



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE COUNCIL

Tuesday, 15 December 1998

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 3.30 pm, and read prayers.

PEARLING AMENDMENT BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Extension of Time to Report on Labour Relations Legislation Amendment Bill (No 2)

Hon Kim Chance presented a report of the Standing Committee on Public Administration seeking an extension of time from 16 December 1998 to 17 March 1999 in which to report on the Labour Relations Legislation Amendment Bill (No 2) 1997, and on his motion it was resolved -

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

[See paper No 631.]

LEGISLATIVE COUNCIL, CRITICISM OF ROLE BY GOVERNMENT

Urgency Motion

THE PRESIDENT (Hon George Cash): I have received the following letter addressed to me and dated 15 December -

Dear Mr President

At today's sitting it is my intention to move an Urgency Motion under SO 72 that the House at its rising adjourn until Friday 25th December 1998 for the purpose of discussing recent comments and criticisms by the Premier and Government Ministers about the current role and performance of the Legislative Council.

Yours sincerely

John Halden MLC
Member for South Metropolitan Region

In order to discuss this matter, it will be necessary for at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

HON JOHN HALDEN (South Metropolitan) [3.37 pm]: I move -

That the House at its rising adjourn until Friday, 25 December 1998.

There can be no more urgent motion to be discussed by this House than that involving the recent endeavours of the Government and the Premier to bludgeon this House - a legally elected House - into conforming with the wishes and the demands of the Executive. I have witnessed the spectacle of the Premier and senior ministers of the Crown criticising this House for not acting illegally or immorally and not capitulating to the whims of the Executive. The day the House does that is the day it might as well be abolished.

Several members interjected.

The PRESIDENT: Order! This is a limited time debate. It is not usual to have members continually interjecting. Please give any member who speaks an opportunity to be heard in relative silence.

Hon JOHN HALDEN: I and others have witnessed the spectacle of members of this House being abused by the Executive for doing their jobs. We have been abused for showing some degree of independence; that is, independence from the Executive's demands. We have been abused for having the temerity not to agree with the Executive. The bleatings of this Government are nothing more than a dose of Liberal and conservative born-to-rule hypocrisy. Have we seen it more often and more obviously than in the events we have witnessed in the last fortnight? This House has rejected one government Bill since the election two years ago. Let me tell members what happened in the last 13 years of the Labor Government when this House rejected 51 Bills. What hypocrisy! The Government now bleats and demands conformity with what it wants.

Members might think those Bills were the classic Labor socialising, nationalising Bills. This House threw out the Acts Amendment (Abolition of the Punishment of Death and Whipping) Bill, the Annual Leave Bill, the City of Perth Endowment

Lands Bill, the City of Perth (Parking Facilities) Act Amendment Bill - its wonderful philosophical commitment to the Labor Party. It threw out the Building Contractors Licensing Bill, the Local Government Act Amendment Bill and the Parliamentary Committees Bill. Why would we have parliamentary committees? We did not want them. It threw out the Public Service Act Amendment Bill, the Press Council of WA Bill and the Sick Leave Bill. It did not stop there; it also threw out the Traffic Act Amendment Bill, the Prevention of Excessive Prices Bill, the State Government Insurance Office Act Amendment Bill and the Totalisator Agency Board Betting Amendment Bill - all Bills of great philosophical significance. It threw out many more and it was okay to do it then.

In the 100 years this House was dominated by the coalition, it was nothing more than a place for conservative excesses in which the conservatives endeavoured to ensure that their will dominated anything and everything irrespective of whether they were in government.

I heard the hypocrisy of the Government's comments about mandates. Members opposite believe in only one mandate; that is, the mandate they have when they are elected. When we were elected there was no mandate. It is nothing more than absolute hypocrisy principally by the Premier but also by every member opposite. If they do not believe this place has the legitimate right to do what it is doing, they should abolish it. If they want to go to the extremes to which they have gone, they should move the motion and we will debate it.

Until 1963, members opposite had this place so malapportioned that people who did not own property could not vote. After 1963 they continued the malapportionment to the point at which we were entitled to have nine members out of 34 in this place. They were oh, so generous. However, there were no criticisms then of the Legislative Council and its role by those members, none whatsoever. When the 1987 Electoral Bill was passed and proportional representation was introduced, they maintained the malapportionment to conservative advantage and do so to this day despite a Commission on Government report and a royal commission. They still want the rules of the game to favour the toffs, the haves, the wealthy classes and their sectional interests to which they pander in this place on every occasion whether in government or opposition. They do nothing more than pander to their own sectional interests and those of the Liberal Party 500 Club.

Since the last election they have not learnt the concept of negotiation and consultation in not only the community but also here. That is something those with the "right to rule" who were "born to rule" have not yet learnt. Not only have they had the temerity to abuse the Labor Opposition but also some of their comments to my colleagues on this side of the House - I refer principally to Hon Jim Scott who believes passionately in his cause - are offensive. They ridicule him for his beliefs. The behaviour of members opposite is a disgrace. It is not good enough. If they want to stoop to that level we will all get down there with them.

Hon Jim Scott interjected.

Hon JOHN HALDEN: That is dead right, my friend. This is not the gentleman's club it once was. It is now a place in which the people on this side of the House have been duly elected and members opposite must consult them and negotiate with them. If, in spite of the fact that conservative Governments in the federal Parliament, in South Australia and in New South Wales can consult, the Government does not like this arrangement, it will find its legislative program in this condition. I have some words of advice for the Government. Considerable criticism has been made in this House of what happened to School Education Bill. My colleagues on this side of the House - I did not participate in the debate - made the mistake of trying to fix the Government's Bill. The Government did not consult about that Bill; when it talked to people, it did not listen to them. The Opposition tried to fix this Bill so it reflected what the community wanted. Sooner or later my colleagues and I will have to learn that that is not our role. If we do not agree with the principle of a Bill, we should not try to fix it in committee but throw it out at the second reading stage. We should throw out Bills as the coalition did 51 times in 13 years. It is not good enough for Governments to expect the opposition parties in the upper House to fix their legislation and then criticise us for doing so.

Talking about consultation and negotiation, the sentencing legislation is a mishmash of the Attorney General's follies. The Attorney General's folly has been not to consult with the Law Society or judges. We have seen the spectacle of the Chief Justice reporting to the Parliament about the proposed legislation. The Attorney General is proposing a matrix for sentencing - another folly. He is proposing new rules about parole which he knows will greatly increase the number of people in jail and the time they spend there. There was no consultation. A range of people in our society have told the Government not to do what it aims to in the Workers' Compensation and Rehabilitation Amendment Bill. What do the arrogant people opposite do? They not only propose to close the second gateway but also suggest a new version which is more draconian than the first. That is their idea of listening. They listen and come back with something worse and even less acceptable.

Hon N.F. Moore: Which is supported by the TLC, surprisingly.

Hon JOHN HALDEN: I am making this speech, not the Trades and Labor Council. We have what is colloquially referred to as "the smoking legislation".

Point of Order

Hon N.F. MOORE: Is the member entitled to discuss legislation which is on the Notice Paper and, therefore, before the House?

The PRESIDENT: The Leader of the House is right; the standing orders prevent members from alluding to matters on the Notice Paper which can be better discussed when they are called on. However, at the moment all the member seems to have done is mention some legislation which is before the House. I assume the member knows the standing orders. If he starts discussing the smoking legislation, I will call him to order. Members, the Chair is at this end of the room for those who seem content to speak to the far door.

Debate Resumed

Hon JOHN HALDEN: The smoking legislation and three pieces of native title legislation are currently before this House. I do not want to speak specifically about the smoking legislation, but it epitomises what members on this side of the House must tolerate. What is it? It is a chance for government members to fix up their party room problems in here and blame us. The Government was forced to pander to sectional interests in its party room and it has watered down the provisions of the Bill. It was forced to cobble together legislation which has no principle in policy whatsoever. It appeased factional and personal interests within its party room and brought the legislation here for the opposition parties to fix and to blame us if it is delayed and the end result is not what the Government likes. If the Government plays those games, it deserves everything it gets from this House. Opposition members should not treat the problems of the Liberal Party in any more serious way than we do currently; that is, we should examine the policy of a Bill. If we do not agree with it, we should reject it. I say again that I have witnessed in this House over the past 18 months or so too many occasions on which the Opposition has tried to fix the Government's cobbled-together compromises, which are basically worthless legislation, so that we can make them into something decent for the community. That is not the role of the Legislative Council. The Government should not keep bringing claptrap legislation into this place for the Opposition to fix.

If the Premier cannot understand that this is a duly elected House, he should go back over history and review the activities of this place. It is an amazing place. At one time it was elected only by the property class, and only by men. A review of that history indicates that this House has not caused the Government great problems. That is the type of House the Government would like it to be. It would like it to be the gentlemen's club. However, it will no longer be the gentlemen's club, and it will not be a club that the Government wants or can control, and nor can the Opposition. The political realities are that, for the foreseeable future, we in the Australian Labor Party will not have a majority in this place. We will have to work with the Greens (WA), the Australian Democrats and the Government to come up with decent legislation. However, if the Government keeps presenting this type of legislation, I must say, in my new, freer mode, that it will cop a few more bangs around the head about the sort of rubbish that it has been dishing up to us, because it is nothing more than that.

Government members talk about filibustering. I have witnessed members opposite filibustering more than anybody. I had the opportunity today to examine the time spent on speeches during second reading debates. I do not want to hear about filibustering. The realities are that government members spoke for a third more of the time during second reading debates than members of the Australian Labor Party, and they took up nearly as much time as members of the entire Parliament. Time and time again in the press recently the Government has tried to discredit this House and its members. It is a sham. Government members have filibustered.

I remind members of the filibuster during the commercial tenancy debate.

Hon N.F. Moore interjected.

Hon JOHN HALDEN: The minister was the one who filibustered during the commercial tenancy debate. What about the filibuster during the ecologically sustainable development debate? It goes on and on. Then Government members go out and want to have their day in the sun.

Several members interjected.

The PRESIDENT: Order! Members, we will be unable to continue the debate if I and Hansard cannot hear what is being said. I know members like having a shot at each other, especially on a nice hot day. However, I have said before that my duty is to ensure that what is said is recorded accurately. The only way that will happen is if, as members, we have some manners and extend courtesy to those who are required to record what is being said.

Hon JOHN HALDEN: The filibustering by government members has been a disgrace. However, they say, "We remind you about industrial relations." I remind government members about industrial relations! Do they remember the industrial relations debate? The Government said it had a mandate. It keeps quoting mandates and the numbers in that place. What did the Government do with the industrial relations legislation? It was the most draconian piece of legislation. The Government rammed it through before the five new members could take their seats and exercise their voting rights in this place. The Government did not mind doing that, because it was convenient to do it. It will breach the rules, and complain,

bitch, bellyache, bludgeon and coerce because it suits it. However, those days are over. Until such time as the Government smartens up, it will continue to experience problems.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [3.54 pm]: At the outset I say, "Welcome back, Mr Halden." We were missing the type of speech that he has just delivered, which is all bluster and no substance. However, it is nice to hear him back again in true form. I suspect that what we have seen today is the first salvo in Hon John Halden's progress towards occupying the seat he used to occupy. It is interesting that he leads off with this outrageous debate on this occasion.

Hon Tom Stephens: At my invitation.

Hon N.F. MOORE: We will wait and see. There are 34 members in this House; 17 members belong to the government benches and 17 members belong to the opposition parties. That is not an overwhelming majority in the Opposition's favour. Because we provide the President, we do not have the numbers on the floor of the House. We have at least half the number of members elected. The Opposition has no mandate, to use its phrase, to do what it is doing to the Government's legislation. It was interesting to hear the comments by Hon John Halden about what has taken place in this House over the past couple of years. The facts of the matter are that this Opposition has not knocked back a number of Bills - it has knocked back just one. I remind members about the Hairdressers Registration Repeal Bill. It was sent to a committee dominated by members of the Opposition who then agreed to get rid of it. However, when it came back to the House, they had agreed to support it. Members of that party talk about great enthusiasm for the committee system and they went through the process with that Bill.

Hon John Halden said that members of the Government were not supportive of a committee system. I remind him of the days when Hon Joe Berinson sat in this very seat. Year after year, he refused to provide any support for the committee system, refused to debate the committee on committee's report and was dragged screaming to set up a committee system that members of the Opposition now find so wonderful. However, when they have a chance to do something with it - like the Hairdressers Registration Repeal Bill - and have a committee report that recommends opposing the Bill, the House knocks it back when they use their numbers. That is the only Bill that has been knocked back.

Several members interjected.

The PRESIDENT: Order! Hon Kim Chance and Hon Ljiljanna Ravlich will have an opportunity to speak in a few moments if we have time. However, we are running out of time because of interjections.

Hon N.F. MOORE: The collective opposition parties have amended Bills to such an extent that they are unrecognisable. I have said that about the School Education Bill on a number of occasions. It is now unrecognisable from the original Bill. It was not about consultation as Hon John Halden would have members believe; it was about the Australian Labor Party, the State School Teachers Union and the Western Australian Council of State School Organisations deciding what they wanted. The Bill had been a Green Bill and it had been in the community for years because it started when I was the Minister for Education. That is how long the Bill took to reach the House. Then members of the Opposition claim that there was not enough consultation because the general community did not agree with the teachers union and WACSSO. However, members of the Opposition had to go down that path to satisfy their constituency.

The only organisation in Western Australia that does not support the changes to the workers compensation legislation is the Labor Party - even its Trades and Labor Council colleagues support the changes. We will see what members of the Opposition do to the smoking legislation in a moment. Members of the Opposition are putting offside all their constituents in the bush because they cannot stand the smoke Nazi attitude that the Labor Party has adopted. Members of the Opposition will probably destroy the native title legislation as well. Again they do not take any notice of their constituency in the bush. There are so few members of the Opposition from the bush because they do not take any notice of what their constituents want.

Let us talk about filibusters. Hon Tom Stephens must hold the record - it is the second longest speech I have ever heard in this House - when he spoke for eight hours about industrial relations. He spoke for about the same length of time on the abortion Bill. The only speech longer than that was when Hon Roy Cloughton talked all night about milk on some Bill to filibuster this House until the following day when a particular case was being heard in a court; he did not want a decision made by the House until the court had made a decision. It was about how important bread and milk are to everyone's lifestyle. That was the longest speech I have ever heard and it was followed by Hon Tom Stephens on two occasions. There is a motion on the Notice Paper that is so long that it took Hon Ljiljanna Ravlich three days to finish her speech. When somebody from this side of the House has the temerity to respond, members opposite say they are filibustering. A filibuster relates to not only the length of time for which a member speaks, but also the purpose of the speech; that is, what does the member want to avoid happening. Hon Ljiljanna Ravlich could have taken the first motion on the Notice Paper straight to the Standing Committee on Public Administration and asked it to agree to it on its own motion and go ahead with the inquiry. However, she did not do that. For three hours over three days she spent time telling the House how important the contracting out question is to her. It was a political exercise and filibuster of the classic type. Hon Ljiljanna Ravlich should not

complain about any other members speaking for too long, because she is a classic case. I do not know of anyone in this House who has spoken for the length that opposition members have since they have been in opposition, or when they were in government for that matter.

The PRESIDENT: Order! Order! Hon Ljiljanna Ravlich obviously cannot hear me because of the number of interjections. I am calling for order and that means her.

Hon N.F. MOORE: This Government has the right to criticise the decisions of this House, just as the previous Government had the right to criticise the decisions of the House. Members on this side will criticise the actions of members opposite on the basis of what they are doing to the legislation, but not on the basis of their right to do so. The Government acknowledges that members opposite have the right to do it. When members opposite amend legislation or make it unworkable, they must understand that they will wear the consequences. This Government will tell people that it is the fault of the opposition parties that the native title Bill will probably be messed up, and that the School Education Bill is unworkable. It will be the fault of the opposition parties if they mess up the smoking Bill, and if nothing is done with the workers compensation Bill. The Government will tell the world it is their fault. They have every right to do it because they have the numbers; but the Opposition does not have the mandate. It has only half the membership of this House but because the President does not vote, the opposition parties have the numbers on the floor of the House. They will wear the decisions they make and they must expect this Government to tell everyone what they have done time and time again. At the end of this week or next week when this House rises, by which time members opposite will have ruined the education Bill, the workers compensation Bill, the smoking Bill and whatever else, all its actions will be made clear to the rest of the community so that they know what members have done. They will be told why the Government cannot get its legislation through.

Hon Tom Helm interjected.

Hon N.F. MOORE: We are telling them, and that is why members opposite are bleeding today and why Hon John Halden has come back. We are delighted that he is back and that we can hear him speak again, although that was probably the worst speech he has made since he has been a member. He is a bit rusty and I suspect that in due course when the oil and the adrenalin start to flow, he will start hitting the nail. He did not do that today. He used words such as "outrageous" and "rubbish", but his speech contained no substance or facts. The bottom line is that whoever sits on the government side of the House and does not have the numbers will always complain about the actions of the members opposite. The Labor Party did it when in government, and this Government will also do it.

Hon John Halden: You have just admitted for the first time that you are whingeing for the sake of it.

Hon N.F. MOORE: I am not whingeing. I am telling members how it is. If they mess up the Government's legislation, the Government will tell the world what they have done. If the world agrees with the actions of the opposition parties, the Labor Party will be elected to government next time. If not, people need to know who did it, and members on this side will tell them that the Opposition did it. In the good old days, Philip Collier thanked God for the Legislative Council because he used it in such a way that it saved the Labor Party from itself. The Labor Party's attitude to the Legislative Council has a fascinating history. It was refreshing to hear Hon John Halden say today that the Legislative Council has a real place in our lives. Not long ago he wanted to get rid of it, even though he wanted to keep it, ironically, because it was able to curb the excesses of the left wing of the Labor Party, and prevent the Labor Party doing things that would have driven it out of office. The Government will tell everybody what members opposite have done and why it is their fault that the legislation is messed up.

HON CHRISTINE SHARP (South West) [4.05 pm]: I express my gratitude to Hon John Halden for giving us the opportunity to debate this important issue which, probably, all members of this place have been thinking about privately over the past few weeks. It has been a pretty difficult time for all of us. I know that I have spent a lot of time and thought since the difficult and onerous passage of the School Education Bill on the kind of accusations that the Leader of the Government levelled at this side of the House during the three difficult weeks that we debated that Bill. It worried me greatly to hear him say that we, the inexperienced members, were taking away the right of the Government to govern. I thought that was a heavy accusation.

I have thought a great deal about the mandate issue. I have come to the conclusion that, just as the Government in the other place has a mandate to govern, so this House also has a mandate. Ours is a different mandate. In the other place, because of the way the voting system works, the winner takes all - the winner gets to govern. In this place, because of proportional representation, one could argue that the mandate here is much more representative of the population. Therefore, with all the parties having to work together, this place well represents the cross-section of opinion in the community. I feel that in the last federal election, and before that in the state election when we gained our seats, the community clearly said that it wanted two separate mandates: The clear right to govern in the other place, and for the upper House to act in a way which provided rigorous scrutiny and review of government.

We have a mandate to review. That means the Leader of the Government must negotiate outcomes. I remember having a discussion with the Leader of the Government when he was seeking my support to ensure the School Education Bill did not

go to committee. I told him at that time that I was open to negotiate any aspects of that Bill, including the passage of that Bill, and I expected him to convene a meeting of all parties in this place to look at it and to negotiate the process together. He rejected that invitation. He then spent the next months yelling at us about how our treatment of the process was absolutely appalling; yet it was the Leader of the Government who rejected the invitation to negotiate and consult. The process of this place is about negotiation and consultation. The Government does not have a lot of skill in that regard. In fact, government members are showing that they are real learners.

I was particularly concerned reading in the newspapers after the passage of the School Education Bill, having sent amendments back to the other place, that the Minister for Education had announced that he would not dream of negotiating with the minor parties. I wonder why not. What a weird attitude. The Minister for Education cannot ignore the fact that the Democrats and the Greens (WA) are a reality in the upper House. Why should he ignore that? It seems that if the Minister for Education has any brains at all he would work out that it would be much easier to win the one vote he needs from a small party than from a larger party; so what he is saying is not even practical. Why is he so arrogant that he will not even speak to us, or negotiate with us? I want to know why not? I hope that he noted that, on a couple of occasions, the minor parties supported his Government against the Labor Party, whereas the Labor Party did not give ground at all. He is being not only arrogant but completely unrealistic, and he is out of touch with the realities of this House.

I am very proud of the work that we have done in this place this year. I found it absolutely hair-raising to have to face the criticism made of us by the Government during the debate on the School Education Bill. However, I have thought about it long and hard since that time, and I am convinced that in this example, which is one with which I am familiar - I am sure other members are more familiar with other examples - we have taken a conservative Bill, about which the conservatives consulted with the community, but which they did not change to reflect the wishes of the community, and have made it into a progressive Bill with which the community is delighted.

HON PETER FOSS (East Metropolitan - Attorney General) [4.11 pm]: It is very interesting to see how thin-skinned the Opposition is! I can remember that when we were in opposition, we were accused by Hon Joe Berinson of obstructing certain legislation in the upper House, when that legislation had not even left the Legislative Assembly! That was reported in *The West Australian*, and we got caned over it! I have no objection to taking responsibility for things that we have done. That is how it should be. A person who votes in this House to do something to legislation should be prepared for the public to find out about that and should be prepared to receive some criticism from the public for that action. However, Hon Joe Berinson used to anticipate, quite often wrongly, that the then Opposition in the upper House would reject or hold up legislation, and, blow me down, we were criticised in the paper for having done so, when that legislation had not even left the Legislative Assembly, notwithstanding that the government in the Legislative Assembly had complete management over time and could have brought the legislation to this place whenever it wanted.

Hon N.F. Moore: I think half the time it was hoping that we would knock it out!

Hon PETER FOSS: Yes. Hon Norman Moore has made a very important point, because over many years the Labor Party had found it much easier to deal with its lunatic left by allowing legislation to come out of the Legislative Assembly, knowing that sanity would prevail in the upper House - and we did not fail it; sanity did prevail -

Hon John Halden: Born to rule!

Hon PETER FOSS: No. It is knowing how to pick the man. The Labor Party knew that it could never control the lunatic left - I can see the smiles on the faces of some members opposite - and thought that the easiest way would be to pass the legislation to the upper House and allow the criticism to fall upon the party that had a greater number of sane people in the party room than the Labor Party.

It is fascinating that this Government has agreed to the management committee that determines the processes of the House, but having agreed to what those process will be, what has happened - absolutely nothing! Notwithstanding that it has been agreed that we will deal with all this legislation this week, things still come up that prevent that from being done. I thought we would dispatch some of that legislation quite effectively as a result of that management committee, but it seems to be a total waste of time, because unless it is what the Greens (WA) and Labor want and unless it suits them at the particular time, we can forget it. Members opposite say, "We have the numbers." Okay, it is the tyranny of numbers. Hon Christine Sharp seems to think that because they have the numbers, it is not good enough to pass a motion to which the majority agrees; she wants us all to agree as if it were something out of George Orwell's novel *1984* - we believe it in our hearts! Hon Christine Sharp can be as much of a dictator -

Hon John Halden: Not like you!

Hon PETER FOSS: More. I am aghast! I thought I was the extreme, but I have been left for dead by Hon Christine Sharp! I never expected people to agree. All I expected them to do was agree that we had the numbers. I never expected them to change their minds to accord with mine. However, Hon Christine Sharp wants the House to pass resolutions by saying that we all agree and we will pass them by a majority. Hon John Halden has put his finger on what the role of the Opposition

should be; he has worked it out, and the other opposition backbenchers should listen to it. If members opposite do not agree with the philosophy of a Bill, they should reject it. They should not try to fix it up. There are two reasons why members opposite should not fix it up; one is that they might get it right. If they get it right, who will get the credit for it? The Government. Worse, they might get it wrong. The problem with getting it wrong - and it may be better that they get it wrong - is that the Government is then stuck with unworkable legislation. I will tell members opposite what is wrong with what they have been doing with legislation. If they do not like a piece of legislation, they should reject it. However, what they have been trying to do, particularly the Greens (WA) and the Australian Democrats, is absolutely unbelievable. I do not think they even understand what legislation is all about. They do not amend legislation. Most of their amendments can be described as a handbook for government. They do not say, "You govern." They say, "Although this is legislation, we will put some things in it that perhaps should be in a book that is handed out by the Government for civil servants." It reads like a do-it-yourself book, "How to Run an Education Department: Day one, do this; Day two, do that." I hate to think what bodily functions they would prescribe for us if we ever bring in any legislation concerning the human body. I am amazed that the Health Act does not have a prescription for our daily lives. I would not put it beyond them. The next time legislation is presented to the House, that is the type of legislation we will get.

I reply to Hon John Halden, who criticised me and the changes I made to the rules relating to parole. He said I did not consult anybody. The person immediately in front of him, Hon Nick Griffiths, had a go at me for not introducing that legislation. The reason for that was that a committee took two years to take submissions from everybody. We gave everybody the opportunity to put in their submissions.

Hon Ken Travers: Then you ignored the report.

Hon PETER FOSS: No, we did not ignore the report. That is the crazy thing about it. If the member reads the Chief Justice's report, he will see that the Chief Justice said that he does not have the support of the District Court judges, and for very good reason. The chairman of the committee that made the recommendations happens to be the Chief Judge of the District Court. Therefore, it does not do members opposite any good -

Hon John Halden: And you did not follow his report. You threw his report out the window.

Hon PETER FOSS: We followed it in all the essential parts. The part that the Chief Justice is upset about is something that came straight out of the report of the committee. The fact is that the Chief Justice does not agree with it. I know the Chief Justice; he took five months to reply, but eventually he did, and he said he did not agree with it. However, that happens to be the report's recommendation. Therefore, it does not matter whether the Government consults; as far as some people are concerned - and that includes the Australian Democrats - they will disagree with the legislation.

Let us take the workers compensation legislation which members opposite talked about. The Chamber of Commerce and Industry of Western Australia agreed with it and the Trades and Labor Council agreed with it. Who does not agree with it? We know that the Labor Party does not agree with it. What can we, the Government, do when we get all the parties involved to agree on it?

Hon John Halden: You haven't got all the parties. That is fallacious.

Hon PETER FOSS: I will speak later about whom the member agrees with and who is pulling his little strings. However, it does not matter what this Government does, members opposite feel free to rewrite legislation. That is fine if they do that, but they should be prepared to say publicly what they have done. We will say publicly what we have done and their little skins will have to become a little thicker than they are currently.

Mr President, it is extraordinary that Hon John Halden has moved this motion. I have been a member of Parliament for nine, maybe 10, years and this has been happening from the moment I came into the Parliament. Hon John Halden has just woken up to it, come out of his soporific state and moved an urgency motion about Governments criticising the upper House. Well, well, well, welcome to Western Australia, Mr Halden! His excuse may be that the Leader of the Opposition invited him to move this motion. Perhaps the Leader of the Opposition thought that Hon John Halden was still in a state of shock and was not able to work out what a silly motion it was.

Hon John Halden: I am just a silly person!

Hon PETER FOSS: No, the member is being misled.

Hon John Halden: You think you were born to rule.

Hon PETER FOSS: What does the member want to disagree about?

The PRESIDENT: Order, Attorney General! Has someone taken Hon John Halden's copy of the standing orders?

