WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE ASSEMBLY

Thursday, 13 November 1997

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 10.00 am, and read prayers.

PETITION - ACTS AMENDMENT (SEXUALITY DISCRIMINATION) BILL

MR BAKER (Joondalup) [10.04 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned, beseech the Parliament of Western Australia to REJECT the Acts Amendment (Sexuality Discrimination) Bill 1997 and any other legislation which will have the effect of:
>
> 1. Condoning or permitting the unnatural act of sodomy to be perpetrated upon 16 year old boys;
>
> 2. directly or indirectly, legalising paedophilia under the guise of Anti-discrimination Legislation; or
>
> 3. directly or indirectly facilitating the promotion of homosexuality in schools;
>
> and we endorse the stance in response to this Bill taken by the Most Reverend B.J. Hickey, Catholic Archbishop of Perth.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 35 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 109.]

LOCAL GOVERNMENT (POLITICAL DONATIONS AND ELECTORAL EXPENDITURE) AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Dr Gallop (Leader of the Opposition), and read a first time.

GOVERNMENT BUSINESS - PRECEDENCE

Motion

MR BARNETT (Cottesloe - Leader of the House) [10.08 am]: I advise the Opposition that I intended not to make reference in paragraph (b) to Standing Order No 225; in other words, to allow private members statements to continue through the next two weeks. I am sure the Opposition will agree with that. I move -

> That for the remainder of 1997, unless otherwise ordered -
>
> (a) private members' business shall take precedence on Wednesdays from 4.30 pm until 6.00 pm and government business shall take precedence at all other times;
>
> (b) Standing Order No 224, relating to grievances, be suspended; and
>
> (c) that so much of standing orders be suspended as is necessary to enable Bills to be introduced without notice and to proceed through all stages on any day and to enable messages from the Legislative Council to be taken into consideration on the day on which they are received.

This motion is similar to that which this Government has moved during its period in government. It has been tradition for previous Governments to suspend private members' business; however, we have reduced it to one and a half hours. That is a fair compromise during the last two weeks of the session. We have suspended grievances.

The Government has a number of Bills it wants passed during these last two weeks. With the cooperation of the Opposition the Government has been able to introduce some Bills, such as the Dampier to Bunbury Pipeline Bill which was introduced yesterday. It is still my intention we should be able to manage it and that all Bills will be able to lie on the Table for at least a full week before they are brought on for debate. In some cases the House may need to move forthwith to the second reading to allow that to occur.

Mr Ripper: What are you doing with the school education Bill?

Mr BARNETT: I will get to that. Although it will be a busy final two weeks and it is most likely members will be required to sit on Thursday evenings during the last two weeks, the program is not unmanageable. The Government wants to have around 10 or 12 Bills passed during the last two weeks of this sitting - more if we are able to.

The final education Bill is yet to go to Cabinet. It is my hope that if approved by Cabinet the Bill will be introduced. I do not intend to proceed with debate unless the Opposition wishes to make a response to the second reading. That will be the option of the Opposition. The Bill will be introduced and debated in the new year.

MRS ROBERTS (Midland) [10.11 am]: One of the things that is notable about the parliamentary program this year is the paucity of government business. It is interesting the Leader of the House says he wants members to pass in the order of 10 to 12 Bills in the last two weeks. My understanding is that if he is successful in doing that, that will be over 30 per cent of the Bills that have been passed this year.

Mr Barnett: Most of them are already on the Notice Paper and are ready for debate.

Mrs ROBERTS: The number of Bills that has been passed by the Parliament this year is still less than 30. Ten or 12 Bills represent a significant workload for the remainder of the year. Perhaps the Government could have managed its parliamentary agenda better and had Ministers bring legislation into the Parliament earlier instead of rushing them in in the last couple of weeks.

Mr Omodei: That has always been the case. We passed 15 Bills in a day when you were in government.

Mrs ROBERTS: It has not always been the case. Previously, in the order of 50 Bills were passed in the earlier part of a year. I do not think this Government has passed even 30 Bills this year. Some Governments have had heavy legislative programs. This year this Government has had a light legislative program, with the exception of the Bills that have been put on the Notice Paper in the past few weeks and that are being pushed for debate in the last two weeks of this sitting. That is not good management. It would have been far better to have earlier notice of these Bills and to have them lie on the Table longer and for more considered debate to take place on those Bills.

MR PENDAL (South Perth) [10.13 am]: I would like clarification from the Leader of the House about Order of the Day No 9 in private members' business; that is, the Financial Accountability Bill which I introduced and which reached the point at which the Leader of the Opposition sought leave of the House to continue his remarks. I met with the Leader of the House and his opposition counterpart with the view to receiving an assurance about the fate of that Bill and, in particular, that the Government would give a response on that before the end of the session. That assurance was given to me. That comes at a time when members are about to vote on a motion that will more than halve the time allowed for private members' business. Before I vote on the motion I seek the assurance of the Leader of the House that the agreement that was made will be adhered to. Also, is the Liquor Licensing Amendment Bill part of the Government's agenda for the remainder of this sitting?

Mr Barnett: The Leader of the Opposition will have the opportunity to continue his remarks on the Financial Accountability Bill and a government response will be made. I am not saying the whole Bill will be dealt with. I cannot inform you of where the Liquor Licensing Amendment Bill is at this stage, but I will find out for you.

Mr PENDAL: I thank the Leader of the House for that.

MR OSBORNE (Bunbury) [10.16 am]: I support the motion moved by the Leader of the House and I will comment briefly on some of the remarks of the leader of opposition business. Simply counting the number of Bills the Government passes in any sitting is not necessarily the best way to judge the value of a Government's work. The legislation that has been passed and legislation that is on the Notice Paper is important to the Government and to the people of Western Australia. We mean to pass the important legislation and to do what the Parliament must do. Many people in the public arena would express the opinion that it would be good if Parliament passed less legislation and considered it more carefully. One of the faults of modern Parliaments is that too much legislation is going onto the Statute book. It is a responsible course of action to consider more carefully what we are doing and to cut down, perhaps in an advised way, the numbers of Bill we pass and to ensure the legislation we pass is good legislation.

The most important Bill members must consider - the Leader of the House gave the Opposition the option on this - is the education Bill. That Bill will be introduced and the Opposition will have the option of proceeding with the second reading debate or deferring it for consideration at a later time. That is a perfectly reasonable course of action. The Opposition has the choice to proceed with that legislation as it will. The Government has key legislation that it intends to pass. Some nine or 10 Bills is not too much to ask for the period that is left to us. We will leave this place before the Christmas break satisfied that a good program of work is behind us.

Question put and passed.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Twenty-Eighth Report - Supreme Court Amendment Rules (No 2) 1997

MR WIESE (Wagin) [10.18 am]: I present for tabling the twenty-eighth report of the Joint Standing Committee on Delegated Legislation on Supreme Court Amendment Rules (No 2) 1997. I move -

That the report be printed.

The Delegated Legislation Committee examined the Supreme Court Amendment Rules (No 2) as part of its role of scrutinising subordinate legislation on behalf of the Parliament. The committee examined the Supreme Court rules because some of the fee rises implemented in them were of a magnitude much greater than the normal 20 per cent or so, which is about where the Delegated Legislation Committee normally draws the line as being acceptable. One of the increases was in the order of 89 per cent and another was in the order of 300 per cent. The committee was concerned that increases of such an order could affect litigants' access to the justice system. This report details a range of issues that were considered by the Justices of the Supreme Court in consultation with the Auditor General. The committee resolved to take no further action following its examination of the issues involved.

The committee now reports to the Parliament in view of the fact that there is a motion for disallowance before the Legislative Council. The committee believes that members of the Parliament need to be aware of the issues involved when the report is debated in the upper House, so I table this report to assist members and to highlight the issues involved in the discussions.

Question put and passed.

[See paper No 891.]

FUEL SUPPLIERS LICENSING AND DIESEL SUBSIDIES BILL

Second Reading

MR BARNETT (Cottesloe - Leader of the House) [10.22 am]: I move -

That the Bill be now read a second time.

This Bill is the first of two Bills necessary to complete the legislative requirements arising in Western Australia from the High Court decision on state franchise fees.

Members will recall that on 5 August 1997 the High Court ruled that franchise fees on tobacco in New South Wales were unconstitutional on the grounds that they were an excise. Under section 90 of the Australian Constitution, only the Federal Government can impose an excise. Solicitors General subsequently advised that the decision meant that the validity of franchise fees on tobacco in all States, and also on fuel and liquor in all States, were doubtful. This gave the States little choice but to stop collecting them.

Under the safety net arrangements negotiated with the Federal Government, the Federal Government has increased its excise rates on tobacco and fuel and its sales tax rates on liquor to replace the state franchise fees on these products. An amount equivalent to the additional revenues raised by the Federal Government is being shared between the States on an agreed basis, calculated by the Commonwealth Grants Commission, in the form of revenue replacement grants. Importantly, the Federal Government is constitutionally bound to keep its tax rates uniform in all jurisdictions. In the case of fuel, an excise surcharge rate of 8.1¢ per litre has replaced franchise fees in all jurisdictions, on both petrol and diesel fuel.

The 8.1¢ per litre surcharge exceeds Western Australia's previous franchise fee rates on diesel fuel. Off-road diesel fuel was previously exempt from Western Australia's franchise fee, while on-road diesel fuel was subject to a franchise fee rate of 7.45¢ per litre. Under the safety net arrangements, Western Australia has undertaken to keep price impacts to a minimum, and in particular to avoid any increases in the price of fuel.

To achieve this, Western Australia is paying fuel companies a subsidy of 8.1¢ per litre on off-road diesel fuel, and 0.65¢ per litre on on-road diesel fuel. In effect, a general subsidy of 0.65¢ per litre can be claimed on all diesel fuel, with an additional 7.45¢ per litre able to be claimed on off-road diesel fuel. The subsidies are subject to the fuel companies passing on the full benefit to consumers. I note that the use of the term "subsidy" to describe the payments to the fuel companies reflects the advice of the parliamentary draftsperson. It does not imply any lack of commitment by the Government to ensuring that the benefit provided to diesel fuel users continues.

Subsidy payments have already commenced under the interim authority of the Appropriation (Consolidated Fund) Act (No 4), which Parliament passed in September, and individual contracts between the Government and the fuel companies. The appropriation Act only provided sufficient funding for six months.

This Bill contains the permanent subsidy arrangements for both off-road and on-road diesel fuel, including standing appropriations. The cost of the subsidy arrangements is estimated to be $209m per annum in the case of off-road diesel fuel, and $4.5m per annum in the case of on-road diesel fuel. However, apart from some transitional losses in the current financial year, these costs, and the loss of the fuel franchise fee itself, are expected to be fully offset by the revenue replacement grants from the Federal Government. Notably, no subsidy applies in respect of petrol, as the 8.1¢ per litre excise surcharge is less than the previous state franchise fee rate of 9.67¢ per litre.

This Bill also reconstitutes licensing arrangements for fuel suppliers, and exemption certificate arrangements for off-road diesel fuel users. A cost recovery based administrative fee replaces the previous ad valorem franchise fee on fuel suppliers.

The proposed diesel subsidy legislation is designed to recognise the industry practices established for the purposes of providing fuel franchise fee exemptions to off-road diesel users, and to ensure that the transition from the franchise fee scheme to the new subsidy arrangements is as seamless as possible.

The scheme requires all suppliers who "first supply" petroleum products in Western Australia to be licensed, in order to be able to receive a subsidy on the sale of off-road and on-road diesel. "First supply" is supply that is entered or delivered for home consumption under the Customs Act or Excise Act, or supply by a person outside Western Australia into Western Australia.

The off-road diesel subsidy is payable in respect of supplies to all off-road users who hold the necessary certificates in Western Australia. Certified users are required to use all diesel purchased under their certificate for off-road purposes. Off-road purposes are purposes other than for propelling a road vehicle on a public road. Certified users cannot on-sell diesel purchased under the certificate. Either "licensed suppliers" or "authorised distributors" can supply certified users. Authorised distributors are those persons who purchase fuel from licensed suppliers, or other authorised distributors, to sell to certified users.

The subsidy is passed on to certified users by requiring licensed suppliers or authorised distributors to sell to them at a price reduced by the off-road subsidy. Licensed suppliers are able to apply for a subsidy in respect of the supply of diesel either directly or indirectly to certified users. Where an authorised distributor has supplied a certified user with a quantity of diesel fuel, the distributor is able to claim compensation of the amount of the off-road diesel subsidy from either a licensed supplier or another authorised distributor, after showing certain records.

The proposed legislation provides that all applications for subsidies are to be made to the Commissioner of State Revenue. Interjurisdictional arrangements have been included to ensure that subsidies are not able to be claimed in different jurisdictions in respect of the same supply of diesel.

Licence, authority and certificate holders are able to amend claims within 21 days where either supply, a claim for compensation or usage is outside the conditions stipulated for the respective holder. Examples include where -

> A licensed supplier has submitted an overstated application for off-road subsidy due to an administrative error;
>
> An authorised distributor has claimed compensation in respect of diesel supplied to other than a certified user; or
>
> A certified user has used diesel to propel a road vehicle on a road.

Where a licence, authority or certificate holder does not make a correction, the commissioner can impose a penalty amount at double the subsidy rate. The commissioner can also estimate the amount where records are unavailable. The amount of the penalty may be reduced by up to half at the commissioner's discretion. The commissioner may also impose conditions on or cancel licences, authorities and certificates as required. A decision by the commissioner on these matters is able to be reviewed by the Minister within 60 days. The commissioner is able to investigate licence, authority and certificate holders to ensure their compliance with the legislation. Should the safety net arrangements be no longer required, the Minister has the ability to issue an order to ensure the scheme no longer applies.

As I have stated before in this House, the decision of the High Court has highlighted the need for fundamental reform of the national tax system and Commonwealth-State financial relations. As a consequence of the decision, Western Australia has lost about 15 per cent of its own source revenues, and has seen its reliance on federal grants correspondingly increased.

The Government will continue to work closely with other State Governments and the Commonwealth to redress the imbalance, and to secure a more robust revenue base for the State that can better meet growth in demand for state services and infrastructure. In the short term the Government will also support a thorough review at the national level

of the section 90 safety arrangements to enhance their efficiency in any way possible. I commend the Bill to the House, and for the information of members I table an associated explanatory memorandum.

[See paper No 892.]

Debate adjourned, on motion by Mr Cunningham.

ACTS AMENDMENT (FRANCHISE FEES) BILL

Second Reading

MR BARNETT (Cottesloe - Leader of the House) [10.31 am]: I move -

That the Bill be now read a second time.

This Bill is the second of the two Bills necessary to complete the legislative requirements arising in Western Australia from the High Court of Australia decision on state franchise fees. The Bill includes amendments to the Liquor Licensing Act, Business Franchise (Tobacco) Act, Transport Coordination Act and a number of other Acts where the High Court decision has had flow-on consequences.

As I indicated in my introduction to the Fuel Suppliers Licensing and Diesel Subsidies Bill, an increase in the federal sales tax on liquor has replaced the state franchise fees on liquor. Revenue replacement grants equivalent to the additional sales tax revenues raised by the Federal Government are being shared between the States.

The increase in the federal sales tax on liquor is 15 percentage points, which is equivalent to a franchise fee rate of about 12 per cent. This is significantly higher than the previous state franchise fee rate on low alcohol products of 7 per cent, and slightly higher than the previous franchise fee rate of 11 per cent on full strength liquor. Furthermore, the sales tax increase applies to cellar door wine sales which were previously exempt from state franchise fees. Accordingly, the Government is paying a subsidy to liquor merchants on low alcohol products, equivalent to the difference between the sales tax increase and the concessional state franchise fee rate. It is also paying wine producers a subsidy equivalent to the full amount of the sales tax increase.

At this point I wish to emphasise that the Government recognises concerns expressed by the wine industry about the use of the term "subsidy" to describe the payments to wine producers. Again, this merely reflects the advice of the parliamentary draftsperson; it does not imply any lack of commitment by the Government to ensuring that the benefit provided to wine producers, or to other subsidy recipients, continues.

As in the case of diesel fuel, subsidy payments have already commenced under the interim authority of the Appropriation (Consolidated Fund) Act (No 4), and individual contracts between the Government and recipients. The appropriation Act provided sufficient funding for about six months.

The proposed amendments to the Liquor Licensing Act in this Bill make provision for the permanent subsidy arrangements for both low alcohol liquor and cellar door wine, including standing appropriations. The passage of the proposed amendments will remove the need for individual contracts with subsidy recipients and thereby reduce administration and compliance costs. However, members will note that much of the detail of the liquor subsidy schemes, including the conditions that apply to the cellar door wine subsidy, are to be specified in the regulations to the Liquor Licensing Act, rather than in the Act itself.

This will give the Government maximum flexibility to make any policy adjustments over time to the subsidy schemes, including those as a consequence of any changes arising from commonwealth-state reviews of the overall safety net arrangements. In this regard, a difference between the liquor subsidies and the diesel fuel subsidies is that there is no prior experience with any similar arrangements. In the case of diesel fuel, the subsidy arrangements largely mirror a longstanding exemption certificate arrangement that applied under the fuel franchise fee system.

It is intended that the regulations will also be tabled before the end of 1997. For the information of members, the cellar door wine subsidy will apply to traditional cellar door sales, tastings, on-site restaurant sales, mail order sales, promotional wine and donations. This should ensure that the regional tourism and employment objectives of the original exemption scheme continue to be met. Nevertheless, a few conditions will apply to balance the legitimate concerns of liquor retailers about potentially unfair competition.

In particular, the Government proposes to restrict the subsidy to wine produced by the producer in Western Australia, and sold from the producer's licensed premises. In effect, mail order sales solicited off the producer's licensed premises to the general public will be excluded, as these sales compete most directly with liquor retailers. Also proposed is a 45 litre volume limit on individual cellar door sales, and a requirement that no charge is made by the producer for any tastings or promotional stock, if a subsidy is to be claimed. Both of these conditions also apply in New South Wales.

The cost of the liquor subsidy schemes is estimated to be $8m per annum in the case of low alcohol liquor, and $3m per annum in the case of cellar door wine. Up to 300 merchants and wine producers will benefit. As in the case of fuel, these costs and the loss of the liquor franchise fee are expected to be fully offset by the revenue replacement grants received from the Federal Government.

The small amount of surplus revenue from the net tax increase on high alcohol products, together with the additional full year revenues from what amounts to a net tax increase on tobacco will be applied to the revenue shortfall from petrol and other costs of the safety net arrangements. Overall, apart from some one-off transitional losses in 1997-98, the safety net arrangements are expected to be revenue neutral.

The amendments to the Liquor Licensing Act also provide for a prescribed fee to replace the ad valorem franchise fees on liquor retailers. The proposed fee is $105 per annum, which will be a contribution towards the cost of administration of the liquor industry by the licensing authority.

The amendments to the Business Franchise (Tobacco) Act maintain the existing tobacco licensing arrangements, such that a person who wholesales or retails tobacco in this State is required to hold a licence unless the tobacco that person sells has been purchased previously from a person who holds a licence. However, the previous monthly licensing arrangement has been replaced with an annual licensing regime. A flat annual fee is payable, which equates to $100 per month for a wholesale licence and $50 per month for a retail licence. These fees are set at an amount which is sufficient to cover the administrative costs involved in the licensing arrangements.

Provision has also been made to allow the commissioner to request details of tobacco sales by the issue of a notice. It is intended that relevant details of tobacco sales will be requested on a monthly basis, which will assist in monitoring the safety net arrangements. Failure to provide the information will be an offence and could result in the cancellation of the person's licence. The existing arrangements have also been simplified by the removal of the group tobacco licence category. This is no longer required in the absence of an ad valorem licence fee.

The other amendments in this Bill are of a relatively minor nature, providing for the removal of redundant provisions, and making changes of a tidying-up nature. In this regard, I refer members to the explanatory memorandum, which explains the effect of each of the amendments. However, I draw the attention of members particularly to some of the amendments to the Transport Coordination Act and the Tobacco Control Act.

The amendments to the Transport Coordination Act provide for continued appropriations to the transport trust fund for road related purposes. Accordingly, no reduction in road funding in future years is expected as a result of the High Court decision. The safety net arrangements are designed to raise sufficient revenue to allow the appropriation of $244.6m in 1998-99, $250.3m in 1999-2000 and $256.2m in 2000-01. Similarly, the amendments to the Tobacco Control Act provide for the continued appropriation of certain funds, previously paid out of tobacco franchise fees, to the health promotion fund. Again, no reduction in funding in future years is expected as a result of the High Court decision. I commend the Bill to the House, and for the information of members, table an associated explanatory memorandum.

[See paper No 893.]

Debate adjourned, on motion by Mr Cunningham.

COMMERCIAL ARBITRATION AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Prince (Minister for Health), read a first time.

Second Reading

MR PRINCE (Albany - Minister for Health) [10.40 am]: I move -

That the Bill be now read a second time.

In 1984 the Standing Committee of Attorneys General adopted a uniform Bill on commercial arbitration, with the following aims -

(i) to provide a modern framework for the conduct of arbitration;

(ii) to recognise party autonomy in choosing a tribunal and procedure suitable for the resolution of their dispute; and

(iii) to achieve national uniformity in the law of commercial arbitration.

In 1985 the Western Australian Parliament enacted the Commercial Arbitration Act which is based upon that model Bill. All other Australian States also enacted similar commercial arbitration legislation.

In January 1986 a working group was established by the Commonwealth to examine commercial arbitration laws with reference to the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration. Subsequently, the standing committee reviewed the operation of that uniform legislation. The issues considered by the standing committee were -

(i) the consolidation of arbitral proceedings;

(ii) the limitation of the right to legal representation;

(iii) the holding of compulsory conferences; and

(iv) the possible inconsistency between part VII of the uniform legislation and the Commonwealth Arbitration (Foreign Awards and Agreement) Act 1974.

As a result, the standing committee agreed that there should be some amendments to that legislation. All States other than Western Australia have enacted those amendments. It is desirable that, as far as possible, state laws relating to commercial arbitration should be uniform. Therefore, this Bill proposes to adopt amendments which have been enacted in other jurisdictions.

The principal amendments to the Commercial Arbitration Act 1985 can be summarised as follows: Clause 6 makes it clear that a reference to an "arbitrator" in the Act extends to all arbitrators in a particular case if there is more than one. This will make explicit in the Act what may already be achieved by the Interpretation Act 1984, which provides that the singular includes the plural.

Clause 8 extends and rephrases the existing provision dealing with the representation of parties in arbitration proceedings. Under the present section 15, a party may be represented by a legal practitioner or other representative if the arbitrator or umpire gives leave. In addition, an incorporated or unincorporated body may be represented by an officer, employee or agent.

The new section 15 to be inserted by clause 8 generally extends these provisions so that a party may also be legally represented if another party is represented by a legally qualified person, or if all the parties agree, or if the value of the claim exceeds $20 000 or such amount as prescribed by regulation under the Western Australian Legal Practitioners Act 1893. In addition, a party may be represented by a person who is not a legally qualified person if all the parties agree. A legal practitioner from outside the State is brought within the provisions and is protected from committing an offence under the Legal Profession Act 1987. These amendments are intended to provide clarification and guidance to arbitrators rather than leave the matter to the discretion of arbitrators.

Clause 12 amends the provisions of the Act dealing with the consolidation of arbitration proceedings. Under section 26, only the parties by agreement or the court by order can consolidate proceedings. The Bill proposes to insert a new section 26 so that arbitrators or umpires may make orders for the consolidation of arbitration proceedings. Different procedures are prescribed, according to whether the proceedings have the same or different arbitrators or umpires. Procedural directions are also provided and the role of the court becomes one of review. The grounds on which consolidation can be ordered remain substantially as in the existing provision and the parties to two or more arbitration proceedings remain free to agree on the consolidation of these proceedings. The Bill is intended to encourage speedy determination of consolidation applications without any delay in arbitral proceedings.

Clause 13 repeals the provisions of the Commercial Arbitration Act dealing with the settlement of disputes otherwise than by arbitration. Section 27 provides that, unless agreed by the parties in writing, an arbitrator or umpire may order the parties to take such steps as the arbitrator or umpire thinks fit to achieve a settlement of a dispute, including attendance at a conference conducted by the arbitrator or umpire, either without proceeding or while continuing with arbitration.

The new section 27 will provide for greater control by the parties because they may seek settlement by mediation, conciliation or similar means or may authorise an arbitrator or umpire to act as a mediator, conciliator or other non-arbitral intermediary, whether or not involving a conference and whether before or after proceeding to, or continuing with, arbitration. The new section also provides that an arbitrator or umpire will be expressly bound by the rules of natural justice when proceeding under the section unless the parties otherwise agree.

Members will be aware that attention is increasingly being focused on alternative dispute resolution methods such as conciliation and mediation. Such methods have traditionally been used by Australia's trading partners in Asia, particularly China and Japan. In Australia there is growing interest in alternative dispute resolution methods.

