Town Council this morning, I made it very clear that local law making powers within the Local Government Act and the ability for both the Governor and the Parliament to reject such laws -

Dr Gallop: The Governor making laws; that's a new one!

Mr OMODEI: The Governor always makes a decision on the recommendation of the Minister; surely the Leader of the Opposition knows that. The Leader of the Opposition is trying to beat up an issue. In fact, the decision to charge parking fees at the beach has not yet been made by the Cottesloe Town Council. This morning I told the council that should it make such a decision, that local law would not be allowed by the Parliament.

The important thing to note is that there are a number of other beaches in Western Australia about which a similar position could be taken. The wording in the Bill being suggested by the Leader of the Opposition is flawed. It talks about regulations, which local government authorities no longer make. It also talks about public parking abutting the local foreshore. It does not talk about whether that will be on the ocean side of the road or the other side. This amending Bill has been cobbled together very quickly to try to sensationalise an issue that the Leader of the Opposition knows full well will not be allowed by the people of this State. The pastime of people going to the beach without having to pay parking fees has been a fundamental and traditional right, and the Government will make sure that continues.

HOSPITALS - NON-TEACHING

General Manager Positions, Reclassified

615. Mr McGINTY to the Minister for Health:

(1) Can the Minister confirm that approximately 30 general manager positions of non-teaching health services are soon to be declared vacant and readvertised?

(2) Can the Minister confirm that where they exist, boards of management of these health services have supported the present incumbents being reclassified without recourse to the positions being spilled?

(3) Given that the roles and responsibilities of these general managers has not changed in the past two or three years, why is the Government so keen to spill these positions?

(4) Given the current instability within the central Health Department and the loss of corporate experience and knowledge, does the Minister acknowledge that the spilling of these general manager positions will potentially add to that instability and to knowledge and skill loss in our health system?

Mr PRINCE replied:

(1)-(4) With regard to the last part, no, it will not. This matter has been raised by me with a number of members with respect to their hospitals, particularly members from country areas; the member for Geraldton comes to mind. The general manager positions have been reclassified upwards. The process that is now required under the legislation is for a spill in order for the positions to be filled at a permanent level at a higher classification.

Mr McGinty: You will end up with no-one in the position of senior manager in the health system.

Mr PRINCE: Many people have expressed great confidence in the managers who are there at the moment, but the law requires the process to be followed of a spill, application and appointment. Many of the boards have contacted me and said, "We like our current manager; we would like to keep him." This is particularly the case in country areas. The stability is of great concern to me, but the law is the law, and this is the only way in which these people can be appointed, if that is appropriate, to a higher position which is commensurate with their skills, experience and qualifications and the jobs that they do.

HOSPITALS - ROYAL PERTH

Cleaning Contractors Standards

616. Mrs van de KLASHORST to the Minister for Health:

In May of this year, the Leader of the Opposition in his former role was very critical of the cleaning standards at Royal Perth Hospital, claiming various areas of neglect by the contractors, including blood in the lifts -

Mr McGinty interjected.

The SPEAKER: Order! I formally call to order for the first time the Deputy Leader of the Opposition.

Mrs van de KLASHORST: In his statement to the Press Club last Friday, the Leader of the Opposition said, once again, that wards were not cleaned and there was blood in the lifts. Can the Minister inform the House of the current performance of the cleaning contractors at Royal Perth Hospital?

Mr PRINCE replied:

I have taken some trouble to go into Royal Perth Hospital unannounced on a number of occasions and look for myself. On 1 May, the Leader of the Opposition asked a question about the cleaning of Royal Perth Hospital. He alleged that there had been a spillage of blood in a lift that had not been cleaned up for days. On 2 May, he raised similar matters about the cleaning of Royal Perth Hospital. He also raised the spectre of staphylococcus and other infections; and, at the time, the switchboard at Royal Perth Hospital was lit up with calls from people who were fearful of going into that place. Last Friday, at the Press Club, the Leader of the Opposition said -

> The Government's policy of contracting out so-called "non core" services such as cleaning and orderly services has led to a diminution of the standard of care of such vital services. Patients in our major public hospitals tell of wards uncleaned and blood in lifts.