Hon John Halden: You are actually right, Mr President.

The PRESIDENT: When Hon John Halden gets a new set of standing orders, would he be good enough to read Standing Order No 74, because it has not changed.

Hon PETER FOSS: Governments will always criticise upper Houses that interfere with their legislation, and so they should. Members opposite are accountable to the people of Western Australia in the same way that the Government is accountable. Governments will criticise members opposite as harshly as they deserve. Governments will also criticise the Greens (WA) and the Australian Democrats, because although they act with the purest of motives and not for factional reasons, which distinguishes them from the major parties -

Hon Ken Travers: Your party as well!

Hon PETER FOSS: I am speaking in an ironic fashion and referring to what the Greens and the Democrats say about themselves. They do not act from any sectional interest, unlike the Labor Party and the coalition. Even with the purest of motives, they can get it wrong. In that case, they deserve to be criticised and they will be criticised. That is life; that is politics.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.21 pm]: I am sure I speak on behalf of all members of this House in saying how pleased we are to hear again from Hon John Halden, who has moved this urgency motion on a topic that could not be more relevant to the circumstances in which we find ourselves at the end of this calendar year. This Government, with its huffing and puffing, will not be able to blow down this House. Nonetheless, as it continues to huff and puff, it is faced with the reality that we on this side of the House will do our job. This Opposition stands united in the task of scrutinising and reviewing the actions of this Government. That role is sorely needed.

Hon N.F. Moore: No-one disputes the need for review, but you did not agree with that when you were over here. You constantly argued against that.

Hon TOM STEPHENS: Since that time this House has had the benefit of the reports of the Royal Commission into Commercial Activities of Government and Other Matters and the Commission on Government, both of which referred to the need for reform of this place so that it could rise to the challenge of its future. This Government has been trying to resist that future and the destiny that this House must fulfil; that is, to put in place all the functions of a House of Review and to celebrate in that role. It must ensure that Governments are faced with the reality of review.

Members should note how sparing this Opposition has been. We in the Labor Party believe in government, in power, in the use of power and in Governments facing review when they use that power to excess and extend it beyond what is effectively their mandate. Members opposite have no mandate to produce unworkable or bad legislation, or to subject the people of Western Australia to the vagaries of their political ideology.

The PRESIDENT: Order!

Hon TOM STEPHENS: Increasingly it would appear that this Government -

The PRESIDENT: Order! Can the Leader of the Opposition not hear me?

Hon TOM STEPHENS: I was speaking and I could not hear.

The PRESIDENT: Exactly. When I call for order I expect members to stop speaking. There are too many interjections; I cannot hear what is being said.

Hon TOM STEPHENS: Increasingly the attitude in the government party room is "Thank God for the Legislative Council." The Government can leave the problems of the party room to be resolved on the floor of this House. When it introduces clearly flawed legislation which is in desperate need of improvement and on which it has not been able achieve consensus in the party room, it lands in this place in a helter-skelter manner. We are then left with the reality that the Legislative Council faces the task of improving upon that legislative effort. The Labor Party accepted that task when the Government refused to accept its responsibilities. We have selected several Bills for that treatment because they call out for exactly that treatment.

Hon N.F. Moore: Give us one example.

The PRESIDENT: Order! I am trying to listen to the Leader of the Opposition.

Hon TOM STEPHENS: Never has the task been more imperative. The Government faces the paralysis of its own internal conflicts and disputes. From one end of Parliament to the other, the Government faces the paralysis that produces poor legislation which calls out for resolution. We will provide the dispute-resolution mechanism.

Hon N.F. Moore: What about the native title report?

The PRESIDENT: Order! I advise the Leader of the House that the Leader of the Opposition is not picking up his interjections. If the Leader of the House will stop interjecting, the Leader of the Opposition can get on with what he wants to say.

Hon TOM STEPHENS: The situation which Western Australia faces is no different from the situation it faced when Labor

was in office. The then conservative control of this place always subjected the Labor Party in government to a severe constriction of review, scrutiny and analysis, and it chose to impose upon the legislative agenda of that Government the image and likeness of the numbers of which Hon John Halden spoke. Opposition members, in marked contrast to that approach, have been very sparing indeed. We accept the Government's right to govern. We have rejected only one Bill, but, when faced with defective, deficient legislation that has cried out for amendment and improvement, we have done our job as legislators. We accept the responsibilities that were onerously thrust upon us by the people of Western Australia and we join with other non-government members to make sure that improved legislation passes this House.

Hon N.F. Moore interjected.

The PRESIDENT: Order!

Hon TOM STEPHENS: We ensure that defective or deficient legislation does not simply pass through Parliament and fail the people of Western Australia but is improved upon by virtue of the amendments that we bring forward.

The Government might huff and puff but it will not blow down the House. It certainly will not do so by its preoccupation with trying to create disunity on this side of the House and persuade people to do other than their job. Members of the Australian Labor Party are lucky enough to have at their disposal a method by which we come to collective decisions. In that process we are able to subject the various possibilities, options and amendments to scrutiny in our party room, and at the end of the process we come united into this place as we put our view before Parliament. We subject our view to the public scrutiny that comes from the presentation of our viewpoint to Parliament. We have done that with several Bills, for example the School Education Bill, and we are doing it in reference to the Health Amendment Bill. The Occupational Safety and Health (Validation) Bill is available to be dealt with again as far as we are concerned. We have dealt with the Commercial Tenancy (Retail Shops) Agreements Amendment Bill in that way. On the other hand, the Government leaves those Bills in limbo by virtue of not being prepared to accept the will of this place. It is time that the Government desisted from that approach and accepted that the House has a legitimate mandate to subject the Government's legislative program to review, scrutiny and amendment. The Government can give the House that opportunity by extending the time to do so. It is important that the Government, more than all other Governments, is subjected to that check and balance. The Government has constantly displayed an unparalleled arrogant determination.

Hon N.F. Moore interjected.

Hon TOM STEPHENS: The Government has constantly displayed an arrogance and a failure to negotiate or to recognise the broad needs of the Western Australian community. It has always been prepared to pursue the narrow interests of the wealthy sections of our community.

Hon N.F. Moore: What a joke you are!

The PRESIDENT: Order! I have asked the Leader of the House not to interject.

Hon TOM STEPHENS: This Government has never accepted the court of public opinion. Instead, it relies in this place on a malapportionment, which it has never been prepared to remove. It is not persuaded by the argument against that malapportionment, and it uses taxpayers' funds to blanket the electronic and print media to ensure that it dominates public debate in this State. It is time that this Government realised that the game is up. This Government no longer has the opportunity to divide, conquer and thereby rule. It is entitled to government, but this House is entitled to subject it to scrutiny, analysis and review and to report to the Western Australian community, to which the Government is accountable.

Motion lapsed, pursuant to standing orders.

HEALTH AMENDMENT BILL

Committee

Resumed from 10 December. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clause 1: Short title -

Progress was reported after the clause had been partly considered.

Hon NORM KELLY: I draw members' attention to a letter which appeared in yesterday's *The West Australian* regarding smoking in hotels. It is from Doug Krepp of Kalgoorlie.

Hon Bob Thomas: He used to be the chairman of the Liberal Party in Kalgoorlie.

Hon NORM KELLY: That does not surprise me.

Hon Derrick Tomlinson: He was a Liberal candidate up there - he's a good man!

Hon NORM KELLY: The article reads -

The introduction of .08 legislation, then .05, random breath-testing, booze buses and tougher licensing laws have all contributed to the change in the public's drinking patterns.

I am not too sure whether he is referring to the responsible serving requirements set out in the Liquor Licensing Act. If that is the case, I am surprised that he is complaining about it. He highlights the fact that the liquor industry has had to go through a number changes in the past decade or so and that each of those has had the potential to devastate the hotel industry. In each of those changes, such as the introduction of booze buses and lowering the blood alcohol content levels to 0.08 per cent and then to 0.05 per cent, the Australian Hotels Association has deemed it fit to threaten the Government with a \$100m class action for introducing that legislation. On this occasion, it is lowering itself to undertake some interesting tactics in an attempt to get its version of the legislation through. Later in the letter Mr Krepp refers to a matter of more concern to him, when he states -

To also suggest that hoteliers will be sued by their staff if they can allege and prove that their chest complaint was caused directly by passive smoking from the customers will only lead to us hiring only staff who are already committed smokers.

This statement by a hotelier appears to assume that there is a connection, that illness can be caused by passive smoking. The suggestion that only smokers will be hired indicates that the members of the association are more than willing to apply discriminatory tactics to get their way in a smoke-filled environment. For these reasons, it would be far better to go the other way - to put in place a total smoke-free policy to avoid that type of discrimination - to avoid the possibility of actions being taken against hoteliers for placing their employees in such danger. Those are some of the things with which we are faced when having to accept a partial remedy - for example, allowing one bar in a hotel in which smoking will be allowed - for this serious public health problem. That sort of partial remedy is saying that we will decide to injure and harm only a certain percentage of bar workers.

Let us look at some financial aspects of this legislation. In my speeches during the second reading debate and the earlier committee stage I referred to and asked questions about the competition policy review being carried out as part of the development of this legislation. The legislation and the draft regulations before us show possibilities for discrimination among the different types of licensed facilities. Regulations would come into force at different times. To my mind, that smacks of our going against the principles of the national competition policy. Last week I asked whether we could receive a copy of that review or, at least, obtain information that would give us a better understanding of the possible implications of this legislation running counter to the national competition policy. I seek the minister's comments on that issue, before I move to some other concerns.

Hon MAX EVANS: This is an enabling Bill. After the regulations have been drafted, the member will be able to see whether they are in keeping with the national competition policy. This happens with legislation covering many areas, such as the Totalisator Agency Board, the Lotteries Commission and the Insurance Commission of Western Australia. They can be linked to the national competition policy. I probably have responsibility for more of these areas than any other minister, outside the Minister for Primary Industry.

Much of what the National Competition Council is putting up is still in doubt. People are starting to say, "You'd better be careful because if you go up against the National Competition Council, you will lose part of your grant and the Federal Government will take away the financial assistance grants." This happens in all States, and they are all looking at the issue. The solution is not simple because the States keep running up against the Federal Government's decisions. I do not have a copy of the review, nor do I know where I can get one. As to the drafting of the regulations, before all draft regulations and Bills go to Cabinet, they are reviewed by the government affairs committee, to see how they fit with the national competition policy. We do not always agree with the National Competition Council. The Government Affairs Committee brings drafting matters up mainly to protect us from ourselves and what may be the financial implications. If we do not agree, there may be some financial penalties.

Hon NORM KELLY: If the regulations are drafted for gazettal, a review would be conducted of those regulations to see whether they are in conflict with national competition policy. If we seek to gain assurances from the Government about the contents of the regulations, I suppose the minister is saying that there is a danger that the regulations would need to be changed at a later stage if they were found to be contrary to the national competition policy.

Hon MAX EVANS: With any shortcomings, the same would happen as with our Bills; that is, any changes would be made prior to gazettal and not afterwards. I do not think that anyone will ever be 100 per cent right when assessing whether regulations will comply with national competition policy. The National Competition Council might make another ruling after gazettal. It comes back to the public interest aspect. I am certain that we would not be bringing forward regulations if we knew that they did not comply with national competition policy. We have been looking at a couple of Bills now and then that might come through and that might not comply. The Auditor General has been qualifying legislation on accounting standards over the past couple of years. We must get the accounting standards changed. All the revenue of the State

Revenue Department is supposed to be brought onto its balance sheet and its profit and loss account because it collects the revenue on behalf of the State. We are getting a qualified audit report because State Revenue must change its rules. There might be a similar problem with the National Competition Council because it might not agree with what we are doing and we would argue about that at the time.

Hon NORM KELLY: I raise this point because I believe that at a later stage of this committee, the Australian Democrats and the other non-government parties will be seeking assurances about the contents of the regulations. Whether we get those assurances will determine whether the Australian Democrats support the Bill. A danger is that such an assurance could be not followed through if there is a conflict with the national competition policy. We must decide that at the completion of the committee stage. Members should bear that in mind as we debate this Bill. Another danger with the national competition policy is that to show any type of discriminatory regimes and to have them allowable, I believe we would have to show a net public benefit. In this case we could be saying that the restrictions are valid because the net public benefit will be in 30 years' time when we have a reduction in health costs as a result of the reduced amount of illness and death in our society as a result of a smoke-free policy. I am seeking to see whether those types of calculations are being done as part of the competition policy review. I see here a real danger that we will be privatising the profits and socialising the costs, so that even though some of the profits - such as those resulting from the turnover at the casino and the like - that arise from this type of legislation will come to the State, a lot will go to shareholders. This will mean that the costs are socialised and the Western Australian taxpayer must pay for those health funding costs in decades to come. We need to look at the long-term costs to our society. I want to see that as part of the calculation in the competition policy review and I want such information on calculations to be made available when such a review is completed.

Hon MAX EVANS: I do not expect those calculations to be needed because it would be hypothetical and it would require many parameters to calculate what could occur 30 years down the line. I will not give anyone instructions to do that. It would be impractical to try to reach a solution. People must work out the public interest. I thought the question would be: How can we have different smoking rules for a casino and a bingo hall and a restaurant and a bar? That is a matter of competition and public interest. Someone must make that decision. Governments can legislate for that and regulations can determine what they want. I think that overrides the national competition policy. I cannot see how that would be practical or how the answers could be calculated.

A report by Lapsley and Cook indicates that the cost to Australia of smoking is about \$9b in round figures, the tangible evidence for which is 7.5 per cent and the intangible evidence is 92.5 per cent. In Western Australia it is 10 per cent; therefore, the cost to us is \$900m. I did not discover in the report whether the figure is over 30 years or one year. I thought it referred to an annual figure. It is interesting to note that 7.5 per cent is tangible evidence. If we start trying to deduce something from 92.5 per cent of intangible evidence, we could get any answer we liked. Lapsley and Cook came up with the figure of \$9b. That firm prepared a large report on smoking in this country. In another report its figures gave it very little credibility. We could say that the cost of \$900m a year is not bad, because it costs only \$1b to run our metropolitan hotels; therefore, if we cut out smoking it will cost only so much. However, it does not work that way.

I recall discussing health and smoking with the Australian Medical Association some years ago. It was suggested that tobacco be made an illegal product. Even the AMA said it did not want to do that; many people need to smoke. We receive \$300m in taxes and another \$300m goes to the tobacco firms. No-one is forced to smoke; people smoke because they want to and need to and they will continue to smoke.

The Lapsley and Cooks report probably cost \$100 000. I do not know what would be the cost of smoking 30 years down the line. The largest number of smokers who contribute towards the profitability of the casino will not die in this country. About 40 or 50 of those overseas gamblers a week come into this country to spend large stakes. Perhaps that is not important to our economy. I thought it would be, because about 3 500 people are employed at the casino. If we take away most of that money, it will have some impact. About a third of that money is made by international punters.

Apparently only 25 per cent of the public smoke, but undoubtedly more than a quarter of the people who go to the casino smoke. Only 6 per cent of Western Australians bet at the TAB but 60 per cent of the people who go to the races bet on the tote. They can choose what they want to do and the House can decide how it will legislate.

Hon NORM KELLY: I do not want to wind up the minister about matters, but it is a complete cop out to say that most of the people who will die from passive smoking in the casino will die overseas and in that case it is not a problem.

Hon Max Evans: They are the heavy smokers.

Hon NORM KELLY: That is an irresponsible remark. The many employees at the casino will not be there for a three-day junket from Asia. They will work there for many years putting up with that smoke-filled environment contracting cancer, heart disease and the like. The minister said in his second reading speech that more than 600 reports prove that. It is acknowledged that evidence exists that proves that passive smoking at the casino is the biggest contributor to smoking-related illness in this State.

Hon Derrick Tomlinson: That is drawing a long bow.

Hon NORM KELLY: It is not; it has been acknowledged that is the case. It is irresponsible for the Government to say it is exporting the illnesses. To suggest that the costs in future years are hypothetical is another a cop-out by the Government. Future generations of Western Australians will have to pay because this Government does not have the guts to introduce proper public health and smoking legislation in this State now. That is a cop-out. It shows who is funding the Liberal Party and who is really running the party room puppets.

Hon Derrick Tomlinson: The casino.

Hon NORM KELLY: I am not talking only about the casino.

Hon Derrick Tomlinson: We invest all our money in the casino and that is why we are such a rich party. Grab a few brains.

Hon NORM KELLY: I was not referring only to the casino. If Hon Derrick Tomlinson looks at where his party gets donations from, what I am talking about will be clear. There does not appear to be a commitment to provide new funding to the Health Department to implement this legislation. I understand that the department will reallocate existing funds to implement these changes. Given that only one full-time equivalent is working on the Tobacco Control Act, I would like to know how many people will be working on this legislation, where the funding will come from and what part of the Health budget will miss out because of the reallocation of funds to this area.

Hon MAX EVANS: Outside the hospitals, the Health Department's budget is only about \$600m or \$700m. One per cent of that is only \$6m or \$7m. The department has an information and education program and will handle this within its budget of \$600m or \$700m. Hon Norm Kelly said that casinos are wealthy places. The Burswood casino is well managed and run. However, members might remember that the Australian Olympic Committee invested \$18m in the Reef Casino in Cairns and lost the lot; the casino has gone into receivership. Crown Casino shares were up to \$3 but are now down to 50¢.

Hon Kim Chance: The Christmas Island casino.

Hon MAX EVANS: Yes. Casinos are not a guaranteed way of making money. The Burswood casino has been well managed and is a huge benefit to the economy of this State. People enjoy going to the Burswood - just last weekend the "Main Event" show was held there - and the State prospers because of it. I am not decrying the effects of smoking, but the gamblers who come from overseas are heavy smokers. Doug Krepp asked in his letter if he should only employ smokers in his place. I do not know; it is up to him to make that decision. In making these amendments we must be careful to consider their impact. The Opposition is talking about things happening in five years. These people are borrowing money. When Metroplex did not bring \$123m of its money into the casino, Burswood had to borrow money to buy the operating management agreement, \$30m to put into the hotel and another \$32 for the Swan Portland Cement site. I would not like the board to need to borrow any more money for further development as a result of the amendments the Chamber is entitled to make. The casino would be battling to handle the cash flow, but it is a decision members can make.

Hon KIM CHANCE: People observing this debate might like some explanation of the process we are following. It is appropriate that I advise people that negotiations about the shape of future amendments are still underway. I regret that it would be awkward if we were to move beyond the short title at least until five o'clock. I apologise for that.

Hon Derrick Tomlinson: Let's report progress and get on with something else.

Hon KIM CHANCE: That is an entirely reasonable suggestion, but with only six minutes to question time this is an opportunity for points such as those raised by Hon Norm Kelly to be made.

Hon Derrick Tomlinson: In six minutes, with goodwill on all sides, we could pass another piece of legislation.

The CHAIRMAN: Order! The member is being perverse.

Hon KIM CHANCE: I will comment on what Hon Derrick Tomlinson suggested; that is, that in six minutes, with goodwill on all sides, we could pass some useful legislation. It is a lovely thought. While we continue to have lovely thoughts like that, I am sure we will remain positive.

Hon Derrick Tomlinson: It has been done.

Hon KIM CHANCE: Of course it has. The debate which has taken place on this part of the Bill has centred on the casino, which is entirely appropriate. Indeed, one of my concerns is whether the Bill can be adequately framed to allow for the possibility of regulations which are appropriate to the casino, and which are intra vires the Bill, should it become an Act, to be gazetted. I am concerned because the casino is a facility of a particular, if not unique, nature. As the minister said, the casino is made up of a number of rooms, some of which are used almost exclusively by overseas patrons. However, from the point of view of most of the public who use the casino, gambling activities take place in one enormous room.

As a result of this debate, last night, as a patron, I paid a visit to the casino. I looked at what seems to be possible within

the main gaming floor of the casino. Although I have said in this debate that the main gambling floor of the casino is well ventilated - certainly that is again the impression I gained last night, my prior observations being fairly casual - it is still possible, despite the good ventilation, for people to be assaulted by cigarette smoke, particularly those who are sensitive to it. That seems to occur at two levels: Firstly, by the amount of cigarette smoke in the general atmosphere, which is clearly evident, despite the best efforts of management and the engineers of the building; secondly, by being seated alongside a person, either at a table or on the video machines, when that other person is smoking. The ventilation system of the casino seems to be incapable of directing the smoke upwards. In fact, I watched this in some detail last night: The smoke drifts from side to side so that a person sitting alongside a smoker gets the full blast of the adjacent smoker's cigarette smoke, rather than it going upwards.

Hon Max Evans: We get that when we walk along the passageway outside too.

Hon KIM CHANCE: Yes. It is perhaps offensive, but it is not high-density smoke, which I imagine would be the worst for people who are medically sensitive to smoke. There is an offensive smell of smoke throughout the whole gaming floor. However, it is almost impossible to avoid high-density smoke when one is sitting alongside a smoker at the casino. It seems that some kind of cowling is needed over those high-density areas so that air can be exhausted directly over the top of those machines. I believe a further engineering mechanism could be used by the casino.

Again the Government's ability to regulate in the casino itself involves difficulties. I understand that the minister will be able to give some kind of undertaking on the way in which he will use the regulations to enforce a non-smoking policy across a percentage of the floor area of the casino. As time progresses the floor area of the casino which is covered by the non-smoking policy will be increased. It is not for me to state the amount of that floor area about which the minister may give an undertaking.

[Questions without notice taken.]

Hon KIM CHANCE: I believe that Hon Norm Kelly wants to raise a question about the employment of environmental health officers, in effect, as smoke policemen. That matter was the subject of at least one question. At the behest of local government authorities within my electorate, I raised the matter in question time. I do not have the question and answer with me, but my recollection is that Australian Capital Territory environmental health officers, when called upon to perform that function, were not subject to unreasonable demands on their time. Nonetheless, it is a matter of considerable concern for local authorities. Mayor Ron Yuryevich in Kalgoorlie has raised the matter in the Country Shire Councils Association. As I have said, I have been contacted by local government authorities about the matter. In each case people were concerned about the demands upon council environmental health officers' time in being required to police the regulations which will be promulgated under the Act.

Another part of local government authorities' concerns is that they were not sufficiently consulted on this issue. Without giving credibility to the statement or otherwise - I accept it as a statement which stands - failure to consult local government authorities has been an issue for local government for some time relating to various matters raised in state and commonwealth legislation. If the statement is true, I hope the Western Australian Municipal Association will raise it with the Government in a very formal manner. Local governments should at least be consulted when they are required to execute legislative policy, as applies with this Bill. Further, those authorities should play a significant role in determining how these regulations will apply, and whether it is practical for the authorities to apply them. Many smaller local government authorities employ only one environmental health officer. Indeed, in some cases, one officer is shared by more than one authority. Therefore, if a complaint is to be laid, and the environmental health officer must travel, possibly on overtime, 150 kilometres to make an inspection -

Hon Max Evans: The cigarette will be out when he gets there!

Hon KIM CHANCE: The minister appears to believe by his interjection that what I describe is an unlikely scenario. However, some local government authorities are very large. The minister should cast his mind to the Shire of East Pilbara, which I understand to be the largest authority in the State. It employs more than one environmental health officer, but they are spread thin on the ground. If a complaint were raised in Halls Creek one evening, and the environmental health officer were resident of, say, Fitzroy Crossing, a great deal of travel and overtime payment would be involved. Who will pay for the policing and oversight of these regulations?

Hon Derrick Tomlinson: Do you think there will be a prosecution under this legislation?

Hon KIM CHANCE: Yes, I do.

Hon Derrick Tomlinson: On the proposition you just put, a prosecution will never occur.

Hon KIM CHANCE: I do not think the member is correct. I would be disappointed, frankly, if no prosecutions were made through regulations applied under this legislation within a couple of days of their gazettal.

Hon Derrick Tomlinson: So you have a hope rather than any realistic expectation.

Hon KIM CHANCE: No. It is a realistic expectation. Our existing smoking regulations have been well policed. Hon Derrick Tomlinson should bear in mind that I am acutely aware of the regulations: I observe them, and observe adherence to them. The current smoking regulations are well policed by -

Hon Derrick Tomlinson: Is that by smokers or by the local authorities?

Hon KIM CHANCE: It is partly through a sense of politeness by smokers, and partly through the insistence of management in places over which management has some control.

Hon Derrick Tomlinson: That is not policing or prosecuting.

Hon KIM CHANCE: It is enforcement of a kind: One by self-discipline and one by management. I believe there will be a legal enforcement as a result of these regulations, as there should be. For the clarity of the record, I said that I hoped prosecutions would occur within a couple of days of the gazettal of the regulations. I hope there would not be prosecutions because people would want to adhere to the law.

Hon Norm Kelly: There is a six-months moratorium, an amnesty, as well.

Hon Barry House: A probationist!

Hon KIM CHANCE: I hope I am not that. I believe the regulations will work, but I also believe that after the six-month amnesty period, after the expiration of the gazettal period, there will be prosecutions. In cases where the law is being flouted, I hope there will be prosecutions. That puts my point more accurately than I put it earlier. Nonetheless, it comes back to this question: By whom and how are the regulations to be policed? The Bill makes it quite clear that the enforcement officers will be in another jurisdiction; namely, local government. The councils were never consulted about this, according to them, and this is not the first time. Just prior to the federal election I attended a meeting in Northam with shire council representatives covering the whole Avon Valley area at which this was raised as a major point of contention. I believe Hon Murray Nixon was also at that meeting.

Hon M.D. Nixon: I was overseas at the time; I had a representative there.

Hon KIM CHANCE: In a number of instances mentioned, the State Government had made rules which require the local government jurisdiction to enforce legislation and has imposed costs upon that jurisdiction to fulfil those responsibilities. The first the local government authorities heard about it, was when they saw the draft of the Bill. There was no consultation. Nobody asked them whether they could manage a cost-sharing arrangement, or whether they had the resources to do this, or whether they could call out the environmental health officers to travel 20, 30, 50 or 100 kilometres to investigate a complaint of smoking in an area which is gazetted as non-smoking. Maybe they can, but they would like to have been asked. This question still hangs in the air: Who will pay the costs when this occurs? This is not, in itself, a criticism of the Government; however, the question of consultation is. Quite clearly, both the Government's Bill and the Opposition's amendments to the Bill will require the same work to be done. We are both in the same camp in that regard. I am very much concerned that local government has not been consulted in this issue.

Hon NORM KELLY: I will reinforce the comments of Hon Kim Chance in regard to the environmental health officers and the problem the Government has brought upon itself in failing to consult those officers adequately prior to its introducing this legislation. A number of concerns have been brought about by that lack of not only consultation but also commitment to funding for those environmental health officers to carry out their work. In recent days I have discussed this matter with members of the Australian Institute of Environmental Health, which is the representative body for environmental health officers, and also with local shires and councils in the East Metropolitan Region. They are concerned about having to send out environmental health officers in pairs to enforce and inspect under this legislation. They are also concerned about the duty of care for their officers in sending them out late at night to, perhaps, a very rowdy pub to see whether the regulations are being breached. In such an environment, it is quite unrealistic to expect a single environmental health officer to ask people their names and addresses and to do the work required under this legislation without any backup at all. It is unfortunate that the Health Department does not see fit to employ its own inspectors or officers to act as a back-up to environmental health officers from the local councils to properly enforce this legislation.