The new section 27 recognises that arbitration is consensual in nature and that the parties should be free to decide the nature and the content of the arbitration. To allow an arbitrator to override that autonomy and compel attendance at a settlement conference or other procedure is a departure from that principle and could lead to unfairness. The form of this new section respects party autonomy by allowing the parties to decide on settlement procedures while at the same time giving legislative recognition and encouragement of the use of alternative dispute resolution procedures.

Clause 17 deletes section 34(6), which requires an arbitrator or umpire, when exercising the discretion, to award costs to take into account a refusal or failure to attend a conference ordered by the arbitrator or umpire. In its place, a provision is inserted which requires an arbitrator or umpire, when exercising the discretion to award costs, to take into account both the fact that an offer of compromise has been made and the terms of that offer.

Clause 18 adds to the provision in section 38 dealing with judicial review of awards by providing that the court may not grant leave to a party to appeal on a question of law, unless it is satisfied that -

> there has been a manifest error of law on the face of the award; or
>
> there is strong evidence that the arbitrator or umpire made an error of law and the determination of the question will add to the certainty of commercial law.

The court must be satisfied also that determination of the question could substantially affect the rights of the party.

One of the major objectives of this uniform legislation is to minimise judicial supervision and review. If arbitration is to be encouraged as a settlement procedure and not as a "dry run" before litigation, a more restrictive criterion for the granting of leave is desirable and the parties should be left to accept the decision of the arbitrator whom they have chosen to decide the matter in the first place.

Clause 19 re-enacts the provisions of section 46 of the Act with several alterations. This section deals with delay in prosecuting claims that are subject to arbitration. The first alteration is to insert a requirement that each party to arbitration proceedings, in addition to the claimant as is presently the case, has a duty to exercise due diligence in the conduct of arbitration proceedings.

The second alteration is to re-express the grounds on which the court must be satisfied before exercising its powers following delay by a party. The court must be satisfied that the delay is inordinate and inexcusable and will present a real risk to a fair trial or to the interests of other parties.

Clauses 20 and 22 repeal the provisions of the Act dealing with the recognition of foreign awards and agreements and schedule 2 to the Act sets out the text on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. These provisions are deleted because the commonwealth International Arbitration Act 1974 covers the field and the state provisions are inconsistent in terms of section 109 of the commonwealth Constitution.

Clause 21 amends section 61(1)(b) of the Act, which deals with the making of rules of court by the Supreme Court for the purpose of carrying the Act into effect. The amendment will enable rules to be made concerning offers of compromise in relation to claims to which the arbitration agreement applies.

The amendments to clause 23 are designed to secure greater uniformity of language among the legislation in other Australian jurisdictions. They deal with minor drafting matters. A primary concern in the development by the Standing Committee of Attorneys General of this legislation and its enactment in other jurisdictions has been to obtain uniformity. It is desirable to have such uniform commercial arbitration laws.

Members are aware that there is an increasing trend for modern commercial relations to be conducted over long distances and across borders. Consequently, there has been an increase in the number of disputes which extend across domestic and national boundaries. This demands a system of dispute resolution which is convenient, consistent and coherent. In this context, uniform legislation assists not only arbitrators and legal practitioners but also, and more importantly, those persons who have included in their business relationships commercial arbitration agreements as a method of resolving any disputes that may arise between them. I commend the Bill.

Debate adjourned, on motion by Mr Cunningham.

WILLS AMENDMENT BILL

Second Reading

MR PRINCE (Albany - Minister for Health) [10.49 am]: I move -

> That the Bill be now read a second time.

I am pleased to be presenting to the House the Wills Amendment Bill 1997. This Bill seeks to amend part X of the Western Australian Wills Act 1997 to have the civil standard of proof apply to informal wills.

Presently part X of the Act provides that where a document purports to embody the testamentary intentions of a deceased person, the Supreme Court must be satisfied that there can be no reasonable doubt that those intentions constitute, alter, revoke or revive, as the case may be, the deceased person's will. If the Supreme Court is so satisfied, that document has legal effect either as a will, alteration, revocation or revival, notwithstanding that it does not comply with the relevant sections of the Act.

Part X of the Act was closely modelled on section 12(2) of the South Australian Wills Act 1936 - introduced in 1975 - in accordance with the recommendations of the Western Australian Law Reform Commission report on "Wills: Substantial Compliance"; that is, project No 76, part I, 1985.

The Western Australian Law Reform Commission recommended adoption of the criminal standard because the South Australian provision also incorporated that standard of proof and the Western Australian Law Reform Commission recognised the value of being able to rely on South Australian judicial decisions. However, adoption of that standard was unusual because in all other probate matters, and generally in civil matters, the civil standard of proof - that is, balance of probability - has been adopted.

Other States have adopted the civil standard of proof. South Australia has also moved to the civil standard. Therefore, it is proposed that part X of the Act now be amended to lower the present "no reasonable doubt" standard of proof to the civil standard of balance of probabilities. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

GRAIN MARKETING AMENDMENT BILL

Council's Amendments - Committee

Amendments made by the Council now considered.

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr House (Minister for Primary Industry) in charge of the Bill.

The amendments made by the Council were as follows -

No 1

Clause 8, page 8, line 6 - To delete "12" and substitute "6".

No 2

Clause 15, page 16, after line 24 - To insert the following new subclause -

(5) The Minister shall cause a copy of a corporate plan to be laid before each House of Parliament within 14 sitting days of that House after the plan is submitted to the Minister under subsection (1).

Mr HOUSE: I move -

That amendment No 1 made by the Council be agreed to.

Mr GRILL: The Opposition feels that it is prudent to agree to the request from the Legislative Council.

Question put and passed; the Council's amendment agreed to.

Mr HOUSE: I move -

That amendment No 2 made by the Council be agreed to.

Mr GRILL: The Opposition concurs with this amendment.

Question put and passed; the Council's amendment agreed to.

Report

Resolutions reported, the report adopted, and a message accordingly returned to the Council.

WESTERN AUSTRALIAN COASTAL SHIPPING COMMISSION AMENDMENT BILL

Second Reading

Resumed from 16 October.

MS MacTIERNAN (Armadale) [10.56 am]: This constitutes a second development to regularise legislatively an action taken by the Government through the aegis of the Minister for Transport in abolishing the state shipping service. That action was taken by way of executive fiat, notwithstanding the Government's obligations under the terms of the Western Australian Coastal Shipping Commission Act. Some time after making that decision to renege on the National Party's very clear commitment to the electors of rural Western Australia to maintain Stateships, Minister Charlton got the State Government into a real debacle in his attempts to bring Len Buckeridge onto the Fremantle wharf. The only way out of that for the Government was to abolish the state shipping service. It did that without bothering to abide by the proper procedure; that is, without changing the legislation first.

The Government was stuck with being compelled under the provisions of the Western Australian Coastal Shipping Commission Act to conduct a state shipping service to the north west regions of the State, but was not doing that. The Government then brought in this legislation to repeal the Western Australian Coastal Shipping Commission Act and abolish the commission. It was pointed out during the first effort that to do so would jeopardise the claims of various merchant seamen against the WA Coastal Shipping Commission in relation to asbestosis. Members will be aware that in the past asbestos was used widely in shipping vessels and that among seamen of all types, merchant and naval, there is a high incidence of asbestosis. We also know that asbestosis and mesothelioma are diseases of long gestation. Therefore, we can expect claims to be made against the WA Coastal Shipping Commission for some decades.

Once this was pointed out to the Government it had the good sense to realise that the interests of those working men and women should be protected. The Government's next proposal was a legislative attempt to retain the WA Shipping Commission, but simply to provide that the commission "may" provide a shipping service. Therefore, the Act would change from saying the commission "must" provide a shipping service to it "may" provide a shipping service. That went to the Legislative Council which took the view, quite properly, that it was too easy an out for the Government and that the northern part of this State in particular, as well as business interests in Western Australia generally, required a preparedness on the part of the Government to provide that very important infrastructure by way of a shipping service.

Amendments were made in the Legislative Council to compel the Government to ensure that a coastal shipping service was maintained. That is compatible with the current state of affairs, because when the Government abolished the state shipping service, it decided, as is its wont, to contract the provision of a limited form of the service that was previously offered by Stateships through the aegis of a private shipping company. The amendments in the Legislative Council were designed to ensure that the Government could not move even further from its obligation to provide proper infrastructure to the people of regional Western Australia and abandon even a state funded private shipping operation.

This Bill is basically in that form. We do not support generally the action of the Government in abolishing Stateships, because we believe that it is short-sighted and that there is ample evidence that while moneys have been saved, we have lost vital opportunities for Western Australian businesses to take their products into northern Australia and South East Asia, and that the level of service that is being delivered to the people of northern Western Australia has been downgraded.

Frequency of service is an important element of maintaining an effective transportation system. The Government's reduction in the frequency of Stateships' service to the north west by two-thirds has not simply cut the service by two-thirds but also has had an incremental effect, because if people cannot access a reasonably regular service, they will decide to use a transportation system that can offer a greater degree of flexibility and regularity. I suppose we could argue that we would save an enormous amount of money if we closed every second school and every second library, and if we cut our public transport system in half. However, that would be false economy.

My colleague the member for Burrup expressed his concern about the administration by the Minister for Transport of our port and maritime policy. What has happened in Stateships is very much part of a general mismanagement of the ports in Western Australia and of our capacity to provide shipping as a viable transportation option. The member for Burrup set out the circumstances that exist in the Port of Dampier, and many parallels can be drawn with what occurred in the Port of Fremantle, which led to the demise of Stateships.

The Minister for Transport is absolutely determined to ensure that he brings onto the wharves of this State an operator who is anti-union, and the Minister is prepared to sacrifice any standard of probity in order to achieve that end. In the case of the Port of Fremantle, the Minister abandoned all of the guidelines of the former State Supply Commission

in order to achieve that end. The Minister did not give any of the other established stevedoring operations the opportunity of participating in a supposed tender to provide stevedoring services for Stateships. As a result, the Minister was able to get Mr Buckeridge onto that wharf. As we all know, that attempt was ill fated. The Minister had to be baled out of that unfortunate arrangement, and not only did we lose our state shipping service, but also it cost us $1m in an out of court settlement between the Department of Transport and Mr Buckeridge, who claimed breach of contract.

Mr Buckeridge set up a company called Western Stevedores and a number of other shelf companies that supposedly provide stevedoring services and port management operations. Although Mr Buckeridge does not appear on the share register as a shareholder of Western Stevedores, a company search of Western Stevedores reveals that the shareholders of that company hold their shares not in their own right but for the benefit of an undisclosed person. We understand from statements made by the directors of that company that Mr Buckeridge has an equity in that company of around 30 per cent.

When the Government decided to put the Dampier port under private management, it claimed that Western Stevedores had won the contract to manage that port fairly and squarely in a competitive tender, against the likes of Brambles, TNT and P & O Australia Ltd. Some of us were quite puzzled about why Western Stevedores was able to beat in open competition these very large and highly experienced operators, and it was not until we accessed the assessment procedures that we were able to understand why that had happened. The Minister for Transport has set up an assessment procedure that gives primacy, or the greatest weighting, to any company which is prepared to enter into a union busting arrangement and to sign into its contracts an anti-strike provision. The Minister for Transport refers to this by using the euphemism "guarantee of continuity of supply". Therefore, while we have what appears to be a level playing field, a distortion arises because of the way in which the papers are marked or the assessment procedure takes place.

I will run through some of the figures that have been provided, because they are truly unbelievable. The weightings are very interesting. The capacity to deliver an anti-strike clause into the contract is given a weighting of 35 per cent. That is the most important and prominent criterion of assessment given by the Government to the management of the Port of Dampier. This contrasts extraordinarily with the 20 per cent weighting that is given to the managerial and technical capacity to run a wharf. The proven capacity to have managerial skills, technical knowledge, and know-how to conduct a port is valued at only 20 per cent. The capacity to engage in union busting is valued at 35 per cent. Another statistic I found very interesting, given that the avowed claim of the privatisation of the port is to deliver a better service to users -

Mr Riebeling: More flexible.

Ms MacTIERNAN: Yes. The capacity to deliver an improved service to the port users is valued at only 10 per cent. It is valued at less than one-third of the value given to the capacity and preparedness to engage in anti-union activity. It is a joke; it is unbelievable that the Government could seriously allow an assessment process of this nature to proceed. It is not as if continuity of supply has been a problem on wharves in the last five or even 10 years. One of the great unsung success stories in waterfront reform has been the performance of regional ports.

Under the integrated labour force program implemented under the federal Labor Government in a cooperative and collaborative manner with the Maritime Union of Australia every regional port in Western Australia has achieved profits. There has been an enormous improvement in the utilisation of labour because labour has become multiskilled. There are situations in which clerks help moor ships when they come in, and finance directors help with maintenance. It is perhaps one of the most successful multiskilled operations ever undertaken, particularly with the integration of the maintenance and stevedoring functions at the ports.

It is not as if we had a massive problem or even any substantial problem with continuity of supply with striking and industrial disputation on our regional wharves. We simply did not. One can be forgiven for concluding from that extraordinarily biased weighting given to the preparedness of a company to engage in union busting, that the Minister for Transport and the Court Government are subverting the proper functioning of ports and concomitantly the economic development of the State to achieve a particular industrial relations outcome and in order to benefit one of the great financial benefactors of the Liberal Party in this State.

I would like to relate another story which I think gives added evidence to our case that this is behind much of the administration of ports in Western Australia. The story concerns the Kwinana outer harbour. In 1993 or 1994 the Government decided that the Kwinana bulk handling jetty required redevelopment. I think that was a correct assessment; it was based on work done by the Fremantle Port Authority, which administers the outer harbour bulk handling jetty. The Government called for expressions of interest from the private sector to invest in a redevelopment and operation of the Kwinana outer harbour. I think some four or five operators made extensive submissions. A short list was drawn up, and the companies embarked on the very expensive process of working up a detailed

submission for government consideration. One of Mr Buckeridge's companies tendered for the work but was not successful. The preferred proponent of the project was Conaust, a P & O subsidiary, now known as P & O Shipping.

After months of negotiation it became clear that the Fremantle Port Authority was running cold on the proposal. The claim was that there was concern about any exclusivity that a private stevedoring operator might have in the management of the port; that there would be some difficulty with a company both managing a stevedoring operation on the port and the port itself. However, that would have been known to the Government before it called for expressions of interest. The preferred proponent was prepared to compromise on that. It put forward a series of proposals which would have ensured completely free access by every other stevedoring operator on the wharf. There would be gazetted rates of wharfage charges which could be changed only on ministerial approval to ensure that P & O Shipping, as wharf manager, was not able to squeeze out its stevedoring competition.

Nevertheless, at the end of the day the Government simply refused to proceed with the decision and said that it had decided it would develop the port, using taxpayers' funds. The justification for ruling out P & O does not stand up; it falls well below the Plimsoll line. Interestingly, the fact that distinguished P & O from the Buckeridge tender was that P & O had an enterprise bargaining agreement with the Maritime Union of Australia. It becomes even more ironic when one considers what has happened at the Dampier Port, because again we have seen a contract being let for the management of a port which has gone to a company that is also to be a stevedoring operator at the port. Therefore, management in this case is being handed over to an operator who also will be in competition with other port users.

It is even more extraordinary that while P & O in its bid in Kwinana was prepared to say it would be totally open, it would have gazetted rates for portage charges, and there would be ministerial capacity to direct what the charges would be, in Dampier once Mr Buckeridge's company, Western Stevedores, got the job he was given exclusivity. He can determine that his stevedoring company will have precedence over any of its competitors. Not only is it grossly hypocritical but also it will undermine the effective delivery of portage services. It is not surprising in that context that we see in this extraordinary document that being prepared to sign up as a strike breaker receives 35 per cent approval, but being prepared to perform and being able to deliver on improved port charges and services for users is worth only 10 per cent.

The Opposition has made the points it wanted to make, but stories could be told for hours about the maladministration of ports in Western Australia and the way any proper management has been subverted to achieve the ideological end of the Minister for Transport. He is obviously vying for a Peter Reith elephant stamp, which he wants to wave around on the national stage indicating that he has been able to deliver union busting.

The great tragedy is that the real story of the waterfront, particularly in the regional ports, has gone on remand. The real reform undertaken as part of a package by the former Labor Government in collaboration with the Maritime Union of Australia is being undermined and jeopardised by the disgraceful conduct of the Minister for Transport and his government colleagues.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [11.21 am]: I have looked at the debate in the other place, much of which, from my perception, not being the Minister for Transport, revolved around matters which have little if any specific relation to the Bill. I have noted the concerns of the member for Burrup about the Port of Dampier, which have been drawn to the attention of the Minister.

Mr Riebeling: Did it have an impact on him?

Mr OMODEI: That is only for the member to assess; I am sure the member knows the Minister quite well.

The Bill has two main objectives. Firstly, to retain Stateships as a non-operating legal entity to ensure that insurance coverage is able to meet future claims associated with past Stateships' operations. That is a fundamental part of the Bill. The main concern related to asbestosis claims, as was mentioned by the member for Armadale. An actuarial assessment of future claims was between $2.1m and $2.9m over the next 10 years, not including any legal costs or common law claims.

The Bill was introduced into this House late last year, but fell off the Notice Paper because of the prorogation of Parliament prior to the election. It is being reintroduced to ensure that the concerns of those people are met.

The second objective of the Bill is to remove the obligation of the commission to operate any shipping service. I note that section 13 of the principal Act, which deals with the functions of the commission, was amended in the upper House to add a clause stating that the commission had no legal duty to operate a shipping service. That clause was amended from the original reference of "operator" to provide for the operator of any shipping service. A number of parts of the Act are to be repealed. This small Bill caters for the concerns of people with a possible claim for asbestosis.

In my experience, in visiting the north west in particular, it appears that the current private operator service is increasing the amount of freight handled. That will have a positive multiplier effect.

Mr Riebeling: What wharf are you talking about?

Mr OMODEI: In general. As a result of activity at Wyndham and Kununurra, increased activity will arise at the Port of Wyndham. Some mineral deposits will be exported from that port. Some arguments are made about the shipping line's capacity to cater for Asia; however, I understand that the private operator is providing an adequate service. If the member has evidence to indicate that the service is not meeting a need, I will stand corrected and I will draw it to the attention of the Government through the Minister.

I have covered most of the issues in the Bill. The debate has been wide ranging. The Bill was amended in the upper House, and the Opposition is satisfied with the amendments. I thank members opposite for their support.

Question put and passed.

Bill read a second time, and proceeded through Committee without debate.

Third Reading

Leave granted to proceed forthwith to the third reading.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [11.25 am]: I move -

That the Bill be now read a third time.

MR RIEBELING (Burrup) [11.26 am]: I take this opportunity to give the House an update on what is happening at the Dampier wharf. The last time I spoke, there were grave fears that the Minister would intervene to ensure that Western Stevedores in Dampier would get control of the management of the wharf. During that debate, I read out nine examples of users of the wharf who said that Conaust Ltd which is operating the stevedoring company through P & O Australia Ltd was efficient and flexible, had an excellent safety record, and was cost efficient. The users of the wharf praised the current structure. However, the Minister was running around telling people there were problems on the wharf and that Western Stevedores would fix those problems.

As we know from the figures provided, that tender procedure involved a points system which weighted the anti-strike clause in the agreement, and this gave a 35 per cent loading to the company which preferred to be seen as a union busting enterprise. For weeks prior to the announcement of the successful tenderer, the Minister sang the praise of Western Stevedores giving the impression to other bidders that the Minister had made up his mind before the tenders were called. The way in which the points were skewed indicated that, despite who put in a tender, the Minister would appoint Western Stevedores because he believed it would break the union.

Brambles, P & O and the other stevedores which operate through the Dampier wharf are not as stupid as the Minister. The Minister went out of his way to set a false precedent on the wharf at Dampier. He told untruths about what occurred at Dampier forgetting that the users know that the wharf has operated successfully through the current operation. Western Stevedores has not picked up any more work because users are very happy with the current operation. Despite the Minister's claims about them being the preferred operators of the wharf, Western Stevedores is trying to convince people that as it has a lower cost, it should be used. However, people prefer the flexibility, efficiency and cost effectiveness currently in place. Just as importantly, the current operation has a safety record which is second to none.

The anti-strike provisions, about which the Minister is so emphatic, was given a 35 per cent weighting in the points system. However, I know of no major dispute which has stopped cargo moving across that wharf, which has been in existence for some eight or nine years. I do not know of any strike. Perhaps the Minister can advise me of the strikes that have caused the need for this anti-strike provision to be put in place.

Mr Omodei: I will tell you, if you tell me what relevance this has to this Bill.

Mr RIEBELING: This Bill is about reform to the waterfront in Western Australia. It was brought about by the actions of the Minister for Transport when he destroyed the state shipping service in his bid to destroy the union movement on the wharves. The Minister is doing the same on the Dampier wharf and is failing, yet again, to achieve his ends. The changes to the Dampier wharf were built on a false premise. The people who use it, those who work in the commercial field, have expressed to the Minister through their actions that they believe he was on another planet because they have continued with the union work force through Conaust Ltd. It is pleasing that companies in Western Australia do not just blindly follow what the Minister says, because the Minister knows nothing about the operations of the Dampier wharf. He made up what he said on the ABC about workers not being efficient or flexible. Every company that made any comment about efficiency praised that group of workers for their flexibility. I do not

know of any that has caused problems in the operation of that wharf in Dampier. The Minister has been shown, once again, not to know what is happening in his portfolio. His changes are driven by his hatred of the union movement, and that alone.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [11.31 am]: I will try not to respond to all of those remarks because in both the other place and this place most of the debate has revolved around the Labor Party's hatred of the Minister for Transport and Len Buckeridge rather than the Bill before the House. I did not mention in the second reading debate that a commitment has been given by the Government for a private shipping service to regional Western Australia. The current contract will finish at the end of 1998. The Government made the decision when it held its Cabinet meeting in Kununurra that tenders would be called early next year for the extension of that contract. It will be a two year contract with an option for a one year extension. It is expected the competition for that tender will be strong and it is a possibility that it will result in a bigger ship that will service a greater amount of cargo. This is a positive move by the Government. It gives people, particularly in the north west of Western Australia, certainty for a freight service.

Mr Riebeling: You took it away. Don't expect everyone to applaud you for putting a bit of it back.

Mr OMODEI: If the member wants to go back over all the Westpac deals and so on, he should raise them at a different time. The shipping service was a shambles. The member has not been able to demonstrate to me that there are major deficiencies in the freight service. If he can demonstrate that, I suggest he raise it at another time because most of the matters he spoke about in both the second reading debate and third reading debate had no relevance to this legislation.

Question put and passed.

Bill read a third time and passed.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL

Second Reading

Resumed from 16 October.

MR KOBELKE (Nollamara) [11.35 am]: Before dealing with some of the provisions in the Bill, I will preface my remarks with comments on the general thrust of the legislative amendments that have been made to workers' compensation by this Government. When we consider what this Government has already done, what may be considered as minor changes in this Bill take on a much greater significance. The purposes of the Workers' Compensation and Rehabilitation Act are set out in section 3 as follows -

> **3.** The purposes of this Act are -
>
> (a) to make provision for the compensation of -
>
> (i) workers who suffer a disability; and
>
> (ii) certain dependants of those workers where the death of the worker results from such a disability;
>
> (b) to promote the rehabilitation of those workers with a view to restoring them to the fullest capacity for gainful employment of which they are capable;
>
> (c) to promote safety measures in and in respect of employment aimed at preventing or minimizing occurrences of disabilities; and
>
> (d) to make provision for the hearing and determination by the dispute resolution bodies of disputes between parties involved in workers' compensation matters in a manner that is fair, just, economical, informal and quick.

It is clear from that section that the Act is about providing an established system that will deliver equity to the workers of this State. It does not matter how good we get at improving safety; unfortunately, some people will still be injured during the course of their work. It comes down to a matter of whether those people are simply pushed aside by society and left to fend for themselves or whether we recognise on the basis of fair and equitable insurance principles that society should help to carry the cost of the disability, suffering and inability to earn that has befallen a worker. If we believe in a just and fair society, this legislation is of fundamental importance to the laws of this State.

We wish to base on the workers' compensation and rehabilitation system a program to prevent accidents. There is

a clear indication of the need to promote safety measures. That must be part of a feedback loop into the insurance premiums that are paid by employers. If employers do not face a financial penalty for conducting a workplace that is not as safe as it could be, there will not be the incentive for all employers to minimise the potential for accidents in their workplace. That is reflected in the purposes of the Act and it is implied in some of the measures in this amending Bill.

There is also a clear intent in the legislation to help those workers get back into the workplace through the process of rehabilitation. The benefits of our society flow to individuals and families through their ability to gain meaningful employment. If people do not have employment and the remuneration that goes with that, they become second class citizens. It is important that injured workers are treated as members of our community who through an accident at work have been placed in a situation of considerable disadvantage. The first move is to get them back into the workplace at the maximum level possible. The second move is to help them in that process through this insurance system. If rehabilitation cannot return them to any full or meaningful employment, a system of compensation must be in place so they can continue in a lifestyle as far as possible that is commensurate with that which they had prior to the accident.