In November last year, SSL Health Care Services, which is a division of Spotless Services Australia Limited, obtained a contract to look after housekeeping, mail and courier, and hygiene orderly services at Royal Perth Hospital. In January this year, that company commenced a process of quality management, seeking to conform to International Standards Organisation 9002. Has the Leader of the Opposition heard of ISO 9002? Everybody else has heard of ISO 9002. It is the highest standard for quality anywhere.

Dr Gallop interjected.

The SPEAKER: Order! I formally call to order the Leader of the Opposition for the first time.

Mr PRINCE: In August this year, the National Association of Testing Authorities, which is the official accreditation body, completed a compliance audit of the quality systems at Royal Perth Hospital. That process complements the Australian Council of Health Services accreditation process. Compliance with ISO 9002 means that the highest standards have been achieved, and it is a great credit to the staff and management that they have been recommended for and awarded certification to ISO 9002 The point is that this is the first privately contracted housekeeping service in a public hospital in Australia. It is the best in this country, and the member has attacked it consistently for months. By virtue of achieving an international standard, it is the best! The member is wrong.

RAWLINGS, SHAUN - DEATH IN CUSTODY

617. Dr WATSON to the Minister assisting the Minister for Justice:

(1) Why, despite the fact that prison authorities had contacted Ms Lennon about Shaun Rawlings' psychiatric illness, did they not notify her of his death, leaving her to hear it on a radio news bulletin?

(2) Is the Minister aware that because the Coroners Act is still to be proclaimed, Rawlings' brain was removed without notification to his mother and that Rawlings' mother discovered the brain removal only during her viewing of the body?

(3) In light of the Government's abysmal handling of this matter, will the Minister for Justice pay for this man's funeral and, if not, why not?

Mr MINSON replied:

(1) This is a difficult matter because when someone commits suicide, under any circumstance, it is not a pleasant situation.

Dr Watson: There are protocols.

Mr MINSON: Yes, of course. The next of kin registered with the Minister for Justice was the deceased person's brother. He was contacted.

Dr Watson interjected.

Mr MINSON: The member asked a question, and I will provide the answer: The chaplain at the gaol knew of the mother. She lives close by, and he tried to contact her. He could not do so. The mother did not find out about the death of her son via a radio news bulletin. She heard about the death of a prisoner -

Mr McGinty: He was identified on the radio, not by name but by -

Mr MINSON: She did not find out about it in that way. She contacted the prison. The protocol for informing next of kin belongs to the police -

Mr McGinty: The radio announced his offence, his nationality and his time of release.

Mr MINSON: Very often we find that, because the media scan the police bands and so on, the media know about these things even before we have the opportunity to make sure that various people have been contacted. The fact is that the woman could not be contacted, although the chaplain tried. As soon as she was able to be contacted, the duty chaplain tried to contact her to offer counselling. Another electronic media claim was that no counselling was offered, and that is untrue.

(2) I cannot comment on the removal of the man's brain. I am not aware of the situation. If the member wishes to have the details provided, I will make sure they are provided, if she puts the question on notice.

(3) I am not aware of the protocol regarding the ministry's paying for funerals. This is hardly the time to raise that question. We do not have so many suicides under these circumstances that I would know the answer. I do not like it when anyone in prison attempts to commit suicide. However, the pertinent point is that if someone has a purpose in their heart to take his or her life, that person will go to extraordinary lengths to do so.

Mrs Hallahan: That is not the point of the question.

Mr MINSON: I am sorry, but I will say it anyway: There is a case on record in Australia where someone had everything possible taken from him; he was put in a cell in which he could not possibly commit suicide. However, he climbed on top of the toilet bowl and leapt as high as he could, and dived head first onto the concrete floor. We cannot do anything to prevent that sort of person from taking his life. I am sorry that members opposite want to make political capital out of all this. If the member wants any more information, I will provide a briefing.