Hon Max Evans: How many would they need? There are 142 local government areas.

Hon NORM KELLY: There are now 145 local government areas. To give the minister some idea, some of the bigger councils in the metropolitan area would have 20 or so environmental health officers. Reasonably small ones, such as Kalamunda, would have four. If the Government sees it as fitting for the Tobacco Control Act to be enforced by one officer in the Health Department, surely it could have the equivalent working on this legislation.

Hon Kim Chance: Is that one officer for the whole State?

Hon NORM KELLY: Exactly. It is a bit of a farce but surely we could get at least that for this legislation. I see a need to redirect existing staff in the Health Department to make sure that in the initial stages this legislation is adequately enforced

and that inspections are carried out, not so much to catch people doing the wrong thing but to educate and inform people that they may be doing the wrong thing, so that they can work to comply with the regulations. Unfortunately, that commitment to adequate funding has not been forthcoming from the Government. Local government has been left to shoulder the costs. So far the response I have been getting from the Government is that it is a local government duty, and that is it. I have heard from Ron Yuryevich and other senior figures in the Western Australian Municipal Association and have talked to EHOs at local council level and their chief executive officers about how they will adequately enforce this legislation. One way to go is for the chief executive officers to say, "Just carry on doing your normal inspections and do not worry about the smoking aspect because it is too difficult."

Hon Derrick Tomlinson: Do you think that there will be prosecutions as a result of this legislation?

Hon NORM KELLY: Yes.

Hon Derrick Tomlinson: In spite of everything you have said?

Hon NORM KELLY: In spite of everything I have said, the Health Department appears to have a commitment to proceed with prosecutions when it deems fit.

Hon Derrick Tomlinson: Will the EHOs about whom you have spoken go out and do their normal business?

Hon NORM KELLY: Some EHOs will work stringently to see that the regulations are enforced and some will be wary. As the draft regulations show, an EHO when entering premises must be wearing identification. That is totally against existing practices for EHOs. It will be a first for EHOs to wear identification badges. They will also be required to seek out the proprietor or manager immediately upon entering those premises. If they were entering a hotel with half a dozen bars, that would be impractical. If the premises were conforming with the regulations, there would be no need to contact the proprietor or waste time seeking out the proprietor. If it were reasonably possible, I would expect EHOs to seek out proprietors and let them know they had completed the inspection and that the proprietors were complying. The present requirement is to seek out the proprietor before doing an inspection. Once again, that is totally against the existing practices for EHOs. There seems to be some government commitment to do away with some of the regulations. The EHOs are identifying all of those problems.

In most part when we look at the resourcing, there is no commitment to funding. The only commitments seem to be in providing some type of education for the EHOs to be able to carry out their inspection procedures, giving them a few no-smoking stickers, and telling them to go out and do it. That is about it. If Health Department inspectors combined with local government EHOs, it would assist in getting some consistency across the State in the enforcement of this legislation. A Health Department inspector could go with an EHO and get agreement about what is required under the legislation. If we do not have that, a third stage will be involved to educate the environmental health officer who will start proceedings for prosecution and who then must return to the Executive Director of Public Health so that the prosecution can proceed. It is a multi-step process. In the Bill's present form it appears the Government is making it as difficult as possible to achieve successful prosecutions. A six-month amnesty will apply after these regulations are implemented so that people can be made aware of non-compliance before prosecutions can proceed. That is a good step. However, the Democrats would like to see a degree of commitment to adequately fund local government for taking on this state initiative.

Hon MAX EVANS: I appreciate that members are filling in time until six o'clock before the Committee passes the short title. I am complying with that objective. If we do not proceed after 7.30 pm we will report progress and let the Bill go at that.

Hon Kim Chance: There is no need to make that comment; you know the situation.

Hon MAX EVANS: The regulations will largely be enforced through public support. Once upon a time one would see smokers sitting in all the chairs in the rear of the Chamber. In most buildings smoking is not allowed, so everyone goes outside to have a cigarette. The Totalisator Agency Board agencies are smoke-free, and that was achieved without regulations or EHOs. The same applies to buses and trains, and I understand it resulted in reduced cleaning costs. That did not require regulation or EHOs. At the request of the Be Active and Quit campaigns the Western Australian Turf Club, the WA Trotting Association and the greyhound racing venue have smoking restrictions. The threat to withdraw funding had a considerable impact. I was told today that the area in front of the grandstand at Gloucester Park is a non-smoking area. Over about six years the number of non-smoking areas at the trotting ground has increased. Much the same has occurred at the Turf Club. The greyhound races received a bravery award a couple of weeks ago for being brave enough to ban almost all smoking. Many shopping centres have become non-smoking areas without the need for government regulations or health officials. With education, people will comply with this.

To a certain degree, hoteliers and hosts have a responsibility. Managers or licensees of hotels must ensure there is no underage drinking or over-supply to one person. That is not always carried out to the letter of the law. However, it will be easier to identify whether people are smoking and take the necessary action to stop them. Until now, smoking bans have worked very well. The EHOs will monitor regulations when undertaking other duties such as food inspections. Discussions

were held with the WA Municipal Association before the Bill was drafted. Hon Norm Kelly may not have spoken to the President of WAMA and it might be unfortunate that we cannot get a fax confirming it, but WAMA has been consulted.

Hon Kim Chance: I had letters from the Shire of Moora.

Hon MAX EVANS: It is not possible to approach every one of the 145 shires in this State. WAMA is the body with which the Government tries to consult most of the time and it has been useful for the Government's purposes. The Institute of Environmental Health Officers supports these regulations and has not complained. The role of the EHO will be to educate owners and proprietors. Complaints will be investigated the following day as are other complaints under the Health Act, often by telephone. As Hon Norm Kelly noted, a moratorium on penalties will be in place for the first six months and offenders will be warned. The Government is aware of the environmental health officers' concerns about being required to wear name badges at all times. That provision will be removed from the regulations as discussed with the member who raised the matter; it is commonsense. The cooperation of the public in adhering to non-smoking areas has been terrific. Smokers are still smoking but they accept that they can smoke in some places and not in others. People are rarely seen smoking in buildings these days; they know they should go outside. In Sydney I have seen people go down 36 floors to have a smoke and go back up again. When they get upstairs they are ready to have another smoke and they go up and down all day, but that is the employer's problem. This works well all around Australia. In Asian countries one cannot go anywhere that people are not smoking; everybody is smoking everywhere and that will be the case for some time.

The Opposition is overstating the concerns of the EHOs. Some of the Western Australian Municipal Association people have made an issue of this in the Press but the Government has spoken to the professional environmental health officers and they do not see a problem. Liquor is more difficult because of the nature of the person who has drunk too much and the police are involved at times. With smoking, more pressure is put on the public in the area, people will be told that they cannot smoke there or should go outside. That does not happen with drinking as people do not tell others not to drink. Smoking is different and I have complete confidence in the system. People are aware of this issue and that smoking access will be restricted after six months. They will look at the legislation to see where they will and will not be able to smoke.

Hon NORM KELLY: I appreciate the Government's commitment to removing the proposed regulation 6(3) which relates to environmental health officers wearing identification badges. Will the Government give an equal commitment to removing the rest of proposed regulation 6? This requires -

The environmental health officer must, as soon as practicable after entering the enclosed public place, take reasonable steps to notify the occupier of the place of his or her presence.

Some EHOs have raised the impracticality of this with me. Could non-compliance be used as a defence against any subsequent proceedings or prosecution?

Hon MAX EVANS: Licensees are usually aware of liquor inspectors coming in and may invite them to do so. Hon Norm Kelly cited the regulation. The licensee or whoever would like to know that the environmental health officers are on the premises; they would want to know what was going on and could tell the EHOs whether they have had a problem. Hon Norm Kelly might be able to explain where he sees the problem. He asked whether this could render a prosecution void; it is a good point which the Government will look at. The first part of the regulation states -

This regulation applies if an environmental health officer enters an enclosed public place for purposes connected with the operation of these regulations.

If I was a host or licensee I would want to know the EHO was there. Hon Norm Kelly might have good reason not to tell them.

Hon NORM KELLY: The EHOs have explained that in their normal work they enter premises and look around to see whether the premises are complying with the normal health standards.

Sitting suspended from 6.00 to 7.30 pm

Hon TOM STEPHENS: I will take only a few minutes of the Chamber's time. I am conscious that, as I speak, considerable effort is being made to take on board the substantial arguments that have been put by way of response from the Government to various proposals that have been before the Chamber. It is not my intention to speak beyond 7.35 pm. At that point, if we are not joined by a whole group of my colleagues, I will urge the minister to report progress, and we can then deal with other matters on which more rapid progress can be made.

As one of the members representing the Mining and Pastoral Region, it is clear that, from the top of my electorate to the bottom, people have responded to the Government's legislative proposals with some apprehension. That apprehension was clearly heightened by the Labor Party's intentions to amend or alter those government proposals. I do not know how widespread that lobbying has been of other members in the Chamber. However, from my perspective, some of it was quite persuasive. For instance, I am thinking of the lobbying from licensees in places like Fitzroy Crossing.

Many members will know Martin Peirson-Jones, who is a licensee of a number of hotel outlets in the Kimberley. I have always understood that he is a strong activist in the Liberal Party. Nonetheless, Martin Peirson-Jones has always been a person who is able to succinctly put cogent arguments on any matter that is before the Labor Party or the Parliament. His arguments have always been worth listening to, and show no need to have any regard to his political colours. With respect to his own establishments, he has pointed out how difficult it is to try to pursue some of the initiatives in this area. For instance, people who frequent those hotels in the remote parts of Western Australia, including the Kimberley region, will be limited to drinking in certain enclosures within those establishments. As the Committee would now be aware, the Labor Party had proposed that a limit should be in place, which would effectively mean that one bar would be a smoking bar. In the process of the persuasive argument that has been put from a variety of quarters, I gather that there is now some additional agreement by the Labor Party to embrace the possibility that when there are three separate enclosed bars, at least two of those could be made available for smokers. That seems to be an initial change in our position. At this moment additional argument has been put from this area.

Hon Max Evans: Does Fitzroy Crossing have two bars?

Hon TOM STEPHENS: There are three licensed areas inside Martin Peirson-Jones' main establishment; that is the place that provides the food and alcohol. There is also another bar. This is not the old crossing lodge.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Part IXB inserted -

Hon MAX EVANS: Mr Chairman, will you give a ruling on whether amendments C5 and D5 are in order?

Ruling by the Chairman

The CHAIRMAN: It is strange that the Minister for Finance should suggest that I make a ruling on amendments C5 and D5 on the Supplementary Notice Paper, in the name of Hon Norm Kelly. The amendments are out of order. The policy of the Bill is to amend the Health Act 1911 by the insertion of new provisions that enable the Governor in Council to make regulations prohibiting or regulating smoking in an enclosed public place as defined in the Bill. The Bill does not prohibit smoking either now or at a future time. It merely provides a mechanism for making subsidiary legislation, whereby smoking in an enclosed public place can be prohibited or controlled. The amendment, if passed, would turn the Bill from an enabling measure into one that prohibits smoking in enclosed public places, leaving any exemptions to be made by subsidiary legislation. The amendment reverses the relationship between the Bill, when enacted, and the subsidiary legislation that may, not must, be made under it. The amendment destroys two discretionary elements: Firstly, a decision whether to make regulations in the first place and secondly, if regulations are made, further decisions on whether, under what circumstances and for how long smoking will be prohibited or controlled in a particular class or type of enclosed public place. Removal of those discretionary elements and their replacement by an outright prohibition destroys the policy and intent of the Bill, as determined at the second reading stage and are therefore out of order.

Hon NORM KELLY: I appreciate the Chairman's speedy response to that request. Is it proper to ask questions about that ruling?

The CHAIRMAN: I draw the attention of members to Standing Order No 289 which states -

If any objection is taken to a decision of the Chairman of Committees, the objection must be stated at once in writing. The Chairman shall thereupon leave the Chair and the Council shall resume. The matter having been reported to the President, and Members having addressed themselves thereto, the President shall give his ruling or decision, and, if the President's ruling or decision be not challenged, the proceedings in Committee shall be resumed where they were interrupted.

Dissent from Chairman's Ruling

Hon NORM KELLY: I move -

To dissent from the Chairman's ruling.

[The President resumed the Chair.]

The PRESIDENT: I have had the benefit of listening to the Chairman's ruling, and at present do not disagree with him. However, I am happy to hear from Hon Norm Kelly or any other member who wishes to make points in respect to this matter.

Hon NORM KELLY: I have only just had an opportunity to read the Chairman's ruling. One of the arguments is that the tabling of the draft regulations to the Bill has provided more of an insight into the Government's wishes than has the Bill.

The regulations call for a prohibition on smoking in enclosed public places. The Australian Democrats want to lift what the Government is already seeking to do in the regulations into the Bill. Although the Bill primarily provides the Government with the power to make regulations, the Government has seen fit to provide the Chamber with the draft regulations. It would otherwise be very difficult indeed to decide whether we could agree with the policy of the Bill. Although I appreciate the fact that these draft regulations have been provided, in the light of other amendments which have been proposed and which I believe are in order, which seek to place restrictions on what the Government can and cannot do in the Bill, I believe that what I am proposing also places some restrictions within the Bill, and we simply want to lift those restrictions from the regulations and place them into the Bill.

Ruling by the President

The PRESIDENT: Order! I understand what Hon Norm Kelly is saying, but if he read his amendments closely, he would see that they attempt to reverse the policy and intent of the Bill as it was introduced by the minister. The Bill appears to provide for the making of regulations for smoking in enclosed places. Hon Norm Kelly is seeking by his amendments to prohibit any smoking in enclosed places but to allow for exemptions in certain cases. That is almost the direct opposite of the intent of the Bill, and as such it is well and truly outside the scope of the Bill. The Chairman of Committees is absolutely right when he suggests that the amendments will reverse the relationship between the Bill when enacted and the subsidiary legislation that may - not must - be made under it. Under the circumstances I have no leeway to do anything other than agree with the Chairman's ruling. Hon Norm Kelly has said nothing to make me change my mind. I rule that the Chairman's ruling should stand. The proposed amendments C5 and D5 are out of order.

Committee Resumed

[The Chairman resumed the Chair.]

Hon KIM CHANCE: I note that on Supplementary Notice Paper 22-7, amendment D5 is placed ahead of amendment F5, but amendment D5 refers to subsection (3), which is put in place by amendment F5. Therefore, Mr Chairman, should not amendment F5 be dealt with before D5?

The CHAIRMAN: I am glad the member has brought that to my attention. It is quite in order for the member to indicate to the Chamber which amendment he proposes to move first.

Hon KIM CHANCE: Thank you, Mr Chairman. I propose to move the second amendment, labelled F5.

The CHAIRMAN: I thank the member for indicating his desire to move amendment F5. However, I notice that the Supplementary Notice Paper also contains an amendment F5 in the name of Hon Norm Kelly, and because that amendment applies to line 19, which precedes Hon Kim Chance's amendment, I must give priority to that amendment, if it is the intention of Hon Norm Kelly to move in that way.

Hon NORM KELLY: The amendment standing in my name on the Supplementary Notice Paper is also consequential to what I propose. I will not be moving that amendment.

Hon KIM CHANCE: I move -

Page 3, after line 29 - To insert the following subclauses -

- (3) The regulations shall not permit smoking, where the premises contain more than one enclosed public place, in more than one of those enclosed public places.
- (4) Subsection (3) does not apply to the Burswood Casino.

This amendment is the critical component of the amendments before us. This is what has caused the Opposition difficulty in coming to a negotiated position. I will not debate the issue at great length. Proposed subsection (4) will effectively exempt the Burswood Casino from the provisions of proposed subsection (3). This amendment is a distillation of a full page of amendments that sought to do various things with respect to licences and premises, including particularly the casino. We have already spoken about this in the second reading debate. Although there is a change in the wording of the amendment, the fundamental principles of that amendment remain in place. I understand the Government may have another view on a component of this amendment and I welcome the Government's view on that component. We may be able to accommodate an alternative view.

Hon GREG SMITH: I would like clarification on the amendment that Hon Kim Chance moved. I have just returned from Kalgoorlie where I have been talking to some of my colleagues from other places. They talked about the commitment to two public places mentioned in the amendment. However, if the amendment will permit smoking in one public place, and there is nothing in the amendment to show how that will be administered, does that mean that licensees could nominate a public bar in their premises every second day or could they have a bell ringing in each bar and have an hour's smoking in a bar for that hour? The point I make is that the Opposition has no power to draw up the regulations; it has the ability to affect the Bill.

Hon Max Evans: I will move an amendment.

Hon GREG SMITH: I will leave it to the minister.

Hon MAX EVANS: I move -

To amend subclause (3) of the amendment by deleting the word "one" where it appears and substituting the word "two".

Hon KIM CHANCE: I was called away when Hon Greg Smith asked me a couple of questions. The question about the position of my colleagues in the goldfields may have been answered. They very strongly represented a position through the proper offices of the party, as did other members. The Labor Party has decided that it will support the Government's amendment to its amendment. The member also asked which bar would be involved. That is a matter that will properly be determined by the minister in promulgating the regulations.

The Opposition supports the amendment to its amendment, which essentially provides for, in some circumstances, a maximum of two enclosed public places per building in which smoking can be permitted. It has done so with some reluctance, albeit this is a compromise position and one can never regret one's compromises. One either comes to a view or not, so I will not decry the position that the party has reached. It was confronted with two very different points of view in respect of where smoking should and should not be permitted and one way or the other it had to come to a common position, even though that common position, like any other compromise, will not make everyone happy.

I ask those who are disappointed with this position to remember that the Bill contains a provision requiring a review in three years. That is the proper time for the position beyond the year 2001 to be determined. As I understand it, there is no undertaking from the Government to include in the regulations any matter that extends beyond 2001. I am not distraught about that simply because the Bill contains the review provision. By 2001 we will be making decisions in a different light altogether. I ask members to cast their minds back to the second reading debate, during which I stated that even over a relatively short period - five or 10 years - our position changes so radically from where we were that it is hard to contemplate that even in my time in this Parliament smoking was permitted in this Chamber and not so long ago in taxis and buses. After having reviewed the legislation in three years, the Parliament will adopt a view much closer to that proposed by the Opposition. I sincerely hope that it will do that. Nonetheless, we have made progress with the Bill as proposed to be amended. It will make a contribution to better public health. On that basis the Australian Labor Party at least will support the minister's proposed amendment to its amendment.

Hon GREG SMITH: Hon Kim Chance referred to a recommendation for further steps to be taken to achieve smoke-free public places in three years when the review is completed. If that recommendation were placed in the legislation, in three years from now the minister would almost be compelled to reduce the provision to one place where there is more than one enclosed public place. Will that be enshrined in the legislation?

Hon MAX EVANS: The provision does not compel the minister; it simply recommends that further steps be taken to achieve smoke-free enclosed public places. That will be done in the future. As Hon Kim Chance said, we do not know what will happen in three or four years. The issue will be debated at that time. We do not know what the position will be in respect of the front bar, the lounge bar and so on. Some hotels have more than two bars. It is a recommendation. A decision will be made at that time.

Hon NORM KELLY: I shall make just a few comments on the Australian Hotels Association amendment to Hon Kim Chance's proposed amendment. I realise that the amendment was moved by the minister, but it was proposed by the AHA. There appears to be confusion about what the AHA wants the Government to do in this matter. The association's proposal states -

The regulations shall not permit smoking, where the premises contain more than two enclosed public places, in more than two enclosed public places. Smoking shall be permitted in two enclosed public places in a premises provided that a further enclosed public place is set aside in that premises to be smoke free.

The second part of the amendment states that if smoking is permitted in two enclosed public places in a premises, there is a requirement to provide a third enclosed public place as a non-smoking room. That is why there is confusion. Of course, one problem is that we have been given so little time to develop positions on the legislation. As I mentioned during the second reading debate, the Bill has been before Parliament less than four weeks; it was held up in the coalition party room for several months, and that is why it has been difficult to fully consult all groups to ensure that we formalise a proper position. In discussions in the past 24 hours I understood that it was to be proposed that smoking would be allowed in a one-bar hotel, that in a two-bar hotel there would be a requirement for one bar to be non-smoking, and that in a three-bar hotel or a hotel with more than three bars there could be two smoking bars. That is not the case when we read in isolation what the minister proposes. That is why I had difficulty in supporting the Government's proposed amendment. I reiterate that in the middle of a session it is hard to deal with such matters, simply given the difficulty in having to consult all parties concerned.

Hon MAX EVANS: The Government's legal advice is that the second sentence is redundant. The amendment refers to two or more enclosed places. If the venue has only two bars, one may be a smoking area, and one a non-smoking area. However, if a facility has three bars, one could be non-smoking and smoking could be permitted in the other two areas.

Amendment on the amendment put and passed.

Amendment, as amended, put and passed.

Hon KIM CHANCE: I move -

Page 3, line 18 - To insert before the word "The" the words "Subject to subsection (3)".

This is a mechanical amendment which recognises proposed subsection (3), which was the subject of the amendment on which we just voted.

Amendment put and passed.

Hon NORM KELLY: I will not move amendment I5 in my name on the Supplementary Notice Paper. However, I seek an assurance from the Government regarding the time frame for the implementation of these regulations, particularly those relating to the Burswood Casino and nightclubs. The Democrats believe that the proposed regulations are not sufficiently stringent in providing a healthier environment for patrons of the casino and nightclubs. In light of the extensive discussions which have occurred in recent days, will the minister inform the committee when and how the regulations will be implemented?

Hon MAX EVANS: The Government does not support proposed amendment I5 as it is drafted; it is unclear and cumbersome. The draft regulations have different commencement dates and phase-in periods because different facilities need different times to implement smoking restrictions. However, the Government is aware of the concerns this might cause in the business community. Therefore, it will take these concerns into account in re-drafting final regulations to ensure that they provide consistent start dates and phase-in periods for similar classes of facilities.

Hon NORM KELLY: The draft regulations to make 50 per cent of the casino floor space smoke-free will be implemented from 1 January 2001. Could this be brought forward so the improvement applies from 1 January 2000?

Hon MAX EVANS: I have been advised that the Government agrees with that and can see no problem with it.

Hon NORM KELLY: I also seek an assurance that the restriction will be further decreased so that from the beginning of 2001, smoking will be allowed in only 25 per cent of the floor area of the main gaming floor of the casino, and that the area in which smoking is allowed in nightclubs also be reduced to 25 per cent from 1 January 2000.

Hon Max Evans: No.

Hon NORM KELLY: I would like to hear the reason.

Hon MAX EVANS: I will not lay down these percentages. I will not give an undertaking to reduce the figure by 75 per cent for the casino, and allow the percentage requested for the cabaret areas. That will be decided at the time of review of the regulations. I am not in a position to do that now. I will not make that statement now and lock the Government into it. That decision will be made in accordance with the recommendations from the Government's advisers.

Hon NORM KELLY: Given the tightness of the ability to deal with the legislation, I seek an assurance from the Government that it will continue negotiations with all parties concerned, including industry and health groups and members of non-government parties in this place, before the final regulations are gazetted.

Hon Max Evans: The Government will continue to discuss this very important matter with all parties.

Hon KIM CHANCE: I move -

Page 4, lines 1 to 9 - To delete the lines.

This amendment refers to the consent of the Executive Director, Public Health being required before any authority with the power of this legislation proceeds to a prosecution. There is no need to spend a great deal of time speaking to the amendment. My colleague and learned friend Hon Nick Griffiths advises me that this is an improper barrier to prosecution. We have seen this before in the Acts Amendment (Abortion) Bill, which, as members will recall, in the early stage required the consent of the Attorney General before a prosecution could be launched. The Government decided to remove that provision before the legislation came into this place; similarly, I do not see the rationale for this kind of provision. The local government authorities, or environmental health officers, acting with the power of this legislation should not need to refer to the Executive Director, Public Health - generally speaking, that person will be without legal expertise in any case - prior to making a prosecution. The environmental health officers deal with prosecutable matters on a continual basis. I cannot see why this is different. I referred to this issue in the second reading debate, and suggested that it was unlikely that environmental health officers would turn into "safety Nazis" overnight when they have previously shown no history of doing so. I look forward to the minister's response.

Hon MAX EVANS: The Government does not support this amendment. The Executive Director of Public Health is under a duty imposed by general administrative law principles to exercise approval and discretion reasonably; thus there should be no concern with this clause of the Bill as drafted. Furthermore, the consent of the Executive Director of Public Health was included in the Bill to ensure that there is consistency with the prosecution policy applied under the proposed Act. This will be particularly important in the first few years during which business and local government gains knowledge and experience of the provisions in the Bill and regulations. The Government, through the Health Department of Western Australia, is proposing to meet the cost of prosecutions. This is proposed to provide assistance and support to local government in carrying out its responsibilities under the Bill. If the Health Department is to meet the cost of prosecutions, it needs some accountability measure. The Executive Director of Public Health must consent to prosecutions. The Government will have an assurance that expenditure on prosecutions is justified and can ensure that the department is accountable for that expenditure. If this amendment is passed, the Government cannot guarantee that it will continue to pay the cost of prosecutions. I emphasise that statement. We must get some degree of consistency. There could be prosecutions from about 10 different places across the State, and the justices of the peace in this Chamber will know what the results might be. The member opposite might laugh, but the fines might be inconsistent. The Government does not support the amendment.

Hon NORM KELLY: The Australian Democrats believe that this clause indicates one of the difficulties of the Government not providing adequate resourcing for local government authorities. The Government should support local government authorities in such prosecutions. The Government is expecting those authorities to bear the expense of the inspections. There will be a lack of support when those inspections reveal breaches to the regulations. I can appreciate some arguments for the need for some form of consistency. However, the Government has not so far been willing to ensure that consistency by backing up local government environmental health officers and providing Health Department inspectors to assist them in their role. If it were to do that, EHOs could be trained on the job and would have explained to them how these regulations could be enforced.

I am at the moment very much on the fence in deciding whether the Australian Democrats will support the deletion of this part of the clause. I can readily see the arguments for the Health Department's attempt to get consistency and some degree of sanity rather than an onrush of prosecutions from various parts of the State, but at the same time I shall seek more assurances that the Health Department will assist local government authorities to a greater extent than has been indicated to date. An EHO of a western suburb's council has told me that his council would be very loath to initiate proceedings from its small budget for that type of work for EHOs. Therefore, a direction would be given for EHOs not to enforce the regulations as stringently as they should, because such an enforcement would be powerless without the ability to proceed against those breaches of regulations. The Government needs to provide more support. I understand the arguments the Government has put in briefings indicating why it wants this part of the clause retained in the Bill. I will be seeking greater assurances about assisting local government in doing the State's job.

Hon MAX EVANS: The Government will be offering support and paying for prosecutions. We must ensure accountability through the approval of prosecution by the Executive Director of Public Health. We must have consistency. We know we have trouble with JPs undertaking cases around the country. We are trying to upgrade the whole system. Inconsistency can occur between the host, the hotel and a person smoking, etc. As was said previously, the Health Department will provide resources and training for environmental health officers. That is an important function. There are many EHOs in the community. As I said earlier, places such as Ascot Racecourse and Gloucester Park have introduced restricted smoking areas, and the races and the trots are the last places we expected to have non-smoking areas. We are trying to wrap this up with some consistency. It may be evident later, upon review, that this process is too bureaucratic. The EHOs have more experience and the local courts will be making decisions. We know how we will take them on. As we know, much money can go into prosecuting cases that may not prove successful. That always involves government money. We want to ensure the process is controlled. We seek the support of all parties. Much effort has gone into this to maintain consistency at least at the beginning stages of this important new legislation.