I have gone through that. Although the purposes of the Act are clear and quite specific, there is an underlying theme or bigger objective to try to ensure that those workers who are affected by workplace injuries can be active members of our community. In its amendments the Government has failed to achieve a balance between managing an efficient system - in the words set out under the purpose of the legislation, an economic, formal and quick system - and ensuring that the system is fair and just. In the considerable amendments that this Minister has already made to the Workers' Compensation and Rehabilitation Act, he has simply looked at the efficiency side of the equation, trying to keep down costs at considerable disadvantage to the injured workers who have lost any fairness or justice in the system. When we look at the amendments in this Bill, we must think very seriously about whether this Government has completely lost any sense of balance in this area.

I will put on the record from the outset that the Labor members are fully supportive of the need to ensure the system is efficient and cost effective; however, we also must ensure that all the areas which contribute to cost are looked at carefully - in a balanced way. We should not have a single-minded objective of keeping down costs, irrespective of the inequity or injustice that might be produced by removing certain cost factors. It costs money to deliver a system which is fair and under which people will be looked after. We must be very careful when we have a single-minded approach to reducing costs.

I will briefly mention some of elements on this side of the equation, before talking about the disadvantages which, unfortunately, are included in and will be created by this legislation. Obviously we must ensure that the administration of this legislation is efficient and that the organisation which is now called WorkCover is cost effective and can perform at the highest possible level. However, that matter is not for debate today. We must look at the costs relating to the various procedures involved; that is, the legal advice or the medical advice that is required in making assessments. We could look at a whole range of matters in those procedures to ensure that the costs of those services are minimised; however, we must keep in mind that if we were to exclude all legal costs, we would create a system where injured workers would not have the opportunity to uphold their rights in the system. There is a cost of allowing workers to argue their case and ensure they receive justice. If those costs are removed from the system, of course the overall cost burden is reduced, but justice is also removed. That is contained in the purpose of the Act; the system must be just, but it cannot be if the opportunity for workers to prosecute and uphold their rights within the law is excluded.

Within an efficient system there is also a need to remove duplication and costly delays. Of course, delays are not just a financial cost to the system. They also represent a personal cost to many injured workers who find it very difficult to bear the emotional tension and pressure placed on them when the consideration and determination of their case is dragged out. In fact, in a number of cases, which I will not go into here, injured workers have committed suicide because of the pressures placed on them by the workers' compensation system. Then there is the issue that having competition between insurers can keep down costs. That is another factor that can be debated, but I will not go into that here because it is not the subject of this Bill.

The Government has had some success in being able to keep down costs in some areas; however, it has failed dismally to look after the rights and interests of the injured workers. This Government's approach has been totally one-sided - the cost side. It has not been willing to look at the needs of workers to ensure they can continue to be active members in our community and not be excluded not only because of their injuries but also because of the financial situation in which they find themselves. They can no longer engage in a whole range of activities which are accepted as part of normal life in our community. That may come down to things, such as owning a home. Having lost their job, which they may have had for a number of years, because of a workplace accident, they are faced with the pressures of having to meet mortgage payments. The loss of that job can also mean that the members of the

family cannot continue in the lifestyle which they enjoyed when the injured worker continued in full time employment and could support them.

I will now go through the amendments contained in the legislation, some of which we fully support. There is some support for others but some concern as to their implications, and there are other amendments which we do not wish to support because they are driven simply by the single-minded approach of bringing down costs and are doing that in a way which is highly disadvantageous to workers who have been injured and are already suffering enough without having their rights eroded further by the legislation.

The Minister will reintroduce redemptions for people who have permanent, partial incapacity. This ability for these redemptions was taken out of the 1993 legislation. I am sure other members on this side who were engaged in the 1993 debate might wish to remind the Minister that he took no notice of the arguments that were put by the then Opposition that the redemptions should be retained. They were part of the efficiency of the system and in some cases they benefited injured workers. This was always premised on the basis that the injured workers would have to opt for a redemption; they could not be forced into taking a lump sum redemption, rather than continuing to receive a weekly payment at a fairly low level. We are talking about only a particular group of permanently, partially incapacitated workers who could avail themselves of this redemption.

This is one problem with the moves being made by the Minister. He will set, by regulation, a level above which people will not be able to gain such a redemption. Only those who are getting a lesser or minor weekly payment for a permanent, partial incapacity may be able to opt to accept a lump sum redemption. That is put into the legislation by the Minister not because he sees it as advantageous to the injured worker, but because it represents a cost saving for the insurer. In some cases insurers are paying more to maintain the weekly payments and the administration of such payments in the system than they would by making a lump sum payment and having the injured worker no longer on their books. In negotiating that redemption amount, the insurers can use it very much to minimise their claims. The Minister has accepted the request of the insurance industry to do a backflip on his decision of 1993 and to allow a redemption for a certain class of permanently and partially incapacitated workers.

One hoped that the legislation would offer more in terms of a just system rather than simply cost saving. The Opposition put the argument in 1993 that the inclusion of redemption would provide both cost savings and greater justice, but the Minister included measures that stopped redemption being used. However, it is being reintroduced in this Bill.

The issue of redemption opens up other issues regarding lump sum payments. Over the past few years a number of injured workers have come to me because they sought to claim some sort of sickness or unemployment benefit. When they tried to do so they found that their worker's compensation lump payment incurred a preclusion period under the commonwealth legislation. It meant that they could not take up any such benefit until the end of the preclusion period. That is standard practice and is in place for good reason.

My concern was that those injured workers had taken the lump sum payment, as it would be available through these redemptions, and used it to pay off debts, to buy a car or pay off part of their mortgage and position themselves to live at a level with less income than they had previously. They were not aware of a preclusion period under the commonwealth benefits. In some of those cases the lawyers were very much to blame. I said that those people should have been told they would not receive social security benefits because of their lump sum payout. Their correspondence from their lawyer contained so much legalistic jargon that most people would not understand that it meant they would not get social security benefits. Workers who receive redemption should be advised in straightforward language what will be the implications if they are to be dependent on welfare benefits of some form following acceptance of their redemption payment.

Clause 19 will allow direct payments to spouses of deceased workers. That is an improvement to the system. It is an efficiency that will allow matters following a worker's being killed to be dealt with more expeditiously. I give my full support to that proposal.

The amendment in clause 22 of the Bill provides that a medical assessment panel will be able to adjudicate on a worker's capacity for work. I have some difficulty with this issue. I am not sure whether the amendment is just an efficiency measure and the Minister has overlooked the implications, or whether it is another move by the Court Government to eliminate the rights of workers.

The clause amends three sections of the Act and relates to the use of medical assessment panels, which play an important role. A medical panel of three experts provides the expertise to determine properly the nature of disabilities and to resolve disputes or uncertainty about the nature of a disability. Whether the disability is permanent or temporary is also a matter on which a medical panel would be capable of adjudicating.

However, the new area that this Bill seeks to place before medical panels is a worker's capacity for work. A worker's

capacity is not a medical decision; it is a much broader decision. It involves some knowledge of employment prospects and the various functions that must be undertaken in certain jobs. Although doctors might have some knowledge of those matters, they are not experts on them. Much wider social aspects could be involved, such as whether a person would be able to move and live in a different area; their family commitments; and their potential for not only retraining but also employment in a new job. They are not areas in which medical practitioners have expertise. However, under clause 22, medical panels will have the ability to adjudicate on whether a worker has capacity for work. That is a very dangerous move.

These medical panels are silent adjudicators. It is my understanding that no appeal procedure is available to an injured worker once a determination has been made by a medical panel. If a medical panel made a judgment about a worker's capacity for work and got it wrong through lack of expertise, no appeal would be available. In addition, no public report by the medical practitioners giving the facts and the arguments for the determination would be available. It will not be an open and reviewable system.

When a system is not open and reviewable and the decisions are being made by people who will not necessarily have the professional expertise, the possibility exists for major injustice in a system which will be passing judgment on injured workers, on their future and on their families. The Opposition has a major problem with clause 22 extending medical panels to adjudicate beyond areas that are specifically medical to areas where expertise is essential relating to a person's needs in society and the potential for them to be fulfilled through a range of employments.

Clause 24 makes a minor amendment to section 84Y(1) relating to reviews and the ability of a conciliation officer to refer a dispute to a review. Section 84Y(1) of the Act provides that a conciliation officer is to refer a dispute for review if any party so requests. Other sections in the Act give further detail on that.

Clause 24 amends the Act to provide that a conciliation officer is to refer a dispute for review if any of the parties so requests, unless he is of the opinion that any of the parties has not made reasonable endeavours to have the dispute resolved through conciliation. I will quickly pass over the fact that it is in the opinion of the conciliation officer. Clearly, the conciliation officer has to make those judgments, but it will be an important judgment. The judgment is whether any of the parties had made reasonable endeavours to have the dispute resolved. What happens if an employer decides to be quite intransigent and does not do anything to help resolve the dispute involving an injured worker who is trying to gain some benefit. Under this clause the conciliation officer could be thwarted. Inasmuch as he might make a judgment on what is the best way to reach a determination on the case in dispute, under this clause it would not be open to the conciliation officer to make such a decision. If there were clear evidence for the conciliation officer to form the opinion that one of the parties was not making a reasonable effort to resolve the case, it would not be referred for review.

I do not know whether it is a drafting error or I am misreading the clause, but I will raise my concern in the Committee stage. It is an unnecessary imposition on the ability of the conciliation officer to refer the dispute to review. It is all about resolving the dispute. The conciliation officer will be trying to reach a settlement. If the conciliation officer sees that he cannot go any further, there is no reason that he cannot pass the case on for review, even though one of the parties is uncooperative. The purpose of the legislation is to try to resolve the issue, but this clause will prevent that if one party does not wish to cooperate.

A matter which is picked up in several areas of the Bill is the move away from the rules of court to regulations. I can see that is most probably simpler and more efficient. It means that the regulations are tailored specifically to the workers' compensation system and are not caught up in the rules of the court which, in some respects, may not be suited to the review and adjudication procedures that take place through the workers' compensation system.

A danger is that the organisation involved in conducting the process will be more intimately involved in the determination of the regulations that govern it. A number of clauses in the Bill provide for WorkCover Western Australia to be intimately involved in managing the process and if it creates regulations that suit its interest, problems could arise. I will not oppose the clause, but we must be vigilant. Given the work of the Joint Standing Committee on Delegated Legislation, I hope that if WorkCover was to get off the track by implementing regulations that served the interests of the bureaucracy, the members of that committee would make sure that is picked up.

I signal that while there are advantages in moving away from rules of court to regulations, there is the potential for difficulties. Hopefully, members of the Delegated Legislation Committee will keep an eye on the situation to ensure that does not happen.

The move in clause 30 to remove the potential to award costs against a worker when the employer has taken an appeal to the compensation magistrate is one the Opposition fully supports. Difficulties are apparent with the system of appeal to the compensation magistrate. If a proper judicial system which enables workers to uphold there rights is not in place, they will not get justice. People must have access to the various levels of appeal to make sure cases are

determined fairly and that there is a case history to indicate how the system is working. With changes to the system, which is what occurred in 1993, that uncertainty can lead to considerable injustices. The system must be bedded down and working well. It will always need to be refined and improved.

A changing system can be inefficient and open up a range of injustices. The system that has been established works from the precedent which was set for appeals to go through to the compensation magistrate. The determinations to the compensation magistrate are very important.

The potential for appeals is extremely limited within the law because of the financial costs involved. The injured workers with whom I have had anything to do with, and there is a large number of them, have limited financial backing and it would not be possible for them to take a case. Situations will arise where a worker has been treated very harshly and the case is so overwhelming that a lawyer believes he can take the case through to the compensation magistrate with a chance of succeeding. However, that will work only if costs can be awarded to the employee.

This clause removes the ability for the costs to be awarded against the employee when the employer actually took the appeal. It is unjust that if an employee at a lower level had determined a benefit through the Workers' Compensation and Rehabilitation Act the employer was able to mount a major case. There are a number of instances of an employer seeking to set a precedent. The amount of money may not be significant, but to establish a precedent, an employer, along with his insurance company, might line up a bevy of Queen's Counsel to mount a case against an injured worker who has no financial resources to establish a case. Under the existing law it is possible, in such a circumstance, for costs to be awarded against the injured employee should the case by the employer be successful. It is a good measure to remove, as this Bill does, the potential for costs to be awarded against a worker if an employer were successful in taking an appeal to the compensation magistrate.

Clause 32 changes the definition of "future pecuniary loss" to that of "future loss of earnings". Clause 32 in part 2 of the Bill relates to constraints on awards for common law damages. The Minister stated that he is trying to put in place the actual legal details for what was intended in 1993. Whether that is true, the Opposition certainly will oppose this move because it further waters down the rights and benefits of injured workers. With future pecuniary loss, there is the potential for medical costs to be included, which the Minister is against. There is also the potential for superannuation benefits to be included. A range of services and travel may be seen as benefits and could be classified as future pecuniary loss, but would not fit into future loss of earnings. All those things - superannuation, health costs and sundry expenses - could come under future pecuniary loss. Under this Bill, the Minister will now require that the hurdle to be jumped over is to be measured as future loss of earnings. The various components of what will be the amount of money to be considered will be reduced. I think the limit to take a common law case is $100 000.

Mr Kierath: It is $104 800.

Mr KOBELKE: The Minister says it is $104 800.

If this change passes into law, medical costs will no longer be included in the $104 800, along with superannuation, which is again a loss. Many other things that might be included under future pecuniary loss also will not be included. They will not be able to be calculated under future loss of earnings. We will put more people in a situation where they cannot get over the $104 800 hurdle to make a common law claim. I do not know whether the Minister has the figures showing how much he expects the insurance companies to save, but that is harsh. He lifted the hurdle that little bit higher when he did that in previous legislation. A whole range of people who could previously -

Mr Kierath: The member should read what we said at that time about what we were trying to do. A court decision was misinterpreted; it did not take into account our comments at the time. Members raised examples such as the brain surgeon or pianist who loses a finger and whose income is dramatically affected. The second gate was put in for those specific reasons.

Mr KOBELKE: I accept the Minister's interjection. However, I have said from the outset that we want not only an efficient system but also a fair system. When one starts to move the hurdles higher and higher, there might be a saving for the insurance companies. However, given what the insurance companies are saying, the savings have not been as great as the Minister has led us to believe. Are the insurance companies simply putting on an act so that the Minister will let them increase premiums? They have certainly said that the costs seem to blow out. This is only one area, but it is an area in which the Minister is trying to reduce costs to the disadvantage of injured workers.

Mr Kierath: It is not part of this Bill. There has been a suggestion that a fairer system would be simply to have a multiple of a person's annual earnings rather than a threshold. Would that be fairer? Having a flat threshold is unfair to low income earners and beneficial to very high income earners. We are working through it. What do you think about taking a multiple of someone's earnings, whether it be five, seven or 10 years, and making that the economic gain?

Mr KOBELKE: The Minister has raised a point that is worth discussing. I have real difficulties with this because people in my electorate - covering Balga, Dianella and Nollamara - are almost exclusively in the lower income group. I do not see people in the higher income bracket who might very easily reach the $104 800 threshold. I suspect that those people are also more likely to be able to engage a lawyer - they do not need to go to a member of Parliament. People on moderate to low incomes are not in a position where they can easily uphold their rights. They tend more frequently to come to their member of Parliament to seek assistance in trying to gain a fair deal once they have been injured. We are excluding more people from the possibility of getting a fair deal.

Most workers who are injured and who are the recipients of workers' compensation suffer loss far greater than that which they receive through workers' compensation insurance. They are already far worse off financially, in addition to suffering the pain and the limits to their enjoyment of life as a result of the injury. We are saying that they will be even worse off because we will exclude certain costs and losses from the way we calculate the $104 800, which is the amount they must reach before they can make a common law claim. It is totally unfair to exclude workers further by using this classification.

The Government is trying to push people into salary packaging. In those situations the Government is saying to people, "Don't put all your income into a wage; let's put some of it into superannuation and other benefits." We are creating a situation where they will be required to argue, and argue successfully, that that superannuation and the other benefits constitute a future loss of earnings. This new definition, which has not yet been tested in the courts, provides that they are not accepted. Under this new definition, what they see as an integral part of their income and earnings may be partly or totally excluded. This legislative change could make the world of difference between getting over the threshold and making a common law claim or being just under it and not being able to claim.

Perhaps the Minister can clarify that. It is my understanding that that future loss of earnings provision is a new clause. Does any other jurisdiction in Australia use that definition in workers' compensation legislation?

Mr Kierath: No other jurisdiction has a second gate. No other jurisdiction, even those with Labor Governments, has an economic gain. It is an addition, but it was related to the prescribed amount, which is related to loss of earnings. The other bits are over and above that. By setting it at the prescribed amount, it was never intended to cover those other things; it was to cover only loss of earnings.

Mr KOBELKE: What will be the savings in total or in premiums as a result of this change?

Mr Kierath: I can try to get the figures.

Mr KOBELKE: I would appreciate that. We are really tightening up the system in a way that will adversely affect a small number of workers who are in a difficult enough situation already. Perhaps we are doing that for an amount that is rather miserly in terms of the overall cost of the workers' compensation insurance system.

I refer members to another of the many changes in the Bill. Insurance companies will no longer be able to refuse to insure. There is obviously a legal point between refusing to insure and withdrawing or cancelling a policy, and that is covered in a different section. I will refer only to the measure to remove the right of insurance companies to refuse to insure. I fully support that. However, in order to require that, the Government has gone on in clause 40 to change the maximum loadings on the premium insurance rate. I am unsure whether, in doing that, the Minister has not opened the gate a little too wide.

I understand the difficulty in insurers refusing to insure because I spent a number of years working on government committees with a whole range of small, non-government organisations in the area of crisis accommodation for homeless people. I found it very rewarding, because it is an important area. However, they had a major problem throughout Australia getting insurance. They were small organisations and many had very little in the way of resources. The buildings they occupied were often provided by the Government and, while they had the use of them, they did not have ownership, therefore they did not have the collateral that an insurance company could claim. Various such refuges and programs for homeless people found it impossible to get insurance.

Mr Kierath interjected.

Mr KOBELKE: I understand that. However, the insurance companies made a judgment. They were playing very hard ball with insurance because these people had very little money. I am referring to more general insurance, of which workers' compensation insurance is a part. A whole range of such services across Australia could not get an insurer to take them on, even though they were doing a wonderful job and receiving government funding.

I have mentioned that in a general sense, but I now refer members back to workers' compensation insurance. The Minister is saying that insurance companies will no longer be able to refuse to insure. However, the Minister is obviously very much aware of the need to give the companies room to move where they have someone wishing to take out a policy who has a bad record.

Mr Kierath: Currently there are 20 licensed insurers. If one company tries to price them out of the market, they can shop around. That applies generally where someone is a very bad risk. Traditionally the insurance companies have gone back to the general fund and made a claim on that. We are telling the insurance companies that they can load the premium up to 100 per cent and go even higher if they seek the leave of an independent body such as the Workers' Compensation and Rehabilitation Commission.

Mr KOBELKE: The Minister has moved me on to the next section, which is the current section 152. It states that an insurer shall not charge a loading on a recommended premium rate of more than 50 per cent of that rate. The proposed section is headed "Loading not to exceed 100% unless permitted by Commission". Not only is the loading changing from 50 per cent to 100 per cent but also the ability for the commission to allow it to go beyond 100 per cent is changing. Hopefully that will not create any difficulties because of competition between insurers. Clearly we would need to keep an eye on that matter. Where the commission uses proposed section 152 to allow a premium rate of more than 100 per cent above the set rate, does it have to be notified in any way so that we know how often it occurs?

Mr Kierath: If I may go back one step, previously insurers could refuse to insure and the claim would go onto the general fund. It was very rarely used. We have given a ceiling of 100 per cent. If the insurers want to go over that, they have to go before the commission or the premium rates committee - one of the two - and justify why they need to go above that. That will put a break on them. We expect in practice that unless insurers have a really bad case they will not make an application to go above the 100 per cent.

Mr KOBELKE: I understand that. My question was: Where will that be publicly notified? Will it go into an annual report?

Mr Kierath: I would imagine it would be in an annual report because it goes to the commission.

Mr KOBELKE: Hopefully the Minister might be able to direct that when that occurs, it will be notified in the annual report so that we can see how often it happens. Probably the system will work and it is necessary to give some flexibility, but we need to ensure that problems do not open up in specific areas.

Mr Kierath: It is very rarely claimed on the general fund, so we do not think it will be used. The current maximum is 50 per cent. If insurers very rarely use the 50 per cent, they will be even less likely to use the 100 per cent. Nevertheless, the provision is in the Bill because we are telling insurance companies that we have shifted the obligation and they cannot refuse to insure. Therefore, we have to have some safety valve for the very worst cases.

Mr KOBELKE: Clause 13 relates to the discontinuance of weekly payments to be based on total or partial capacity for work instead of the current requirement of wholly or partially recovered. The wording is likely to make it easier to use proposed section 61 to terminate weekly payments to an injured worker. That causes me concern. I am informed by practitioners in the area that section 61 is hardly ever used. I think it might have been brought in by the Tonkin Government to try to protect workers from capricious cessation of weekly compensation payments. Section 61 contains the requirement to give 21 days' notice. Therefore, I am informed by practitioners that section 60 is used in preference to section 61 because notice does not have to be given. Nonetheless, I am concerned that we may find that the Minister is making it easier for people's weekly payments to be stopped because now total or partial capacity for work will be the test rather than wholly or partially recovered. My difficulty with the wording is that capacity for work is not a simple medical decision. One would expect a medical practitioner with the right expertise or specialisation to be able to judge whether a person is wholly or partially recovered. Capacity for work is a much more difficult issue. It relates not only to the level of recovery and the ability of a person to perform certain tasks but also to the availability of that work. What is the point of saying that a person can do work if there is no way in which that person in that locality or that person with a given educational background could do the work? The judgment of capacity for work is not a simple medical decision but is much wider. Therefore, I have great difficulty in moving from wholly or partially recovered to total or partial capacity for work.

Clause 18 gives a wider definition of "dispute". I have no difficulty with the first part of the additions. "Dispute" is already defined and has been extended by two further subparagraphs, one of which is to allow a dispute between an employer and insurer over the insurer's liability to indemnify the employer. That is a good move. The second subparagraph relates to a matter to be determined by a dispute resolution body under proposed section 67(2a)(b). I have some difficulty with that subparagraph because it relates to when a judgment is made about a worker having failed to obtain work or where it is judged to be inappropriate to undergo or continue rehabilitation. I will say no more on that now because I need more advice on it. However, we will be looking very carefully at it in the Committee stage. I am not sure whether it opens up a further possible jeopardy for injured workers who may find that they cannot have their rights upheld under that extension of the definition of "dispute".

Another major problem with the amendments contained in this Bill relates to the changes made by clause 6 to section

10A and by clause 42 to section 160, which relate to the exemption of working directors. I have to admit that the current sections 10A and 160 have left me a little baffled. I am not sure of the full implications of the current system. The changes are said by the Minister to give an exemption to working directors. An exemption of some sort already exists, but this makes it open slather. I have difficulty with that because we are seeing a major change in the workplace, where more and more people are working as subcontractors and are being asked to take the risks of doing the job in order to cover costs. Some traumatic cases in my electorate have been brought to my attention and include people being treated most unjustly by our current system. They involved simply subcontractors giving their labour and nothing else but they were not treated as workers for the purposes of the Act because of the way their employment had been structured. We are providing a device by which some people can continue to artificially move workers into a designation under which they are no longer workers. For example, people who clean houses can register a company and be shown as company directors on the Australian Security Commission records so they no longer need workers' compensation. They clean houses six or seven days a week.

Mr Bloffwitch: They would be the owners of the business.

Mr Baker: Shouldn't they effect their own disability insurance?

Mr KOBELKE: This involves people who are not businessmen like the members interjecting. I have taken the extreme example - for example, someone who either does the work himself or works with a mate or a spouse and can only get the job if he says yes to working as a company. The person who is giving out the work sets up the company, puts him in as a director, and cuts the cost because no workers' compensation is required. People in the work force are moving in that direction and this amendment opens the door for that. One can only guess whether people will use that contrivance, but I do not want to open the door to such contrivances. All that needs to be done is for a worker to be registered as a director of the company that is doing the work and he or she is no longer required to be covered by workers' compensation.

The purpose of this Act is to ensure a fair and just system. This is not fair or just. It may reduce the cost of a standard project home by $10 or $20, but it is not just. That is not the sort of society that we should be trying to build. I will be saying a lot more during the Committee stage on those clauses.

The indexation of certain benefits under clauses 5 and 53 seems to be an excellent idea. Would the Minister explain why it only covers certain compensation entitlements: Death with no dependants, funeral expenses, wheelchairs and similar appliances, board and lodging, and travel costs while a range of other matters that are contained in schedule 1 are not picked up. Have they been picked up in some other way?

The exclusion for the sporting activities of professional athletes and sporting stars will be extended to their promotional work. It seems reasonable, because of the way in which sports stars intermingle their sporting feats and training with a range of promotional activities, that we do not want them to be caught when they are involved in an activity that is promotional rather than being their primary activity.

I have touched on a large number of amendments but not all. There are many good points in this legislation but there is real concern, when one is aware of what this Government has already done with the 1993 amendment, that we are further subjugating injured workers to a position of disadvantage and we are not ensuring that our system looks after in a fair and just way people who have suffered - most often through no fault of their own - and who we need to ensure get a fair deal. This legislation is further whittling away at their rights.

MR BROWN (Bassendean) [12.35 pm]: I refer to the first paragraph of the Minister's second reading speech in which the Minister states -

> Members will appreciate that the legislative reforms to workers' compensation introduced by this Government in 1993 have resulted in a fairer and more cost efficient system. For example, since the introduction of these amendments there has been a significant average reduction of 35.5 per cent in recommended premium rates.

The basis upon which the Minister judges the effectiveness of the workers' compensation system is the degree to which premium rates have been reduced since amendments to the Act in 1993. The issue is that those rates have been reduced by simply removing benefits and provisions that would have been available to employees had the workers' compensation Act not been changed. The evidence shows that a range of changes have been made which have precluded workers who have been injured at work from obtaining compensation payment they would have been entitled to had the Act not been changed.

It is interesting to note that the matter of restricting access to benefits was referred to in the annual report of the Chamber of Commerce and Industry presented at its annual general meeting. Under the heading of "Workers' Compensation" the report states that the chamber is maintaining a close watch on workers' compensation claim levels

as there appears to have been a return to levels experienced prior to 1994 when reforms advocated by the CCI were introduced to reduce employers' exposure to common law claims.

At the time those changes were introduced the Chamber of Commerce and Industry was very much in favour of them because they limited access to common law claims. That denies workers from accessing that compensation and ultimately that reduces the premiums paid by employers. One does not need to be a genius to work that out. It is a pretty simple mathematical equation: If the benefits are cut, the premiums are reduced. There is nothing terribly mysterious about it. In 1993-94 the Government substantially reduced the benefits. When these benefits are cut they are not chopped off overnight; it takes a while for them to work through the pipeline. We are now seeing a reduction in premiums, because of the much lower benefits that are available to injured workers.

Indeed, I wanted to quantify that matter and sought to do so by way of a question on notice earlier this year. In question 335, recorded in *Hansard* of 25 March 1997, I asked the Minister to quantify the extent to which common law payments could be reduced by the changes it had introduced to the workers' compensation legislation. The Minister replied in part (10) -

> On actuarial advice, the commission estimated the savings from restricting access to common law to be between $29m and $34m based on 1991/92 payments.

At the time of the introduction of the change a clear decision was made by the Government to remove payments that would be made to injured workers, in the order of $29m to $34m, and to give them back to employers in the form of reduced premiums. Those changes amounted to a determination by the Government that injured workers were getting too much and the benefits payable should be reduced, and premiums payable by employers should be reduced by removing those benefits.

Equally, the travelling provisions for employees travelling between home and work were removed. Prior to the 1993 amendments employees injured when travelling between their homes and workplaces were entitled to compensation, but the amendment removed that entitlement. Separately, the Minister has confirmed in answers to questions that a saving has been achieved in the order of $7m per annum as a result of removing that entitlement from employees. Again, it was a clear transference of money, that would have been payable to injured workers, to employers in the form of reduced premiums. In addition, the Minister has advised that the changes have resulted in savings in legal costs between $5m and $10m. Prior to the changes introduced by the Government in 1993, injured workers were entitled to be represented by a member of the legal profession when their claims were disputed. The Government decided that was inappropriate and that injured workers should not be represented by members of the legal profession. The Minister for Labour Relations described the legal profession and members of it in fairly robust terms, and said they were parasites who were involved in ambulance chasing and the like. Legal practitioners were deemed to be inappropriate to represent injured workers.

Mr Baker: They still provide advice.

Mr BROWN: I will talk about the puppet show in a minute and how it currently works.

The Minister decided that legal practitioners were some form of being that should not represent injured workers in a direct way. This resulted in a saving between $5m and $10m.

Dr Turnbull interjected.

Mr BROWN: I am glad the member for Collie thinks poorly of the legal profession. I wish she would have the courage to tell them. The member for Collie can tell us how these amendments support injured workers.

A determination was made by the Government to exclude members of the legal profession from representing injured workers and, according to the Minister, a saving of up to $10m was achieved. However, it was a cost shift and not a saving. Prior to these changes if an injured worker was represented by a legal practitioner and the claim was accepted, the injured worker could put in a claim for costs through his legal practitioner. The costs of the injured worker in obtaining legal advice and representation were met by the insurer. I know that is the case because I operated in the system.

Mr Baker: It was not necessarily 100 per cent.

Mr BROWN: I know that it was not necessarily 100 per cent, but many lawyers operated on the basis that the amount the client received from the insurer would meet all their costs. The result of these changes is that injured workers must engage their own people and employ advocates if they want representation. Even if their claims are successful, the injured workers are required to meet the cost of the representation they have obtained. This has had horrific consequences in cases where people have appealed decisions by a review officer, gone to the workers' compensation magistrate, the magistrate has referred the matter to the review officer, another decision has been made and another

appeal has been necessary. Massive legal costs have been incurred by injured workers and in some instances where they have won their case the amount of compensation paid has been gobbled up in legal fees. People who have been injured at work must fight like crazy to have their claims accepted, and when they are successful the workers may receive no compensation because the money is eaten up by legal costs and they are unable to claim those costs.

This Bill seeks to remedy the last problem to which I have referred. Given that in his second reading speech the Minister referred to the significant reduction in premium rates, members should understand why this has come about. It is not because of lower injury rates or some super way in which compensation is dealt with; rather, it has come about because of a fairly crass method of reducing the benefits payable to injured workers and giving those benefits to employers by way of reduced premiums.

Mr Bloffwitch: The schedule of fees has gone up and when I look at the awards people can claim they are more under the schedule than they were beforehand.

Mr BROWN: The member for Geraldton is right in terms of the scheduled amounts, except he does not understand, or ignores for political reasons, the fact that common law claims have been significantly curtailed.

Mr Bloffwitch: They have been restricted.

Mr BROWN: That is right. The Government's actuarial advice was that the savings to employers would be in the order of $29m to $34m. The Government's legislation in 1993 was not about increasing benefits, but about quite deliberately removing them. The member should not hide from that or pretend it was something else. It is clear that the aim of the Government's legislation in 1993 was to reduce benefits for injured workers. The Government argued in 1993 that injured workers were too greedy and were getting too much and that their entitlement to common law compensation should be restricted, and the Government enforced that view through the changes that it made.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on page 7898.]

STATEMENT - MEMBER FOR THORNLIE

Homeswest - Langford Redevelopment Program

MS McHALE (Thornlie) [12.50 pm]: My statement is about the Langford estate redevelopment and refurbishment program upon which the Government is supposedly embarking. Langford is a suburb in my electorate which I am proud to represent. It is typically a low socioeconomic suburb comprising ordinary workers who are struggling to provide for their families.

There is a high Homeswest presence in Langford, and there are also some private residents. Homeswest has 526 properties in Langford, and it hopes to reduce that to about 225. So far, Homeswest has given residents no information about the status of the redevelopment program. That is of great concern to the residents, who have been waiting for a significant amount of time for something to happen. They were promised regular contact with Homeswest, but so far nothing has happened.

I have put questions on notice, which will appear next week, about the preferred tenderer. It is paramount that the tenderer who is chosen - I believe the preferred candidate was mentioned this morning in debate on another matter - consults the residents on this issue, and I give notice to the Government that I will be scrutinising the decision about the preferred tenderer.

STATEMENT - MEMBER FOR SWAN HILLS

Parkerville Children's Home- Community Service Industry Awards

MRS van de KLASHORST (Swan Hills - Parliamentary Secretary) [12.52 pm]: Last week, I had the privilege of presenting to the staff of Parkerville Children's Home Finalist Certificates for four of this year's eight community service industry awards. Three of those Finalist Certificates were for the following award categories: Protection of children and young people; services to children, young people, families and the community; and staff development and training. These Finalist Certificates, which reflect the outstanding work of the Parkerville Children's Home, recognise achievements in community development; family and parent development; education and support; outstanding child protection services; human resource policies and skills of staff; major training initiatives; meeting customer needs as a priority; and much more. The fourth Finalist Certificate, which was for the individual leader award, was presented to the director, Mr David Roberts. This Finalist Certificate was well deserved and acknowledges his significant contribution to the community service industry in Western Australia.

The community service industry in Western Australia is worth around $270m a year, and this year there were over 300 applicants for those awards. It is a wonderful achievement for Parkerville Children's Home to be a finalist for four of the eight community service industry awards, and it demonstrates the depth of commitment of the management and staff of that home, who work over and above what they are required to do. I congratulate the director and staff of the Parkerville Children's Home, and on behalf of the community I thank them for their hard work and dedication.

STATEMENT - MEMBER FOR PEEL

Casuarina Prison

MR MARLBOROUGH (Peel) [12.54 pm]: The recent break out from the Sir David Longland Centre at Queensland's Wacol Prison during which five dangerous prisoners escaped has highlighted a concern about the prison in my electorate, the State's senior prison, Casuarina. Many people are very concerned about that prison escape. One does not have to look very far to see that the design of that prison is very similar to the design of Casuarina in that it has a large perimeter boundary that is policed by an armoured vehicle that traverses that boundary at set times. The escape has highlighted the fact that a similar incident may occur at Casuarina. There is an immediate need for the Government to look at the security systems that are in place at Casuarina. I am advised that the armoured vehicle at Casuarina is far less armour-plated than is the vehicle in Queensland. It is an open, four-wheel drive vehicle. Any criminal at that level who wanted to organise an escape would find Casuarina Prison extremely vulnerable. The community is very concerned, and it wants answers. People want to be reassured that they will not be in the same position as residents in the eastern States, when professional hit-men, without fear or favour, carry out such an escape. The Government should carry out an urgent inquiry into the matter as soon as possible.

STATEMENT - MEMBER FOR JOONDALUP

Government Instrumentalities - Relocation to Joondalup

MR BAKER (Joondalup) [12.56 pm]: Joondalup needs more state and federal government departments and agencies to relocate to the Joondalup regional city centre. The Premier's undertaking during the election campaign to be more proactive in that regard is now coming to fruition. Several months ago the north regional office of the Ministry of Justice relocated to an office building in the Joondalup central business district. The north regional office of the Education Department will be relocating to the same office block in the next few weeks. In addition, the north regional office of the Fire and Rescue Service of Western Australia recently established an office at 14 Reid Promenade, Joondalup. Further still, the north regional office of the Disability Services Commission has leased an entire floor of the LandCorp building in Joondalup, and this relocation alone will result in some 80 to 100 staff working in the Joondalup CBD.

The people of Joondalup wait with bated breath for news of the successful proponent for the proposed relocation of the WA Police Service Academy. A decision is expected in the next few weeks. I wish to thank the various business groups, the Edith Cowan University and the North Metropolitan TAFE for their assistance. I am sure that if the decision is based on merit, Joondalup will be the winner. The relocation of the academy to Joondalup will result in 1 000 state public servants relocating to Joondalup since the last state election. If they spend on average $20 a day in the area it will result in an additional $5m a year circulating in the Joondalup regional city centre economy, which is good news for employment and economic growth in the area. It will further ensure that the Joondalup regional city centre will become a vibrant and growth area, particularly in the key areas of economic and employment growth.

STATEMENT - MEMBER FOR PERTH

Improved Entertainment Venues

MS WARNOCK (Perth) [12.57 pm]: The Festival of Perth, which has been successfully entertaining Western Australians and visitors every summer for more than 40 years, is one of the world's leading festivals. Retiring director, David Blenkinsop, is the festival's second director - a very unusual situation for such a well established international festival. I congratulate David Blenkinsop on his illustrious 20 year career as festival "supremo". He has been a huge asset to this community, and I support him in his very strong statement last week, when the festival program was announced, requesting better entertainment venues in Perth. We do have some beauties, of course, which we have had for a long time. We have His Majesty's Theatre, the Perth Concert Hall, the Supreme Court Gardens, in the summer time; and the Somerville Auditorium at the University of Western Australia. The Fremantle Arts Centre courtyard is not bad either. However, too many venues are inadequate, such as the un-airconditioned Government House Ballroom, which is used for musical functions, the Perth Institute of Contemporary Art, which is a real hot box in summer, and the about-to-be airconditioned Winthrop Hall. There are few places for concerts and dance, and many where audience and performers alike sweat through summer performances.

I am inclined to agree with David Blenkinsop when he said that as a community we could do better for both audiences

and visiting artists. I simply ask colleagues to consider the possibility that we need better entertainment venues in Perth. As an afterthought, I urge all members to visit the next Festival of Perth when it begins in February. No-one should miss it.

STATEMENT - MEMBER FOR BUNBURY

Leschenault Ribbons of Blue

MR OSBORNE (Bunbury) [12.59 pm]: Members will be aware of the Leschenault Ribbons of Blue program, which is an environmental education network aimed at increasing community awareness and an understanding of water quality issues in Western Australia. Through the Ribbons of Blue program, schools, community groups, and local and state government agencies are encouraged to become involved in activities which relate to improving water quality.

Such a program also exists in Bunbury. I am very pleased to bring to the attention of the House a program initiated by Brendan Kelly, the Ribbons of Blue coordinator in the south west. It is called the "clean drains project" and is being undertaken in the Leschenault inlet area in Bunbury. The Leschenault inlet has a catchment area of approximately 450 hectares in the City of Bunbury. Although stormwater drains are essential to modern cities because they reduce the risk of flooding, for example, after rain they carry into water bodies pollution such as lawn clippings, fertilisers, detergents, animal faeces, and other matter. Brendan Kelly, in cooperation with the Cooinda Primary School, led by principal Neil McNeil, one of our many outstanding education leaders, has identified the 450 hectare catchment area of the inlet, and will shortly be embarking on a program to raise community awareness of the importance of clean water going into the Leschenault inlet. A series of programs and activities will be put in place at the school to improve water quality.

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

PERSONAL EXPLANATION - MEMBER FOR WANNEROO

MR MacLEAN (Wanneroo) [2.34 pm] - by leave: During question time, a question was asked which concerned me. I want to make it very clear to the House that I was not directed not to speak in yesterday's debate or to leave the House. If members opposite have not worked out by now that I have a short temper, there is more than one boofhead on the opposition benches.

MATTER OF PUBLIC INTEREST - POLICE SERVICE

Budget Crisis

THE SPEAKER (Mr Strickland): Today I received within the prescribed time a letter from the member for Midland in the following terms -

> Pursuant to Standing Order 82A I propose that the following matter of public interest be submitted to the House for discussion today -
>
> > That this House condemns the Minister for Police for his continued deception of the Parliament in denying the budget crisis in the Police Service, including telling the Parliament on Tuesday this week that the Police Service was returning a social dividend to the people of Western Australia.

The matter appears to be in order. If sufficient members agree to this motion, I will allow it.

[Five members rose in their places.]

The SPEAKER: The matter shall proceed on the usual basis, with half an hour allocated to members on my left, half an hour to members on my right, and five minutes in total to the Independent members, should they seek the call.

MRS ROBERTS (Midland) [2.36 pm]: I move the motion.

It seems that the Minister for Police wants us to believe there is no budget crisis in the Police Service in this State. In question time today he called it a "supposed" budget crisis. I have news for the Minister for Police: He must be one of the last people in the State to recognise there is a budget crisis in the Western Australia Police Service, particularly as it pertains to the operational budgets of police stations and units throughout the State.

The public is well aware of the staffing and budgetary pressures on the Police Service. The police themselves are well aware of those pressures. Police officers at just about every station and other authorised units throughout metropolitan and country areas acknowledge the pressures they are under because of funding cuts. The Minister

glibly answers questions in this Parliament by saying that the budget to the Police Service has been increased by 10 per cent this financial year. He does not tell the Parliament how much of that 10 per cent is swallowed up in the 17 per cent increase under the enterprise bargaining agreement to which he has also referred, and which was also known about well before the budget was struck. The Minister claims to know nothing about the problems confronting the Police Service.

On Tuesday I asked a question about the overexpenditure of $300 000 on shift penalties. The Minister did not know anything about it. He said on Tuesday that he would investigate it. I hope he will have some answers in this debate today. The Minister continually says he is unaware of problems and every time he is presented with evidence - he has been presented with a great deal - he says he will investigate. He then asks the Commissioner of Police who says there is no problem and everything is fine. The Minister needs to ask harder questions.

I will acquaint the Minister with some of the facts given to me that perhaps have not been conveyed to him by the Commissioner of Police. One of those facts is that there has been an operational budget cut for every police station and unit in the order of 15 per cent to 18 per cent. We are talking about the operational budget, about officers on the beat. I will detail some evidence of the crisis. The Minister for Police may care to check whether my advice is correct that police stations and units, which thought they would receive the same funding this year as they had received in 1996, were three months into this financial year when they were advised about the full extent of the cuts to their operational budgets and told to work smarter to achieve cost savings.

Those cost savings are being achieved by a number of measures which are unacceptable. Those measures include closing police stations in the evenings, and taking officers off afternoon shifts and night shifts, for which a small penalty rate is paid, and putting them onto day shifts. I will document in a moment some of the statements that were made at that officers in charge meeting which has been reported in the Press.

Perth district is not on its own. Last night, I heard on the news that the petrol allowance for the Pinjarra Police Station van has been cut to $13 a week. The Minister should think about how far police officers can drive on a fuel allowance of $13 a week. Police in the bush are not conducting remote patrols to the extent that they used to. The number of highway patrols in country areas has been reduced greatly. Some police stations are limiting their patrols to 15 kilometres from the station because of those fuel cutbacks. Police work is being restricted because of those meagre fuel allowances.

Police stations have commenced single officer patrols and are talking about requiring patrol officers to return to the station an hour before they have finished their shift so that they can complete their paperwork and not have to do any overtime. The question that I asked in the Parliament on Tuesday about shift penalties was based on some information that I have received about the expenditure on shift penalties in the metropolitan region.

I have received information that the Mirrabooka police district will be more than $160 000 over budget by the end of the financial year on shift penalties. The Assistant Commissioner, Commander Metropolitan Region, has instructed that strategies be put in place to bring the budget back into line. In order to achieve this, each police station in the Mirrabooka district has been told to reduce shift penalties by 15 per cent. That means that officers will be taken off afternoon and night shifts and put onto day shifts.

Members may ask: What are those officers doing when they are on day shift? Apart from the negative impact of those officers not being available to drive cars and vans and attend to police matters in the evenings, young probationary officers are being given highly visible tasks so that it appears to the public that there is a greater police presence. Many of those young officers are being sent to shopping centres and other busy places to walk around and be highly visible. That is just a promotional exercise. When the police stations in the Mirrabooka district were instructed to advise on what strategies they would implement to achieve these reductions, one example was to have skeleton staff operate on day shifts and weekends, etc.

The minutes of the Perth district officers meeting of Tuesday, 11 November, confirm that all regions in the metropolitan area have been asked to make these cutbacks. I will outline some of the issues that were raised at that meeting by 16 very senior officers. A senior sergeant referred to media coverage of the comments by Councillor Burt Tudori about staff shortages at Perth city police station and said that the situation was now critical, with not enough officers for the van and for beats on afternoon and night shifts. He said that the day before that meeting, there were no police in Northbridge. One officer was scheduled to attend the Multanova course, but he could not attend; and even then, there were only two officers in Northbridge. He said that rosters had been changed so that certain shifts were for 10 hours, but that it would not be possible to continue running 10 hour shifts.

The manager of finance and administration reported that although the Perth district strength was 504 positions, only 341 of those positions were filled, and many of those people were not at work but on long term sick leave and other leave. He suggested that probably only 270 officers were on duty per week in the district. A senior sergeant reported

that Perth city police station was down 40 per cent on current strength, with 81 per cent of staff being probationers with less than two years' experience.

That is extremely concerning. A detective sergeant, the officer in charge of Perth district detectives, reported that there had been eight robberies on that day but only two staff had been available to conduct an inquiry. He reported that for all of that week, central police station had no vans on night shift, and that at the moment it had only one. He reported also that no vehicles are tasked out of the city after 2100 hours, or 9.00 pm, there are no vehicles on afternoon shifts, a minimum number of officers are on duty in the lockup, and three officers are on duty on the front counter to answer diverted calls.

Another sergeant expressed concern about the safety of officers conducting one officer patrols and having no backup. If the Minister asked about those situations he might be surprised to find what had happened. I was told of one incident in the city involving a single officer patrol who needed assistance and had to wait 15 minutes for backup. Concern was expressed about temporary and probationary officers walking alone and about the safety and training implications for those officers.

It was reported that another sergeant had been placed in an embarrassing situation at the safety and security meeting that had been held at the City of Nedlands the previous night. He reported that Nedlands was being hit by burglaries but he had no staff, and people queried why he had no staff when Mr Kuchera had stated in the media that there were no staff shortages. These are the kinds of questions the Minister should be asking.

A sergeant at Wembley Police Station reported that Wembley station had one van and it had been used to undertake six jobs in the city the previous night, including escorts to Rangeview. Officers had also been told that the Perth district was already over budget and could not afford more staff, so that station would not get any more staff. The meeting was also advised that Perth city police station had been operating single officer patrols for some time.

It was moved at that meeting that something be done about the staff shortages in the Perth district, and it was resolved that a copy of the minutes of the meeting be brought to the attention of the regional commander, with a request that the information be relayed to the Commissioner of Police, with feedback to be given to the Perth district office on its discussions. It was resolved also that the concern about the lack of staff was not only because it was considered that the Western Australia Police Service was not servicing the public, but also because of concern about the safety of staff. It was resolved also that it be pointed out that there had been eight robberies on that day, but only two officers had been available to inquire into them. That motion was carried unanimously by those 16 senior officers.

A sergeant stated that the officers in charge were continually being asked to manage resources better but that they could not manage without resources. Another sergeant asked how could the district be over budget when the staff level should be 500 but was only 300. The manager of finance and administration also advised that Perth district was functioning better that others. If this is better than the others, what is happening in the other regions? He also said that the metropolitan region was aware that Perth district staff were endeavouring to do their best. Other districts had submitted strategies, some of which impinged on the award and the service. The districts have been told to keep to budget and that anything over budget would come out of next year's budget.

As to shifts, the finance and administration manager advised that to get back on budget, 157 shifts a week for the district would need to be cut. Discussions had been held on the closing of stations at night and they had requested feedback regarding the impact of that.

When asked how many officers in charge were carrying out proactive policing, all the senior officers in the Perth district indicated that there was time for only reactive policing at the moment. A senior sergeant referred to resignations and pointed out that it was at least nine months before officers were replaced. Another sergeant pointed out that if afternoon and night shifts were stopped there would be no time to conduct investigations.

I have a lot more information on that meeting, including response times blowing out to two and three hours. I have information regarding an event when a person rang the Cottesloe Police Station because his car and property had been stolen. The telephone call was diverted to central and he was told to ring Cottesloe station on Monday. That kind of policing is unacceptable, and it is indicative of the crisis in the Police Service.

These problems with the budget of the Police Service come at a time when Western Australia has some of the worst crime statistics in the nation. It is all very well for the Minister to say that more money or more staff resources have been provided, but based on the information from the minutes of that meeting, the police are not on the beat. The response times are out to two or three hours. It is unacceptable not to have police vans available to assist the public. I remind the Minister for Police that the Australian Bureau of Statistics indicated in its report in June this year that Western Australia ranks first for overall offences against property, burglary with stealing, all other breaking and entering offences; armed robbery, car stealing and other stealing. This is not a proud record for Western Australia. We are in dire straits with the level of crime and this budget crisis, yet the Minister fails to acknowledge that a

problem exists. He continues to trot out the line that there is no problem, but police officers throughout the State know that there is a problem.

The fact that the minutes of that meeting were leaked to the media indicates to me that desperate measures are necessary on this very desperate occasion. The fact that memorandums from stations and units around the State have been leaked indicates that it is a very dire situation. Cuts in the order of 15 to 18 per cent have been made to the operating budgets of most police stations, and the Police Service is under additional pressure because five murders are being investigated by the macro task force. The work being undertaken by the macro task force to solve the murders is very important. The task force should receive all the funding and resources necessary to get on with solving the murders and restoring confidence to the Perth community. People must be confident that they can go about their work and pleasure activities.

In 1997 policing in this State seems to be all about financial management instead of catching crooks and protecting the public. Instead of throwing the book at the crooks the police are spending time trying to balance the books. It is not acceptable. The Minister should have a look at the financial strain his police stations and units are under. He should look at the additional strain placed on the Police Service because extra funding is being sucked up by the macro task force and officers from other areas are being allocated to the task force. The Minister should go to Cabinet on Monday to seek an additional budget allocation for the Police Service.