Amendment put and a division taken with the following result -

Ayes (12)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths

Hon John Halden
Hon Mark Nevill
Hon Ljiljanna Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens

Hon Ken Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (15)

Hon Dexter Davies
Hon B.K. Donaldson
Hon Max Evans
Hon Peter Foss

Hon Ray Halligan
Hon Helen Hodgson
Hon Barry House
Hon Norm Kelly

Hon Murray Montgomery
Hon N.F. Moore
Hon Simon O'Brien
Hon Greg Smith

Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pairs

Hon E.R.J. Dermer
Hon Tom Helm
Hon Cheryl Davenport

Hon M.J. Criddle
Hon B.M. Scott
Hon M.D. Nixon

Amendment thus negated

Hon NORM KELLY: The two amendments standing in my name are consequential to those ruled out of order. Therefore, I will not be moving them.

Hon KIM CHANCE: I move -

Page 4, line 20 - To insert after the word "review" the words "recommending further steps to be taken to achieve smoke free enclosed public places".

This amendment is intended to give a sense of direction to the review process. As I said in debating the major amendment carried earlier today, the review process becomes critical as a result of that amendment. The Opposition believes that adopting a more liberal position about the number of bars where smoking may be permitted is heavily dependent on this review process. It places much importance on what will happen then. It hopes that in three years a more reasonable decision will be negotiated between the parties. For that reason and to give notice of our intent in respect of the review, acknowledging that the Labor Party may well be in Government when that review takes place -

Government members interjected.

Hon KIM CHANCE: If there were any justice in the world, that would be the outcome.

Hon Derrick Tomlinson: Let there be justice. I would love to be commenting on that review.

Hon KIM CHANCE: Let there be justice indeed. I am pleased that Hon Derrick Tomlinson so enthusiastically agrees with that point of view.

Hon Derrick Tomlinson: I am salivating at the possibility.

Hon KIM CHANCE: Salivating even. That said, it is only an indicative matter. The Opposition is keen for the process of review to be given that sense of direction. In terms of its effect on the principle of the Bill itself, it is probably fair to say that it is not earth-shattering but it gives the review a sense of direction without pre-empting its results.

Hon NORM KELLY: Given that the Australian Democrats believe other parts of the Bill lack direction, we support the Australian Labor Party in providing some direction and vision of what should be achieved in the future. That is why having this amendment to this clause -

A member interjected.

Hon NORM KELLY: The ALP proposes to provide this direction so the reviewers understand their task; that is, to recommend further steps to be taken to achieve smoke-free enclosed public places. Therefore, any inadequacies found in the legislation can be corrected and we can continue to progress smoking control measures in this State. As has been said many times, Western Australia was a leader in antismoking legislation in the 1980s but its role has steadily declined. That is why we have a rising incidence of smoking in society. The Government seems to be applauding that rise by failing to give some true substance to this Bill.

Hon DERRICK TOMLINSON: I know I am going to break the rules of my party, but I cannot let this pass. Proposed section 289I(1) says -

The Minister is to carry out a review of the operation and effectiveness of this Part . . .

Proposed section 289I(2) says -

The Minister is to prepare a report based on the review . . .

An amendment is proposed to proposed subsection (2) to insert after "review" the words "recommending further steps to be taken to achieve smoke free enclosed public places". I listened to Hon Norm Kelly. His reading of this provision is that "review" is the operative noun to which the phrase "recommending further steps to be taken to achieve smoke free enclosed public places" applies. The alternative reading is that the operative noun is "report". Therefore, it becomes "to prepare a report recommending further steps to be taken to achieve smoke free enclosed public places" - not a review to recommend further action for smoke-free public places.

Once again, legislation is being amended by the Opposition in such a way that the intention is no longer clear; it is ambiguous. How many times in this session have amendments been moved which make nonsense of legislation by bringing

in words which have an ambiguous meaning? There cannot be a review which is to review the operation and effectiveness of the legislation, if that review is to be constrained by a requirement that it recommend further steps to be taken. When Hon Greg Smith said, "What if the review recommended something different?" Hon Norm Kelly paused. He could not understand that. What if the review did recommend that?

Hon Kim Chance: Does the member think it is likely that a review would do that?

Hon DERRICK TOMLINSON: I do not know what the review will recommend. However, if Hon Norm Kelly's interpretation is placed on it, the review will be predetermined by its own terms of reference. The alternative is that the review will indicate something, but that recommendation must be disregarded. Forget whatever the review tells one about the operation and effectiveness. The report will do what the amendment says. What a load of nonsense! Let us at least have amendments to legislation which make sense. If a member does not understand it, he should not move it, or speak to it.

Hon NORM KELLY: I appreciate Hon Derrick Tomlinson's comments. He picked up a grammatical error of mine. I was referring to proposed section 289I, which is a review provision. It covers both the review and the report of this legislation. Proposed subsection (1) provides for a review of the operation and effectiveness. One tick to Hon Derrick Tomlinson for getting that right. Proposed subsection (2) says that the minister is to prepare a report based on the review, and the Australian Labor Party's amendment would add the words "recommending further steps to be taken to achieve smoke free enclosed public places". That is giving the direction to the minister on what future changes to the legislation should be. This is a direction that the Government has failed to include in the legislation in the first place. It wants a namby-pamby piece of legislation. The Government says, "Trust us. Let us make regulations. We can do what we like in the future," and that is it. Because of intensive lobbying from certain sectors who have been able to influence the Government, I believe the Government has not had the commitment -

Hon Greg Smith: They are called constituents.

Hon NORM KELLY: I am not too sure if all hoteliers live in Hon Greg Smith's electorate.

Several members interjected.

The CHAIRMAN: Order!

Hon NORM KELLY: According to Hon Greg Smith, a person needs to have contributed \$67 000 in the past financial year to be called a constituent in this case. I am sure that they are the constituents that the Liberal Party really appreciate. It gives us an understanding of why this legislation has been out of the Parliament for so long.

Point of Order

Hon DERRICK TOMLINSON: It is offensive that a constituent is branded as someone who would bribe me with a \$67 000 contribution. I ask that those words be withdrawn.

The CHAIRMAN: Can the member explain to me the reference to which he has referred.

Hon DERRICK TOMLINSON: Hon Norm Kelly made the broad statement that constituents of ours - he pointed to members of the Government - were those who paid \$67 000 in contributions. I find that offensive. I ask that it be withdrawn.

The CHAIRMAN: There is no point of order as it was not directed to an individual member.

Hon DERRICK TOMLINSON: My point of order is this: I am offended by those remarks. My point of order is that of my offence. If I am offended by the remarks and I ask that they be withdrawn, I expect them to be withdrawn.

The CHAIRMAN: Under standing orders, that is a debatable point. I rule that there is no point of order.

Debate Resumed

Hon N.F. Moore: Withdraw anyway; just do the right thing. That is a disgraceful comment.

Hon W.N. Stretch: Go outside and name the people perhaps.

Hon NORM KELLY: If members had listened to the first interjection in that part of the debate, they and Hon Derrick Tomlinson would understand why I made those comments.

Hon Derrick Tomlinson: They are still offensive.

Hon NORM KELLY: I did not mean any offence to Hon Derrick Tomlinson, but I will not withdraw the comments because they were not directed towards him. They were in response to an interjection by Hon Greg Smith.

The second part of the review section is to be a report based on the review recommending further steps to be taken to achieve

smoke-free enclosed public places. That will give the minister the direction which the Bill has previously lacked. It is quite right that a review look at the effectiveness of this Bill. However, the minister then must prepare his report so that we can progress antismoking legislation in this State and not turn backwards.

Hon MAX EVANS: I am even more assured about supporting this amendment and after hearing what Hon Derrick Tomlinson has said, the minister might have some fun with it. The Government supports the amendment.

Amendment put and a division taken with the following result -

Ayes (20)

Hon Kim Chance	Hon Max Evans	Hon Norm Kelly	Hon Christine Sharp
Hon J.A. Cowdell	Hon Peter Foss	Hon N.F. Moore	Hon Tom Stephens
Hon M.J. Criddle	Hon N.D. Griffiths	Hon Mark Nevill	Hon Ken Travers
Hon Cheryl Davenport	Hon John Halden	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon E.R.J. Dermer	Hon Helen Hodgson	Hon J.A. Scott	Hon Bob Thomas (<i>Teller</i>)

Noes (9)

Hon Dexter Davies	Hon Murray Montgomery	Hon Greg Smith	Hon Derrick Tomlinson
Hon Bruce Donaldson	Hon Simon O'Brien	Hon Bill Stretch	Hon Muriel Patterson (<i>Teller</i>)
Hon Barry House			

Pair

Hon Tom Helm

Hon Murray Nixon

Amendment thus passed.

Hon NORM KELLY: I move -

Page 4, line 21 - To insert after the word "and," the words "is to cause it to be laid before each House of Parliament".

Hon MAX EVANS: The Government supports this amendment.

Amendment put and passed.

Hon NORM KELLY: I move -

Page 4, lines 22 and 23 - To delete the words "is to cause the report to be laid before each House of Parliament" and substitute the words "and in any event not later than 4 years after the commencement referred to in subsection (1)".

Hon MAX EVANS: The Government supports the amendment as it follows on from the previous amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 6 put and passed.

Title put and passed.

Bill reported, with amendments.

STANDING COMMITTEE ON LEGISLATION

Report on Acts Amendment (Sexuality Discrimination) Bill, Addendum

Hon B.K. Donaldson presented the forty-fifth report of the Standing Committee on Legislation on the Acts Amendment (Sexuality Discrimination) Bill, an addendum, and on his motion it was resolved -

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

[See paper No 636.]

SITTINGS OF THE HOUSE - EXTENDED AFTER 10.00 PM

Tuesday, 15 December

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [8.46 pm]: I move -

That the House continue to sit beyond 10.00 pm.

As members would be aware, it is customary at this time of the year - in fact, usually a bit earlier than this time of the year - for the House to sit beyond the normal closing time in order to make some progress with legislation. Today we have made very little progress; therefore, I request that the House sit beyond 10.00 pm. I have been advised that the Opposition may support this motion if I were to give an undertaking that we will not sit beyond 12.00 o'clock or -

Hon Tom Stephens: I will move an amendment that we sit -

Hon N.F. MOORE: The Leader of the Opposition can do that if he wishes. I have moved that the House sit beyond 10.00 pm. I give an undertaking that we will finish around 12 o'clock; and if the debate on the Workers' Compensation and Rehabilitation Amendment Bill goes beyond 12 o'clock, I will seek that we sit until that has been completed, so we will sit until whichever is the later - 12 o'clock, or the workers compensation Bill is completed.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [8.48 pm]: I cannot support the motion that has been moved by the Leader of the House. I have indicated to the leader that we want to quickly and briefly accommodate, insofar as we are able, the Government's timetable. However, all members will appreciate the time constraints under which we are operating and the need to complete a range of considerations both inside and outside this Chamber as we bring to completion the consideration of the Government's legislative program. Mr President, would it be possible, keeping in mind that I have not seen the motion that has been moved by the Leader of the House -

Hon N.F. Moore: It is that the House sit beyond 10.00 pm, full stop.

Amendment to Motion

Hon TOM STEPHENS: I move -

To delete "beyond 10.00 pm." and substitute -

until 12.00 midnight or until the completion of the Workers' Compensation and Rehabilitation Amendment Bill, whichever is the earlier.

That is the amendment I move, if it is possible to do that at this stage. I will take the time to write it out if that is what you would like, Mr President.

Hon N.F. Moore: That is not the commitment you gave to me.

Hon Tom Stephens: It is.

Hon N.F. Moore: You said you would pass the workers compensation Bill.

Hon Tom Stephens: That is not right.

The PRESIDENT: Order, members! Let us not argue because the easiest thing for me to do is put the amendment to the vote. The question now is that the amendment be agreed to.

HON HELEN HODGSON (North Metropolitan) [8.51 pm]: I realise that there are frustrations in the time it has taken to get legislation passed in this place. However, I have not had the courtesy of a phone call from the Leader of the House asking whether the Australian Democrats were prepared to sit later.

Hon N.F. Moore: You were there last Thursday when I discussed this.

Hon HELEN HODGSON: It was mentioned last Thursday. However, I was not asked today if we were willing to accommodate the motion. Also, although I had a telephone call from the Leader of the Opposition suggesting that this might be likely to happen, the version I heard from the Leader of the Opposition was the possibility that it would be until 12 midnight or the passing of the workers compensation Bill, whichever is earlier.

Basically, we believe that we have been sitting for a long time consecutively. We have many briefings and meetings occurring in the morning because that is the only time that we can fit them in. We are reaching the stage where tempers are getting short and I think we should stick with the 10 o'clock finish.

HON J.A. SCOTT (South Metropolitan) [8.53 pm]: I am concerned about the assurance given by the Leader of the House which sounded like a very open-ended proposition.

Hon N.F. Moore: I said until we are finished the workers compensation Bill or 12 o'clock, whichever is the earlier.

Hon J.A. SCOTT: He said "around about 12 o'clock". There were all sorts of things in that assurance.

Hon N.F. Moore: When have I never abided by an assurance I have given you?

Hon J.A. SCOTT: I agree with Hon Helen Hodgson that our time is limited because of other commitments we have outside of the time that we sit in this place. We have already had an extension to sitting times this week -

Hon N.F. Moore: When? One week, one day, this session. When members opposite were in government, we sat here night after night in the last three weeks of the session until three o'clock every morning to try to cooperate with their legislative program.

Several members interjected.

The PRESIDENT: Order, members! Hon Jim Scott has the floor.

Hon J.A. SCOTT: In other sessions when we have had extremely long sittings, we sat very late on occasions, did not sit the next day and did not gain any time at all. We must be realistic about how much time we can spend in this place and be capable of debate in a rational way. I support the position put by Hon Helen Hodgson.

HON B.K. DONALDSON (Agricultural) [8.54 pm]: I attend the business management meetings of the House on Thursday nights and I also take notes. One of the reasons for my presence is to remember what happens. I assure members that last Thursday night members opposite agreed to sit beyond 10.00 pm as long as they did not start before the normal time on Tuesday. I have written on this piece of paper that on Tuesday we will start at the same time, sit beyond 10 pm. The Leader of the House asked each and every one who attended the meeting. Members opposite have short memories. I do not have to worry about it; I take a note of what was agreed to. The second part of my notes indicates that we were trying to organise to sit at 10.00 am and beyond 10.00 pm on Wednesday. I understand that, because of other commitments in the morning, it was too difficult to start early.

Hon Tom Stephens interjected.

Hon B.K. DONALDSON: We did not get into the pedantry of what time we would get up.

Hon Tom Stephens: Midnight is beyond 10.00 pm.

Hon B.K. DONALDSON: I am there to ensure that the decision is reported correctly. I take notes every Thursday night. Obviously members opposite will not play by the rules. Over the past five or six weeks the Leader of the House could have changed the order of government business on the Notice Paper, but he has stuck to the agreement. I am disappointed to find that I must keep notes because members are walking away from an agreement they reached on Thursday night. Obviously they are not with it or they want to play games between Thursday night and Tuesday.

Hon Tom Stephens: Nonsense!

Hon B.K. DONALDSON: The Leader of the Opposition should know better and should honour the agreement. I am disappointed in him; I thought he had better standards, better ethics and better morals.

Hon Tom Stephens: Belt up! That is not true. Stop misleading the House!

Amendment put and a division taken with the following result -

Ayes (14)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths
Hon John Halden

Hon Helen Hodgson
Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljanna Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens

Hon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer (*Teller*)

Noes (13)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Peter Foss

Hon Ray Halligan
Hon Barry House
Hon Murray Montgomery

Hon N.F. Moore
Hon Simon O'Brien
Hon Greg Smith

Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pairs

Hon Cheryl Davenport
Hon Tom Helm
Hon Bob Thomas

Hon B.M. Scott
Hon M.D. Nixon
Hon Max Evans

Amendment thus passed.

Motion, as Amended

Question put and a division taken with the following result -

Ayes (9)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths

Hon John Halden
Hon Mark Nevill

Hon Ljiljana Ravlich
Hon Tom Stephens

Hon Ken Travers
Hon E.R.J. Dermer (*Teller*)

Noes (18)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Peter Foss
Hon Ray Halligan

Hon Helen Hodgson
Hon Barry House
Hon Norm Kelly
Hon Murray Montgomery
Hon N.F. Moore

Hon Simon O'Brien
Hon J.A. Scott
Hon C. Sharp
Hon Greg Smith

Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Giz Watson
Hon Muriel Patterson (*Teller*)

Pairs

Hon Bob Thomas
Hon Tom Helm
Hon Cheryl Davenport

Hon B.M. Scott
Hon M.D. Nixon
Hon Max Evans

Question thus negated.

The PRESIDENT: The effect of the decision of the House is that we will finish at 10.00 pm in accordance with the standing orders.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL 1997*Assembly's Message*

Message from the Assembly notifying that it had disagreed to the Council's amendments Nos 1 and 2, and disagreed to amendment No 3 and substituted a new amendment, now considered.

Committee

The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Amendment No 1 made by the Council, to which amendment the Assembly had disagreed, was as follows -

No 1.

Clause 13, page 8, lines 5 to 8 - To delete the clause.

The Assembly's reason for disagreeing to the Council's amendment was as follows -

This amendment is disagreed to as entitlement to workers' compensation benefits are determined on the basis of a medical practitioner determining the workers' "incapacity" for work. The issue of "wholly or partially recovered" does not relate to the ability of a worker to return to employment. The words "total or partial capacity for work" protect both the worker from further injury if "recovered" but not fit for work and the employer in employing a worker beyond his capacity.

Amendment No 2 made by the Council, to which amendment the Assembly had disagreed, was as follows -

No 2.

Clause 22, page 15, lines 1 to 20 - To delete the clause.

The Assembly's reason for disagreeing to the Council's amendment was as follows -

This amendment is disagreed to as the current Act wording provides no discretion for the dispute resolution body on whether a medical dispute is or is not referred to a Medical Panel. Given some medical disputes could be minor in nature this discretion is essential to ensure delays in resolution do not disadvantage either the injured worker or employer. Further, this clause includes an ability for the Medical Panel to determine a worker's "capacity for work" for the same reasons as set out in response to amendment 1.

Amendment No 3 made by the Council, to which amendment the Assembly had disagreed, and substituted a new amendment, was as follows -

No 3.

Clause 32, page 19, lines 19 to page 20, line 10 - To delete the clause.

The Assembly's substituted new amendment was as follows -

Clause 32

Page 19, lines 20 to 25 and page 20, lines 1 to 7 - To delete the lines and substitute the following lines -

" **32.** (1) Section 93A of the principal Act is amended by deleting the definition of "future pecuniary loss".

(2) Section 93D (2) of the principal Act is repealed and the following subsections are substituted -

(2) A disability is a serious disability if, and only if, the degree of disability would, if assessed as prescribed in subsection (3), be 30% or more.

(2a) In assessing the degree of disability of a worker under subsection (3), no regard is to be had to any mental ailment, disorder, defect, morbid condition or symptom of the worker that arises, recurs or is aggravated or accelerated as a consequence of, or secondary to, a physical disability of the worker.

(3) Section 93D (3) of the principal Act is amended by deleting "For the purposes of subsection (2) (a)" and substituting the following -

Subject to subsection (2a), for the purposes of subsection (2)

(4) Section 93D (5) of the principal Act is amended -

(a) by inserting "or" after paragraph (a);

(b) in paragraph (b) by deleting "; or" and substituting a full stop; and

(c) by deleting paragraph (c).

Page 20, line 8 - To delete "(1) and (2)" and substitute the following -

(1), (2), (3) and (4). "

The Assembly's reason for disagreeing to the Council's amendment, and substituting a new amendment, was as follows -

This amendment is disagreed to because of the serious impact currently occurring to the financial viability of the entire workers' compensation system. The Legislative Assembly has agreed to the substitution of the new amendment as the proposed clauses remove the current alternative access of workers, who do not meet the serious disability threshold, to Common Law and are essential to save the workers' compensation system in this State from total financial collapse, a situation which would seriously impact on both employers and injured workers for whom the system is designed.

Point of Order

Hon N.D. GRIFFITHS: I seek some guidance. How do you envisage that we will progress through the Supplementary Notice Paper, Mr Deputy Chairman? The Supplementary Notice Paper contains an amendment in the name of the Attorney General. It is an amendment to the Assembly's message. I understand other amendments are in the name of Hon Tom Stephens, Hon Helen Hodgson and one in my name. It seems that several discrete issues are involved, which are subject to the Attorney's amendment being moved.

The DEPUTY CHAIRMAN: I think the member has accurately summed up my intention. I will put paragraphs (a) and (b) of the Attorney's motion as separate questions. We will then move to (c), which is an amendment to which amendments on the Supplementary Notice Paper apply.

Hon N.D. GRIFFITHS: Is that the order in which they appear on the Notice Paper?

The DEPUTY CHAIRMAN: Yes.

Committee Resumed

Hon PETER FOSS: I move -

That the Council not insist on amendment No 1.

Hon HELEN HODGSON: Amendment No 1 is to delete clause 13, which dealt with the issue of whether a person is "wholly or partially recovered" as opposed to having a "total or partial capacity for work". If the committee is to make a decision on this matter, members must be reminded of the issues involved. Basically at the time we made this decision, we were looking at the interpretation of wholly or partially recovered, as opposed to total or partial capacity for work. I raised the problem that it needed to take account of the fact that capacity for work would depend to a large extent on the circumstances of a worker. The terminology of "capacity" may not take sufficient account of that. As it has not been debated, it is appropriate to refer to the report of the Standing Committee on Legislation relating to the Workers' Compensation and Rehabilitation Amendment Bill 1997, tabled in this place recently.

I note that it has been moved in the Committee of the Whole House that members do not insist on this amendment. The Legislation Committee brought forward that suggestion because a person who is injured in the course of employment is entitled to no-fault weekly payments. When partially recovered, the worker may be capable of light duties and, therefore, is capable of working. That is better dealt with by the new phrasing of "total or partial capacity for work". The ability to bring people in on light duties is better catered for in this way.

I think that does allow scope for this provision to be misused. In numerous cases people have been brought in for light duties when they would have been far better off at home recuperating. I refer to some examples which are set out in the mining safety report, tabled at the beginning of the year. It contains a huge table recording some of the things that were reported anecdotally to the committee working on the report. There was evidence in the mining industry that often the term "light duties" is used as a way of discouraging people from taking time off. I appreciate that is under different legislation, because it is to do with the mining safety regulations and the Mines Safety and Inspection Act. The point is that light duties can be misused in some circumstances. I am willing to accept that the Legislation Committee has looked at this matter thoroughly and made some assessment that it is not inappropriate.

The committee has also commented that the critical issue is not that the worker is injured, but that the injury renders the worker incapable of working and, therefore, the cessation of payments should relate to certified medical capacity for work. That is linked to the definitions in respect of the weekly payments of compensation for total or partial capacity. I note at least two committee members are in the Chamber at the moment, and they may be able to clarify this, if needed. The Legislation Committee suggested that if we wish to clarify the nature of the matter to be certified by medical practitioners, the clause could be amended, for example, to the effect that a medical practitioner is to certify that the worker has total or partial capacity for work, taking into account the physical and mental condition of the worker and the nature of the work available to that worker. Using something along those lines will go some way to redressing the concerns I have expressed on this matter, both when the Bill was debated originally and when the message was first debated in this place in early July.

Having drawn the attention of the committee to those issues, given that the Legislation Committee has looked at the clause thoroughly and come down with a recommendation the same as that with which the minister is now proceeding, I will support the proposition that we not insist on this amendment; however, I point out that the Legislation Committee has made a suggestion which the minister has not picked up. In that sense, it would be good to see the worthwhile efforts of the committee put to better use.

Hon J.A. SCOTT: As Hon Helen Hodgson has said, the Standing Committee on Legislation recommended that these clauses be agreed to. During the debate some of the Attorney General's comments confused my understanding of his position. He said, first, that a person could be recovered but not capable of working, and he then put the reverse position that he did not think that a person could be capable of working if he had not recovered. I often thought that he got that the wrong way round. I think it is not correct. A person can be capable of working when partially recovered; in fact, a person cannot be capable of work unless he is recovered to some degree. There is a somewhat backward logic to the Attorney General's statements. I wonder whether his statements as recorded are what he is saying on this matter because they make no sense to me. This clause will not substantially alter the legislation one way or another. Although not agreeing with the Attorney General's interpretation, I have no problem with the clause.

Hon J.A. COWDELL: The Opposition supports recommendation No 1 of the Standing Committee on Legislation; that is, that the House agree to clause 13 of the Bill as requested by the Legislative Assembly in its message No 139. That of course translates to support for paragraph (a), standing in the name of the Attorney General; that is, that the Legislative Council resolves not to insist on amendment No 1, which is to delete clause 13. That is not to say that all of the concerns raised during the second reading debate have been wholly satisfied - those concerns were set out on page 10 of the committee's report - but the Opposition is interested in having an amended Workers' Compensation and Rehabilitation Act as a workable Act that will benefit the workers of this State. We support the proposal that we not insist on amendment No 1.

Question put and passed.

Hon PETER FOSS: I move -

That the Council not insist on amendment No 2.

Hon J.A. SCOTT: The Legislation Committee said that clause 22 is a substantial amendment and not a consequential amendment to the Act. The committee's report reads -

- . Currently, in the course of determining a dispute between worker and employer/insurer, a dispute resolution body (under 84R, 84ZH, or 84ZR) can refer two questions to a medical assessment panel: a question as to "the nature or extent of a disability", and a question as to "whether a disability is permanent or temporary". The question under section 61 of the Act whether a worker "has wholly or partially recovered" cannot be referred to a medical assessment panel by a dispute resolution body.
- . Clause 22(2) proposes that the new question under section 61 (as amended by clause 13 of the Bill), whether a worker "has total or partial capacity for work", will be able to be referred to a medical assessment panel by a dispute resolution body under sections 84R 84ZH, and 84ZR.

It goes on to say that when the Legislative Council disagreed with that amendment, and it went to the Assembly, the Assembly said -

This amendment is disagreed to as the current Act wording provides no discretion for the dispute resolution body on whether a medical dispute is or is not referred to a Medical Panel. Given some medical disputes could be minor in nature this discretion is essential to ensure delays in resolution do not disadvantage either the injured worker or employer.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Order! Hansard is having some difficulty hearing what Hon Jim Scott is saying. I suggest he raise his voice and speak to me.

Hon J.A. SCOTT: Clearly the amendment is designed to reduce the delay. One of those matters which arose often during the committee's deliberations was the importance of ensuring that injured workers had the situation quickly resolved by receiving proper assistance in being retrained or aided by the various experts who could help them get back to work. It was found that the sooner the person got back to work, the better for all concerned including the worker, provided he had properly recovered. The success rate of getting people back to work depended on that early intervention.