MS WARNOCK (Perth) [2.55 pm): It is alarming to hear the facts and figures about policing numbers detailed by my colleague the member for Midland this afternoon. It is alarming to hear how thinly the thin blue line is stretched across our city and suburbs. As I have frequently mentioned in this Chamber, I have been a member of the community policing committee - CitySafe - for several years. As a member of that committee and as the local MP, I attended a meeting of traders, police, councillors and others in Northbridge last week. As everyone knows by now, thanks to extensive media coverage of the meeting, there are problems in Northbridge. Diners and traders alike are alarmed by antisocial behaviour by young gangs, public drug taking and dealing, and begging and soliciting on the streets. Not a lot of criticism was directed at police officers at that meeting. The police officers I have seen on the streets of Northbridge are generally respected for the work they do. Most people at the meeting agreed with that. Police officers in Northbridge are doing the best they can. However, universally people said there were not enough police to cover the territory on nights when big crowds come to Northbridge. They said that police were taking much longer to respond to calls than they did in the past. The calls that are made relate to antisocial behaviour which was addressed in the media. Most people were mystified about why police ignored prostitutes soliciting, dealers dealing openly on the streets, and gangs behaving very aggressively.

Some people at the meeting have decided to find their own solutions to the problem, but that does not let the Government off the hook. Repeatedly we have been told by the Government that it is taking care of business, that its election promises have been met; the police numbers and the budget allocations have been increased; it has met its promises; and it is covering the territory. Today the Minister said that, as he has on other occasions, but it cannot be true. Much as I admire the work of all police, as the member for Perth I see almost daily that they are not being given a fair go. When they are sure that I will not disclose their names or discuss matters with anyone else, they tell me the same things as my colleague the member for Midland has mentioned took place at that meeting this week.

How can the police do their jobs without adequate resources? It is simply not fair to expect them to do the kind of work they are being asked to do. I am speaking particularly of the Northbridge area because it is one I know very well. How can the police be expected to do their job without adequate resources? It is a nonsense to expect that, and it is not good enough to say that everything is under control and that we are taking care of business.

Northbridge is not the only area feeling the pinch as a result of the Government's inadequate funding. It is not good enough. The member for Midland mentioned other areas in the suburbs being under pressure. She talked about the Cottesloe Police Station where people who telephone receive a recorded message. People need to know that they can go out onto the streets safely at night. They need to know that their houses will not be burgled and that they will not be assaulted on the streets. They need to know that they will not see drug dealers making deals in front of them when they go out for a pleasant night in places like Northbridge. We have the right to the protection of our Police Service.

The Government must give the service the resources it needs. It is not good enough to say that resources are provided when different stories are frankly told in another corner of the room, so to speak, by another group of people. Everything heard in the last couple of days in Parliament and the media indicates that the Government is not doing a decent job in this area. It must make itself accountable for the promises made before the last election.

MR DAY (Darling Range - Minister for Police) [3.01 pm]: We have heard this debate on a number of occasions previously, and it will no doubt occur again over the next couple of years as it is a recurring theme for the Opposition.

The motion is moved on the basis of a leaked document which was prepared as a summary of discussions in a meeting held, last Tuesday I understand, of officers in charge of stations in the Perth district. It is a pity that the document was leaked in this manner as it serves to undermine confidence in the ability of the Police Service to respond in the way that the public requires and demands. Undoubtedly, that response is able to be provided by the Police Service when the need arises. Avenues are available in the Police Service - I acknowledge that there are genuine concerns - to properly address these matters through appropriate decisions.

Concerns are held about resources applied in certain areas, and some of the comments made in the document are somewhat disturbing if they are correct. A follow up meeting is being held today at a higher level in the service to ascertain whether the concerns are valid and how they can be addressed. The Commissioner of Police has given an undertaking that if a genuine problems exist, it will be addressed.

As I said during question time, this is not primarily an issue about budgets in the Police Service.

Mrs Roberts: It is about you, Minister, and your administration of the police in this State.

Mr DAY: The administration of police in this State is in a very fine condition. This is more than an issue about police budgets, and relates much more to the internal management of the Police Service. It is a matter of determining how best the rostering can be done at the district, squad and station level. It is a matter of how best budgets at a local and station level can be used, and how officers in charge can stay within their budgets.

As said on many occasion in the past - that is, because it is entirely true - the resources made available to the Police Service have been substantially increased during the last five years of government. As I said in question time, during the last term of the Labor Government, the Police Service was given $240m; the Police Service budget this year is almost $400m, which represents an increase of 62 per cent over that period. It is far above the inflation rate.

Mr Marlborough: With all the money, why can't they manage it? Why are police officers saying that they are broke? Are they lying?

Mr DAY: I am not saying anyone is lying. It is a matter of the best way to manage a situation at the local level. Many good stories can be told about what is being done at the local level, and some of my colleagues will outline some shortly. Those examples are found in regional areas, in remote communities as well as in the metropolitan region.

Some of the changes we have seen in the last couple of years relate to the enterprise bargaining agreement by which all police officers were given a 17 per cent increase in salary over the last 18 months. That is at a cost of about $55m over two years. As a result of that enterprise bargaining agreement, officers are much more productive than they were in the past. There has been an approximate increase of 260 in the number of effective operational officers because they are having fewer rostered days off than ever was the case in the past.

The Government made a commitment in the lead up to the 1993 election that an additional 800 operational officers would be provided to the Police Service. That commitment has been fully met. More officers are available now than was the case in the past to respond to the needs of the community, whether it be in the Perth district or any other part of the State.

Mrs Roberts: That is not true: The minutes of the meeting indicate that they used to have 500 officers, and now 270 are doing the job

Mr DAY: Does the member deny that there are 800 additional officers?

Mrs Roberts: It is not true that there are more officers in the Perth district, or any other district.

Mr DAY: It is true that there are more officers available to the Police Service to be able to respond to the needs of the public than ever was the case in the past.

The Government also recognised, following the election in 1993, that many of the police facilities which the Labor Government had neglected over its 10 years in government, were run down and were in substantial need of upgrade. I remind members of some of the observations of the McCarrey report. It observed, among other things, the following -

> Inspection of head office and a number of suburban police stations confirmed the inadequacy of accommodation and services. Premises were sub-standard and equipment available to meet operational demands was inadequate. Examples noted included:
>
> staff, including senior officers, operating with two or three people to a desk;
>
> former cells used as change and eating rooms;

> a shortage of essential equipment such as facsimiles, terminals and video equipment;
>
> no proper interview rooms, or holding rooms, at many stations;
>
> public able to see offenders being charged and able to hear confidential discussions and radio transmissions.

That report concluded -

> The inadequacies of these premises are having a serious effect on morale and need to be addressed by a scheduled works program that will offer some encouragement.

Mr Riebeling: Then you bring in Delta, and finish off morale.

Mr DAY: The member for Burrup should not complain as I am about to open the new Roebourne Police Station in his electorate. Many other examples can be identified in the northern part of the State where the Government has been meeting its commitments and doing a great deal to improve facilities and provide the equipment police officers need to do their job. We acknowledge that it is not an easy job, and that they need legislative backup and resources to be able to operate effectively. Proper remuneration was needed, which they now have. They need facilities and accommodation to be able to work properly.

The member for Perth also commented on concerns raised about policing in the Northbridge area. I acknowledge that there are concerns about that area. On the basis of my observations of the area, more police operate in Northbridge than in any other part of the State.

Mrs Roberts: No police or vans in Northbridge on a Monday night; is that acceptable?

Mr DAY: As I said, those matter are being inquired into today. It is the responsibility of the Commissioner of Police and his senior management to determine where a genuine problem exists. Certainly, if no police or vans were available in Northbridge last Monday night, it is a serious concern. Those matters are being addressed through the proper channels.

The SPEAKER: Order! Interjections have been incessant. I will now tighten up and start calling people formally to order. Everyone is entitled to get his or her message across.

Mr DAY: I now outline some of the efforts made by the Police Service to provide an appropriate response in the Northbridge area. For example, the city maintenance plan operates on Friday and Saturday nights from 7.00 pm to 3.00 am which has the responsibility of liaising with nightclub, cafe and hotel owners in identifying trouble spots and providing a rapid response.

An independent patrol group that operates in the Northbridge area makes routine calls. Detectives from the alcohol and drug advisory squad work in the area. The drug squad maintains a 24 hour surveillance in parts of Northbridge and other specialist crime units and uniformed officers from the City Police Station work in the area. The Perth City Councillor who raised some of the concerns also commented on the youthfulness of some of the officers who operate in the Northbridge area. Officers who graduate from the police academy have an average age of 27 years and have far more work experience and educational background than has been the case in the past. There is a good balance between youthfulness and maturity and experience in the Police Service in Western Australia.

Mr Graham: I heard Bob Falconer say the same thing on radio.

Mr DAY: I wonder why the member for Pilbara might have heard him say it. Perhaps he heard him say it because it is true.

Mr Graham: I have seen Ministers for Police before. What you blokes do not understand is that you are not the Police Service's man in Parliament; you are our man in the Police Service. You become instant coppers the second you get the job.

Mr DAY: That is right: I have the responsibility of ensuring the public interest is served within the Police Service. That is exactly what is being done.

Mr Graham: That doesn't mean standing up in here and reading Bob Falconer's lines; it means you as a Minister taking on the public interest.

Mr DAY: I may read a few lines. They might be the lines of the Leader of the Opposition. I am encouraged by the support he shows for the Police Service. I wish all members of the Opposition would seek to engender public confidence in the Police Service, rather than undermine the work that is being done by police officers in this State, both men and women, in a very difficult circumstance.

The Leader of the Opposition indicated recently on ABC radio that he thought the concept of mobile policing was very good and that there should be more of it. That is what is being done. Police officers are now much more proactive and communicative with members of the public than was ever the case in the past so that problems can be dealt with on a local basis, in consultation with the local communities, whether it be local government, local business groups or local residents. A great deal of work is being done at the moment.

Mr Graham: Why don't you solve the crimes?

Mr DAY: One does not have to be a genius to work out there are pressures on the Police Service from three major murder inquiries at the moment, which are unresolved. Obviously, if substantial human and financial resources were put into solving those crimes, it would have an impact elsewhere in the Police Service. However, the Police Service is operating off a higher base of financial resources and human resources than has been the case in the past. The service has the flexibility and ability to respond to needs on a local basis, even with those major inquiries proceeding.

Mrs Roberts: Are you aware of the operational cuts? Are you aware that police stations must cope with 15 to 18 per cent cuts?

Mr DAY: I am aware there has been some reduction in some of the discretionary budgets that were allocated to the police stations and also the squads. However, we are talking about a discretionary amount. It may have some impact on overtime or travel activities. In overall terms, the amount of funding that is now applied to the Police Service is far greater than has been applied in the past. There is a greater responsibility on officers at a station level to operate within budget. Any agency, whether it be the Police Service or any other state government agency, has a responsibility to operate within the limits that are allocated to it. There is not a limitless pot of gold for the Police Service or any other state government agency. Police officers must operate within those budgets. They are learning that they must stretch out their resources over a whole year and that they cannot ask for more whenever there is an immediate need. Like every other public agency in this State, the Police Service must work out how it can do things more effectively and efficiently. That is what is being done. There are better ways in which particular situations can be managed and responded to.

Mr Graham: Regardless of the demand and increases in crime? Don't you think when there has been a large number of murders, it is reasonable that you allocate extra resources?

Mrs Roberts interjected.

The SPEAKER: Order!

Mrs Roberts interjected.

The SPEAKER: Order! I formally call to order the member for Midland for the first time.

Mr DAY: The Commissioner of Police indicated to me that if there is a genuine need for additional resources as a result of the investigations that are being conducted at the moment, or for some other reason, following appropriate management strategies being implemented within the Police Service he will advise me. That is not the situation at the moment.

Mr Graham: Ninety per cent of break and enters do not get a copper near them, other than to issue a statement saying the person can claim insurance.

Mr DAY: For the education of the member for Pilbara, it is not simply a matter of the resources that are allocated to the Police Service, but of the nature of the crime and the amount of evidence that is left behind. It is also a matter of the community - local government, residents, business communities or anybody else in the community - working together with the Police Service to prevent crime and also to solve crime. It is a great pity the Opposition and the member for Pilbara do not provide the moral support -

Mr Graham interjected.

The SPEAKER: Order! The member for Pilbara has had a pretty good go with his interjections. The Minister has accepted many of them and responded. However, if he does not want to take them up, that is his right and the member's interjections must ease.

Mr DAY: It is a matter of the community working together with the Police Service to prevent and solve crime. A great deal of good work is being done by the additional officers who have been allocated to the member for Pilbara's area. I visited the police and citizens' youth club in the South Hedland area and much good work is being done by the officers there.

A lot of good work is being done also by the community policing officer in the South Hedland area. I hope that on

a local level the member for Pilbara would be supportive of the good work being done by the officers. I wish the Opposition would get behind the work being done by the Police Service and acknowledge the substantial additional support that has been given to the Police Service by this Government over the past five years so it can do its job much better than before.

Amendment to Motion

Mr DAY: I move -

To delete all words after "House" with a view to substituting the following -

acknowledges the additional resources provided by the State Government to the WA Police Service over the last five years and supports the men and women of the WA Police Service in their continued fight against crime in the State.

MR OSBORNE (Bunbury) [3.18 pm]: I will make some general remarks and also draw to the attention of the House some of the specific things that have happened in my electorate. I make a few important distinctions. The first is that, as the Opposition knows, any cursory examination of this issue would lead a normal, rational, sensible, honest and fair minded person to realise there is a clear distinction between the role of the Minister and the role of the Police Service, particularly the Commissioner of Police. The Opposition, and, in particular, the member for Midland, are attempting to misrepresent the role of the Minister for Police and to put across the myth that the Minister is responsible for the day to day operations of the Police Service.

The Minister can rise in this place, as he did this afternoon in question time in answer to a question, and say outright that the Commissioner of Police has advised him that there is no budget crisis in the Police Service. If members of the Opposition refuse to accept that assertion from the commissioner, in effect, they are impugning the integrity and the capacity of the Commissioner of Police. If the Minister descended to the level of control of the Police Service, for which the members of the Opposition appear to be calling, they would immediately turncoat and change their line of attack and argument and would accuse the Minister for Police and the Government of political interference and overmanagement of the Police Service.

At the outset, it must be said that the Opposition cannot have it both ways: It must understand that there is a clear distinction between the role of the Minister and the Parliament and the role of the Police Service. Inasmuch as those opposite continue to call for the Minister and the Government to intervene more minutely and directly in the operations of the Police Service, they are opening themselves up to another hypocritical line of attack.

The second general observation I will make about the attacks of the member for Midland over the past several months is that she is failing to make a distinction between a fear of crime and the incidence of crime. We must distinguish between the two. There is the issue of the incidence of crime in this community, and I can say a few words about that with respect to Bunbury. I know my colleague the member for Geraldton wants to address that issue as it relates to his electorate. The Opposition is working in an arena of a fear of crime in the community. It is the objective of those opposite in this debate to raise the level of fear of crime in this community.

Mr Graham interjected.

Mr OSBORNE: Mr Speaker, I crave your protection. I do not wish to take interjections from the member for Pilbara.

This reminds me a little of some television coverage I saw recently about child immunisation. It seems to me that the popular media, not the responsible media, sometimes wants to have things both ways as well. First those in the media raise the fear of immunisation. They show tragedy, a distressed parent who may recently have lost a child after the child was immunised and they will impugn a causal link between immunisation and the death of the child. The consequent public reaction is that the level of immunisation in the community falls. Then those in the popular media immediately start running scare stories about children with whopping cough. They involve themselves in an entirely self-serving and amoral cycle - on one hand they, in effect, encourage a lower level of immunisation; on the other they run scare stories about the lower level of immunisation and consequent increase in whopping cough in children, and child fatalities.

The self-serving and amoral cycle members of the Opposition are engaged in trying to raise the level of fear of crime in the community. I warn members of the Opposition, because theoretically it is possible - although none would count it as a matter of high probability - that they will be in government one day and they may find themselves reaping the results of this sort of campaign. What ends up happening is that as the members of the Opposition continually raise this line of attack, an expectation arises in the community that the Government and the Police Service will be wholly and totally responsible for crime control in the community. Everyone knows that is an impossibility, that it is not possible for any Government to provide so much police resources that a policeman is

located on every street corner, outside every household and next to every citizen. Clearly that is a resourcing impossibility.

Every time we go to the community and talk about crime we ask people for a partnership. We ask people to mark their valuables, to take the keys from their motor vehicles, to lock their homes when they leave, and to be involved in community policing, Neighbourhood Watch and all of those sorts of programs. That partnership of the community involvement in law and order is the only way we can succeed. Yet the member for Midland, in particular, and the Opposition generally are attempting to create an expectation in the community that the Government is wholly and solely responsible for law and order. Every time there is a mishap or a problem, the member for Midland will attack in this place the Minister for Police as though he were personally responsible for that incident.

I will refer very briefly to what is happening in the Police Service in Bunbury. As recently as last Thursday I was at the Bunbury Police Station. I was delivering a community service finalist award to the Bunbury detectives office. George Loverock received that award. Incidentally, this is a fine example of police cooperation with the community and other government departments in lessening, in this case, the incidence of crime in the child protection area. It fits in very well with that new approach about which the Minister is talking, which we intend to go on encouraging - the sense of partnership that we want with police officers. We do not want a sense of paternalism or total government responsibility for law and order in the community; we want to encourage people to take the partnership approach and to be responsible for what happens in their communities.

There are many examples of the police working in partnership in the Bunbury community, like any other community. Those that I have already mentioned exist; that is, Neighbourhood Watch, community policing and the police and citizen's youth club. There are some extremely capable and dedicated officers, such as Frank Yates at the Newton Moore Senior High School, and Neil Fisher and Frank George who work at the South West Regional Drug Coordination Committee. These people are extremely capable, committed policemen who want to work in partnership with the community. My assessment is that in Bunbury it is a most effective partnership. Although it has crime like any other community of its size and nature, it is my assessment that the level of crime is not out of control. Of course, there are distressing outbreaks and incidents which happen regularly, and no-one is happy about that; however, the Police Service in Bunbury works effectively.

Whenever the local community or I, as the local member, have asked this Minister for Police or his predecessor, the member for Wagin, in a rational and well reasoned way for extra resources, they have been available. A new police station has been constructed at Australind. Foot patrols have been instituted in the City of Bunbury. The member for Midland was a little disparaging earlier about foot patrols. However, I believe it is a good example of effective policing. I have seen foot patrols working in the Bunbury central business district. I have seen police officers in local shopping centres where members of the community might be concerned about a group of young boys who are very vigorous and physical and have a strong presence.

Old people are anxious about that, but those young fellows are not breaking the law. The policemen go over and talk to them and find that the boys might very well be talking about last weekend's football results or how the surf is at Yallingup. The perception of those who are watching that interaction is that the police are present, that they have formed a relationship of sorts with the people who may be of concern, and the deterrent effect of that is extremely effective.

I will conclude my remarks there because my colleague the member for Geraldton wants to make a contribution. I support the amendment to the motion.

MR BLOFFWITCH (Geraldton) [3.28 pm]: I am glad to be speaking to the amendment. The Police Service deserves a lot of credit. The changes that have been made to the Police Force have worked in a very positive manner. I was very much opposed to the regionalisation that was established because Geraldton was put in the southern district. How anybody could believe Geraldton belonged in the south of the State was beyond my reasoning. Even with that handicap, I have seen it work extremely well. The burglary figures for Geraldton over the past 12 months have gone from 215 in 1996 to 110 in October 1997.

In August 1996, 165 reports were made and the same month this year 102 reports were made - another reduction. Two months earlier in 1996, 118 reports were made and in 1997, 81 reports were made. What are the reasons for these reductions? Under the Delta program, all police in Geraldton - that is, criminal investigation bureau, police and citizens youth club, community policing, etc, - come under the direction of the local inspectors. They formed an antiburglary squad about four months ago to go into the suburbs, look for criminals and arrest them. They made many arrests. Since staying in South Perth I have concluded that it is a pity that the same policy is not adopted in South Perth as in Geraldton where the police there are walking the streets, making arrests and reducing crime.

However, the one thing we have not addressed is antisocial behaviour. It is a major problem in Geraldton. This

Parliament must seriously consider the issue of young people causing a great deal of antisocial behaviour like that which occurs in Northbridge and the rest of the State.

MR RIEBELING (Burrup) [3.31 pm]: The Opposition supports the second half of the Government's amendment which says -

> and supports the men and women of the WA Police Service in their continued fight against crime in the State.

However, we do not support the amount of resources the Government has delivered to that service.

Mr Day interjected.

Mr RIEBELING: Outrageous as it is, this Minister comes in here and blames us for raising issues of concern in the Police Service. We are not telling this Government about a list of things we have made up. This is a list of concerns that has come from the men and women of the Western Australian Police Service. If he does not know it, the Opposition knows it and he should know it. He is the Minister for Police; members on this side of the House are not. We get information about how many police officers are at the Central Police Station on a daily basis! Why can the Minister not get it?

Mr Day: Those concerns are being dealt with at the moment.

Mr RIEBELING: How will they be dealt with? This is a budgetary problem. I understand that the Minister told the Police Service that it will not be getting any more money and it must make internal adjustments. The service's attempts to make adjustments have been disastrous. No police are patrolling the Perth area at night.

On 8 November there were eight police officers working in the Central Police Station with no ability to work the streets. We are not talking one day here. On 9 November there were six officers and no possibility of utilising staff for manned vehicles, general duties, traffic vehicles or a tasking vehicle. The next day, 10 November between 3.00 pm and 11.00 pm - all in the same week at only one and probably the busiest station in Western Australia - the central station was manned by six staff who were unable to do any general purpose work, and had one general duties vehicle available for tasking - whatever that means. The balance of the staff had to man the station.

The next shift from 11.00 pm to 7.00 am was staffed by five staff and they had even less ability. No general duties work and no traffic duties work could be carried out when most crimes are being committed by burglars and the like. The same situation occurred on 11 November and 12 November.

After the meeting that took place some time this week the Minister should have ascertained the situation within the main police district. Had he taken the interest and found out, he would have been just as concerned as the officers who must patrol the streets of the cities and towns of Western Australia.

We should forget about what the members for Bunbury and Geraldton said. After speaking to a number of people in the Kimberley especially, a person supplied me with a list of major concerns of police officers.

Mr Day: I was there two weeks ago opening a brand new station in Halls Creek and I inspected a brand new station in Kununurra. Officers were not complaining.

Mr RIEBELING: So they were happy? I will read 10 of the major concerns and the Minister can tell me whether he knows about them. The first concern related to budgetary problems and hatred of the Delta program. That program states that if a police officer is over 40, the service does not want him. That is a program the Minister has presided over with the present Commissioner for Police - the commissioner who got rid of 150 commissioned officers with 3 000 years of experience. Now we cannot solve murders. The Minister can laugh at that.

Mr Day: It is a nice glib line.

Mr RIEBELING: It might be a glib line, but it is true. In the north some of the major concerns include the practice of withdrawing charges in courts to avoid paying recall and overtime. Has the Minister heard of that?

Mr Day: No.

Mr RIEBELING: Would the Minister be concerned if that were happening?

Mr Day: In general terms, yes, I would be.

Mr RIEBELING: Not in general terms. Would he be concerned?

Mr Day: Yes, but I want further information. I do not accept that just because you are saying it is the full story.

Mr RIEBELING: Secondly, no consultation occurs with the arresting officer on the practice I just described. That

is clearly contrary to the Director of Public Prosecution's guidelines about which the Minister will know. No doubt it would concern him even more if police officers did not comply with the DPP guidelines. Thirdly, branches are waiting for the last minute to recall officers to attend court for evidence. Has the Minister heard of that practice? Fourthly, a lack of police witnesses at courts means civilian witnesses have no protection from defendants and suffer humiliation and problems at courts. Has the Minister heard about that occurring?

Mr Day: No I have not heard about that.

Mr RIEBELING: What about the recent Coffin Cheater acquittal in the Broome Court? Has the Minister heard about the lack of police witnesses there?

Mr Day: I know when a substantial riot was organised by a bikie gang two or three months ago near a north west estate a very substantial effort was made to monitor it.

Mr RIEBELING: Fifthly, officers subpoenaed and summonsed to return to courts in other regions, particularly Perth, are being refused permission. The officer is saying that when officers are transferred from an area and a court case arises, they are not allowed to return to give evidence. Has the Minister heard about that?

Mr Day: No, I have not. You believe money grows on trees.

Mr RIEBELING: My problem is that if someone is arrested, the prosecution should prosecute it rather than creating a budgetary concern of whether justice can be afforded. That is what the Minister is presiding over. It is about time he admitted it and did something about it.

Mr Day: It is a management decision. They must work within budget. They did it for the 10 years you were in government and they always will.

Mr RIEBELING: It is not a management decision; it is a matter of funding. The Government should give the police more money and allow them to do their job. People are being arrested, taken to court and released because the Minister cannot give the witnesses enough money to get there. That is an absolute disgrace.