For that reason, the Greens (WA) will support this clause and as the Attorney General put it, paragraph (b). Although I had a few initial reservations and still do, overall it will be of benefit.

Hon HELEN HODGSON: I raised a few issues on the previous message on this point. However, my concerns on the appropriateness of the use of medical panels to assess a worker's capacity for work were based largely on experiences that have been relayed to me by people who have appeared before a medical assessment panel. A number of people have said that medical assessment panels have not always afforded them what I consider to be due process. For example, in some cases people have had a hearing scheduled before an appointment with a specialist. That appointment may have been booked some time before the hearing with the medical panel was scheduled. However, the medical panel assessment is set prior to the specialist's report being available.

The panels have not been cooperative in postponing the formal hearing until after the medical appointment and thereby ensuring that this information can be made available. A number of these cases have been brought to my attention. I recall that during the debate there was some question about whether action had been taken against the medical assessment panels to ensure they follow due process. I do not have the *Hansard* of that debate but I refer members to a question without notice I asked on Tuesday 27 October 1998. I specifically asked how many actions were pending against the medical assessment panel. The Attorney General replied that -

There are three writs of certiorari against medical assessment panels pending at the Supreme Court.

One would hope that workers do not have to take the step of seeking a writ of certiorari to ensure that the medical assessment panels are functioning properly in affording due process and ensuring that all of the evidence is heard impartially so workers get a fair hearing before these panels. I raised these issues in the earlier debate on this clause. I notice that that issue has not been addressed in the Legislation Committee report of this clause. The committee basically found that this is a conflict of medical opinion between a medical practitioner engaged by the worker and one provided and paid for by the employer. It further found that it follows that resolution of the conflict should also be by a medical body and a medical assessment panel in the case of the Act. This is what is proposed by clause 22. I have no difficulty with the committee's report on this insofar as it goes. However, it denies some of the underlying problems with the way medical assessment panels are operating. I appreciate that given that the amendments simply redefined what the medical assessment panels should take into account, to attempt to go beyond that to the basic functions and operations of the panels may have been beyond the scope of the Bill.

I note that the committee has again accepted the Legislative Assembly's position and supports clause 22 as included in the original Bill. However, it again comments that two matters may be certified by a medical practitioner under amended section 61, the second being whether a worker's incapacity is no longer the result of a disability. It suggested that the matter should also be able to be referred to a medical assessment panel for the sake of consistency. It is not clear why the Bill does not

do so. Once again while the committee report came down in favour of the position being put by the minister - that is, that we no longer insist on our amendment - the committee made some suggestions to improve the operation of that clause. After all, that is what our committee system is about. The Government has again chosen not to accept those recommendations. The Australian Democrats support the minister's proposal that the amendments to the clause not be insisted on. However, I am again disappointed that the hard work done by the committee was not given due consideration by the minister.

Hon J.A. COWDELL: The Opposition notes the Legislative Assembly's insistence as set out in its message -

This amendment is disagreed to as the current Act wording provides no discretion for the dispute resolution body on whether a medical dispute is, or is not, referred to a medical panel. Given some medical disputes could be minor in nature, this discretion is essential to ensure delays in resolution do not advantage either the injured worker or employer.

Despite some lingering doubts, the Opposition will support the consensus position on recommendation 2 arrived at by the Legislation Committee and, therefore, supports the motion in the name of the Attorney General that this Chamber not insist on amendment No 2.

Question put and passed.

Hon PETER FOSS: I move -

That the Council not insist on its amendment No 3, and that it propose the following new clause as an alternative -

“ Clause 32, page 19, line 19 to page 20 line 10 — To delete the clause and substitute the following clause —

“ **Amendments to Part IV, Division 2, and saving provision**

32. (1) Section 93A of the principal Act is amended —

(a) by inserting after the definition of “Amount B” the following definition —

“ **“Amount C”** means —

(a) for the financial year ending on 30 June 1999, the amount of \$225 000; and

(b) for any subsequent financial year, the nearest multiple of \$1 000 to the amount obtained by varying Amount C for the preceding financial year by the percentage by which the minimum award rate varies between the second-last 1 April before the financial year commences and the last 31 March before the financial year commences, or if the relevant minimum award rates are not published, the amount obtained by varying Amount C for the preceding financial year in accordance with the regulations (with an amount that is \$500 more than a multiple of \$1 000 being rounded off to the next highest multiple of \$1 000); ”; and

(b) by deleting the definition of “future pecuniary loss”.

(2) After section 93B of the principal Act the following section is inserted —

“ **Certificate required before court proceedings can be commenced**

93BA. (1) Proceedings in which damages are sought, other than in respect of a disability that has resulted in the death of the worker, are not to be commenced unless —

(a) the Director or a person authorized in writing by the Director has given a certificate in accordance with the regulations to the effect that —

(i) the degree of the worker's disability is stable; and

- (ii) either the worker has successfully undergone rehabilitation or it would be inappropriate for the worker to undergo, or to continue to undergo, rehabilitation; or
- (b) less than 6 months remains of the time limited by law for the bringing of the proceedings.

(2) Before a certificate is given under subsection (1) the person who is considering the certificate is required, in accordance with regulations made for the purposes of this subsection, to give the employer an opportunity to make submissions to the person on the question of whether the degree of the worker's disability is stable.

(3) The Director may refer the question to a medical assessment panel for determination. ”.

(3) Section 93D of the principal Act is amended —

- (a) by deleting subsection (2) (b) and substituting the following paragraph —
 - “ (b) it seriously reduces the worker's capacity for gainful employment. ”;
- (b) by repealing subsections (4) and (5) and substituting the following subsections —
 - “ (4) For the purposes of subsection (2)(b), the disability seriously reduces the worker's capacity for gainful employment if, and only if, the worker's loss of future earnings is of an amount that is at least 7 times the worker's former average annual earnings.
 - (5) In subsection (4) —

“**former average annual earnings**” means the total amount of the worker's weekly earnings during the period of one year ending on the day before the disability occurs in the employment that the worker is in when the disability occurs or, if the worker is then in more than one employment, in each employment, except that, for an employment that the worker has been in for less than the period of one year, the total amount is to be taken as being the total amount of the worker's weekly earnings during the period of employment divided by the fraction of the year for which the worker has been in that employment;

“**loss of future earnings**” means the undiscounted loss of earnings, up to a maximum amount in any period of one year equal to the worker's former average annual earnings, that is expected to be incurred by the worker as a result of the disability during the period commencing on the day on which the writ was issued and ending 10 years later or on the day when the worker reaches the age of 70 years, whichever is sooner. ”.

(5a) If the worker had reached the age of 55 years when the writ was issued, subsection (4) applies as if —

- (a) the reference in that subsection to 7 times the worker's former average annual earnings were a reference to 3.5 times the worker's former average annual earnings; and
- (b) “loss of future earnings” had the meaning that would be given by the definition of that term in

subsection (5) if the reference to 10 years were a reference to 5 years.

(4) After section 93D of the principal Act the following sections are inserted —

“ **General restrictions on damages for negligence**

93DA. (1) Damages resulting from negligence are not to be awarded in respect of a disability that is wholly or to a significant degree attributable to —

- (a) the worker's failure to take reasonable care to ensure his or her own safety and health at work;
- (b) an act or omission of the worker that the worker knew or should have known, because of his or her qualifications, experience or training, would be hazardous;
- (c) the worker's failure to comply, so far as he or she was reasonably able to do so, with instructions given by the employer for the worker's safety;
- (d) the worker's failure to properly use any protective clothing or equipment provided, in a manner in which he or she has been instructed to use it; or
- (e) the worker's having wilfully damaged, modified, or misused safety equipment.

(2) In awarding damages resulting from negligence no account is to be taken of a failure by the employer to provide a safe system of work if the worker established the system of work and was, because of his or her qualifications, experience, and training, capable of establishing a safe system of work.

(3) In awarding damages resulting from negligence no account is to be taken of a failure by the employer to maintain a safe system of work if —

- (a) a safe system of work was established, other than by the worker;
- (b) the worker failed to maintain the safe system of work; and
- (c) the worker was, because of his or her qualifications, experience, and training, capable of maintaining it.

(4) Subsection (1) (c), (d), and (e), and subsections (2) and (3) do not apply if the employer —

- (a) knew of the relevant matter and permitted it; or
- (b) did not know of the relevant matter but should have known of it considering —
 - (i) the gravity of the risk of the disability;
 - (ii) the level of supervision and instruction required to avoid the risk; and
 - (iii) the level of the worker's qualifications, experience, training, and competence.

(5) In subsection (4) —

“**relevant matter**” means —

- (a) in relation to paragraph (c), (d), or (e) of subsection (1), the matter described in that paragraph;
- (b) in relation to subsection (2), the fact that the system of work established was not a safe system of work; and
- (c) in relation to subsection (3), the failure to maintain a safe system of work.

Restrictions on damages in claims relying on loss of future earnings

93DB. (1) This section does not apply if the disability is a serious disability under section 93D(2)(a).

(2) The total amount of damages awarded under all heads of damages for the disability is not to exceed Amount C as in effect on the day on which the amount is awarded.

(3) Subsection (2) applies regardless of whether the damages are awarded against one or several employers. ”.

(5) Section 93E (3) of the principal Act is amended by deleting “section 93D” and substituting the following —

“ sections 93D, 93DA and 93DB ”.

(6) The amendments made by this section have no operation in relation to damages sought in proceedings for the commencement of which the District Court gave leave before the day on which this Act receives the Royal Assent. ”.

This deals with a number of amendments related to clause 32. I want to make a few points. Firstly, the 1993 amendments were intended to increase statutory benefits by 13 per cent and reduce common law by 83 per cent. The actual result is that after allowing for inflation, statutory benefits have increased by 29 per cent and common law has increased by 32.4 per cent. Given that the number of workers compensation claims have reduced, injured workers have received benefit increases significantly beyond those intended in 1993.

The package before the Chamber is exactly that, and to suggest that the amendments not proceed and, instead, that the review should take place means that employers will receive at least a further 20 per cent increase in premium next year before any amendments could be reintroduced into the Parliament in 1999. There is no guarantee this would either be an agreed package or provide the relief necessary to save many small employers from going to the wall or reducing employment. The Trades and Labor Council is clearly aware of this. Tony Cooke, the Trades and Labor Council's secretary, has said that within six months, pressure on the workers compensation industry would see a push for a complete elimination of common law claims, and by rejecting this package, he hoped that the opposition parties were prepared to deliver a package at least as good in six months' time.

Without these amendments, over the next 12 months, insurers will be required, for prudential purposes, to provide an estimated \$225m for second gateway claims which will increase the year 2000 premiums by up to 50 per cent on top of the 13.6 per cent in 1998 and the estimated 20 per cent in 1999. The critical need for this interim measure is to prevent further escalation in workers compensation costs in this State. The March 1998 actuarial report to the Premium Rates Committee projected a 20 per cent premium increase for employers in July 1999 based on a system cost increase estimate of \$82m. This figure has now escalated to an actual incurred cost of \$100m and shows no sign of abating.

This package of amendments is unique and emphasises the seriousness with which employer and employee representatives in this State view this issue. In this regard I would acknowledge the valuable contribution of Brendan McCarthy of the Chamber of Commerce and Industry of Western Australia and Tony Cooke of the Trades and Labor Council for their commitment and contribution to achieving a consensus position for presentation to this Parliament. No other package of amendments to the Workers' Compensation and Rehabilitation Act has had unanimous support of both employer and employee representatives.

The Government has recognised concerns expressed about unintended consequences of the initial package of amendments and moved swiftly to rectify minor anomalies. In addition, the Government has made significant concessions in relation to its original legislative position to accommodate the recommendations of the Legislation Committee Report No 43. Further concessions have also been made to accommodate issues raised by members of the Chamber while retaining the integrity of the proposed changes. The Government recognises that the proposed amendments are a short-term measure to stop escalating costs and prevent more serious damage to the workers compensation system. To this end, we have committed, as part of the package, to an immediate and targeted review of the compensation system following the completion of the passage of these amendments through the Parliament. However, I advise members that the good faith and commitment shown to date by employer and employee representatives cannot be guaranteed to continue if this legislation does not proceed.

Hon J.A. COWDELL: I suggest that in putting this proposed clause 32, given that the issues that are raised are almost discretely related to proposed subclauses (1) through to (6), it should be put in those six components so that each issue can be individually addressed as it arises.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): There is a great deal of wisdom in the suggestion by Hon John Cowdell, particularly in light of the amendments contained on pages 7 onwards, the first of which deals with clause 32(2). In light of that wise advice, I will put the question that clause 32(1) in the amendment moved by Hon Peter Foss be agreed to.

Hon J.A. SCOTT: One of the major problems I have found with this part of the clause was the way in which it is written. It is written in such a way as to be incomprehensible. I will read some of the clause into *Hansard* because it is difficult to follow. On page 2 it states -

"Amount C" means -

- (a) for the financial year ending on 30 June 1999, the amount of \$225 000; and
- (b) for any subsequent financial year, the nearest multiple of \$1 000 to the amount obtained by varying Amount C for the preceding financial year by the percentage by which the minimum award rate varies between the second-last 1 April before the financial year commences and the last 31 March before the financial year commences, or if the relevant minimum award rates are not published, the amount obtained by varying Amount C for the preceding financial year in accordance with the regulations (with an amount that is \$500 more than a multiple of \$1 000 being rounded off to the next highest multiple of \$1 000);

I doubt that many injured workers would be able to make any sense out of such a piece of information. Such legislation should be written simply so people who will be affected by such laws can understand it. All legislation which comes before this Parliament should be written as simply as possible. It is gobbledegook. Lawyers have told me that they do not understand what it means. I have met only one person who could tell me what it means. That is the first problem that I have with the amendment. Can the Attorney General explain simply what that clause means?

Hon N.D. GRIFFITHS: Noting the point I raised when we commenced the debate and what Hon John Cowdell has said, is the question that has been put regarding the Supplementary Notice Paper to the end of paragraph (b); that is, just before the words "(2) After section"?

The DEPUTY CHAIRMAN: That is correct.

Hon N.D. GRIFFITHS: I will make some observations in light of what the Attorney General has said. The Australian Labor Party is concerned that the workers compensation system be stable and sustainable. What the Government is proposing does not achieve that. In terms of its own rhetoric, it does not achieve that. There is a very stupid concept of putting a foot on a hose. The report of the Standing Committee on Legislation has made it very clear that a review is needed to deal with the problems of the workers compensation system from top to bottom. The Government is not proposing a solution. It is clear from the evidence presented to the Legislation Committee that whatever happens with this package at whatever stage the Government spits the dummy tonight or tomorrow, as the case may be, the matter will not be fixed. The fault with the system lies fundamentally with what has taken place with those companies involved in the delivery of insurance. Those companies have treated the small business sector very badly. We want to provide reasonable measures so that injured workers do not pay the penalty for other people's mismanagement. At the end of the day, we want a workers compensation system that will work for the benefit of Western Australia. If injured workers are not properly compensated - both workers compensation and those injured workers who suffer grievous injuries at common law - Western Australia will lack that degree of civilisation that it deserves.

Hon PETER FOSS: We have heard a simplistic argument. There are two matters to be considered. The first is the amount of premium that insurers must recover to ensure that they stay in business. One of the factors involved in that is the cost of workers compensation. Leaving aside any conduct on the part of workers compensation insurers, the facts are incontrovertible. The intention of the 1993 amendments was that there should be an increase in benefits and a decrease in common law payments. Instead, there was an even greater increase in benefits and in common law payments. That has nothing to do with the behaviour of insurers; that relates to the system. Members may comment on how well insurers have conducted their business in the face of that, and I have never tried to defend the insurers. However, the reality is that if the costs go up, the premiums must go up. The premiums are set by the Premium Rates Committee; and they are not based on what the insurers have been doing in the past, but on costs. The premiums may not be sufficient to protect the insurers, and that is their position. The Premium Rates Committee is not interested in that, it is interested in the cost of insurance, which is driven by the cost of compensation. That cost has undoubtedly gone up.

With regard to the point made by Hon Jim Scott, workers do not need to understand; the commission needs to understand and to publish the results. All the workers need to do is to read the published result. I am sure they will find that easy to understand. I will not try to tell members what paragraph (b) means, other than to say that it means what it says.

Hon Ljiljana Ravlich: The Attorney General should explain it to us, because I want to know.

Hon PETER FOSS: I see no point in explaining it, because one of the important points about this legislation - even though it may seem difficult to comprehend - is that it says in the simplest, most straightforward language what it intends to say.

Hon Ljiljanna Ravlich: What does it say?

Hon Peter Foss: The member should read the Bill.

Hon Ljiljanna Ravlich: You do not know what it says.

Hon PETER FOSS: I do know what it says.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Order! If the Attorney General addresses the Chair rather than the rear of the Chamber, we might proceed.

Hon PETER FOSS: I have no trouble in understanding it.

Hon Ljiljanna Ravlich: Then explain it to me.

Hon PETER FOSS: I do not need to explain it to the member; she should read it.

Hon Ljiljanna Ravlich: You do not now what it says.

Hon PETER FOSS: I know what it says. I am not here to put a gloss on legislation or to explain what is perfectly clear. If the member wants to know what it says, I suggest that she read the Bill as it is written - perhaps not with the same punctuation that Hon Jim Scott put in it. It is perfectly clear.

Hon J.A. SCOTT: I am sorry that the Attorney General did not feel inclined to explain the clause. It is the Attorney General's view that it is better people do not understand the legislation before the Government passes it.

I refer to the statements made by the Attorney General when he responded to Hon Nick Griffiths. Basically he said that the system must pay for itself, and if it is to do that there must be a rise in premiums.

Hon Peter Foss: I said costs were going up rapidly.

Hon J.A. SCOTT: Yes, that is right. The Attorney General said that premiums must be based on the actual figures, rather than on some made-up figure.

I will quote from the evidence of Mr Brendan McCarthy, who appeared before the committee on behalf of the Chamber of Commerce and Industry of Western Australia and said -

I preface my remarks on the recent workers' compensation history by saying that of all the people who appear before you, we, as representatives of the Chamber of Commerce and Industry, are two of the few who can come here with clean hands. The only others whom I believe have clean hands are representative of workers . . .

I will go back in history and refer to comments we made to Mr Max Trenorden, who undertook a review of the workers' compensation system. I draw your attention in particular to two elements - and I am happy to table this document - that we put to Mr Trenorden at that time; they were lump sum payments, including common law, and outstandings. We told him that redemptions and second schedule payments had been declining gradually in the last 10 years although there was a rise in redemptions in 1990-91. We said also that common law payments had blown out in 1990-91 and continued their escalation in the following year. Bear in mind these comments were made in 1993-94. We said that until 1998, legal costs were unidentifiable but had trebled from \$7m to over \$21m in the three years following 1990-91.

Outstandings is an issue that has not received the attention that it should have. We said to Mr Trenorden that provision for outstandings by insurers fluctuates widely; and it appeared to us back then that there was obvious manipulation by insurers of provisions for outstandings.

He was then asked by the chairperson, Hon Derrick Tomlinson -

Could you tell us what provisions for outstandings means?

He replied -

Provisions for outstandings is when a claim is made, either a workers' compensation or common law claim, an insurer will estimate what will be the eventual cost of that claim. It classes that estimate as a provision for outstandings. All insurers also include what is called IBNRs - incurred but not reported. There are also provisions made for claims that have not been made but could be made and an estimate of what the cost of those non-reported claims could be. What we were saying then - and I am convinced of this now, given recent experience - was that

insurers were wildly manipulating their outstandings; there did not seem to be much science to it. The graphs which were provided then to Mr Trenorden showed clearly that was the case.

The Chamber of Commerce and Industry has accused the insurance companies of manipulating the figures in order to arrive at the sorts of premiums that they want to charge. I have spoken to a number of people who have worked in that industry, who have said that is exactly what has occurred in that industry. The Attorney has talked about the need to keep down the costs. However, the actuarial costs that have been worked out by using those wildly manipulated figures are sometimes not even in the ballpark. The committee listened intently to the argument that a cap be placed on the total amount that could be obtained via the second gateway, and that was an important consideration of the committee. The self-insurers put the argument quite strongly that we needed both a cap and a tightening up of the area of employers' negligence. They argued that negligence was too high a hurdle and that the definition of negligence needed to be changed to allay the concerns of people who believed that access to the second gateway was too easy and was being manipulated by people.

The other suggestion was to cap the high claims that were boosting up the overall cost of the system which were usually based on another issue referred to in the amendment; that is, the claims were related to the level of workers' incomes and in that way discriminated against lower paid workers. The amendment as a whole purports to deal with these issues and gives a glimmer of hope that these outcomes can be achieved. Unfortunately, the amendment affects also the primary 30 per cent injury gateway. There are also concerns about the ultimate outcome of the definition of the amount in the Attorney General's proposed amendment rather than the cap being a flat figure. It is a cap which is illusory because in significant areas the figure will be reduced by removing medical payments and the 6 per cent investment payments that are currently taken into account. A worker would have to be on a high income to achieve the level of payment referred to in the proposed amendment, which means that the purported aim of this amendment will not be achieved at all.

Hon PETER FOSS: The Premium Rates Committee is chaired by the Auditor General. It works on a 15-year data cycle. The matters mentioned by Hon Jim Scott are of no concern to the Premium Rates Committee. The reason for having a Premium Rates Committee is to provide at law a limitation on premiums so that insurers cannot get away with the things mentioned by the member. Therefore, let us forget about insurers and deal with the Premium Rates Committee and actual claims. We are talking about actual claims paid out, none of those other things mentioned by the member. In 1989-90 actual claims paid out went from \$219.9m to \$407m. Those are actual figures, nothing illusory. The people who have agreed this package are the people whom Hon Jim Scott says are the honest brokers: The Chamber of Commerce and Industry of Western Australia and the Trades and Labor Council. They are looking after both sides. There is only one other party involved in this matter and that is the plaintiff lawyers also mentioned by Hon Jim Scott; it has been a remarkable money-making machine for them. I urge members to support the amendment.

Hon LJILJANNA RAVLICH: I remind the Attorney General that this legislation has been around since 1995, irrespective of the role of the Premium Rates Committee in setting rates. The Attorney General seeks to emotionally blackmail the Australian Labor Party. He states that in the event that we do not support the amendments in this legislation, the premium rates will increase. I put on record that this is a problem of the Attorney General's own making. The sooner the Government accepts that, the sooner we will move towards a situation of cooperation on benefits for Western Australian workers, small businesses and the community generally in the long term. The Government is attempting to adopt a bandaid approach to a very complex problem.

Hon Peter Foss interjected.

Hon LJILJANNA RAVLICH: I am telling the Attorney because this Government has had since 1995 to address this problem. It has not done so and he has come into this place two days before Parliament is due to rise and wants to emotionally blackmail the Labor Party by telling members that if they do not accept the Government's amendments, premiums will increase. They will increase because of this Government's maladministration.

What sort of sweetheart deal has been struck between Minister Kierath and the SGIO? I do not hear Wesfarmers Ltd screaming, but I do hear the SGIO, which has incurred a \$50m loss. Wesfarmers recorded a 19 per cent profit last year, and it is heavily involved in the workers compensation industry. What private arrangements have been agreed between Minister Kierath and the SGIO that have resulted in our dealing with draconian legislation targeted at further undermining the right of workers in this State to a fair go?

Progress reported.

ADJOURNMENT OF THE HOUSE

Special

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.56 pm]: I move -

That the House at its rising adjourn until 11.00 am on Wednesday, 16 December.

At the management meeting last Thursday I proposed that we sit earlier this week. Originally my proposal was that we sit earlier today. However, I was advised by the Leader of the Opposition that he would not agree to that, so I did not move the special adjournment motion on Thursday. I also proposed at the management meeting that the House sit earlier on Wednesday and Thursday, and that it sit beyond 10.00 pm. No conclusion was reached and I indicated that I would be moving those motions anyway, because I have the strange belief that the Government is supposed to be in charge of the management of the House.

Before any member jumps up and says that I should have agreed to the Leader of the Opposition's amendment earlier, which would have given us two extra hours of sitting tonight, I inform the House that I will not sit here while the Leader of the Opposition turns himself into the manager of the House.

Hon Ljiljanna Ravlich: You were having a power play, and you lost.

Hon N.F. MOORE: The member should take some Valium and give the rest of us the chance to relax and discuss this sensibly.

I recognise only too well, particularly in the past few weeks, that I do not have the numbers in this House. However, I also recognise the history of this place, which indicates that 99 times out of 100 the Leader of the House is responsible for the management of the House and makes the decisions about when the House sits and rises. I have sat here late at night on hundreds of occasions during my 22 years in this place. Governments of both persuasions have moved that the House sit longer hours at the end of the session. I have sought deliberately not to sit late at night. There has been one late night this session, and that was to finish consideration of the School Education Bill, with the Opposition's agreement. That is the only night that this House has sat late. That is an extraordinary achievement. I do not like sitting late. I am suggesting an easier way of handling the matter, as members are getting very tired. We can sit earlier tomorrow. Members can go home at 10.00 pm and get their beauty sleep and come back bright-eyed and bushy-tailed at 11.00 am tomorrow, and let us pick up a couple of hours then.

Hon John Halden: Some people need longer than that.

Hon N.F. MOORE: I agree, and I am one of them. I would like to get out of this place, but it worries me that some members do not share my view on that. One way to make sure that we can get out of this place by Christmas is to -

Hon Ljiljanna Ravlich: You should have thought about that four months ago.

Hon N.F. MOORE: I find that member to be painful in the extreme. If there were some way that I could avoid having to listen to her, I would, but I regret that we sit in the same place and I must listen to her. Her inane remarks demonstrate her naivete in these matters. Over many years agreements have been reached about how matters will work, and they have worked very well in the past. I regret to say that they are not working so well now.

Hon Bob Thomas interjected.

Hon N.F. MOORE: I know that. I have explained why I did not agree. I will not sit here and have the business of the House taken out of the Government's hands. If that is what opposition members want to do, they will wear it one day, I assure them. What goes around comes around.

I have moved that we sit at 11.00 am tomorrow. That will give the House a couple of extra hours in which to work on the legislation before lunch. Again tomorrow I will move that we sit beyond 10.00 pm, but not to sit until 3.00 am or 4.00 am, because that is not productive. Of course, on Thursday we will sit at 11.00 am anyway, so I assume that we will sit at that time. There is a legislative program to be completed. If necessary, we will come back next week to finish it. As I have no capacity in respect of when the House sits other than the normal adjournment, I will continue to move the normal adjournment. I hope that the Opposition, the Democrats and the Greens acknowledge that at this time of the year it is traditional that the House sits extra hours. I am asking not a great deal - in fact I am asking that we sit longer in the morning instead of at night.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [10.02 pm]: The House needs to know that the Labor Party will oppose the special adjournment because several prior commitments have already been made, many of which are connected to the orderly passage of the Government's legislative program through this place. It includes trying to complete some discussions and briefings in relation to the Government's legislative program. Those discussions are locked in for tomorrow morning when the House would otherwise be sitting. For those reasons, because of the commitment that the Labor Party has made to try to deal expeditiously with the Government's legislative program, it cannot accede to the Government's request. Opposition members are endeavouring to be supportive and to provide all possible assistance to the Government in having its legislative program dealt with by the House. The Labor Opposition will oppose the motion because it does not accommodate the objectives of the Leader of the House in getting the legislative program through the House.