Mr Day: The Police Service does not pay the witness; the money comes from the Ministry of Justice.

Mr RIEBELING: I am talking about police witnesses. Do police not pay police witnesses?

[The member's time expired.]

Amendment (words to be deleted) put and a division taken with the following result -

Ayes (30)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Pendal
Mr Baker	Mrs Holmes	Mr Prince
Mr Barnett	Mr House	Mr Shave
Mr Barron-Sullivan	Mr Johnson	Mr Sweetman
Mr Board	Mr Kierath	Mr Tubby
Mr Bradshaw	Mr MacLean	Dr Turnbull
Dr Constable	Mr Masters	Mrs van de Klashorst
Mr Court	Mr Nicholls	Mr Wiese
Mr Cowan	Mr Omodei	Mr Osborne *(Teller)*
Mr Day	Mrs Parker	
Dr Hames		

Noes (19)

Ms Anwyl	Mr Kobelke	Mr Ripper
Mr Brown	Ms MacTiernan	Mrs Roberts
Mr Carpenter	Mr Marlborough	Mr Thomas
Dr Edwards	Mr McGinty	Ms Warnock
Dr Gallop	Mr McGowan	Mr Cunningham *(Teller)*
Mr Graham	Ms McHale	
Mr Grill	Mr Riebeling	

Amendment thus passed.

Amendment(words to be substituted) put and a division taken with the following result -

Ayes (30)

Mr Ainsworth	Dr Hames	Mrs Parker
Mr Baker	Mrs Hodson-Thomas	Mr Pendal
Mr Barnett	Mrs Holmes	Mr Prince
Mr Barron-Sullivan	Mr House	Mr Shave
Mr Board	Mr Johnson	Mr Sweetman
Mr Bradshaw	Mr Kierath	Mr Tubby
Dr Constable	Mr MacLean	Dr Turnbull
Mr Court	Mr Masters	Mrs van de Klashorst
Mr Cowan	Mr Nicholls	Mr Wiese
Mr Day	Mr Omodei	Mr Osborne *(Teller)*

Noes (19)

Ms Anwyl	Mr Kobelke	Mr Ripper
Mr Brown	Ms MacTiernan	Mrs Roberts
Mr Carpenter	Mr Marlborough	Mr Thomas
Dr Edwards	Mr McGinty	Ms Warnock
Dr Gallop	Mr McGowan	Mr Cunningham *(Teller)*
Mr Graham	Ms McHale	
Mr Grill	Mr Riebeling	

Amendment thus passed.

Motion, as Amended

Question put and a division taken with the following result -

Ayes (30)

Mr Ainsworth	Dr Hames	Mrs Parker
Mr Baker	Mrs Hodson-Thomas	Mr Pendal
Mr Barnett	Mrs Holmes	Mr Prince
Mr Barron-Sullivan	Mr House	Mr Shave
Mr Board	Mr Johnson	Mr Sweetman
Mr Bradshaw	Mr Kierath	Mr Tubby
Dr Constable	Mr MacLean	Dr Turnbull
Mr Court	Mr Masters	Mrs van de Klashorst
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Noes (19)

Ms Anwyl	Mr Kobelke	Mr Ripper
Mr Brown	Ms MacTiernan	Mrs Roberts
Mr Carpenter	Mr Marlborough	Mr Thomas
Dr Edwards	Mr McGinty	Ms Warnock
Dr Gallop	Mr McGowan	Mr Cunningham *(Teller)*
Mr Graham	Ms McHale	
Mr Grill	Mr Riebeling	

Question thus passed.

INDUSTRY AND TECHNOLOGY DEVELOPMENT BILL

Report

Report of Committee adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr Cowan (Minister for Commerce and Trade), and transmitted to the Council.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL

Second Reading

Resumed from an earlier stage of the sitting.

MR BROWN (Bassendean) [3.50 pm]: I have made a number of remarks about the Bill. I refer to the Minister's second reading speech, and particularly to his comments about its intent which is -

> . . . to provide an option for permanently but partially incapacitated workers to redeem future weekly earnings.

For those not familiar with the workers' compensation system, the redemption provisions permit an injured person to redeem future earnings. Until the 1993 amendments it was possible for those who were injured but who could not return to work to seek what is called a redemption based on the earnings that they would have received had they been able to work. The 1993 amendments constrained the operation of that provision. Indeed, the Act then limited the option for redemption payments by ensuring that only permanently incapacitated workers could redeem future weekly earnings. I have retrieved the *Hansard* of the debate that occurred at that time and it records that members on this side of the House indicated that that was an unrealistic and unfair amendment, and particularly unfair to workers who were permanently but partially incapacitated. The Government was urged to reconsider that position.

It is pleasing to see that, after some three years, the Government - although it does not say so in the Minister's second reading speech - has admitted the error of that legislation and has agreed to amend this provision. It was a harsh provision, and we pointed that out in this House. However, as per usual, comments from this side of the House were ignored. It is pleasing that somewhat belatedly, and without any due reference in the Minister's speech to the fact that we took that position in 1993, we now see this change, and it is obviously to be welcomed.

While the Minister refers in his second reading speech to this change being of benefit to injured workers, and no doubt it is, I understand that some insurers have ignored the changes. It has been efficient for insurers to continue to recognise redemptions and continue to use those provisions for those workers who have been permanently but partially incapacitated. I understand that the Government has received representations from insurers asking it to reinstate this provision, hence we now see it reinserted. I am also told by people who operate in the field that many insurers have not taken a hard position in relation to the limitation in the 1993 legislation but, rather, have continued to seek to redeem payments for permanently but partially incapacitated workers, even though the 1993 amendments sought to remove that provision. Therefore, I am pleased to see this provision reinstated. It should never have been removed in the first place. It has simply created hardship and difficulty for those employees who have been so injured.

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

Mr BROWN: The other aspect of the Bill that I welcome concerns a change in relation to legal costs where an injured worker's employer appeals a decision of a review officer. Under this legislation, the matter first goes before a conciliation officer and if it is not able to be resolved at that level it goes to a review officer who can determine the facts of the case and whether compensation should be paid. The decision of the review officer can be taken to a workers' compensation magistrate.

I raised in this Parliament 18 months ago the circumstances of a constituent whom I then represented and who took a case to the review officer. The review officer found in her favour. The insurer then decided to appeal against the review officer's decision and took that appeal to the workers' compensation magistrate. The workers' compensation magistrate made some decisions in respect of the proper interpretation of the law and referred the matter back to the review officer. The review officer then considered the facts of the case, having regard to the decision of the workers' compensation magistrate and made a decision. The insurer was not happy with that decision. The insurer then took the matter back to the workers' compensation magistrate, who then dealt with that further appeal and the matter was returned to the review officer, who finally determined the matter. Of course, that took an extraordinary amount of time.

No costs can be awarded in relation to these matters. Had my constituent been a person of very limited means, she would have had to give up the fight. It was a technical argument and could not easily be put by a lay person. Fortunately my constituent was very astute and her husband was in the middle to upper income group. Therefore, she could afford legal representation to take this case through to the workers' compensation magistrate and to argue it on both occasions.

Despite the fact that she won the case, because no costs could be awarded, she was thousands of dollars out of pocket. I raised that matter in this Parliament about 18 months ago. The Government's general response was that hard cases make bad law, bad luck. When I provided the *Hansard* containing the Government's response to my constituent she

was less than impressed. It was the usual half-hearted response we expect from the coalition when dealing with matters of workers' compensation.

I welcome this change. Again, it was a pernicious piece of legislation that sought to make it extraordinarily difficult for injured workers to have a forum in which to maintain their rights. It is pleasing to see that the legislation is now being amended to overcome, or at least partially overcome, that problem. My constituent is still thousands of dollars out of pocket and she will never regain that money. She has the coalition to thank for that loss.

If the case history were published for the electorate to see, people would be interested to see how the changes have affected ordinary people. Needless to say, not everyone is prepared to take that step.

The other matter raised in the second reading speech concerns legal costs. One of the reasons for the Government introducing the 1993 amendment was to reduce legal costs. However, it was really a cost shifting exercise. Prior to the 1993 amendments, injured workers who were denied compensation and sought to prove that they were entitled to compensation could hire counsel to represent their interests, and their costs were met under a schedule fee arrangement if they were successful. However, under the system introduced in 1993, legal practitioners are not permitted to appear before the conciliation officer. Therefore, injured workers now engage advocates. Of course, those advocates must be paid, and the cost falls on the injured worker even when the injured worker is successful with his or her claim because that cost cannot be claimed.

Unfortunately, the person injured at work, even if compensated eventually after arguing his or her claim before a compensation or review officer, will still be out of pocket for the cost of that representation. Therefore, the so-called savings which have been achieved are not to the overall system, but rather to the insurer and premiums. The cost has been put back onto injured workers, who now must meet that cost.

Also, it has been described to me by people who have appeared before conciliation and review officers that it is a little like a puppet show as one has a two-room process; namely, those talking about the issue are acting on the advice of people from another place. Even agents say that they occasionally feel like puppets. These are complex issues. Legal advice is sought, when it can be afforded, as agents do not have the legal training to argue the technical points, and the agents put the view on the basis of advice from their principals who are not allowed to appear. It is less than a satisfactory arrangement.

I wanted to comment on a number of matters, but time will not permit that to occur. The Bill will enable working directors to elect whether to be included under the workers' compensation policy of assurance. In ordinary cases, I would not have a problem with that. A director of a company could assess whether people will be working in the business premise, and whether they want to be covered or take out some other form of arrangement. In normal circumstances, that would not be a problem at all.

The problem is that over the last three or four years, a number of business relationships have changed; that is, workers are no longer employees as larger companies have insisted that former employees establish an independent business. Therefore, the real relationship between those people - that is, formally as employer-employee, but now as company and independent businesses - has not really changed.

Where the so-called independent businesses are competing against each other in the price offered for work, and workers' premiums of 1 per cent or 1.5 per cent are involved, directors may be tempted, in order to secure the job, to avoid taking out an insurance policy. It is a real possibility that we will find people not insured. Blue-collar or white-collar workers would operate under such an arrangement only because it suits the company to have a company-company rather than a company-employee relationship. That will result in a number of people being uninsured, and raises questions relating to the Medicare and health system. It could potentially cost those people their livelihood if no-one meets those accounts.

MR MARLBOROUGH (Peel) [4.07 pm]: We continue to see the Minister for Labour Relations attempt to rectify his misdeeds of the past. Obviously, this Bill relates to a classic mistake of the past. As my colleague has indicated, the Opposition tried to convince the Minister at the time that the removal of this cover would cause difficulties in workers' compensation. However, the Minister went on blindly, as he normally does, taking no heed of advice. He thought: What would the Opposition know about it?

In 1993 he removed the redemption qualifications from the Act. The Bill indicates the ongoing progress of a Minister who has only one objective in mind; namely, how he can continue to get away with screwing workers' rights? He has done it successfully in introducing legislation for workplace agreements, although less than 5 per cent of workers in Western Australia after four years of workplace agreements are actually covered by them. Nevertheless, he is still a Minister who has provided legislation to the greedy rather than to the smart and intelligent employer. The part of his industrial legislation which applied to workers' compensation was also geared to that same group of employers.

How can we continue to feed the greedy, nasty and uncaring employers in this State, while maximising profits to the insurance companies?

We have seen a progressive history of this Minister, in his death throes, staggering from one crisis to another. He continues to attempt to legitimise his method of operation through legislation. Underpinning all this effort has been the tightening of the screws and making life more difficult for injured workers.

The horrendous crime these people have committed is simply to be injured at work, in the main through no fault of their own. At a time when Australians deserve to receive a great level of sympathy and assistance, this Minister has set out with legislation to remove that from what was, under the Labor Government, probably the most progressive workers' compensation legislation in Australia. He tries to coat it in sugary terms.

This afternoon we will hear the Minister for Labour Relations talk about statistics. He is the only person I know in this Parliament who has the audacity to talk about certain incapacities in the Bill as now being an advantage to workers. He would argue that if someone suffered from a certain percentage of hearing loss, under his legislation that person would be better off. It does not matter that the Bill is rushing that worker who has an injury back into work, regardless of the quality of that worker's health. The legislation continues to do that because it puts emphasis on that person not getting well, but getting back into the work force. The trigger to making that person return to the work force as quickly as possible, not necessarily on the basis of health, is the penalties attached to workers' compensation. If people do not get back into the work force as quickly as the Minister determines they should, they will be penalised.

Clause 13 seeks to amend section 61 of the Act. The discontinuance of weekly payments is to be based on total or partial capacity for work instead of a person being "wholly or partially recovered". We need go no further than the word changes to indicate what the Minister's game is. The total or partial capacity is always referred to in the Act as the ability of the worker in recovering from a work-caused injury to be able to return to the job he or she left. If someone was working as a machine operator or computer operator, the emphasis of the Act with those words was always for the person to be fit to return to that type of work. There is now no need for that at all. This Bill contains words that will see some measure - one hopes it is some medical measure - of what will be termed as "wholly or partially recovered". It will have nothing to do with the person's ability to return to the old job. Implicit in that means that workers will return to work, in many instances not capable of going back to their old job, but most importantly, not able to be paid at the rate they were paid previously.

Implicit in the Minister's approach to workers' compensation is a continuation to minimise the return to workers. If the Minister's intention was not to do that, there would be no need to change that section of the Act. If it were the intention of the Minister to continue to allow workers to return to the job they held prior to their injury, there would be no need for the words to be changed. However, this Minister, who regurgitates these Acts over his Weeties in the morning, starts off the day by savaging another page of workers' rights. He can always find a way by which to screw down the workers. We have gone from a State that had some of the most progressive workers' compensation legislation to one of the most repressive regimes for workers' compensation, with little emphasis on the workers' recovery, but a continuing attack on conditions and an emphasis on how quickly the Government can get injured workers back to work or get them out of the work force altogether.

Obviously the Minister is not satisfied with the present capacity of the medical assessment panels in the Act. He has determined to broaden the definition of what becomes medical. It will have nothing to do with workers' capacity to return to their normal job, but will be based simply on their capacity to work. It is not to do with the worker's right to attempt full recovery. While that worker is attempting to regain full use and maximum capacity, it is not to do with putting in place a mechanism by which he or she and the family will be protected and buffeted from a time when there may be a decline in income, an increase of tension in the household, and extra expenses attached to the recovery of the illness. Does this Minister include in legislation in the 1990s an attempt to recognise that that is what happens in the real world and, therefore, an attempt to improve the legislation? No. In the main, so-called improvements are technical matters. Rarely, if ever, do the amendments give anything extra to the worker. Where those sections in the Act set out to improve the need of the injured worker, the Minister ignores that and heads in the opposite direction.

The medical practitioners section of the Act will be changed so they can adjudicate on a worker's capacity for work. They will make judgments in an area of social and employment significance, as well as medical significance. The legislation will give practising - one presumes - medical practitioners a new arena to dabble in. I suggest they have as much qualification to dabble in that area of a worker's life as I have. After 12 years as a politician, with constituents coming through my door on a daily basis with all sorts of problems, one acquires certain skills, regardless of qualifications. However, having acquired those skills, I would not be allowed by law to set myself up on a professional body and use those skills to measure the capacity of another human being.

In this clause we see medical practitioners. I see no indication that those persons will be in any other profession. They will be able to adjudicate in areas of social and employment significance, as well as medical areas. Will it mean we will have different judgments for the same injury if people work in the city, rather than in the country? Will it mean that a person is seen to be of more importance to the capacity of a small business to operate, than a person who works in a large organisation where the non-appearance as a result of work caused injury can be covered by someone else being employed or another employee taking on the workload? Will this panel make judgments on those bases? The legislation seems to indicate that it will have that capacity and to take into account all those considerations.

I suggest that those considerations are not only well outside the scope of those on the panel, but also the definition is deliberately intended to be so broad in its interpretation that that body has a greater capacity to determine to get the workers back into the work force on the basis of speed, rather than their health needs. I am interested to hear from the Minister from which arena of the industrial sector he is getting the information for having a body that is so broad in its application that it can now involve itself in those areas of decision making for workers.

Mr Cunningham: It could be the H.R. Nicholls Society.

Mr MARLBOROUGH: It could well be. I suppose it could also be the greedy, hungry and retarded management groups that embrace this Minister's workplace agreement legislation. Thankfully in this State it involves fewer than five per cent of the total Western Australian work force.

Regardless of how the Minister might like to beat his breast every month and claim how successful his legislation is, it is a failure. It impacts terribly on those who are caught up in it. I suppose given his thinking capacity, the Minister will see that as a victory. Yesterday we heard him talking about the $3 increase that has just been passed on to workers in Western Australia under workplace agreements. Yesterday he stood up in this place and said how great that was for the economy and for the nation. When an industrial award can pay over $35 more to a worker who is carrying out the same job as another worker who is employed on a different basis, this Minister can still argue that for the other worker to have $35 less a week is great for this State!

The same mentality that was behind the workplace agreement legislation is behind this legislation - to steal and to grab away from workers their conditions when they are most needed, when employees are ill, when they are injured, when their family needs support. The same mentality is driving this legislation. When the rest of the nation can pay $50 more than this Minister can find in his workplace agreements for a basic wage, he still has the capacity to argue that his system is great for the State and the nation. It never ceases to amaze me! Thankfully, not many people are listening. The greedy are, but not many others, including many of his colleagues. The evidence is that the Minister has been battling for five years to get his workplace agreements into many government departments and he has been unsuccessful. Even his colleagues recognise that it is absolute madness.

The Minister is putting in place a system that is taking away from the most important people in the community - those who earn a wage and can pay their way, who keep production going, who can best purchase the goods we manufacture - their capacity to earn, their confidence, their security. In this State people at all levels who work under this Minister's legislation - he is now supported by some of his federal colleagues - are constantly looking over their shoulder to see whether they can be supported by the Government, whether that support guarantees them not only proper protection in the workplace for injury, but also fair protection to hang onto a job. Workers do not have that. That is why today in this community, which is lead by people such as this Minister for Labour Relations, we have so much insecurity. That is why when interest rates are at three per cent or four per cent - it has never been seen in our lifetime - more houses are not being built, people are not buying white goods or a new car, or making decisions about a change in their lifestyle that will cost money. People must be frugal because they know this Minister is waiting to grab more from them, to send them down to the unemployment scrapheap as quickly as possible. His motivation is to make sure Western Australian workers are treated like third class citizens - and that is what this legislation continues to do.

MS MacTIERNAN (Armadale) [4.26 pm]: This is interesting legislation. It has had a long history. The Minister for Labour Relations first introduced mark I of this legislation in 1995. It languished on the Notice Paper for most of 1995. Towards the end of the year the Minister had one of his personnel contact -

Mr Kierath: It was in 1996.

Ms MacTIERNAN: No. I think it was in 1995. The fundamental package was brought in in 1995. Two days before the Parliament was due to rise, the Minister had Mr Harry Neesham - I think - contact Yvonne Henderson to see whether the Bill could be rushed through in two days. At that point the Opposition said that there were a few good bits in the Bill and if the Minister was happy to go with the good bits, we would be quite prepared to put those through without debate or scrutiny, but that the Opposition was not prepared to allow the Minister to attach to some very desirable aspects of the legislation -

Mr Kierath: I think you will find it was 1996.

Ms MacTIERNAN: No. That was in 1995. Extraordinarily it was repeated in 1996. This is the third year in which this legislation has been sitting on the Notice Paper. The legislation sat on the notice paper for most of 1995. Two days before the Parliament was due to rise, the Minister sought to have it brought on quickly. In November or December last year similar representations were made by the Minister's staff. I think the Minister wrote directly to the Opposition requesting that we do the same thing. Again we put to the Minister that he has had two years to bring on debate on this Bill, but he let it languish and that it is now unreasonable to ask us to put this Bill through without debate.

Again the Opposition made the offer and excised certain aspects of it that the Minister said were very desirable and let it go through. In 1997 again, towards the end of the sitting, the Bill has come forward. I have my doubts whether this legislation will be passed through the Parliament as a whole in 1997 and that will be regrettable.

It is clear that the Minister is embarrassed about aspects of these amendments within this Bill, that his ideological antipathy to partial redemptions for permanently injured workers has turned out to be a nightmare for the insurance industry. Those representations by the Insurance Council of Australia and various insurers are the motivating force. If this legislation were simply to enhance the position of working people, we would not be getting anywhere here. Thanks to the concern of the Insurance Council of Australia about the number of very small payments it has languishing on its books, and which will continue for many years, a great deal of pressure has been applied on the Minister to act in this regard.

Late last year the Minister encouraged the Insurance Council of Australia to write to me as the then shadow Minister for Labor Relations to urge my support for those aspects of the legislation. The council pointed out that not only is it of great inconvenience and a drain on its administrative resources but also it was very bad for working people. It meant that a degree of what might be called a functional overlay would continue for injured workers for many years, not allowing them to refocus and get on with their lives.

They were the arguments powerfully put by the Opposition and the union movement when the Minister first introduced this legislation. However, those arguments about the welfare of injured workers fell on deaf ears. Nonetheless, the more incessant and the more appealing arguments of the Insurance Council of Australia on administrative costs has forced this Minister into a somewhat embarrassing backdown on this issue.

I note that in drafting that provision the Minister has tried to put in a range of hurdles to impede partial redemptions. There is an unrealistic threshold on the level of weekly payment required before one can have a redemption. There are also some unrealistic requirements about what must be demonstrated to justify special circumstances and hardship. Nonetheless, I have no doubt that the Insurance Council of Australia will manage to work its way around these silly obstacles that the Minister insists on preserving in the legislation.

The Opposition's position has not changed. It appreciates that the Bill contains supportable provisions. However, it is concerned that the Minister is attempting to introduce a number of provisions that will adversely affect the position of injured working people. One provision the Opposition strongly supports is that which will prevent costs being awarded against a worker by a magistrate in cases where an appeal by an employer succeeds against a review officer's decision. That cost issue has been a real barrier to working people seeking compensation and justice. It would be most unfair if, having successfully established a claim, it was knocked off on questions of law. They would not only not receive a payment but also would endure expense in paying for the appeal of the employer. The prospect that the employer's insurer would take a review finding to appeal has been used as a weapon to intimidate injured workers into accepting a compromise. That is most improper. This legislation will work to remove that provision. The Opposition also supports the automatic indexing of the key compensation entitlements.

The Opposition will examine in more detail some provisions during Committee. One of concern to me is the provision that will enable working directors to elect to be included under a workers' compensation policy of insurance. I note, Mr Deputy Speaker, you are nodding in relation to this provision. I would not like to impute a political position you might hold on this; however, I get the feeling you may be supportive of it. I do not support it because it will drive down levels of compensation coverage within the community. It will also leave the way open for a great many scams through the use of subcontracting. I refer to examples from the housing construction industry which, as you will be well aware, Mr Deputy Speaker, is run largely on subcontract labour. We must recognise that for a variety of reasons a real push has been made by builders to have their subcontractors incorporate. This is designed in part to get around workers' compensation provisions. However, it does not do that entirely, because a builder has an overarching responsibility under the Workers' Compensation and Rehabilitation Act to maintain a level of workers' compensation cover.

However, two areas in which real advantage has been sought for the builder is, firstly, releasing them from potential

liability in relation to superannuation and common law claims. It is mainly the area of superannuation that has motivated the forcing of subcontractors to become proprietary limited companies. Secondly, under the federal Labor Government, provisions were inserted within the federal industrial relations legislation giving natural person subcontractors the right to access the Industrial Relations Commission to have harsh and unconscionable contracts reviewed, etc.

Of course they were keen to ensure they would not be subject to that. For those reasons there is an increasing incidence of proprietary limited companies within the housing construction industry.

The majority of the directors of those companies are working people who are engaged in a hazardous occupation. If members care to look at the statistics on injuries in the workplace, they will find that the construction industry features very highly. It is my view that those figures are vastly under-reported because many self-employed people do not report accidents or injuries that occur to them in the workplace. That became evident after a young roofing carpenter met with a very nasty accident. The accident was reported to WorkSafe WA and it actually carried out a survey within the industry which revealed that approximately 90 per cent of roofing carpenters had had an accident involving snapping timber in the previous two years. Very few of those accidents had been reported to WorkSafe.

The situation is that most of the directors are engaged in quite dangerous working environments. The Opposition also knows that there is enormous downward pressure on the remuneration given to subcontractors in the housing construction industry. Some members opposite have the nonsensical belief that somehow or other the situation in the project housing market is that subcontractors bargain with builders for the returns they receive. Nothing could be further from the truth. At the project home level the rates are set by the builders and the subcontractors either take it or leave it. If they do not like it, there are plenty of other subcontractors who will take it.

If companies are able to elect to provide workers' compensation cover for directors, it will be one of the first things that subbies will give up. The pressure is on them to cut their costs simply to get the work to sustain themselves on the payments made by project builders. The Minister really needs to look closely at what is happening in this area.