HON NORM KELLY (East Metropolitan) [10.03 pm]: The Leader of the House seems to have the impression that members have nothing to do between 10.00 pm tonight and 11.00 am tomorrow. In fact, we have just received a copy of the Notice Paper containing proposed amendments to legislation to be dealt with this week. Members need to work through those amendments and to work out their position on them. Already tonight we have seen the dangers involved when the Government allows insufficient time adequately to consider our position in respect of legislation. There are committee meetings tomorrow at 11.30 am and 12 noon. Obviously, those committees would not be able to meet. Unfortunately, that would mean that valuable committee work would not proceed. The tradition of this House is to sit extended sittings at this time of the year to pass legislation, but this is usually because Parliament prorogues in the summer recess. That is not the intention this year as a result of the winter prorogation.

Hon N.F. Moore: A number of Bills are required to be passed in the calendar year. That is why they are banking up. I acknowledge what you say about prorogation, and less pressure applies this year in that regard. Nevertheless, some Bills need to be passed in the calendar year - otherwise they will expire.

Hon NORM KELLY: I appreciate that. Members were given a list of essential legislation, an example of which is the Western Australian Land Authority Bill: LandCorp would have lapsed as an authority if that measure had not passed this calendar year. Essential legislation must be passed. The Government regards other legislation as serious. However, reading the detail of these measures, it is not essential that they be passed this calendar year. The House has sat for eight of the past nine weeks.

Hon N.D. Griffiths: It is week nine out of ten.

Hon N.F. Moore: It feels more like week 99!

Hon NORM KELLY: That indicates the enormous workload. Also, these Bills were not publicly available before the commencement of this stretch of sittings. They were introduced by the Government at a late stage of the year, and members opposite now want to complete the legislation before the year has finished. The most extreme example was the Health Amendment Bill which was introduced into Parliament less than four weeks ago. It places an undue burden on members to expect them to back up extended sittings with work, consulting on Bills and performing the tasks for which they were elected to this place.

Hon J.A. SCOTT: For reasons similar to those expressed by Hon Norm Kelly, I will not support the early starting time proposed by the Leader of the House. I reiterate his comments about the lateness of the introduction of some legislation. If the Western Australian Land Authority Bill to which he referred had not been passed, LandCorp would have ceased to exist; however, it was the second time around for that Bill: It was introduced around this time last year when a 12-month extension was granted. If the Government had had its act together, it would have introduced the measure at the start of this session and passed it long ago.

It is very unfair of the Government to claim somehow that the legislative program has been foiled. It is only through bad management by the Government that -

Hon N.F. Moore: With respect, when did I criticise you about the legislative program?

Hon J.A. SCOTT: The Premier has made comments in the newspaper about some sort of obstruction occurring up here. The reality is that a few Bills have sailed through the Legislative Council. A logjam exists because a pile of legislation is before us. Much of this legislation, like the workers compensation Bill, has been constantly changed by the Government as a result of negotiations not with members of Parliament but with people behind closed doors somewhere. New Supplementary Notice Papers were introduced containing completely new provisions.

Some forethought was needed regarding legislation which will realistically pass through this Chamber in the year. The Leader of the House has complained at times about uncertainty regarding the delivery of Bills to this Chamber because ministers in the other place have not properly informed him. That sort of uncertainty is not our fault, but that of the people arranging the legislative program. I do not believe much will be achieved by members missing their appointments tomorrow morning as a result of the House sitting unexpectedly at that time to deal with the legislation. It will also make for legislation which is not properly considered. At this stage, if necessary, we should be looking to continue the debate now. If members want to come back day after day, we should do so; however, let us do it in a rational way so that the legislation is considered properly. I do not support the change in the sitting time.

Question put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle
Hon Dexter Davies
Hon B.K. Donaldson
Hon Peter Foss

Hon Ray Halligan
Hon Barry House
Hon Murray Montgomery

Hon N.F. Moore
Hon Simon O'Brien
Hon Greg Smith

Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Noes (14)

Hon Kim Chance
Hon J.A. Cowdell
Hon N.D. Griffiths
Hon John Halden

Hon Helen Hodgson
Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljanna Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens

Hon Ken Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Pairs

Hon Max Evans
Hon M.D. Nixon
Hon B.M. Scott

Hon Tom Helm
Hon E.R.J. Dermer
Hon Cheryl Davenport

Question thus negated.

Ordinary

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.13 pm]: I move -

That the House do now adjourn.

Detention Cells in Courts - Adjournment Debate

HON JOHN HALDEN (South Metropolitan) [10.13 pm]: I raise a matter of recent experience in my life that must be brought to the attention of the House. I told the Attorney General that I would raise this matter in the adjournment debate, and I thank him for staying in the Chamber to listen to what I have to say. I refer to the detention cells at the District Court. As I understand it, the detention cells at the Supreme Court -

Hon Peter Foss: They are worse.

Hon JOHN HALDEN: They are indeed. It was a particularly unpleasant experience to be a recent frequenter of the detention cells at the District Court. They are just like solitary confinement cells: They have no windows, are painted yellow, and contain concrete seats, one stainless steel and concrete table and a steel door that people cannot see through. This is all very well if someone is being held, as I was, for an hour before the court starts and, if he is unfortunate, for the adjournments during the proceedings. I was not privileged to stay in the cell during lunch but was confined to a room on the fifth floor of the District Court building. A person spends half an hour there after the court has risen. I understand why, and I do not complain about the reasons, but those cells are nothing but solitary confinement cells. There is no ability to eat, drink, read or do anything at all in them. One cell I was in was probably all of 8 feet by 10 feet, with eight people in it, which was not very pleasant for those waiting to go into court.

However, one thing most concerned me. Bearing in mind recent events, I appreciate the presumption of innocence under the law. The presumption of innocence is fairly difficult when one must go through this sort of experience. As someone tonight said to me outside this place, one's political life, if not one's whole life, is on the line. In the midst of the presumption of innocence and in giving testimony, one goes back to these particularly unpleasant cells, which is not appropriate because it means there is no presumption of innocence. The point I am getting to is that there are worse examples. A remand prisoner who is not out of court by 4.30 pm or who is not there for transport back to Canning Vale Prison actually goes to the lock-up. He spends the night there and then goes back to the court the next day. The difficulty with that arrangement is that he does not get a shower, shave or change of clothes. Members can imagine what it would be like after three or four days of that. It is not very pleasant in the context of the presumption of innocence and a person's ability to think that he can defend himself. If we are serious about the presumption of innocence and people's rights, the condition of those cells in the District Court is not up to par by any stretch of the imagination.

The Attorney General has mentioned the Supreme Court. I have not been there. I do not know whether I want that fate in store for me, but I leave in members' hands, as I have for the past six years, the next event in my life. I understand that the Supreme Court detention area is a limestone building of colonial architecture with steel bars. I am told that it is freezing cold in the winter, and I presume from that it is probably boiling hot in the summer. There is one light per three cells or something to that effect. People waiting for a jury to come in at the Supreme Court until recently did not get any form of warmth whatsoever. I understand that there is a now a blanket issued - a new benevolent regime which I am sure everybody is totally pleased about!

I raise these matters not necessarily to dwell on my personal experiences which are shaded by their outcome, but if there is a presumption of innocence and we are serious about spending money on humane conditions, members must know that the conditions there are not humane at the moment - there is an adjective, but I will not use it; they are absolutely inhumane. People would not put their dog in there, let alone another person. We cannot expect people to have a fair trial under those conditions. It is an abomination to consider that people are locked into those cells for such periods of time. It is also an

abomination to think that they can be in a situation where they cannot shower, shave and change to turn up to court feeling half pleasant before they even appear. I accept that I have not seen the Supreme Court cells and have only been told about them, but I understand there have been unlimited requests for improvements to the conditions or to do something about those facilities. I will not go over the top; I have made one of those speeches today! There is no presumption of innocence or humane treatment in those cells. I do not care what justification I hear because not one of the 33 members opposite has been in the Supreme Court cells. Those cells are bloody horrible and should be fixed immediately.

I have never been totally convinced about the humanitarian nature of police in this State. However, I saw the behaviour of police in those detention cells. I do not mean towards a member of Parliament perhaps soon to be a former member of Parliament, but towards the public who are obviously stressed and under pressure. The police must also deal with maximum security prisoners who are held in a different part of those detention cells and who cause problems. Their behaviour to other people was exemplary. Their empathy and their ability to be reasonable and understanding and just to do their job in a compassionate and reasonable way denied my perceptions of their behaviour.

I understand that between 30 and 40 police are stationed at the District Court detention area and I have nothing but praise for every one of them, not because of the way they treated me but principally because of the way they treated others. I spoke about their conduct to solicitors who attend court regularly and to others about their behaviour, which I guess could have been modified by my presence. However, I understand that is typical of their behaviour. It is a credit to them that they behave so well. I am sure people who know me would say that my making a positive testimony to the character of the Western Australia Police Force would be a rarity. However, my observations and experiences and those of others lead me to say that, bearing in mind the very difficult conditions under which they must work and some of the very difficult people with whom they must work.

As I said at the beginning of this debate, I appreciate that the Attorney General remained to hear these comments. It is time that people are dealt with in a humane manner. Apart from the treatment by the police, nothing in that detention area reminded me of any degree of reasonable treatment of people. I am sure that those facilities are not of any quality whatsoever. I only understand what the cells are like in the District Court, but if the detention cells in the Supreme Court are as bad as I understand them to be, it is time the Government fixed this problem.

HON PETER FOSS (East Metropolitan - Attorney General) [10.23 pm]: The description given by Hon John Halden of the internals of the cells is accurate. However, unfortunately the newer cells tend to be barer than the old cells. The reason for that arose from the recommendations of the Royal Commission into Aboriginal Deaths in Custody. We must now suicide-proof cells.

Hon John Halden: They are separate.

Hon PETER FOSS: No; the Government is now obliged to meet requirements, not so much for the comfort of people inhabiting cells in the lock-up but to prevent them from committing suicide. People may say that is a silly thing but it is the standard now imposed on the Government. It is now under criticism for not having turned all the cells in the lock-ups into that same style of building. It faced a quandary when it had medical observation cells in the prison, which are exactly the same - there is nothing in there of any nature. No fabric can be left because people can tear it up and hang themselves with it and there are no hanging points. Members would be amazed to learn what can be made into a hanging point. One does not need to hang oneself on something high; one can hang oneself one foot above the ground. I will not describe some of the ways people have tried to commit suicide as giving that sort of detail can lead to copycat situations. Those cells are like that because we are obliged not only to construct new cells in that way but also to go over the other cells in the State and turn them into the same featureless, uninteresting, dreadful cells. I do not particularly like them.

Hon John Halden: How do you account for overcrowding?

Hon PETER FOSS: I will deal with some of the other issues first. Hon John Halden first talked about what these cells look like. They are horrible. They are the most soulless places one could come across, but we have an obligation to convert all the cells in all our lockups to this design. We are obliged to transform even those with features such as windows. Windows need bars from which people can hang themselves. The ministry has gone through these cells and removed anything which could be considered slightly interesting.

The cells are overcrowded because of the huge number of people who go through that court. As members might recall, I recently announced that the Government is building a new complex on the corner of Hay and Irwin Streets. The Government hopes to place the new lockup there and it will be a better lockup than the one in East Perth. It will have showers and opportunities for people to change their clothing; it will also have greater capacity.

Hon John Halden did not mention that the people travelling to and from Casuarina Prison or the lockup are stuck in less than salubrious transport. That is a problem for those people. Travelling inside a prison van is not very pleasant. We have problems with people suiciding inside vans. However, if we have a number of prisoners in a van, we cannot stop and get

into the back of the van. People have tried to commit suicide and attack one another in the vans. In some places vans are built rather like the old charabancs, with individual seats and doors.

We have this problem all the time, particularly with people who have not been convicted and have not settled down into the system. They are by far the most vulnerable people in terms of suicide. Therefore, one tends to err on the side of preventing them from committing suicide as opposed to prevention by the provision of more salubrious surroundings. With this new proper lockup, people will be able to remain in the lockup until quite late. We will not need large holding cells as the cells will be purely for people surrendering to bail. The problem is that we are dealing with people without a behaviour history. They are at their most vulnerable and most likely to suicide.

Hon John Halden: Probably from staying in the cells.

Hon PETER FOSS: Hon John Halden might have missed my saying that one of the difficulties we have in the prisons is that although our medical observation cells give us maximum opportunity physically to prevent people from committing suicide, the surroundings are likely to increase their depression so they are psychologically more likely to commit suicide. The ministry has tried with some success to reduce the use of those cells in the prisons by taking more of a chance and putting people in the mainstream prison where they are more likely to be supported by their fellow prisoners and less likely to commit suicide. So far, touch wood, that has been working. However, some people tend to say that to be on the safe side we should put these people somewhere where they cannot commit suicide.

The numbers used to be far greater. The Government is reducing the numbers because a lot of those cells were occupied by remand prisoners in custody coming in to renew their bail. We have increased the capacity for people to have bail hearings by video. I will shortly open new centres at Casuarina and other prisons. A problem we had was that the video facilities were not being used very often. The prisoners preferred video remands but the system was not being used for a number of reasons, some related to legal aid and lawyers, some to the poor system at Canning Vale Prison and some to how magistrates handled the hearings. For instance, the prisoners had the habit of doing what they did in court. During the proceedings, a prisoner would be sitting at a table with a microphone. When the magistrate said that he was remanding the prisoner in custody, he would say, "Prisoner, stand." Of course, the prisoner would stand. The ridiculous thing was that he would still stay in exactly the same place on the television, because the television camera had to move up. However, the microphone was down on the table. Therefore, prisoners were standing up, looking exactly the same in the video, but they had to bend over and speak into the microphone on the desk. We have been through that. The department called everybody in and worked that out. It now thinks it has a good system. It looks like a court; there is a lawyer on site. Therefore, the department is trying to make that much more acceptable for the prisoners. It is trying to work through that. However, it will never overcome the situation that it is obliged to have lockup cells that conform to the requirements of the Royal Commission into Aboriginal Deaths in Custody.

With regard to the Supreme Court, when the new place at Pier and Hay Streets is built, all criminals will go to that location. Therefore, those cells will not be used, unless criminal appeals remain at the Supreme Court. I have asked the Supreme Court to consider hearing its criminal appeals at the Pier and Hay Street location as well because it seems sensible to do so. It will never be possible to change the Supreme Court so that just criminal appeals are heard there. It would be wasteful to do so.

I raise another point. Sometimes people see the presumption of innocence as being a lot more than it is. The presumption of innocence is an evidentiary presumption; in other words, in a trial people are entitled to a presumption that they are innocent. It is not a presumption of innocence concerning the way a person is dealt with. The law of bail was introduced to allow people to be released pending the trial of their cases. However, English law originally required people, once charged, to be kept in custody. The presumption of innocence is just that: It is an evidentiary presumption. It is a benefit that people have while the evidence is being tested. That is as far as it goes. It is not a presumption of innocence in terms of everything that follows from that. It has been given an extension into that, so that we try to work that way in many other areas. However, the word "presumption", and the origin of it, was an evidentiary presumption rather than a presumption of how people were dealt with. In many other ways we do not do that. People are refused bail and are remanded in custody. All of those things relate to the presumption of innocence. That is a minor point, because the member was complaining about the current conditions. To the extent that I am capable of changing those conditions, that is already being addressed, and I hope it will be better addressed once the site at Hay and Irwin Streets has been developed.

When dealing with remand prisoners, the video remands will make a tremendous difference. However, the Government is left with the requirements of the Royal Commission into Aboriginal Deaths in Custody.

Question put and passed.

House adjourned at 10.33 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

HOMESWEST*Meetings and Code of Conduct of Governing Board*

213. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Housing:

In relation to appointments to the governing board of Homeswest -

- (1) What is the attendance record at meetings of the board of each member in the last financial year?
- (2) How frequently is the board required to meet?
- (3) How frequently did the board meet in the last financial year?
- (4) What procedures govern the conduct of the business of the board?
- (5) Are these procedures in written form?
- (6) Are minutes taken of each board meeting?
- (7) To whom are those minutes distributed?
- (8) Has the board a "code of conduct" or "code of ethics" to govern the conduct of either members of the board or staff of the organisation?
- (9) Has the board a register or record of the directorships or other positions held by members which the board uses to determine likely conflicts of interest between members and the organisation?
- (10) Has any member of the board declared any conflict of interest or pecuniary interest during the last financial year?
- (11) What procedures apply if a member of the board declared such an interest or if the board determines a member has such an interest?
- (12) What induction or other procedures exist to acquaint incoming board members with their statutory obligations and other duties as board members?
- (13) Are these induction or other procedures contained in any document or manual?
- (14) If yes, will the Minister for Housing table the relevant document?

Hon MAX EVANS replied:

- | | | |
|-----|---------------------------------------|----|
| (1) | Lloyd Guthrey (Chairman) | 10 |
| | Lyn Bennett | 11 |
| | Anne Hector | 10 |
| | Sue Gordon (resigned October 1997) | 1 |
| | Peter Marks | 11 |
| | Steven Prosser | 11 |
| | Greg Joyce (ex-officio) | 11 |
| | Ron Attwood (appointed December 1997) | 6 |

In addition there were two special meetings of the board at which all members participated either in person or by telephone.

- (2) In accordance with Section 10 (1) of the Housing Act 1980.
- (3) The board met on 11 occasions.
- (4) The board conducts its business in accordance with Section 10 of the Housing Act 1980.
- (5)-(6) Yes.
- (7) The Minister for Housing, board members and senior officers of Homeswest.
- (8) Yes.

- (9) When members are appointed to the board they are required to provide a curriculum vitae. All Commissioners are aware of their obligation to disclose any interests.
- (10) Yes.
- (11) The member does not participate in discussions and does not cast a vote.
- (12) Members are provided with a copy of the Housing Act 1980, Statutory Corporations (Liability of Directors) Act, the Auditor General's publication on Duties and Responsibilities of Directors of Statutory Authorities, a copy of the most recent annual report and other documents. A briefing by the Chairman also takes place.
- (13) Not at present but an "Induction Pack" is being developed for future use.
- (14) Not applicable.

CURTIN AVENUE, WIDENING

328. Hon J.A. SCOTT to the Minister for Transport:

- (1) Will the Minister confirm the statements made by the member for Cottesloe at a recent public meeting that the proposed widened Curtin Avenue will provide routes for trucks to and from Fremantle?
- (2) If so, does this mean that -
 - (a) live sheep trucks and ore trucks will be able to use the route;
 - (b) uranium ore will be able to be transported along the route; and
 - (c) B Double trucks can use the route?
- (3) Has the Department of Transport made any projected estimates of truck movements along Curtin Avenue for the periods when -
 - (a) Curtin Avenue is completed; and
 - (b) the roads creating the Stephenson Highway are completed?
- (4) If so, can the Minister supply me with those estimates?
- (5) If not, why have no such estimates been done?

Hon M.J. CRIDDLE replied:

- (1) I am not aware of the statement made by the member for Cottesloe. However, the proposal is not to widen Curtin Avenue but to re-align the road closer to the railway. Funds are not provided in Main Roads' 10 Year Program for this project.
- (2) There is no intention to change truck access to Curtin Avenue.
- (3) (a)-(b) No.
- (4) Not applicable.
- (5) Truck movements have not been projected as there is no intention by this Government to construct a highway in the western suburbs.

GOVERNMENT DEPARTMENTS AND AGENCIES - CREDIT CARD PURCHASES

426. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Public Sector Management:

- (1) Is the Minister for Public Sector Management satisfied with the procedures the departments and agencies within his portfolios are following to ensure that Credit Card purchases are only being used for approved purposes?
- (2) Do the departments and agencies within the Minister's portfolio reconcile all credit card statements against supporting documentation?
- (3) Has there been evidence of supporting documentation not being provided during 1996/97 and 1997/98?
- (4) If yes, will the Minister provide details of transactions amounts in questions?

Hon MAX EVANS replied:

I am advised that:

Ministry of the Premier and Cabinet

- (1) Yes.
- (2) Incurring officers must be satisfied that the requirements of Treasurer's Instruction 305 are met prior to certifying to the payment of an account.
- (3)-(4) In the incurring process there may be from time to time a need to seek additional supporting documentation prior to certifying to the payment of an account. However, as such issues are dealt with as they arise they are not recorded.

Under Treasurer

- (1)-(2) Yes.
- (3) No.
- (4) Not applicable.

Anti-Corruption Commission

- (1)-(2) Yes.
- (3) No.
- (4) Not applicable.

Office of the Public Sector Standards Commissioner

- (1) Yes.
- (2) Incurring officers must be satisfied that the requirements of Treasurer's Instruction 305 are met prior to certifying to the payment of an account.
- (3)-(4) In the incurring process there may be from time to time a need to seek additional supporting documentation prior to certifying to the payment of an account. However, as such issues are dealt with as they arise they are not recorded.

Gold Corporation

- (1) Gold Corporation is satisfied that it has adequate procedures to ensure that credit cards are used only for approved purposes.
- (2) Yes.
- (3) No.
- (4) Not applicable.

Office of the Auditor General

- (1) Procedures followed in the Office of the Auditor General:
 - a register is maintained of all Corporate Cardholders;
 - Cardholders sign a statement outlining conditions of use, prior to the initial issue of their card and are advised of the procedures and scope of use in respect of the card;
 - supporting documentation must be provided in respect of all purchases utilising credit cards; and
 - all monthly statements are monitored by the Finance and Budget Manager.
- (2) Yes.
- (3) No.
- (4) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - CREDIT CARD MONITORING

436. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Public Sector Management:

- (1) What monitoring is done by the Minister for Public Sector Management's departments and agencies to identify any inappropriate use of corporate credit cards?

- (2) What policies have been implemented to address instances of inappropriate use?
- (3) Has there been any inappropriate use of corporate credit cards within the Minister's departments and agencies?
- (4) Will the Minister provide details and advise what action was taken in these instances?

Hon MAX EVANS replied:

I am advised that :

Ministry of the Premier and Cabinet

- (1) Card use is the subject of both internal and external audit scrutiny and various Ministry internal control procedures.
- (2) The Ministry issues an agreement/acknowledgement to each cardholder which specifies policy regarding credit card use. Credit cardholders are required to certify that expenditure on each statement was incurred on official government business.
- (3)-(4) Any alleged inappropriate use of a credit card is examined and referred for further investigation if considered necessary.

Under Treasurer

- (1) Card use is the subject of both internal and external audit scrutiny and various internal control procedures.
- (2) Treasury issues an agreement/acknowledgement to each cardholder which specifies policy regarding credit card use. Credit cardholders are required to certify that expenditure on each statement was incurred on official government business.
- (3)-(4) Any alleged inappropriate use of a credit card is examined and referred for further investigation if considered necessary.

Anti-Corruption Commission

- (1) All accounts are reconciled monthly and all payments are approved by the relevant supervisor and another senior officer.
- (2) ACC policy for use of corporate credit cards is tabled. [See paper No 633.] Employees must, in writing, agree to conditions of use prior to being issued a card.
- (3) No inappropriate use of corporate credit cards by ACC staff has been identified.
- (4) Not applicable.

Office of the Public Sector Standards Commissioner

- (1) Card use is the subject of both internal and external audit scrutiny and various internal control procedures.
- (2) The Office issues an agreement/acknowledgement to each cardholder which specifies policy and procedures for credit card use. Credit cardholders are required to certify that expenditure on each statement was incurred on official government business.
- (3)-(4) Any alleged inappropriate use of a credit card is examined and referred for further investigation if considered necessary.

Gold Corporation

- (1) All credit card accounts are authorised by the appropriate Certifying Officer.
- (2) Gold Corporation credit cardholders are issued with a copy of the Corporation's credit card policy, which states:
 - (a) Credit cards are to be used for business purposes only.
 - (b) Credit cards may not be used for private purposes under any circumstances.
 - (c) Credit cardholders must verify expenses by filling in a Business Expense Report and providing substantiating documentation.

To date, this policy has been adequate in ensuring that credit cards are used only for legitimate purposes.

- (3) Gold Corporation is not aware of any cases of inappropriate use of credit cards.

- (4) Not applicable.

Office of the Auditor General

- (1) With respect to the Office of the Auditor General, corporate card monthly statements are reconciled with documentation supporting purchases using credit cards and total month to month credit card expenditure is monitored by the Finance and Budget Manager.
- (2) Actions to be taken (under the Public Service Act 1978, the Financial Administration and Audit Act 1985 or the Criminal Code Act Compilation Act 1913) in the event of inappropriate use is explicitly stated in the agreement signed by cardholders at the time of cards being issued.
- (3) No.
- (4) Not applicable.

ELLE MACPHERSON - NEW YORK MEETINGS

482. Hon KEN TRAVERS to the Minister for Tourism:

In relation to the meeting between Elle Macpherson's representatives and Kevin Carton, Simon Walsh for the Western Australian Tourism Commission and Grant Donaldson from the Crown Solicitor's office in New York during August last year -

- (1) What matters were discussed at the meeting?
- (2) Was a record kept of the matters discussed at this meeting?
- (3) If yes, will the Minister table the record?
- (4) Did the Crown Solicitor fly overseas to have discussions with Elle Macpherson's representatives on a previous occasion?
- (5) If yes, when and where did the meeting take place?

Hon N.F. MOORE replied:

- (1) The primary purpose of the August meetings was to negotiate for Ms Macpherson to attend the launch of the Brand WA television commercials in London, to be held 2 September 1997. Ms Macpherson's future commitment to Western Australia was also flagged however due to her pregnancy this was left in abeyance.
- (2) There was no formal record taken.
- (3) Not applicable.
- (4) An officer from the Crown Solicitor's Office, Grant Donaldson, did attend a series of meetings on a previous occasion.
- (5) The meetings were held in New York between 9 and 13 February 1997.

PUBLIC SECTOR MANAGEMENT OFFICE - REDEPLOYEES

506. Hon LJILJANNA RAVLICH to the Minister for Finance representing the Minister for Public Sector Management:

- (1) What is the total number of redeployees currently registered with the Public Sector Management Office?
- (2) Will the Minister for Public Sector Management table a breakdown of the number of redeployees in (1) above by their former employing agency?
- (3) What is the total number of redeployees in the public sector (including internal redeployees)?

Hon MAX EVANS replied:

- (1) 743.
- (2) See paper No 634.
- (3) Formal records are only maintained on public sector employees who are registered for redeployment outside of their employing organisation.

STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT - COMMENTS BY MR BOB STEVENS

544. Hon LJILJANNA RAVLICH to the Minister for Mines:

I have received through an FOI application, a document from the Department of Minerals and Energy, file number 712/97 titled "Standing Committee on Ecologically Sustainable Development" ("ESD") which includes a hand written note by Bob Stevens, Senior Policy Advisor to the Minister that states that the ESD Committee "is all encompassing and powerful - it will probably give us pain in the coming months and years" and ask -

- (1) Will the Minister provide details on the reasons Mr Stevens considers the ESD committee will give the department pain in the coming months and years?
- (2) Does the Government support the comments made by Mr Stevens on his hand written note?