I understand there are between 30 000 and 40 000 housing subcontractors in this State and they will be very much affected by this Bill. The result will be a higher incidence of people having accidents and not having any workers' compensation coverage. Members may argue that it is their choice and they can take out workers' compensation cover if they really want to. The financial pressures on them are such that if this requirement is removed they will avail themselves of this exemption. I have no doubt that some of the very large players in the project housing market will see it as an opportunity to further drive down the returns they dictate for housing subcontractors.

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

Ms MacTIERNAN: The situation is that genuine directors may elect to exploit this exemption at their own peril generally, and largely at the peril of the community, because at the end of the day someone will have to pick up the cost. No doubt it will be the social security system.

There is a real prospect that this exemption will be used quite improperly to include people who fundamentally are employees. I know that industry very well and it is not at all fanciful to imagine that many hammer hands and other employees will be enrolled as directors in a company, but they will have no beneficial entitlement under the company. Fundamentally they will be workers, but for the subcontractor to gain the benefit of that exemption in relation to their employees they will take on people as notional directors. If the Minister believes that sort of thing cannot go on, I refer him to the bottom of the harbour schemes that proliferated in Australia in the 1980s.

It is the easiest thing in the world to sign someone up as a director. A husband and wife subcontracting team, with two directorships, could easily sign up someone else as a director. That person would not be given a beneficial interest in the company and would never have the capacity to affect the affairs of the company. However, their involvement in this notional way as a director of the company would preclude them from having workers' compensation cover.

The Minister is seeking to implement a very misconceived and quite wicked provision. On the face of it, it looks reasonable. However, it is a different matter when one analyses how it will operate within those industries where there is a high level of risk and exposure to risk; for example, the construction industry. It will not be a concern if people are working in a white collar, office environment. People reading this legislation will think, "What does it matter if a white collar worker who sits at a desk does not have workers' compensation cover?" They are not the people who will be affected. The directors of companies who are really contractors for the performance of construction work will be affected.

It is interesting that it is permeating other areas. A company like Austel has 500 proprietary limited companies clocking on and off for work each day. The use of such companies in blue collar, high risk areas is proliferating.

This provision should be deleted from the Bill, but I ask the Minister, at the very least, to consider putting a caveat on this exemption so it will apply only where the director has a beneficial interest in the company concerned. It would at least have the effect of dealing with one half of my concerns; that is, the enrolment of people who are employees as notional directors simply to extend the benefit of the exemption. I will be interested in the Minister's reply in that regard.

Mr Kierath: Would you agree to an amendment?

Ms MacTIERNAN: Having conferred with my colleague, we would. In his contribution to this debate the member for Nollamara did an excellent job in covering the issues which concern the Opposition. We will have the opportunity to go through them in more detail in Committee.

However, I will make a general comment about workers' compensation and pick up on the themes addressed by the member for Nollamara. It is certainly true that the Minister has been able to claim that there have been substantial cuts in workers' compensation premiums - that is undeniable. Whether that has been at the expense of justice for injured workers is a matter of grave concern to the Opposition.

We recognise that there is a need to be realistic about workers' compensation, and we recognise that very high levels of workers' compensation premiums can be an impediment to employment. Of course, we do not want to foster that. However, we recognise that it is important to ensure that injured workers are compensated and that industries that cause injury to workers should bear the responsibility for those injuries. To do otherwise would be an economic distortion. To allow an industry to operate at a hazardous level but require taxpayers, through social security and health systems, to pick up the pieces would be to provide an unfair economic advantage to that industry. Even if one wanted to be an economic rationalist, one would say that we should ensure that the operators of an industry that contributed to employees being injured should carry the loss resulting from the injuries. That leaves aside the equity arguments, which are very important.

There has been a reduced level of payouts simply because people are no longer legally represented at conciliation and usually not at reviews either. This has led to people being harassed into accepting compromises or settlements that are very substantial tradeoffs of their rights. The fact that all these matters are settling is not of itself necessarily a good thing. Of course we want to move away from a litigious model and elements of the Government's scheme are supportable. It is a good idea to have a proper conciliation process; there is no doubt about that. That is a benefit in the scheme introduced by the Minister. However, to remove legal representation from that has led to great injustice.

We can all instance numerous cases, and I refer to a man who came to see me last year with a hand completely distorted. It had five pins sticking out of it and was a horrific sight. This was no case of "compensitis" - he had a badly mangled hand. He had been a subcontractor operating a brick cleaning business. In the course of his employment, his hand went through a plate glass window and was smashed. This ordinary working man went to conciliation, up against the insurer's representative. Of course, he was not a lawyer, but on a day-to-day basis he was involved in advocacy for the insurer. The insurer's advocate argued that this man was not entitled to compensation because he was a subcontractor and not an employee. The conciliator sat like a stunned mullet and said nothing during this process. This man was led to believe that, because he was a subcontractor, he had no entitlement and that was the end of the story. He was forced to sell his home to keep himself going while he tried to mend his hand.

He came to see me about another matter and in passing complained about this injustice. I told him that of course he had an entitlement; the Act is clear. There is an extended definition of "worker" under the legislation - Mr Kierath has not removed that. I then rang the insurer and said that I thought its behaviour had been disgraceful, the Act was clear. I rang the conciliator and the matter was finally addressed and he got his compensation. In some respects it was a bit late for him because he had already sold his home and had incurred considerable transaction expenses in doing so. If he had been able to be represented in that conciliation process, any ordinary workers' compensation lawyer would know that as a basic principle he had an entitlement. The mere fact that he is a subcontractor does not remove his entitlement to protection.

Mr Kierath: What is his name?

Ms MacTIERNAN: Wes Coli. If the Minister is interested, I will provide the file.

Eventually we dealt with the case. However, that is a clear example of the sort of injustice to which I have referred. There are many other cases where workers go in and, up against an experienced advocate, they are talked into accepting a level of compromise that is far short of their claim. These are not only my anecdotes. The Legislative Council Legislation Committee conducted a review of the operation of the legislation, as did WorkCover. The theme in both reports was that over 50 per cent of people interviewed felt that they had been dealt with unfairly because they were unrepresented and disadvantaged vis a vis the insurer's representative at conciliation and review proceedings.

The Minister has made savings, but it has been a cost shifting exercise: He has shifted the cost illegitimately from employers to employees and to the taxpayers generally through the social security and health systems.

MR KIERATH (Riverton - Minister for Labour Relations) [4.57 pm]: I will present my comments in two parts. I will give a general response now, but many of the issues that have been raised are very specific and we will deal with them in Committee.

The member for Nollamara raised the issue of redemptions and pointed out that they have been reintroduced. That is so, but in only a small area. It is important to understand that when we removed redemptions we were trying to change the focus from buying someone out of a situation to trying to get them fit for work in the same job or an alternative job. That is why we introduced the requirement to maintain a job for 12 months. That is a big cultural change and I agree that all the parties were not always happy about it. However, we wanted to shift away from buying someone out of an injury with a bag of money and towards returning to work and continuing to feel part of the workplace. That is very important and we have not changed our approach to that principle.

The people to whom these limited redemptions might apply could have a partial incapacity. A small amount over a lengthy period is counterproductive to all parties. We are prepared to do it in a limited way, but it is not opening up redemptions.

I take the point about lump sums, and I will follow it through. That is a positive and constructive suggestion. I agree that lawyers do not explain the ramifications of accepting settlements.

Mr Kobelke: Some lawyers.

Mr KIERATH: That is right. The idea of having simple advice and language is worthy of following through.

Over the years, before any of the changes were made, I had to deal with people in that situation. They took a lump sum which encouraged them to pay off the house. I concede that was a good point of view to take, but they then found they had no money to live on and because they were not suitable for work, they went on to social security benefits. In Victoria, within six months and certainly within two years, people can be out of the income system and on to social security benefits, which is a much tougher system than ours. I am prepared to follow the member's question through.

I do not think the member for Nollamara is quite right when he refers to medical assessment panels. The best time to explore that aspect is when we get to the clauses which cover it. The same applies to the rules of court and the loss of earnings. I do not think we will get into the question of the savings today. By the time we get back, I will try to get for the member a figure for the savings. I am not sure what the member meant about it being easy for people to have their payments ceased, but I am sure we will explore that under the appropriate clause. The same applies to the capacity for work. The member indicated his objection to the clause dealing with working directors.

Mr Kobelke: That point was taken up by the member for Armadale. You indicated you might look at a further amendment.

Mr KIERATH: We feel that many working directors form a company for the proper purpose of running a business. We do not feel that they should be compelled to take workers' compensation but should have the choice of opting out or adopting some other form of sickness or accident policy.

Ms MacTiernan: What happens if they are not insured?

Mr KIERATH: The member is talking about someone quite different. I am prepared to look at the issue of the scams of working directors, which the member for Armadale raised. If the issue were just on the question of a working director, I would not be prepared to look at it. I told the member that if she is genuine, I am prepared to get further advice on that and might be prepared to make adjustments in that area. To be very up front with the member, our clear intention is that a legitimate working director should be able to choose.

Ms MacTiernan: I appreciate what you say about the scam aspect.

Mr KIERATH: We will get back to this in detail at the Committee stage. I was trying to reply broadly to the member.

The member for Bassendean referred to the annual report of the Chamber of Commerce and Industry of Western Australia. Many people have been watching common law claims. It is true that Australia-wide, people have looked at common law. The recommendation from the heads of workers' compensation authorities is to do away with common law completely. Victoria is currently going through that process. The Labor Commonwealth Government got out of common law, as did the South Australian Labor Government, and I think the Northern Territory Government.

Ms MacTiernan: If we have a commonwealth Act and commonwealth jurisdiction, we are not precluded from using common law of the State we are in.

Mr KIERATH: The Commonwealth Government took the common law component right out of its scheme.

Ms MacTiernan: I know. Because the Commonwealth Government does not have jurisdiction over the States, its legislation does not preclude a worker from maintaining a common law action.

Mr KIERATH: Nothing in this Bill chases that issue further. In one area we are making sure that what we said at the time is still matched today by decisions of the courts.

The member for Nollamara raised the issue of the second gate. In our original proposal we did not intend to create a second gate, but some exceptional cases were raised by the Opposition. Simply having a 30 per cent disability threshold could have a much greater impact on them. I was first advised to make the threshold fairly high. However, I have to admit that I was attracted to the prescribed amount because basically that amount has been prescribed for loss of earnings. At that time I was prepared to accept that as a benchmark, even though I was advised to make it much higher. As the member is aware, that prescribed amount is there and then there are additional amounts for medical and other benefits over and above that. That is why we arrived at that figure and why in my comments I referred very clearly to loss of earnings and not pecuniary loss. We think the section has been completely wrongly interpreted. I hope we might have some cooperation at a later stage when dealing with this issue because I have lived to regret putting that aspect into the Act. I should have stood my ground at the time and not conceded to the Opposition. I will give the members the figures when we get to the amendments. That aspect is being used by lawyers who were rorting the system before to rort the system again. That aspect is raising its ugly head for a second time. We have discussed how to resolve that. We can argue about its size, but perhaps a multiplier of income might be a fairer approach. We will try to progress that question.

Mr Kobelke: In the interests of a rational debate, you will have to address your phrase "rorting the system", because they might see it quite differently as upholding the rights of the workers. That is not to say that in a very minor number of cases one might make a value judgment that someone is trying to get more than a fair amount. However, we know that in the overwhelming majority of cases people get less than is needed, given their injuries.

Mr KIERATH: It is important to bear in mind that no other State in Australia has an economic gate.

Mr Kobelke: In many areas the Minister prides himself on doing things better than other States in Australia. If we can do it better here, why should we not do so?

Mr KIERATH: I will give the figures for which the member for Bassendean asked.

Ms MacTiernan: No other States have our workplace agreements.

Mr KIERATH: They are there nationally now.

Ms MacTiernan: They are quite different.

Mr KIERATH: No they are not.

The member for Bassendean asked for some figures and mentioned common law savings of $29m to $30m and journey claim savings of $7m. However, when he said that, he forgot to mention that we increased statutory benefits by some $24m. The reason for the cost shifting was to shift the moneys out of lawyers' pockets into benefits. From 1993-94 to 1996-97 weekly benefits increased by $23m; the second schedule benefits, which are the lump sum benefits paid, increased by $6.4m; hospital and doctors' expenditure increased by $9.8m; common law expenditure increased by $2.4m - it dipped and is starting to climb again; redemptions decreased by $20m; expenditure on fatalities decreased by $300 000; and vocational rehabilitation expenditure increased by $8.3m.

Mr Kobelke: Would it be possible to have those figures in the form of a graph?

Mr KIERATH: The member has a copy in the information provided to him. However, if he cannot find it we will provide the information. We have a coloured graph of everything before the changes were made and their present position. The graph shows how the emphases have been shuffled around from one group to another. We have not managed to strangle off the issue of common law. It is growing a second life and must be addressed because it is starting to distort the system once again. We may argue about the method but it generally shows that workers have benefited immensely.

I have raised the issue of the removal of redemption being linked to the employer holding a job open for a time. The member for Armadale raised the issue of redemptions. I have been lobbied not only by the insurers but also by the CCI, the Trades and Labor Council and the Law Society. They find it is far easier and there is more in it for them

simply to pay a sum of money and terminate the position rather than keeping it open. One of the purposes of the legislation was to change the culture to a rehabilitation culture. A person is not an entity that one simply buys out and gets rid of; one tries to work with that person to get him back to work. Everyone gains out of that.

I will consider the issue of working directors. The drop in premiums is substantial at 35.5 per cent over the past four years. If members have any evidence of someone being harassed into a settlement I would like to take that up and follow it through. One of the earlier Bills proposed enforcement procedures for conciliation. At the request of the Opposition we examined the number of people who had honoured the conciliation agreements and found that only one person did not honour an agreement, and that was a worker.

Ms MacTiernan: Minister, get real! If Ralph the brickie's labourer who has never been to a court in his life is up against a highly experienced insurances advocate, what is Ralph going to say when that advocate says, "Listen, Ralph, your claim is worth only $5 000"? He does not know anything about workers' compensation. The conciliator sits mute, and Ralph is persuaded that his claim is worth $5 000 and he accepts. In reality if Ralph had been legally represented he would have known his claim was worth $50 000.

Mr KIERATH: I am saying that there have been very few people who have not honoured those agreements.

Ms MacTiernan: That is not the issue. They get a really bad deal.

Mr KIERATH: One point for which the member for Armadale does not give credit is that heads of workers' compensation insurers around Australia have acknowledged it is one of the best systems in Australia and a number of those insurers want to implement it in their own State.

Ms MacTiernan: I recognise that the idea of having a conciliation process is good. However, the playing field is not level.

Mr KIERATH: Okay, member for Armadale. That is not something that we are progressing in this Bill. I am sorry I raised it again, although I was answering points that the member raised.

I have addressed the issues that members opposite raised in general terms and we will address other issues in more detail during Committee.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Kierath (Minister for Labour Relations) in charge of the Bill.

Clause 1: Short title -

Ms MacTIERNAN: During the second reading debate I pointed out that this amendment Bill had a long and undistinguished career. I said that it had been first introduced in 1995 and, after languishing on the Notice Paper, was reintroduced in 1996. The Minister suggested I was wrong in that regard. As someone who checks my facts, I advise that Bill 98-1 of 1995 was the precursor of the legislation we are dealing with today, and that was first read into the Parliament on 26 October 1995. The Minister approached the Opposition shortly before the Christmas adjournment and sought our support in relation to this. I thought the Minister would like me to set the record straight.

Mr KOBELKE: The Opposition wishes to expedite this Bill through the Parliament and for that reason we will not be debating all the clauses we might like to. We will oppose four clauses and we need explanations on a number of other clauses. It is the end of the parliamentary session and the Government is under some pressure to pass legislation through, and although I would like to spend more time seeking explanations from the Minister we want to see this legislation passed, so we will skip over clauses that we would otherwise debate.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Section 5A inserted -

Mr KOBELKE: This clause introduces indexation of certain compensation amounts, which the Opposition supports. In unison with clause 53, which amends schedule 1, this clause provides for certain amounts to be increased by an indexation factor. We accept that the mechanism is reasonable and workable. Schedule 1 contains a range of compensation entitlements, yet only some of those are picked up here.

Mr KIERATH: I am advised that most of the others are indexed through other means and these matters were not indexed at all but were fixed from time to time. We thought there was no real reason they should not be indexed along with the others.

Mr Kobelke: Part of the indexation mechanism is that the starting date is 1 July 1997. Will there be anomalies, given they have not been updated and the base on which the indexation may work may be at a very low level?

Mr KIERATH: I am advised that those issues have been considered by the commission and it is satisfied they are at the proper levels.

Clause put and passed.

Clause 6: Section 10A repealed and a section substituted -

Mr KOBELKE: This proposed new section must be read together with section 160, as proposed to be amended in clause 42 of the Bill. They both deal with the exclusion of certain working directors. I thank the Minister and the chief executive officer for the briefing earlier today. I had difficulty understanding the current effect of sections 10A and 160. It has been explained that section 10A is a deeming section to ensure that directors who do not take out insurance cannot then be classified as workers if they have been involved in a claimable event. If a working director incurred any injury he would be excluded from making a claim. That is right and proper and I have no difficulty with it.

Mr Kierath: That is right.

Mr KOBELKE: The amendment uses some identical phrasing to ensure people do not abuse the system and that they meet their obligation to be insured. I have no problem with those provisions.

The Minister said in the second reading debate that he had already alluded to enabling working directors to decide whether to be included under a workers' compensation policy of insurance, as had the member for Armadale, and the Opposition had some difficulty with that. I have no difficulty with the opting out provision applying to a director of an operation that is trading, returning a profit, and usually employing workers.

However, the wording of the clause leaves it open for people who wish to use the provisions as a ploy to designate workers such as subcontractors as directors, in a real sense or an artificial sense. An artificial example might be a company that employed bricklayers and set up a bricklaying company. It might have total control of the company but bricklayers could be recorded as directors of the company, through the Australian Securities Commission, even though they had had no control in the running of it. That may breach company law but there is a good chance such people could get away with it. It could be used as a means of not paying workers' compensation. It would reduce the company's costs and would affect only a bricklayer who later was injured and had not been insured because he was classed as a working director. In that way the whole intent of the law could be avoided. There is a push in a whole section of industry to move to subcontracting, and shift responsibility and liability to the ordinary worker who has only his skills and labour to offer. This amendment opens up that possibility.

In another case a person may be a bona fide director. It may be a bricklayer who sets up a small company for tax purposes or whatever. Basically he is still a tradesperson, but as a working director that person could be excluded under the proposed changes. Such a person could be the director of a small company, but the company would be based on the trade of that person and not be a company in the general sense.

Mr KIERATH: The people pushing for this amendment are those who make a deliberate and voluntary decision to restructure their affairs to have a company behind them and become working directors. They may have a trade background and they want the protection of operating as a company. I do not want to stop those people from having a choice. If they meet the requirements of the Australian Securities Commission, they should be allowed that choice.

The member for Armadale referred to the sham situation where a company is set up but the directors have no beneficial interest. That is where the line can be drawn between genuine situations and shams. I give an unequivocal undertaking for *Hansard* that if it can be done conveniently and simply, I will seek to have an amendment inserted when the Bill goes to the other place. The amendment cannot be made now because I do not have the appropriate wording in front of me and I have had no opportunity to test it. The person who has the choice of an exemption is the genuine working director of a company, but I am happy to introduce an amendment that would prevent anyone taking advantage of this provision who does not have a beneficial interest in the company.

Ms MacTIERNAN: The Opposition is pleased the Minister has agreed to address that aspect. For the record I ask whether the Minister supports the compulsory wearing of seat belts.

Mr Kierath: Yes, I do support seat belts.

Ms MacTIERNAN: Obviously the reason the Minister supports adults being compelled to wear seat belts, and the reason it has broad support in the community is that everyone knows the wearing of seat belts reduces the incidence of death and trauma in road accidents quite remarkably. In turn, that has a beneficial effect on the community generally because it has an impact on health costs, the cost of running ambulance services and other costs to society arising from road trauma.

This is an analogous situation. It is nonsense to talk about this as a question of free choice that allows people working in hazardous industries, who happen to be directors of a company, the right to elect not to be covered by workers' compensation. Potentially that puts onto the taxpayer a great liability and exposure to risk for covering the cost of their health care, rehabilitation and income maintenance. The Minister once again has used the rhetoric of choice to paper over what is basically an iniquitous provision, which is completely inconsistent with the approach he has adopted on a range of other issues.

The Minister said also that these people choose how to structure their affairs. I do not know where the Minister has been hiding. He obviously has not looked through the subcontracting columns in the newspaper to see that advertisement after advertisement for subcontractors states, "Must be Pty Ltd". The Minister obviously has not been to James Hardie Industries Ltd to see that employees who want to retain their jobs must form a Pty Ltd company. He obviously has not been to Austal Ships Pty Ltd to see the hundreds of Pty Ltd companies clocking on and off work each day in order to retain their employment. The Minister must be in pixie land if he believes that all of these people have entered into this arrangement by choice.

Of course, many people who are not engaged in contracts for the performance of work form Pty Ltd companies voluntarily, but many subcontractors, who are basically re-labelled employees who are contractors for the supply of labour, are being compelled to adopt this elaborate and quite inappropriate corporate structure. The Minister is allowing these people who are being compelled to form Pty Ltd companies to have the screws put on them even further in the form of financial pressure to ensure that they do not take out workers' compensation insurance. The only beneficiary of that will be large builders and major contractors; the taxpayer will suffer.

Mr KOBELKE: The member for Armadale alluded to the fact that many small industries in residential housing, small scale construction, etc, compete in extremely competitive markets. If one supplier of tradespeople can get a competitive edge over another because it does not have to take out workers' compensation indemnity insurance, pressure is placed upon other suppliers to go the same way. In some cases, major contractors are pushing people into structuring themselves in such a way that they can shift a range of costs, and, more importantly, liabilities, onto their tradespeople. I appreciate that the Minister is willing to give ground with regard to arrangements that are totally artificial, and if that is as far as he will go, I suppose we can claim that as a win, but we need to look at that area further.

Job insecurity will be a matter of political debate between the Minister and me, and between our parties, over the next three or four years and throughout the federal election campaign, and it is a matter which members on the Minister's side will need to consider. Job insecurity and the fear that people are being pushed down increasingly is reflected in myriad ways, and this is one of them. People will be forced, in order to get and keep a job, to restructure, not in the normal sense of trying to be more efficient, but through artificial devices which shift costs and the liability for injuries onto the workers.

People already lack the confidence to buy new products, to invest in a house or to take out a larger mortgage. Although this amendment may appear to be a fair way removed from that problem of insecurity, this added burden and liability will compound that fear and insecurity. We need to go back the other way and give people greater protection, particularly in the area of workers' compensation insurance. I realise that in some ways that is difficult because of the Government's great drive to reduce costs, but people are suffering as a result. We will continue to monitor the situation, and if we see that people are being taken advantage of, we will point out to the Minister again that it is because of these changes that the Minister is making.

Clause put and passed.

Clauses 7 to 11 put and passed.

Clause 12: Section 57B amended -

Mr KOBELKE: This clause amends the number of days in section 57B(2) from 14 to 17. That section commences with the words -

> In the circumstances mentioned in subsection (1), an employer shall, before the expiration of 14 days after those circumstances arose . . .

A problem that has arisen in the past has been undue delay, and the former Labor Government tried very hard to

ensure that there was no undue delay, and that is the reason for the 14 day time frame. I am not sure why we need this amendment when it is "14" in the other sections. The briefing notes suggest that it is 14 days plus three days. I suspect it is a two stage process, but I am not aware that "17" appears in other sections of the Act, although it may be 17 in effect.

Mr KIERATH: The "17" is for a self-insurer. When it is not a self-insurer, the employer has three days and the insurer has 14 days. This amendment will bring the self-insurer into the same time frame so that it will be consistent.

Clause put and passed.

Clause 13: Section 61 amended -

Mr KOBELKE: This clause amends section 61(1) of the Act, which refers to unlawful discontinuance of weekly payments. Section 60 is also applicable, because it refers to an application for discontinuance or reduction of weekly payments. I am advised that section 60 is used more commonly; section 61 is not used a great deal. These sections are very important because a number of people have come to me in past years who have had their weekly payments terminated. I may be wrong, because I heard only one side of the story, but it appeared in those cases, which may have been the hard cases, that the law had not been followed and they had been treated harshly. The situation may have been that in those cases, the proper process was not followed and those people did not have the law work for them, at least initially, but hopefully at the end of the day the law was followed and their rights were upheld.

Section 6(1) states that where weekly payments of compensation for total or partial incapacity are made to a worker under this Act, they shall not be discontinued or reduced without the consent of the worker or an order of the directorate unless the worker has returned to work or a medical practitioner has certified that the worker has wholly or partially recovered. The key criterion that shall be used to discontinue the weekly payments to an injured worker is that the medical practitioner has certified that the worker has wholly or partially recovered.