Hon N.F. MOORE replied:

- (1) I am informed that at the time Mr Stevens wrote the note, he considered it probable that the operations of the ESD Committee would amount to an unnecessary duplication of the existing and satisfactorily discharged administrative functions of agencies such as the Departments of Minerals and Energy (DME), Environmental Protection and Conservation and Land Management. Regarding DME in particular, and based on the scant information available about the ESD Committee before it was established, Mr Stevens was concerned that this unnecessary duplication of DME's administrative functions would probably impose an onerous increase in workload on the department for little tangible benefit.
- (2) I share Mr Stevens' view that, wherever possible, duplication of administrative functions should be avoided. It is however pleasing to note that, to date, an increased workload for DME about which he was concerned has not materialised.

FIMISTON TAILINGS DAMS - NOTES IN DEPARTMENTAL FILE

554. Hon GIZ WATSON to the Minister for Mines:

I refer to question on notice 1680 of April 30, 1998 -

- (1) Is the Minister aware that there is a clear indication on mines File 982/93 of who placed the newspaper article (August 17, 1993) with a Mining Engineering Memorandum signed by Mr Jim Boucaut (Regional Mining Engineer, Kalgoorlie) to Assistant Director of the Metalliferous Mining Operations Division ("DOME"), Perth, which states "Attention Hugh Jones... Recent article from *Kalgoorlie Miner* concerning our "FRIEND" Steve Kean?
- (2) Was the Minister correct in providing the answer "yes" to part (1) of question on notice 1680?
- (3) If not, will the Minister apologise to Parliament?
- (4) If so, will the Minister explain why?
- (5) Can the Minister explain why Mr Jim Boucaut, Regional Mining Engineer, used the words "...our FRIEND, Steve Kean" on the Mining Engineering Division Memorandum?

Hon N.F. MOORE replied:

- (1) The letter dated February 9, 1998 signed by Mr Lee Ranford, Director General addressed to Mr Steve Kean was referring to a copy of a newspaper article from the Kalgoorlie Miner of Tuesday August 17, 1993 which is filed at page 292 of Mines File 705/93 and has the following handwritten note on the side of the article:-

Optimum has 2 Directors, one is S Kean and the other is a Fred Holden who is a full time employee of the Water Authority.

At page 1 of Mines File 982/93 is a copy of the same newspaper article but without the handwritten note on the side and at page 2 of the same file is the memorandum signed by Mr Jim Boucaut which the honourable member refers to. There is no indication on either of the two Mines Files mentioned as to who may have made the handwritten note or placed the copy of the article at page 292 of Mines File 705/93.

- (2) Yes.
- (3) Not applicable.

- (4) The information sought does not form part of the records held at the Department of Minerals and Energy.
- (5) Given that Messrs Steve and Ray Kean have sent well over one hundred mostly vitriolic letters to the Department of Minerals and Energy on issues related to the Fimiston I and Fimiston II Tailings dams, I suggest that the particular words were expressed in an almost despairing irony, reflecting what Departmental staff have come to consider is a constant and most unwarranted harassment from these two gentlemen.

MT WALTON TOXIC WASTE DUMP - OPERATION

607. Hon GIZ WATSON to the Minister for Finance representing the Minister for the Environment:

- (1) When was the Mt Walton toxic waste dump established?
- (2) What Government agency established this waste dump?
- (3) What Government agency now operates the Mt Walton site?
- (4) What firms or Government agencies are the new customers of Mt Walton?
- (5) What were the income and expenditure figures for Mt Walton for the last three financial years?
- (6) What agency owns the Mt Walton site?

Hon MAX EVANS replied:

- (1) The Mt Walton East Intractable Waste Disposal Facility (IWDF) received environmental approvals from 1988 and was established as an operational facility in 1992.
- (2) Health Department of WA.
- (3) Waste Management (WA) under Section 110M of the Environmental Protection Act 1986.
- (4) Organisations which have disposed of waste at the IWDF since 1992 are:
 - (i) State Government 1992 and 1994: low level radioactive waste
 - (ii) State Government 1994: arsenical sheep dip; pesticides and household hazardous wastes
 - (iii) State Government 1996: pesticide contaminated soil
 - (iv) State Government 1998: PCB contaminated soil
 - (v) CSBP 1994 - low level radioactive waste industrial equipment
 - (vi) Wesfarmers CSBP Ltd 1998 - arsenic waste
 - (vii) Kanowna Belle Gold Mines, 1997, 1998 - arsenic waste.
- (5) The extraction of the requested financial information will take some time. It will be provided as soon as it is available.
- (6) The Mt Walton site is located on land vested in the Minister for the Environment for its designated purpose. The land will be transferred to Waste Management (WA) shortly.

LEARMONTH AIRBASE - UPGRADE

609. Hon GIZ WATSON to the Leader of the House representing the Premier:

In regard to the \$70m upgrade of Learmonth Airbase situated, 35 km south of Exmouth -

- (1) Could the Premier indicate the intended extent of military presence to be located at the Learmonth Airbase once the upgrade is completed in March 1999?
- (2) What impact will an increase of population and military activity have on the surrounding economy and environment?

Hon N.F. MOORE replied:

- (1)-(2) This matter is one for the Department of Defence and the questions should be referred to the Commonwealth for response.

CONSTRUCTION AND DEMOLITION WASTE, RECYCLING

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

- (1) Is construction and demolition waste the single largest component of the State's waste stream?
- (2) What proportion of construction and demolition waste is currently being recycled in Western Australia?

- (3) How has this proportion changed over the past five years?
- (4) How does this figure compare with the national target for construction and demolition waste?
- (5) What is recycled construction and demolition waste used for in WA?
- (6) Is the Minister for the Environment aware that the Select Committee on Waste Management recommended in 1995 that the State Government should give a high priority to the development of programs to encourage increased CDW recycling?
- (7) Did the Government, in its response to the Select Committee Report dated July 1996, promise that its construction and demolition waste strategy would be implemented by the end of 1996?
- (8) Has this construction and demolition waste strategy been approved and implemented?
- (9) If yes, when?
- (10) If not, why not?
- (11) Did this Select Committee also recommend that building by-laws be amended to allow recycled construction and demolition waste to be used in construction?
- (12) If yes, has this been done?
- (13) Did the Select Committee recommend that Main Roads should explore the possibility of using construction and demolition waste as road base?
- (14) If yes, has this been done?

Hon MAX EVANS replied:

- (1) Construction and demolition waste is estimated to be between 30% and 40% of the total amount of solid waste disposed of to landfill in Perth. Along with organic waste, construction and demolition waste is one of the two largest components of solid waste going to landfill in Perth.
- (2) Not known but estimates put it in the range of more than 5% and probably less than 20% per annum.
- (3) It is estimated that the amount of construction and demolition waste recycled has increased but it is highly variable and dependent on specific projects and the building cycle.
- (4) It is estimated that the recycling rate for construction and demolition waste in Perth is below the national average.
- (5) Construction and demolition waste includes a wide variety of materials each of which may have a range of uses. For example, wood from demolition can be used for fine furniture manufacture or firewood depending on its quality. Mixed rubble (concrete/bricks/sand) which makes up a large proportion of construction and demolition waste is generally used in low value markets such as fill and hardstand.
- (6) Yes.
- (7) In response to the Select Committee Report on Recycling and Waste Management, the Government indicated that a strategy would be planned and approved by the end of 1996.
- (8) No.
- (9) Not applicable.
- (10) A draft strategy was prepared but its development was delayed due to a lack of agreement between stakeholders over how the implementation of the strategy was to be funded. The Government has now resolved this through the introduction and establishment of the landfill levy and State Waste Management and Recycling Fund on 1 July 1998. It is expected that the draft strategy will now be finalised in 1999.
- (11) Yes.
- (12) Generally, no, but some local governments have responded to the Select Committee Report and consultations with Department of Environmental Protection over the Draft Construction and Demolition Waste Management Strategy by amending bylaws particularly in allowing recycled construction and demolition waste to be used in house pads. The Department of Environmental Protection has consulted with the Department of Local Government with respect to the proposed Building Act to provide local governments with powers to make building and demolition licenses subject to appropriate waste management plans.

- (13) Yes.
- (14) Main Roads WA has developed specifications for the use of recycled construction and demolition waste in road base and sub base.

ELLE MACPHERSON ADVERTISING CAMPAIGN, MEETINGS

642. Hon KEN TRAVERS to the Minister for Tourism:

I refer to the Minister's answer to question 354 and ask -

- (1) Who attended the discussions with Elle Macpherson on August 15, 1997?
- (2) Who attended the discussions with Elle Macpherson on August 18, 1997?
- (3) Who raised the possibility of Ms Macpherson doing future work for the Western Australian Government in these discussions?
- (4) Were any notes or minutes taken at or prepared for these meetings?
- (5) If so, will the Minister table them?

Hon N.F. MOORE replied:

- (1) Kevin Carton, Chairman and Simon Walsh, General Manager, National Sales and Marketing, Western Australian Tourism Commission (WATC), Grant Donaldson, Crown Solicitor's Office, Stuart Cameron of Artist management Associates Inc, representing Ms Macpherson and Mark Steverson, Solicitor, of Grubman Indursky and Schindler.
- (2) Kevin Carton, Simon Walsh, Grant Donaldson, Elle Macpherson, Stuart Cameron, Mark Steverson and two additional legal representatives, representing Ms Macpherson.
- (3) The primary purpose of the meetings was to negotiate for Ms Macpherson to attend the launch of the Brand WA television commercials in London, to be held 2 September, 1997. Ms Macpherson's future commitment to Western Australia was also flagged by the WATC, however due to her pregnancy, this was left in abeyance.
- (4) No. There was no formal record taken, but details of the meeting were confirmed in a letter from the Crown Solicitor's Office to Ms Macpherson's lawyers and in a letter from the WATC to the State Supply Commission.
- (5) Not applicable.

RALLY AUSTRALIA

644. Hon KEN TRAVERS to the Minister for Sport and Recreation:

In *The West Australian* of November 7, 1998, Rally Australia Executive Director said that the rally event would generate between \$20m and \$25m for the Western Australian economy (plus television exposure to 700m worldwide) -

- (1) Can the Minister provide a breakdown of the estimated \$20m to \$25m the event would bring the State?
- (2) Can the Minister also explain on what basis the executive director estimated there were 2 500 overseas and 1 500 interstate visitors for the event?
- (3) How many visitor nights does the Minister expect these visitors generated?

Hon N.F. MOORE replied:

- (1)-(2) Not at this stage since the research for the 1998 event has not been collated and submitted to EventsCorp by the independent company conducting the research. However, the basis for the Executive Director of Rally Australia's estimate of \$20 to \$25 million and the number of visitors to the Event is the independent research conducted last year. This measured Rally's economic impact at \$18,892,448 million. The 1998 event has attracted more seeded drivers and larger teams than in any previous year; ticket sales were ahead of last year; and an FIA Rally Commission meeting was held before the event. It is anticipated that these factors will increase the economic impact of the event relative to last year.
- (3) The research of this year's event is currently being finalised. However, research showed there were 134,203 visitor nights generated last year and it is anticipated similar results will be achieved this year.

GOVERNMENT DEPARTMENTS AND AGENCIES, SENIOR OFFICERS' REMUNERATION

651. Hon KEN TRAVERS to the Leader of the House representing the Premier:

With regards to the disclosure of remuneration of Senior Officers in the Notes to Financial Statements of all 1997/98 Government department and agency annual reports -

- (1) What is the definition of a senior officer?
- (2) In all cases, do these figures relate to total remuneration packages, or are there some exceptions?
- (3) Can the Premier state all the agencies and departments which do not present a total remuneration figure in this section of their annual reports?

Hon N.F. MOORE replied:

- (1) Treasurer's Instruction 952 defines a "Senior Officer" in relation to a department or statutory authority as a person, by whatever name called, who is concerned, or takes part, in the management of the department or statutory authority or any subsidiary body or related body of the department or statutory authority and includes the Accountable Officer or members of the Accountable Authority but excludes any person acting in such a position for a limited period.
- (2)-(3) Treasurer's Instruction 952 requires the following to be disclosed by way of note to the financial statements of all government departments and statutory authorities in respect of senior officers -
 - total fees, salaries and other benefits received, or due and receivable, for the financial year; the term "other benefits" means the amount of fringe benefits provided or, for fringe benefits tax exempt entities, the amount that would have been provided had the entity not been exempt;
 - total retirement benefits paid or payable;
 - total contributions paid or payable to the Gold State Superannuation Scheme and the West State Superannuation Scheme;
 - notional contributions payable to the Gold State Superannuation Scheme and the West State Superannuation Scheme where the department or statutory authority does not make concurrent employer contributions; and
 - contributions paid or payable to other superannuation funds.

Accountable Officers and Accountable Authorities are required to comply with Treasurer's Instruction 952 and their financial statements are subject to audit.

ABORTIONS

672. Hon E.R.J. DERMER to the Minister for Finance representing the Minister for Health:

- (1) Since the appointment of a panel of medical practitioners in accordance with section 334 (7) of the *Health Act 1911* how many proposals for an abortion at or after the completion of 20 weeks pregnancy were considered by this panel and not clinically judged by two members of this panel to be justified?
- (2) For what reasons were each of these proposals found not to be justified?

Hon MAX EVANS replied:

- (1) One.
- (2) There was no severe medical condition that, in the clinical judgment of the two members of the panel, justified the procedure.

GOVERNMENT CONTRACTS

676. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) Have any agencies or departments under the Minister for Water Resources' control awarded any contracts to the following companies since July 1, 1996 -
 - (a) Malavoca Pty Ltd; and
 - (b) Hanscom Holdings?

- (2) If yes, can the Minister provide the following details of those contracts -
- (a) the name of the contractor;
 - (b) the contract number;
 - (c) the date it was awarded;
 - (d) the project the contract was awarded for;
 - (e) the cost of the contract;
 - (f) if the contract has been completed, the final cost of the contract; and
 - (g) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) No.
- (2) Not applicable.

OPTIMUM RESOURCES

684. Hon TOM HELM to the Minister for Mines:

I refer to a file note to the Director General dated February 26, 1997 from Mr Hugh Jones, Assistant Director Research and Technical Services -

- (1) Is the statement "the inconvenience referred to in the Minister's letter of 17 September 1993 related to an incident that is purported to have occurred on 15 August 1993 which resulted in bulldozer tracks and mounds of earth which prevented Optimum from using a normal vehicle" truthful and correct?
- (2) If not, why not?

Hon N.F. MOORE replied:

- (1)-(2) The honourable member has raised issues which have been extensively investigated and dealt with in the past. I consider that further expenditure of resources in re-visiting these matters cannot be justified. Any residual concerns that may exist regarding these matters should be referred to the Ombudsman for investigation as this avenue has been established by the Government to address such matters.

HOMESWEST, CONTRACT WITH BGC CONSTRUCTIONS

688. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Housing:

In reference to contracts awarded by Homeswest to BGC Constructions a division of Homestyle Pty Ltd in the Homeswest Mirrabooka region since July 1, 1996 -

Can the Minister for Housing provide the following details of those contracts -

- (a) the contract number;
- (b) the date it was awarded;
- (c) the project the contract was awarded for;
- (d) the cost of the contract;
- (e) if the contract has been completed, the final cost of the contract; and
- (f) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

BGC Construction a division of Homestyle Pty Ltd completes many projects for Homeswest. I do not consider it appropriate for Homeswest to commit the resources required to answer the question in its current form. If the honourable member has a specific question on a construction contract let by Homeswest then I would be prepared to commit the resources to answer the question.

SLUDGE/OIL EXTRACTION PLANT, SUBIACO

690. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) Has the sludge/oil extraction plant at Subiaco been completed?
- (2) If not, when is it expected that construction will be completed and the plant fully commissioned?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) The contract is divided into three portions:
 - (i) Separable portion A (dewatering) is completed and has been satisfactorily commissioned.
 - (ii) Separable portion B (drying and hot gas generator) has been constructed and is currently being commissioned.
 - (iii) Separable portion C (oil from sludge reactor) is under construction.
- (2) Separable portion C will be commissioned and proving period will be completed in August 1999. The final completion date has not changed since acceptance of the tender.

INFILL SEWERAGE PROGRAM, INSPECTORS

691. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:
- (1) Does the Water Corporation employ inspectors or project managers to monitor the work of contractors on the infill sewerage program?
 - (2) If yes, what is the role and function of these inspectors and/or project managers?
 - (3) How often are they expected to visit and monitor the work on site?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) The Corporation engages project managers, contract inspectors and superintendent representatives.
- (2) Project managers manage the overall project, contract inspectors undertake inspection and testing of all works and superintendent representatives undertake construction management and contract administration.
- (3) Project managers inspect the progress of work on a regular basis, usually once a month. Contract inspectors visit the works daily and superintendent representatives generally visit the works two to four times per week.

INFILL SEWERAGE PROGRAM, UNFINISHED CONTRACT

692. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:
- (1) How many contracts for the infill sewerage work have not been completed by the company who was initially awarded the contract in the current and last financial years?
 - (2) Which contracts were they?
 - (3) Have the contracts been given to anyone else to complete, and if so, to whom?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) One.
- (2) Perth 59J.
- (3) Prestige Civil Contractors Pty Ltd.

WATER CORPORATION, CATCHMENT RANGERS

693. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:
- (1) How many catchment rangers did the Water Corporation employ as at June 30 in -
 - (a) 1998;
 - (b) 1997; and
 - (c) 1996?
 - (2) Has the Water Corporation considered increasing the number of rangers?
 - (3) If yes, when and what has been the result?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) (a)-(c) 8.
- (2) No.
- (3) Not applicable.

INFILL SEWERAGE PROGRAM, NUMBER OF CONTRACTS

694. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) How many infill sewerage contracts have been let in -
 - (a) 1998/1999;
 - (b) 1997/1998; and
 - (c) 1996/1997?
- (2) How many of these were let to companies which are quality assured?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) (a) 10 to date.
 - (b) 49.
 - (c) 56.
- (2) Of the 36 companies currently constructing in infill sewerage works, 12 are known to be quality assured.

INFILL SEWERAGE PROGRAM, WATER CORPORATION'S POLICY

695. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) Has the Water Corporation taken any policy decisions to reduce the role their construction branch plays in the sewerage program?
- (2) If yes, what decision was taken?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) No.
- (2) Not applicable.

INFILL SEWERAGE PROGRAM, COMPACTION TESTING

696. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) Is compaction testing a requirement for infill sewerage construction contracts?
- (2) If not, why not?
- (3) If yes, what mechanisms are in place to ensure testing is carried out?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) Yes.
- (2) Not applicable.
- (3) Testing is carried out by the contractor and the results are forwarded to the Water Corporation's superintendent representatives to ensure the required standard is achieved. The Corporation also undertakes the independent testing of the backfill to verify the results forwarded by the contractor.

IRRIGATION CHARGES, GASCOYNE

697. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

Can the Minister for Water Resources explain the reasons for irrigation charges in the Gascoyne region increasing by almost three times the inflation rate in the last five years?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

The charges for Carnarvon, which includes the Gascoyne region, are made up of two components, the charge for the irrigation service and an additional charge to pay for additional bores that were installed to help maintain irrigators' allocations during the drought of 1993/94. Annual increases applied to these charges were required to bring the level of prices closer to the cost of providing the service.

WATER CORPORATION CONTRACTS

698. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) In the current and past financial year, how many contracts awarded by the Water Corporation have been voluntarily surrendered by the contractor?
- (2) In each incidence, what are the details of the contract and contractors?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) None.
- (2) Not applicable.

WATER CORPORATION CONTRACTS

699. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) What requirements does the Water Corporation place on contractors to meet Occupational Health and Safety standards?
- (2) What checks are carried out to ensure that the Occupational Health and Safety standards are being met?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) The contractor is required to comply with the provisions of all Acts of Parliament of the Commonwealth and State of Western Australia and with the requirements of all subsidiary legislation and other ordinances, orders, codes of practice and any proclamations made or issued under any such Act. In addition the contractor must adhere to the lawful requirements of any governmental or public body or authority of any kind whatever in any way affecting or applicable to the performance of the contract. The contractor is required to use its best endeavours to ensure that its personnel duly and punctually observe, perform and comply with the provisions of the Occupational Safety and Health Act 1984 and all material regulations, notices, prohibition notices and codes of practice (if any) issued under it and having application to the contract as well as comply with the requirements of the principal's Occupational Safety and Health Policy. The contractor must complete, and provide with its tender, an occupational health and safety questionnaire which is then evaluated by the Tender Evaluation Committee during the analysis of the tender.
- (2) The Superintendent or his/her representatives monitor the contractor's safety standards and work practices and have the power to suspend the work under the contract if the contractor is found to be derelict in the performance of its duty with relation to the above cited Acts.

WATER CORPORATION, MANAGEMENT FUNCTIONS

700. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) Has the Water Corporation received any requests seeking to take over the management of functions currently provided internally?
- (2) If yes, by whom and for what areas have requests been made?
- (3) Has any decision been made regarding these requests?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) No.
- (2)-(3) Not applicable.

WATER CORPORATION CONTRACTS

701. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) Do any of the contracts issued by the Water Corporation require companies to -
 - (a) be quality assured;
 - (b) meet occupational health and safety standards; and
 - (c) make provision for trainee positions?
- (2) If yes, for which areas and how many contracts issued have these requirements?
- (3) What checks or mechanisms are in place to ensure contractors comply?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) (a)-(b) Yes.
(c) No.
- (2) The Water Corporation's requirement for quality assurance is dependent on the complexity and type of contract (eg. construction works, infill sewerage program contracts or supply of goods). If quality assurance is required as a condition of tender, tenderers are required to meet the standard of quality assurance stated in the tender. Depending on the nature of the goods and services being tendered for by the Corporation, varying levels of occupational health and safety standards are required. At a minimum, all contracts require the contractor to comply with the Western Australian Acts and Regulations including the Occupational Safety and Health Act 1994 and all material regulations, notices, prohibition notices and codes of practice (if any) issued under it, as well as complying with the requirements of the Corporation's Safety and Health Policy.
- (3) Contractors are required to complete an occupational health and safety questionnaire and supply details of the level of quality assurance attained. Once the contract is in place, the contractor is required to complete quality assurance forms during the period of the contract. Superintendents or their representatives monitor the contractor's safety standards and work practices and have the power to suspend the work under the contract if the contractor is found to be derelict in the performance of its duty in relation to the above cited Acts. Superintendents or their representatives also carry out on-site audits and tests (including compaction, pressure and alignment testing) while the work under the contract is in progress and ensure that the contractor complies with all provisions required by the principal.

HARVEY DAM

702. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

I refer to the proposal to build a new Harvey Dam and ask -

- (1) What is the estimated cost for its construction?
- (2) What is the current estimated cost per kilolitre of water for Perth from the Harvey Dam?
- (3) What is the expected capacity of the dam on which these figures are based?
- (4) What volume of water from the dam is expected will be used by local irrigation schemes?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) The preliminary estimated cost for the construction of the new Harvey Dam scheme is \$110 million (this does not include the trunk main connection to Perth).
- (2) The new Harvey Dam will not be used for water supply to Perth. The new Harvey Dam will be used exclusively for irrigation supply. Construction of the new dam will allow public water supplies to be drawn from the existing upstream Stirling Dam. The estimated cost per kilolitre of water supplied to Perth from the Harvey/Stirling scheme is around \$0.30 (source cost only).
- (3) 60 million kL.
- (4) Up to 57 million kL.

INFILL SEWERAGE PROGRAM, SIZE OF CONTRACTS

704. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) Has the Water Corporation ever considered what size infill sewerage contracts need to be to make it viable for companies which are quality assured to tender?
- (2) Does the Water Corporation ever take this into consideration when determining the size of contracts to be let?
- (3) If yes, what contracts have been issued on this basis?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) Yes.
- (2) No.
- (3) Not applicable.

INFILL SEWERAGE PROGRAM, CONTRACT VARIATIONS

705. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

- (1) How many infill sewerage contracts have resulted in the contractor being paid more than the price at which the contract was originally tendered?
- (2) In each instance, what is -
 - (a) the name of the contractors;
 - (b) the amount paid to the contractors;
 - (c) the amount for which the contract was originally awarded; and
 - (d) the reason for the variations?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) The majority of contracts have variations to the contract sum. If it is a schedule of rates, the contractor is paid for the total work done at the contracted rates. If it is a lump sum contract, variations are issued for such things as changes in contract scope and when site conditions vary from that expected.
- (2) A list of contractors cannot be provided, however, variations are overall less than 5% of contracted prices.

HORIZON MINING NL

707. Hon GIZ WATSON to the Minister for Mines:

I refer the Minister to the Deed of Release (August 8, 1995) between the Minister for Mines and Horizon Mining NL, Money Mining NL and Allen John Maynard, in relation to native title indemnity. Given that Horizon Mining NL is identified being registered with the Australian Securities Commission as ACN 009 153 119 in the agreement, I ask-

- (1) Is the part of the agreement ascribed to Horizon Mining NL affected or nullified by the fact that ACN 009 153 119 referred to in the Deed is assigned to a different company (Striker Resources NL)?
- (2) Why has such a simple mistake been made in the ratification of such an important document to the State?
- (3) If this is not a mistake, why is Striker Resources NL, not identified in the Deed?

Hon N.F. MOORE replied:

- (1) According to advice from the Crown Solicitor's Office, the fact that the deed states the incorrect Australian Company Number for Horizon Mining NL does not in any way affect the validity of the deed or its enforceability against Horizon Mining NL

- (2) The mistaken use of an incorrect ACN was an oversight by the company's solicitors.
- (3) Not applicable.

HOMESWEST, NEW LIVING AND JOINT VENTURE CONTRACTS

712. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Housing:

- (1) How many New Living project management and/or joint venture contracts have been awarded and/or entered into by Homeswest?
- (2) For each project, can the Minister for Housing state -
 - (a) the project the contract was awarded for;
 - (b) the name of the builder;
 - (c) the cost of the contract;
 - (d) the date the contract was awarded; and
 - (e) the names of any other companies which tendered for the contract?

Hon MAX EVANS replied:

- (1)-(2) The New Living Programme includes many contracts and it is not practical for Homeswest to commit the resources required to answer the question in its current form. If the honourable member has a question about a specific contract then I would be prepared to commit the resources to provide an answer.

ABORTIONS

732. Hon N.D. GRIFFITHS to the Minister for Finance representing the Minister for Health:

With respect to the answers provided to question on notice 558 and Section 334(7) of the *Health Act 1911* -

- (1) Why is it not appropriate for the names of the medical practitioners appointed on July 27, 1998 to be provided?
- (2) With respect to the abortions performed, why is it not appropriate for the severe medical condition to be disclosed and why is it not appropriate for it to be disclosed whether in each case the severe medical condition was with respect to the mother or the unborn child?

Hon MAX EVANS replied:

- (1) It is in the public interest that this information remains confidential.
- (2) It is not appropriate for the information requested to be provided as it may breach the duty of confidentiality owed to the female patients.

ABORTIONS

733. Hon N.D. GRIFFITHS to the Minister for Finance representing the Minister for Health:

- (1) Were any abortions carried out at King Edward Memorial Hospital between May 25, 1998 and the appointment of a panel pursuant to section 334(7) of the *Health Act 1911* on July 27, 1998?
- (2) If so, how many?
- (3) If so, in each case -
 - (a) when;
 - (b) what was the reason for the procedure;
 - (c) was there any severe medical condition used to justify the procedure; and
 - (d) was such severe medical condition with respect to the mother or the unborn child?

Hon MAX EVANS replied:

- (1) Yes.

- (2) Seven.
- (3) It is not appropriate for the information requested by questions (a)-(d) to be provided as it may breach the duty of confidentiality owed to the female patients.

CONSOLIDATED GOLD NL, DEED OF RELEASE AND INDEMNITY

741. Hon GIZ WATSON to the Minister for Mines:

In respect of the Deed of Release and Indemnity between the State of Western Australia and Consolidated Gold NL -

- (1) What is the status of that deed in relation to Consolidated Gold NL as Consolidated Gold NL is now under the external administration of B Hughs for Ross Norgard?
- (2) What is the status of that deed in relation to the tenements 30/1333, 30/1336 (dead) and 30/131 and 30/132, the later two now held by Davey Hurst Mining?
- (3) What are the implications of section 14 of the deed in relation to either Aberfoyle Gold Limited or Davey Hurst Mining?

Hon N.F. MOORE replied:

- (1) The Deed continues to be valid and binding upon Consolidated Gold NL.
- (2) The Deed does not apply in relation to expired Gold Mining Leases 30/1333 and 30/1336. Mining Leases 30/131 and 30/132 are still held by Consolidated Gold NL. The Deed continues to be valid and binding upon Consolidated Gold NL in respect of Mining Leases 30/131 and 30/132.
- (3) Aberfoyle Gold Limited may become the holder of Mining Lease 30/132 subject to Aberfoyle Gold Limited releasing and indemnifying the State and the Minister for Mines in similar terms to the terms contained in the Deed. If Davey Hurst Mining is the nominee of Aberfoyle Gold Limited it could become the holder of the lease in the same way.

COCKBURN SOUND, WASTE WATER DRAINAGE

747. Hon J.A. SCOTT to the Minister for Finance representing the Minister for Water Resources:

- (1) Is the Minister for Water Resources aware that the Water Corporation proposes, under the Southern Lakes Drainage Scheme and Thomsons Lake Branch Sewer, to discharge drainage water into Cockburn Sound?
- (2) What quantity of waste water is to be discharged into Cockburn Sound?
- (3) From what surface areas will the runoff water come ?
- (4) Where in Cockburn Sound will the waste water be discharged?
- (5) What investigations were done into re-use of this water by industry and will the Minister table that research?

Hon MAX EVANS replied:

The Minister for Water Resources has provided the following response:

- (1) Yes. The purpose of the Southern Lakes Draining Scheme is to protect the Beeliar chain of wetlands from the environmental impacts of urban development to the east. A section of the proposed Thomsons Lake Branch Sewer is being brought forward for construction, as part of the drainage works, to minimise the impact of construction within the Beeliar Regional Park.
- (2) The quantity of drainage water, not wastewater, that will be discharged into the Sound in any particular year is highly variable, as it will depend on seasonal rainfall and groundwater levels.
- (3) The drainage water will come from urban development in the Thomsons Lake urban area and existing urban land to the east of Yangebup Lake. This area generally extends east of Thomsons Lake to near Liddelow Road, north of the railway line and south to Wattleup/Rowley Roads.
- (4) The drainage water will discharge via the existing emergency outfall from Woodman Point which extends 1.6km out of Cockburn Sound.
- (5) The alternative options for reuse of this water are not particularly viable due to high costs and the highly variable flow rate of the discharge water. The report is not a public document but I can arrange for the Water Corporation to brief the member on its content.

GOVERNMENT CONTRACTS

774. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Lands:

- (1) Have any agencies or departments under the Minister for Lands' control awarded any contracts to Direct Drainage or Georgiou Corporation since July 1, 1996 -
- (2) If yes, can the Minister provide the following details of those contracts-
 - (a) the name of the contractor;
 - (b) the contract number;
 - (c) the date it was awarded;
 - (d) the project the contract was awarded for;
 - (e) the cost of the contract;
 - (f) if the contract has been completed, the final cost of the contract; and
 - (g) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

LANDCORP

- (1) Yes.
- (2) Details of the contracts are tabled. [See paper No 635.]

DOLA

- (1) No.
- (2) Not applicable.

GOVERNMENT CONTRACTS

775. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Works:

- (1) Have any agencies or departments under the Minister for Works' control awarded any contracts to Direct Drainage or Georgiou Corporation since July 1, 1996 -
- (2) If yes, can the Minister provide the following details of those contracts-
 - (a) the name of the contractor;
 - (b) the contract number;
 - (c) the date it was awarded;
 - (d) the project the contract was awarded for;
 - (e) the cost of the contract;
 - (f) if the contract has been completed, the final cost of the contract; and
 - (g) the names of any other companies who tendered for the contract?

Hon MAX EVANS replied:

This information was correct as at 14 December 1998:

- (1) None of the agencies within the portfolios of Works; Services; Youth; Citizenship and Multicultural Interests has awarded any contracts to Direct Drainage or Georgiou Corporation since July 1, 1996.
- (2) Not applicable.

QUESTIONS WITHOUT NOTICE**VACATION SWIMMING CLASSES, REDUCTION IN ACCESS AND INCREASED COST****763. Hon TOM STEPHENS to the Leader of the House representing the Minister for Commerce and Trade:**

I refer the minister to government plans to contract out vacation swimming classes and ask -

- (1) Has the minister sought assurances from the Minister for Education that access to Vacsxim classes in country areas will not be reduced and that lesson costs in these areas will not rise as a result of the program being contracted out?
- (2) If yes, what is the nature and extent of these assurances given by the minister?
- (3) If no, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(3) This matter is in the hands of the Minister for Education and questions should be directed to him. The Minister for Commerce and Trade is sure that the minister will take into account the needs of regional students as he is very conscious of the importance of meeting those needs.

NEW WOOROLOO PRISON, TENDER PROCESS**764. Hon TOM STEPHENS to the Attorney General:**

- (1) Has the public sector been excluded from the tender process for the new prison at Wooroloo?
- (2) Will the minister confirm that all documents relating to the tender process will be made publicly available?
- (3) Will the minister table in Parliament the expressions of interest document and purchasing brief?
- (4) If no, why not?

Hon PETER FOSS replied:

- (1)-(4) The public sector has been excluded from the design and construction of the Wooroloo prison. It is the only part that is currently out for tender and acceptance. We will receive information on the operation and management, but a decision will not be made until later about whether the public sector will be allowed into it. I will not table the documents. I cannot believe that the Leader of the Opposition expects me to table documents during the negotiating process for the construction of a prison. We hope to have the utmost in competition between the tenderers and providing that document publicly would not assist us in that process. It would be quite the reverse in the public interest. No doubt the Leader of the Opposition would have read the request for proposals which I have tabled in this House. He will obtain all the information he needs to know about the nature of what we are asking. If we accept a tender, we will make clear the terms of that tender. However, the disclosure of the earlier information would not be in the public interest. It will soon be seen whether the public sector will be able to compete with that and it will be interesting to note. We know the problems involved with the Government's designing and constructing a prison from the experience at Casuarina Prison which was a disaster in design and cost.

LOT 54 GREAT EASTERN HIGHWAY, GUILDFORD**765. Hon N.D. GRIFFITHS to the Attorney General representing the Minister for Planning:**

- (1) Is an application for development of land at lot 54 Great Eastern Highway, Guildford under consideration by the Minister for Planning or his staff?
- (2) What is the status of the application?
- (3) Who is the applicant?
- (4) How does the application relate to the Shire of Swan town planning scheme No 9, planning amendments Nos 343 and 345?
- (5) What is the status of those planning amendments?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) No.
- (2)-(4) Not applicable.
- (5) Consent was granted by the Western Australian Planning Commission to the Shire of Swan to advertise proposed amendment 343 for public inspection for a period of 42 days from 10 November to 22 December 1998. After the close of advertising, any submissions received will be considered by the Shire of Swan. The shire's recommendation on the amendment will be forwarded to the Western Australian Planning Commission for recommendation to the Minister for Planning for final determination.

WESTERN POWER, DARK SMOKE EMISSIONS

766. Hon GIZ WATSON to the minister representing the Minister for the Environment:

With regard to the Esperance power generation site -

- (1) Did the investigation undertaken by the Department of Environmental Protection on 24 November 1998 find that Western Power had breached its licence with regard to the level of dark smoke emissions, as identified under Australian Standard 3543-1989 of the Australian miniature smoke chart?
- (2) If yes, what action will the minister take?
- (3) If no, why did the Department of Environmental Protection write to Western Power on 3 December 1998, asking Western Power to investigate its fuel burn management system and to take the necessary action to minimise its dark smoke emissions?

Hon MAX EVANS replied:

I thank the member for some notice of this question. It is not possible to provide the information in the time required, and I request that the member place the question on notice.

REGIONAL FOREST AGREEMENT, MINISTER'S SUBMISSION TO CABINET

767. Hon NORM KELLY to the minister representing the Minister for the Environment:

- (1) Has the Minister for the Environment presented a summary of public submissions on the Regional Forest Agreement to the Cabinet?
- (2) If yes, when did ministers receive this summary?
- (3) Will the minister ensure that the summary is available to the public prior to the signing of the RFA?
- (4) If not, will the minister explain why ministers will shortly receive a summary of submissions, but the public must wait until after the RFA is signed?
- (5) Does this early release of a summary to ministers contradict the response to part (4) of question without notice 473, asked on 17 November?
- (6) Is the RFA still due to be signed on the morning of "as soon as possible"?

Hon MAX EVANS replied:

I do not have the answer to that question at the moment. I understand that three are still on their way to me, and that might be one of them.

AQUACULTURE LICENCES, ALBANY

768. Hon MURIEL PATTERSON to the minister representing the Minister for Fisheries:

- (1) How many marine-based aquaculture licences have been issued in the Albany harbours and King George Sound?
- (2) Where are the sites located and what species are involved?
- (3) How many applications for marine-based aquaculture licences in the Albany harbours and King George Sound are under consideration?
- (4) Where are the proposed sites located and what species are involved?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) Three licences, incorporating seven marine-based aquaculture sites, have been issued in the Albany harbours and King George Sound area.
- (2) Three sites are located in Oyster Harbour for the culture of flat oysters, western rock oysters and blue mussels. Two sites are located around Mistaken Island in King George Sound for the culture of blue mussels. One site is located in Shoal Bay, Princess Royal Harbour for the culture of flat oysters, blue mussels and western rock oysters. The last site is located in the south east corner of King George Sound, from Water Bay Point to Limestone Head, for the culture of scallops, blue mussels, western rock oysters and flat oysters.
- (3) Fisheries WA is considering three aquaculture licence applications for sites within the area. The member should be aware that from December 1997, all applications for aquaculture authorisations in coastal waters are assessed taking into account ministerial policy guideline No 8 - "Assessment of applications for authorisations for Aquaculture and Pearling in coastal waters of Western Australia". Details of all applications are forwarded to relevant decision-making authorities, involved agencies and community and interest groups. A 60-day public comment period is also provided for new applications. Approval from other relevant authorities is required before the Executive Director of Fisheries WA can issue an aquaculture licence.
- (4) The three proposed aquaculture licence sites are located to the north and south of Mistaken Island, which lies to the east of Vancouver Peninsula in King George Sound. Two of the applications are for the culture of abalone and mussels, and the third is for mussels only.

OLD BUNBURY RAILWAY STATION, SALE

Hon KIM CHANCE to the Minister for Transport:

- (1) Has the site of the old Bunbury railway station bounded by Picton Road, Sandridge Road and Forrest Avenue been sold or committed to a contract of sale?
- (2) If so, was the sale preceded by a public tender process?
- (3) Had a prior undertaking been reached with the Bunbury City Council on the future ownership of land?
- (4) Was the city council offered the land prior to the sale?
- (5) If so, when was this offer made?
- (6) How much was paid for the land?
- (7) Who bought the land?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1)-(7) The old Bunbury railway station was passed to the City of Bunbury as part of the redevelopment of the area in the mid-1980s. I understand that the station building is now used as a tourist bureau and bus station. The land bounded by Picton Road, Sandridge Road and Forrest Avenue forms part of the old railway reserve which was subject to the Railways Discontinuance Act. The land was converted to freehold title and lots 850 and 851 were created and subsequently put to auction on 28 August 1998. Lot 850 sold at auction to a consortium comprising Newbon Nominees, Thorndale Holdings, Les Pike Ltd and Stannan Pty Ltd for \$650 000. Lot 851 failed to reach the reserve price at auction and was passed in. Negotiation with the highest bidder secured the sale to Prosser Management for \$370 000. Valuations for the lots were approved by the Valuer General. Moneys from the sale of both lots were used to retire debt.

JOONDALUP HEALTH CAMPUS, SUPPLEMENTARY FUNDING

769. Hon KEN TRAVERS to the minister representing the Minister for Health:

In relation to the Joondalup Health Campus -

- (1) Did the Joondalup Health Campus seek supplementary funding in 1997-98?
- (2) If yes, why?
- (3) How much extra funding did it seek from the Government?
- (4) How much extra funding was it given?
- (5) When was this funding provided?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Negotiations between the Health Department of Western Australia and the Joondalup Health Campus covered the requirements for additional funding for 1997-98.
- (2) Increased services were part of the planned upgrade of services at Joondalup.
- (3) Negotiations did not revolve around Joondalup seeking funds, rather on HDWA making an offer based on its assessment of the service requirements in accordance with the contract.
- (4)-(5) Treasury provided \$13.9m supplementation for Joondalup in 1997-98. Of this, \$2.4m related to a commitment to payment of the availability charge. The residual \$11.5m was paid to Joondalup for actual increased service delivery in accordance with the contractual requirements.

BENNETT HOUSE, DEMOLITION

770. Hon HELEN HODGSON to the Leader of the House representing the Premier:

In respect of the demolition of Bennett House by the East Perth Redevelopment Authority -

- (1) In what circumstances are Aboriginal sites registered under the Aboriginal Heritage Act subject to the procedures of the Native Title Act?
- (2) Was Bennett House located on any of crown land, Aboriginal reserve or Aboriginal Lands Trust land?
- (3) Are there any native title claims over the land on which Bennett House was situated?
- (4) Were the requirements of the Native Title Act complied with?
- (5) What would be the effect of non-compliance with the Native Title Act on the validity of the title of land now being offered for sale by the EPRA?

The PRESIDENT: The last part of the question is out of order as it seeks a legal opinion, and the early part went close to being out of order.

Hon N.F. MOORE replied:

I will provide answers for parts (1) to (3) only, because the answer to (4) and (5) is combined and I cannot give an answer to (4) independently of (5).

- (1) Aboriginal sites are subject to the procedures of the Aboriginal Heritage Act, not the Native Title Act.
- (2) Bennett House was located on a reserve set aside for the purpose of "hostel" under the care, control and management of the Aboriginal Lands Trust.
- (3) Yes.

RAILWAY SLEEPERS

771. Hon CHRISTINE SHARP to the Minister for Transport:

How does the minister reconcile Westrail's decision to build 135 000 railway sleepers from native forest timber with the recent statements of the minister's party and the Environmental Protection Authority on the need to reduce the use of native forest timbers to sustainable levels?

Hon M.J. CRIDDLE replied:

My understanding of the wood that is used for sleepers is that it is second grade timber and is used in that context.

Hon Bob Thomas: That is not true. You would not use an inferior product.

The PRESIDENT: Order! Hon Bob Thomas has his name on the list.

BUNBURY REGIONAL HOSPITAL, ELDERLY PATIENTS POLICY

772. Hon J.A. COWDELL to the minister representing the Minister for Health:

- (1) Has the Bunbury Regional Hospital adopted a new policy on nursing home-type patients under which elderly patients who are not returning home have to nominate four nursing homes of their choice?

If yes -

- (2) Will elderly patients be placed in nursing homes outside the Bunbury area?
- (3) Is this new policy a result of the short supply of nursing home beds in the Bunbury area?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1) Yes. Patients are asked to nominate four nursing homes in Bunbury or the surrounding district.
- (2) Yes. However, it is possible to transfer to a preferred location when a vacancy is available.
- (3) Waiting lists vary. This year, there have been vacancies in Bunbury nursing homes, at other times waiting lists.

AUDITOR GENERAL'S REPORT, 2000 COMPUTER PROBLEM

773. Hon E.R.J. DERMER to the Leader of the House representing the Deputy Premier:

I refer to the Auditor General's December 1998 report on Audit Results 1997-98, which stated that three of the sampled Western Australian government agencies have indicated that their current funding is insufficient for addressing the 2000 computer problem.

- (1) Is the Deputy Premier concerned at this finding of the Auditor General?
- (2) Which are the three government agencies referred to in this finding of the Auditor General?
- (3) How much extra funding is required by each of these three government agencies to allow them to adequately address the 2000 computer problem?
- (4) When will the required extra funding be made available to these three government agencies?
- (5) What action does the Deputy Premier propose to ascertain which of the government agencies which were not included in the Auditor General's sample of 35 agencies also need extra funding in order to be able to adequately address the 2000 computer problem?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) It is not surprising that agencies are still identifying the full costs of remediation; consequently, it has not been possible for them to adequately budget for this contingency.
- (2)-(3) The Auditor General does not report individual agency names in reporting on this type of investigation. The Auditor General is an independent officer who reports directly to the Parliament. I suggest that the member seek the answer to his question during the estimates debate or via the relevant parliamentary committee.
- (4)-(5) This is a matter for each agency's CEO in terms of reallocating existing funds or applying to Treasury for supplementary funds. However, the Department of Commerce and Trade will continue to undertake a central coordination role as described by the Auditor General in his report to which the member refers.

ROAD MAINTENANCE, RISK MANAGEMENT PLAN

774. Hon LJILJANNA RAVLICH to the Minister for Transport:

I refer to page 11 of the position paper entitled "10 Year Contracting Strategy Road Maintenance", and ask -

- (1) Can the minister identify the potential risks identified with regard to the 10-year contracting strategy for road maintenance?
- (2) Will the minister table the risk management plan?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) Yes. The potential risks have been identified and have been documented in a paper entitled "Risk Management Plan - Performance Specified Maintenance Contracts" dated April 1998.
- (2) I seek leave to table the risk management plan.

Leave granted. [See paper No 632.]

BOAT DRIVERS LICENCES

775. Hon TOM HELM to the Minister for Transport:

Last week the minister said he was not aware that the Government had announced that boat drivers would face tough licensing tests under a state government plan to cut dangerous incidents on Western Australian waters. I ask the minister to explain the report in *The West Australian* of 7 January 1998 which stated -

Boat drivers will face tough licensing tests and compulsory maritime safety training for the first time under a State Government plan to cut dangerous incidents on WA waters.

The Transport Department confirmed yesterday it expected to have a licence system for recreational boat and jet-ski drivers next year.

Hon M.J. CRIDDLE replied:

I will have to take that question on notice because I am unaware of the article.

WATER SUPPLIES, FLUORIDE

776. Hon RAY HALLIGAN to the minister representing the Minister for Water Resources:

Does water for the Perth metropolitan area that is drawn from bores have fluoride added to it or is that practice limited to water provided from dams?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

Fluoride is dosed at all surface water and groundwater treatment plants in the metropolitan area. Fluoride is not added to the independent artesian bores in the metropolitan area. This is in accordance with the requirements of the Fluoridation of Public Water Supplies Act. The independent artesian bores contain a certain amount of natural fluoride and when this water is mixed with the other treated waters, the resultant fluoride levels are still within the fluoridation Act's requirements.

SOUTH WEST HEALTH CAMPUS, BEDS

777. Hon BOB THOMAS to the minister representing the Minister for Health:

In relation to the new South West Health Campus -

- (1) How many beds will be available to the new public hospital in the following wards -
 - (a) medical;
 - (b) surgical;
 - (c) psychiatry;
 - (d) paediatrics; and
 - (e) intensive care?
- (2) If there is variance between those numbers and those agreed to under the Memorandum of Understanding and Combined Facilities Agreement of March 1996, can the minister explain why?

Hon MAX EVANS replied:

I thank the member for some notice of this question. I ask that the question be placed on notice.

RIPON HILLS ROAD, JOINT VENTURE DOCUMENT

778. Hon JOHN HALDEN to the Minister for Transport:

In relation to Ripon Hills Road, is the minister prepared to release the document on the joint venture between Main Roads and the East Pilbara mineral group as announced in December 1996? If not, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. I have just had this paper put on my desk and I would like to go through it before I table it. If the member is happy with that, perhaps I will table it tomorrow.

SAVE OUR CENTURY CAMPAIGN, GOVERNMENT CONTRIBUTION

779. Hon CHERYL DAVENPORT to the Minister for the Arts:

How much is the State Government contributing to the Save Our Century campaign?

Hon PETER FOSS replied:

The Save Our Century campaign is not exactly a straight-out donation fund. The campaign works by individuals commissioning certain projects; that is, projects that are of interest to them. The Save Our Century campaign will be putting a proposal to various government bodies, in the same way it has to other bodies, that they commission a particular study. I do not believe that any government body has been approached yet with such a proposition. However, I hope they will be approached and I hope they will contribute.

BANDYUP WOMEN'S PRISON, BEDS

780. Hon N.D. GRIFFITHS to the Minister for Justice:

With respect to Bandyup Women's Prison -

- (1) What was the muster yesterday?
- (2) How many prisoners were provided with beds last night as distinct from mattresses on the floor?
- (3) Can the minister assure the House that by the end of this week every prisoner will be provided with a bed?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) 144 as of 14 December 1998.
- (2) 125.
- (3) Twenty minimum security prisoners have been identified for placement at Nyandi Prison and this will be achieved by the end of this week.

DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT, RESPONSE TO EPA BULLETIN 912

781. Hon NORM KELLY to the minister representing the Minister for the Environment:

Some notice of this question has been given. I refer to question without notice 747 of 10 December and the Department of Conservation and Land Management's response to the Environmental Protection Authority's Bulletin 912.

- (1) From whom did CALM receive legal advice?
- (2) Has the Minister for the Environment received legal advice on her non-compliance with ministerial condition 13.1?
- (3) If so, from whom?
- (4) Has the Minister for the Environment received a request to make a determination to ensure compliance with ministerial condition 13.1?
- (5) Will the minister ensure that she does make a determination to guarantee compliance with ministerial condition 13.1?
- (6) If not, why not?

Hon MAX EVANS replied:

Providing the information in the time available is not possible, and I request that the member place the question on notice.

DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT, RETENTION OF TREES

782. Hon NORM KELLY to the minister representing the Minister for the Environment:

- (1) Has the Minister for the Environment presented a summary of Regional Forest Agreement public submissions to the Cabinet?
- (2) If yes, when did the minister receive this summary?
- (3) Can the minister ensure that the summary is available to the public prior to the signing of the RFA?
- (4) If not, will the minister explain why ministers will be receiving a summary of submissions shortly, while the public will have to wait until after the RFA is signed?

- (5) Is this early release of a summary to ministers in contradiction of the response to part (4) of question without notice 473 on 17 November?
- (6) Is the RFA still due to be signed on the morning of "as soon as possible"?

Hon MAX EVANS replied:

- (1) No.
- (2)-(5) Not applicable.
- (6) Yes.

ORD RIVER IRRIGATION AREA, DDT

783. Hon GIZ WATSON to the minister representing the Minister for the Environment:

Some notice of this question has been given. I refer to a report funded by and prepared for the Water Corporation of Western Australia entitled "A short-term assessment of point source pollution in the M1 irrigation supply channel with notes on agricultural discharge into the lower Ord River". Pages 51 and 52 refer to the presence of DDT residues. Can the Minister for the Environment guarantee that DDT is not being used in the Ord River irrigation area? If not, why not?

Hon MAX EVANS replied:

Providing the information in the time available is not possible, and I request that the member place the question on notice.

HEALTH PRACTITIONERS LEGISLATION

784. Hon KIM CHANCE to the minister representing the Minister for Health:

Some notice of this question has been given. I refer to the need to lodge public submissions on the review of the Western Australian health practitioners' legislation under the national competition policy agreement.

- (1) Why has the time for submissions effectively been limited to three weeks, given that the national competition policy agreement was enacted in 1995?
- (2) Does the minister expect the professional associations and bodies to comply with the NCP guidelines in the time frame when the terms of reference for the review clearly identify a number of criteria that required in-depth examination and response?
- (3) Is the minister prepared to extend the review time to 31 January 1999 to enable these bodies to submit a proper and thorough submission ensuring coverage of all aspects of the terms of reference as required under NCP guidelines?

Hon MAX EVANS replied:

- (1) The timetable for submissions is in accordance with the timetable for Western Australia to meet its legislative review obligations under the national competition policy. There has been over six weeks for the consultation period.
- (2) Yes; professional associations and bodies have been aware of the NCP issues for some time.
- (3) There is some flexibility in the due date for the provision of submissions in relation to the review as the panel will be reviewing the submissions over January.

WATER SUPPLY, NEW SOURCES

785. Hon KEN TRAVERS to the minister representing the Minister for Water Resources:

I ask this question on behalf of Hon John Halden, who has been called away from the Chamber. Some notice of the question has been given.

- (1) What new sources have been added to Perth's water supply in the past two years?
- (2) What new sources are planned to be added to Perth's water supply in the next two years?
- (3) What is the expected annual yield for each of the above sources?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Minister for Water Resources has provided the following response -

(1)-(3)

New sources added in last two years	Annual Yields - Gigalitres	
	Short term	Long term
Pinjar ground water scheme stage 2.1	7.8	7.8
Melville artesian bore	2	2
Lower South Dandalup pumpback	5.4	5.4
Neerabup ground water scheme stage 1	7.8	7.8
New sources planned in next two years		
Neerabup stage 2	16	16
Yarragadee expansion scheme	10	10
Lexia ground water scheme	11.8	11.8
Harris dam pumpback	20	5

AUDITOR GENERAL'S REPORT, 2000 COMPUTER PROBLEM

786. Hon E.R.J. DERMER to the Leader of the House representing the Deputy Premier:

I refer to the Auditor General's December 1998 report on audit results for 1997-98 which stated that four of the sampled Western Australia government agencies had not completed inventories of assessment of year 2000 computer problem risk to systems and equipment -

- (1) Is the Deputy Premier concerned at this finding of the Auditor General?
- (2) Does the Deputy Premier assess the completion of such inventories to be an essential and rudimentary requirement for government agencies?
- (3) Which government agencies have not completed such inventories?
- (4) What action does the Deputy Premier propose to ensure that all government agencies expeditiously complete such inventories?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The member has misinterpreted the Auditor General's report. The report states that four of the sampled agencies had not completed inventories of systems and equipment. The report did not state that agencies had not completed inventories of assessment of year 2000 computer problem risk to systems and equipment. Those are very different activities. Inventories of systems and equipment are ongoing. The Department of Commerce and Trade monitors agencies' progress on a quarterly basis and it was not expected that all agencies would have completed all systems and equipment inventories by this time.
- (2) Yes.
- (3) The Auditor General does not provide individual agency names in reporting on that type of investigation. The Auditor General may be able to provide that information.
- (4) The Department of Commerce and Trade will continue to monitor agency progress so that the agencies and their ministers can take appropriate action. The responsibility for remediation resides with the chief executive officers of the agencies and forms part of the CEOs' performance agreements. The Department of Commerce and Trade is seeking funds to undertake an independent appraisal of the efficacy of key agencies' remediation plans.