Under this amendment, the key criterion shall be that the medical practitioner has certified that the worker has a total or partial capacity for work. That is a different hurdle. One deals with the medical practitioner who would normally be a general practitioner who knows the patient and is making a decision of a medical nature. That is, the medical practitioner is well qualified and capable of deciding whether the worker is wholly or partially recovered. It is a different matter to ask a medical practitioner to decide whether a worker has total or partial capacity for work. That is a different matter, because it depends on the function of the injured worker in the workplace.

Medical practitioners are not only highly trained and skilled but also are very intelligent. They would have a broad understanding of what takes place in society. Many of them may have a fair idea of what is required in a workplace, but it is not their area of expertise. This is asking them to make a judgment in an area which, although partly within their expertise, goes well beyond it. I do not understand why we should change the situation other than perhaps the Minister is trying to lift the hurdle and make it more difficult.

The doctor will need to consider a worker's capacity for work. That is a different concept, and it can be taken in the more general sense, because a person who has a particular disability can be judged capable of taking on work using some other attribute that is not affected. However, it may not be practical to do the work. People may want to return to their job which requires them to use their hands, when their capacity to do a job would involve only walking. I am concerned about the reason for this shift. I suspect strongly that it will make it much easier for a medical practitioner to issue a certificate, which would result in a discontinuance of weekly payments, when a person in the same circumstance and with the same medical condition under the existing law would continue to receive weekly payments because this amendment is shifting the goalposts.

Mr KIERATH: I do not think so. Who better than a doctor to decide when a person is fit for work? It could be that a person has not quite recovered from his injury but could undertake other types of work. If other work is available, but the person has not fully recovered, he should be able to undertake that work.

Mr Kobelke: The work may not be available. How does the medical practitioner make a determination about the availability of work?

Mr KIERATH: The medical practitioner is the person dealing with the injury. He will determine whether the person is capable of work.

Mr Kobelke: Why not leave it the way it is with the medical practitioner being more than capable of making a judgment about a person being wholly or partially recovered?

Mr KIERATH: It may be that a certain type of work can be undertaken, even though the worker may not be fit enough to return to his original job. If work is not available, the provisions of the Act cover that situation. A person could not be made to return to work if suitable work is not available. This is all about a person being able to return

to work if suitable work is available. The treating doctor is the best person to judge that situation. The amendment came from the commission and has the support of all parties. No-one else thought there was anything untoward in it. If a person is almost recovered and can do alternative work it is best for the person to return to the workplace. When people cannot go to work, they drift apart from other workers and the relationship starts to sour.

I can think of no better example than the case of manual handling the other day. If people are off work for less than two months and return to work, it costs about $2 500. If people are off for longer than two months it costs roughly $60 000. It is a dramatic difference. The amendment will allow a doctor to decide whether a person is fit for work, rather than being fully recovered. We hope that will achieve better results.

Mr KOBELKE: I do not doubt the advantage of people returning to work. It is not right and proper to reframe the structure and the system to the extent possible, in order to encourage and assist people to return to work. Returning to work is the ideal and the goal. However, currently many people simply cannot get other work. The Minister seeks to put in place a system which does not take account of the variation; that is, although a person has not recovered he is able to do some work. He has the capacity for work and the opportunity to do the work, but the current law does not provide an incentive.

I accept that one should try to improve on that. The difficulty is that in many cases people will be judged not to have recovered sufficiently, and on a medical decision they would not have their payments withdrawn because they cannot work. They could be judged by a practitioner to have the capacity for work, but there is no opportunity. People will be in jeopardy of having their weekly payments cut because a medical practitioner made a determination that they had the capacity for work - but the work is not available.

If people went through rehabilitation they may be able to return to their job, but they will be left out on a limb because the medical practitioner may not be sympathetic to them -

Mr Kierath: The 21 days' notice would be invoked under section 51.

Mr KOBELKE: That is true, but it will not stop the effect of it. Many doctors are famous for their bedside manner. My parents-in-law consult a doctor who would never give them a day off work. My parents-in-law are extremely hard working people. They are in their eighties and are still working six days a week doing gardening and keeping things going. They will be workers to the end; they could have been seriously ill, having worked to the age of 65, but their doctor believed people should not have a day off work. He would not give them a certificate even if they were very sick. Perhaps only once or twice in 30 years did they go to the doctor and say they were so sick they could not go to work.

Mr Kierath: They should attend another doctor!

Mr KOBELKE: They seem to like the doctor, although they have a habit of not going to the doctor regularly. My father-in-law has not been to a doctor for about 10 years, and he is in his eighties.

Doctors will make a determination that a person is well enough to do a job. The person may not have recovered but he may be well enough to do a limited amount of work, and the doctor will sign off on that without taking the trouble to check that the person will not get the work because it is not available. Without some real justification for the change, we do not support it.

Mr KIERATH: A person may recover enough to return to work but technically he has not completely recovered from his injury.

Mr Kobelke: Many people go back to work when injured because they need to be at work.

Mr KIERATH: That has no bearing on this. A doctor must certify that a person has total or partial capacity for work. If that is not the case, the person should not return to work. This will address the situation where perhaps a person has not completely recovered but can return to work. The safety net is that people can go to a medical panel for assessment. People would not rely on a doctor with a bad bedside manner.

Mr Kobelke: We are talking about their weekly payments being cut off and they must then get back into the system. It causes extra stress and financial problems.

Mr KIERATH: They must give notice. When people come to me with a case like that I immediately tell them to go back into the system and reactivate it. In the cases I have had it has worked extremely well. If an insurance company is trying to call someone's bluff, as soon as they go back to conciliation or review it is usually fixed. It has come up in the commission and all the parties have supported it.

Clause put and a division taken with the following result -

Ayes (27)

Mr Ainsworth	Dr Hames	Mr Nicholls
Mr Baker	Mrs Hodson-Thomas	Mrs Parker
Mr Barron-Sullivan	Mrs Holmes	Mr Pendal
Mr Bloffwitch	Mr House	Mr Prince
Mr Board	Mr Johnson	Mr Shave
Mr Bradshaw	Mr Kierath	Mr Tubby
Mr Court	Mr MacLean	Dr Turnbull
Mr Cowan	Mr Masters	Mrs van de Klashorst
Mr Day	Mr Minson	Mr Osborne *(Teller)*

Noes (16)

Mr Carpenter	Ms MacTiernan	Mr Ripper
Dr Edwards	Mr Marlborough	Mrs Roberts
Dr Gallop	Mr McGinty	Mr Thomas
Mr Graham	Mr McGowan	Ms Warnock
Mr Grill	Mr Riebeling	Mr Cunningham *(Teller)*
Mr Kobelke		

Pairs

Mr Barnett	Ms Anwyl
Mrs Edwardes	Ms McHale
Mr Trenorden	Mr Brown

Clause thus passed.

Progress reported.

BILLS (2) - RETURNED

1. Loan Bill.

2. Reserves Bill.

Bills returned from the Council without amendment.

House adjourned at 5.56 pm

QUESTIONS ON NOTICE

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

GOVERNMENT INSTRUMENTALITIES - ANNUAL REPORTS

Costs

1732. Mr BROWN to the Minister for Health:

(1) For each department or agency under the Minister's control, what was the cost of producing the 1995-96 annual report, including -

(a) artwork;
(b) publication;
(c) distribution?

(2) How do the costs for the 1995-96 annual report compare with the costs associated with the 1994-95 annual report?

(3) Was the 1995-96 annual report produced wholly within the department or agency?

(4) If not -

(a) what services were provided by contractors;
(b) at what cost?

(5) Who printed the 1995-96 annual report?

(6) How many copies of the 1995-96 annual report were printed?

(7) To whom was the 1995-96 annual report distributed?

(8) Was environmentally-friendly or recycled material used in the production of the document?

Mr PRINCE replied:

Health Department of Western Australia

(1) The Health Department produced the 1995/96 Annual Report and appendix document as well as printed covers for the Regional Hospitals to produce their own Annual Reports under a uniform image prepared by the Department.

(a) $2,544 (Annual Report cover and neg prep).
(b) $7,148.
(c) $2,760.

Total cost for 1995/96 Annual Report is $12,452. Hospital covers were produced at a cost of $2,625.

(2) The total cost of 1994/95 Annual Report was $13,448. This compared favourably with the 1995/96 report and shows a reduction in cost of $996.

(3) The 1995/96 Annual Report was produced within the Executive Services Branch of the Health Department. The cover artwork and picture scans for the document were produced outside the department.

(4) The contractors who helped with the production of the 1995/96 Annual Report include Photoplay for the cover colour visuals, photo retouching and negative preparation at a cost of $380 and Lamb Printers for the scanning of the pictures for the body of the document and negative production at a cost of $2164.

(5) Lamb Printers Pty Ltd.

(6) 1000.

(7) Copies of the report were distributed to addresses throughout Australia including: General Managers within the Health Department, libraries, government agencies, medical facilities, and public health organisations. In addition, many members of the public requested copies of the report.

(8) Yes.

Alcohol and Drug Authority (ADA)

(1) (a) $865.00.
(b) $1,690.00.
(c) Approximately $150.

(2) The costs for the 1994/95 annual report were $1,540.00.

(3) Yes. The annual report was produced wholly within the agency.

(4) (a)-(b) Not applicable.

(5) Westcare Industries.

(6) 350.

(7) CEOs of Government agencies, non-government agencies, libraries and relevant alcohol and drug agencies in Australia.

(8) Yes.

Healthway

(1) (a) $350.
(b) $17,715.
(c) $1,000.

(2) $20,526.

(3) No.

(4) (a) Type Setting, Printing, Journalism and Distribution.
(b) $21,115 (Journalism $2,050)

(5) Lamb Print.

(6) 2500.

(7) Members of Parliament, Government agencies, universities, sports organisations, arts organisations, racing organisations and health agencies.

(8) Yes.

GOVERNMENT ADVERTISING - DEPARTMENTS AND AGENCIES

Expenditure

1753. Mr BROWN to the Minister for Police; Emergency Services:

(1) How much did each department and agency under the Minister's control spend on advertising in the 1995-96 financial year?

(2) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1995-96 financial year?

Mr DAY replied:

This answer includes advertising campaigns and advertising for job vacancies.

Western Australia Police Service

(1) $146,942.

(2) The records of this agency do not breakdown the cost of advertising to the level requested. To comply with the request would involve a manual search of records, and an unreasonable use of resources.

Bush Fires Board

(1)-(2) The chart of accounts for 1995/96 does not identify this cost separately. However, this agency does not

have a material publicity budget. Some advertising is funded by Fire Prevention Committees and Local Government through sponsorship to the Board and are mainly directed at radio advertising during the bush fire season. During 1995/96 $1,680 was spent on advertising in newspapers for job vacancies.

Fire & Rescue Service

(1) $260,527.

(2) (a) $173,623.
(b) $ 29,762.
(c) $ 57,142.

State Emergency Service

(1) $2,027.

(2) (a)-(b) Nil.
(c) $1,737.

PRISONS - MAXIMUM SECURITY

Overcrowding

2174. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

(1) Can the Minister advise what measures are in place to prevent the overcrowding of the State's maximum security prisons?

(2) How many prisoners are currently in Casuarina Prison?

(3) What is the standard bed capacity of Casuarina Prison?

(4) How many prisoners are currently doubled with other prisoners in single cells in Casuarina Prison?

(5) Are measures being taken to increase the number of double up cells?

(6) Is there a process to screen persons doubled up to avoid placing prisoners at risk?

(7) How many prisoners are currently in Canning Vale Prison?

(8) What is the standard bed capacity of Canning Vale Prison?

(9) How many prisoners are currently doubled with other prisoners in single cells at Canning Vale Prison?

(10) Are measures being taken to increase the number of double up cells?

(11) How many prisoners are currently in the CW Campbell Remand Centre?

(12) What is the standard bed capacity of the CW Campbell Remand Centre?

(13) How many prisoners are currently doubled with other prisoners in single cells at the CW Campbell Remand Centre?

(14) Are measures being taken to increase the number of double up cells?

(15) How many prisoners are currently in Bandyup Prison?

(16) What is the standard bed capacity of Bandyup Prison?

(17) How many prisoners are currently doubled with other prisoners in single cells at Bandyup Prison?

(18) Are measures being taken to increase the number of double up cells at Bandyup Prison?

(19) How many prisoners are currently in Albany Prison?

(20) What is the standard bed capacity of Albany Prison?

(21) How many prisoners are currently doubled with other prisoners in single cells at Albany Prison?

(22) Are measures being taken to increase the number of double up cells at Albany Prison?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) The State's total prison bed resources are managed so as to achieve optimum use of individual facilities.

(2) 468 (as at 5 November 1997).

(3) 360 (based on 1 prisoner per cell - excluding special purpose beds).

(4) 57.

(5) No.

(6) Yes.

(7) 317 (as at 5 November 1997).

(8) 305 (based on 1 prisoner per cell - excluding special beds).

(9) 29.

(10) No.

(11) 168.

(12) 147 (based on 1 prisoner per cell - excluding special purpose beds).

(13) 23.

(14) No.

(15) 108.

(16) 85 (based on 1 prisoner per cell - excluding special purpose beds).

(17) 9.

(18) Yes, renovations are underway to convert two activity areas into cell accommodation.

(19) 185.

(20) 186 (based on 1 prisoner per cell - excluding special purpose beds).

(21) 16.

(22) No.

GOVERNMENT INSTRUMENTALITIES - NORTH WEST

Employees and Programs

2200. Mr GRAHAM to the Minister representing the Attorney General:

(1) What departmental staff in departments under the Attorney General's control are located in the following towns -

(a) Port Hedland;
(b) South Hedland;
(c) Tom Price;
(d) Paraburdoo;
(e) Telfer;
(f) Marble Bar;
(g) Nullagine;
(h) Karratha;
(i) Halls Creek;
(j) Wiluna;
(k) Dampier;
(l) Roebourne;
(m) Wickham?

(2) What are the classifications of those staff?

(3) What programs are currently being funded in the towns listed in (1) above, in the departments under the Attorney General's control?

Mr PRINCE replied:

The Attorney General has provided the following reply:

Crown Solicitor

(1)-(3) Nil Response.

Solicitor General

(1)-(3) Nil Response.

Equal Opportunity Commission

(1)-(3) Nil Response.

Office of the Information Commissioner

(1)-(3) Nil Response.

Legal Aid

(1) Legal Aid Western Australia, Pilbara Regional Office, South Hedland.

(2) 1 x Solicitor in charge (Level 8/9)
1 x Solicitor (Level 6/7)
1 x Solicitor (Level 5/6)
1 x Supervisor (Level 2)
2 x Level 1 Officers (Part time).

(3) Access to Justice.

Director of Public Prosecutions

(1)-(3) Nil response.

Law Reform Commission

(1)-(3) Nil Response.

WHISTLEBLOWERS - LEGISLATIVE PROTECTION

2296. Dr CONSTABLE to the Minister representing the Attorney General:

What, if any, legislation provides protection for whistleblowers in Western Australia?

Mr PRINCE replied:

The Attorney General has provided the following reply:

Anti-Corruption Commission Act 1988 and Parliamentary Commissioner Act 1971.

HOSPITALS - OPERATING THEATRES

Closure during Christmas/New Year Period

2325. Dr CONSTABLE to the Minister for Health:

(1) In each of the last three years were any operating theatres closed during the Christmas/New Year period at the following hospitals -

(a) Royal Perth Hospital;
(b) Sir Charles Gairdner Hospital;
(c) Princess Margaret Hospital for Children;
(d) King Edward Memorial Hospital;
(e) Fremantle Hospital?

(2) If yes to (1) above, how many operating theatres were closed and for how long at each of the five hospitals?

(3) What plans are in place for the coming Christmas/New Year period for the closure (which operating theatres and for how long) of operating theatres at each of the five hospitals?

Mr PRINCE replied:

(1) (a)-(e) Yes.

(2) Operating theatres are closed to carry out essential maintenance work and to take advantage of the seasonal break to allow staff to clear annual leave entitlements.

	1994/95	No of Theatres	Dates
(a)	Royal Perth Hospital	3	26/12/94-08/01/95
	Shenton Park	1	07/01/95-23/01/95
	Royal Perth Hospital	11	26/12/94-02/01/95
	Wellington Street	9	03/01/95-08/01/95
		7	09/01/95-15/01/95
		5	16/01/95-23/01/95
(b)	Sir Charles Gairdner Hospital	4	26/12/94-20/01/95
(c)	Princess Margaret Hospital	3	23/12/94-08/01/95
(d)	King Edward Memorial Hospital	2	26/12/94-08/01/95
(e)	Fremantle Hospital	1	17/12/94-24/12/94
		3	24/12/94-08/01/95
		2	09/01/95-29/01/95

	1995/96	No of Theatres	Dates
(a)	Royal Perth Hospital	3	25/12/95-07/01/96
	Shenton Park	1	08/01/96-21/01/96
	Royal Perth Hospital	11	25/12/95-31/12/95
	Wellington Street	9	01/01/96-07/01/96
		5	08/01/96-21/01/96
(b)	Sir Charles Gairdner Hospital	4	25/12/95-12/01/96
(c)	Princess Margaret Hospital	3	22/12/95-08/01/96
(d)	King Edward Memorial Hospital	2	25/12/95-07/01/96
(e)	Fremantle Hospital	1	18/12/95-22/12/95
		3	23/12/95-07/01/96
		2	08/01/96-28/01/96

	1996/97	No of Theatres	Dates
(a)	Royal Perth Hospital	*3	23/12/96-20/01/97
	Shenton Park		
	Royal Perth Hospital	7	23/12/96-24/12/96
	Wellington Street	11	25/12/96-06/01/97
		7	06/01/97-19/01/97
(b)	Sir Charles Gairdner Hospital	6	23/12/96-03/01/97
		5	06/01/97-10/01/97
		4	13/01/97-17/01/97
		1#	23/12/96-03/01/97
(c)	Princess Margaret Hospital	3	23/12/96-05/01/97
(d)	King Edward Memorial Hospital	2	23/12/96-05/01/97
(e)	Fremantle Hospital	3	25/12/96-29/12/96
		4	30/12/96-31/12/96
		3	01/01/97-05/01/97

* Theatres having essential upgrade of air-conditioning
\# Elective Cardiac Theatre

(3) (a) Plans for 1997 not finalised but will be similar to previous years.
(b) 6 closed 2 weeks, 4 closed 2 weeks. Elective cardiac (1) closed 3 weeks.
(c) 3 closed 19/01/98-29/03/98, 2 closed 24/12/97-18/01/98.
(d) 2 closed 22/12/97-01/02/98.

(e) No plans finalised for this coming Christmas New Year period.

JUVENILE JUSTICE - ADVISORY COUNCIL

Selection Process

2401. Mr BROWN to the Parliamentary Secretary representing the Minister for Justice:

(1) Can the Minister advise who was on the selection panel for the external members of the Juvenile Justice Advisory Council?

(2) Was the Chairperson of the Juvenile Justice Advisory Council involved in the selection process?

(3) If not, why not?

(4) If yes, in what capacity?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Mrs June van de Klashorst MLA
Parliamentary Secretary to the Minister for Justice.

Mr David Brewster
Executive Officer to the Juvenile Justice Advisory Council.

Miss Christine Wallace
Electorate Officer to Mrs June van de Klashorst MLA.

Mrs Monica Holmes MLA
Parliamentary Member for Southern River.

(2) No.

(3) His term had expired.

(4) Not applicable.

MINISTRY OF JUSTICE - HUMAN RESOURCES DIRECTORATE

Review - Recommendations

2411. Mr BROWN to the Parliamentary Secretary representing the Minister for Justice:

(1) Further to question on notice 1640 of 1997, have the reviews referred to been completed?

(2) Who undertook the review/s?

(3) Has the person who undertook the reviews made any findings or recommendations to the Public Sector Standards Commissioner?

(4) What are the nature of the findings or recommendations?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1)-(4) The matter of grievances lodged under the Public Sector Management Act 1994 about alleged breaches of standards under that Act is based on appropriate confidentiality being maintained. This is set out in item 9.8 of the Grievance Resolution Standard recently published by the Office of the Public Sector Standards Commissioner. Therefore, I am not prepared to provide information about individual grievances requested in the question.

POLLUTION - MINIM COVE

Chloride Ions Testing

2488. Dr EDWARDS to the Minister for the Environment:

(1) What effect do chloride ions have on the mobility of heavy metals?

(2) Has this testing been done at Minim Cove?

(3) At what various pH levels was the Toxicity Characteristic Leaching Procedure (TCLP) testing taken at Minim Cove, both the pH of the testing solution of Acetic Acid, and the final pH of the mixture tested to leachate?

(4) Were modified TCLP tests undertaken to ensure that the potential of very low pH as seen at the Bassendean CSBP site was considered before approvals were given at Minim Cove CSBP site?

(5) What was the lowest pH noted in the ground water at the CSPB site at Bassendean?

(6) What levels of chloride were noted in the samples given to TCLP?

(7) Were those levels consistent throughout the site?

(8) By what reduction technique were the TCLP samples reduced to the maximum 9.5mm size?

(9) How many TCLP tests were done and what is the statistical validity of that ratio of testing over the 18 hectares as validated by standard mathematical techniques?

(10) Can lead become mobilised at high pH levels?

(11) If yes, what potential is there for the pH levels so noted to be achieved at Minim Cove?

(12) Has the MetSOIL TM method of direct toxicity assay been done at Minim Cove to determine soil toxicity and contaminant mobility?

Mrs EDWARDES replied:

(1) An increase in chloride ions in aqueous solution can increase the mobility of some metals, for example, lead and mercury. These reactions with chloride will be moisture dependent and also be potentially affected by the presence of other compounds. The material in-situ at McCabe Street is contained in a carbonate matrix with which the metals have a strong tendency to form insoluble compounds. The potential for mobilisation will also be dependent on chloride concentrations. It is worth noting that lead chloride is insoluble.

(2) No testing on chloride contents of soils at Minim Cove has been conducted. The only known source of increased chloride concentrations is the chlorination process used to destroy cyanide from the gold extraction process. It could therefore be expected that the pyritic slurry material may have some elevated chloride concentrations. There is no documentation to indicate that the chloride content of the pyritic cinders slurry has been tested.

(3) The procedure carried out is:

(a) 1:20 soil water extract to determine pH;
(b) addition of 3.5 mls HCl (10%) and remeasure pH;
(c) if pH above 5 then acetic acid added;
(d) if below 5 then acetic acid buffer is added;
(e) the pH for most of the Toxicity Characteristic Leaching Procedure (TCLP) tests done were 4.93 ± 0.05; and
(f) 40 gm of as received sample is rolled with 800 mls acetic acid for 18 hours. Then filtered and metals determined.

(4) The TCLP test is a standardised procedure designed to assess the leachability of metals in an organic acid leaching environment. No modifications of the TCLP test procedures for Minim Cove were therefore carried out. The acidity identified at Tonkin Park in Bassendean is inorganic and may be due to the breakdown of residual sulphides and the presence in ground water of residual acidity generated by the fertiliser manufacturing activities. However, to assess the leachability of heavy metals at Minim Cove a number of leaching and column tests were carried out. These used both freshwater and sulphuric acid leachates to provide information on the potential mobility of contained heavy metals.

It is not considered appropriate to compare conditions at Tonkin Park with those at Minim Cove. At Tonkin Park the residual wastes are in contact with the ground water on an annual basis as winter rains lead to rises in the water table. In addition, the natural soils are Bassendean sands with no alkalinity. In contrast, at Minim Cove all wastes are well above the ground water and soils have an inherent alkalinity and hence acid neutralisation capacity.

(5) From a brief review of readily available literature the lowest reported pH level in the ground water at Tonkin Park was 2.8. Historically there is a record of a pH of 2.7 for water flowing from the site via the Chapman Street drain in November, 1981. The only sources of further information are archived site records but these are unlikely to show much lower pH values.

(6) Chloride levels were not measured in TCLP tests.

(7) As chloride levels were not measured no definitive answer is possible. However, as discussed in the response to question (2) above there is reason to suspect that the only area likely to have elevated chloride concentrations would be in pyritic cinders slurry materials.

(8) The majority of samples tested primarily consisted of fine and friable materials. Any large particles were removed prior to testing. Test samples were 40 g of material.

(9) TCLP testing at McCabe Street was carried out to provide information on leachability potential of the range of materials present. No attempt was made to statistically analyse the leachability potential. Given the clean-up procedures, the multiplicity of wastes and contaminated soils present and the variability of materials present even in the formalised dumps there seems little benefit in attempting to use statistical techniques.

(10) Within the cell on site, the lead ions may migrate to the cell wall where lead carbonate is formed. This compound is insoluble and mobility ceases. If strong alkali is present (eg. sodium hydroxide or potassium hydroxide) lead may be remobilised from the insoluble carbonate. However, sodium hydroxide and potassium hydroxide are absent at Minim Cove.

(11) There is no reason to expect high pH levels to occur at Minim Cove as there is no mechanism by which such changes could occur. There is no addition of alkalinity to the site in the clean-up program.

(12) No.

EMPLOYMENT AND TRAINING - TRAINING, DEPARTMENT OF

Enterprise Bargaining Agreements - Delay

2564. Mr RIEBELING to the Minister for Employment and Training:

(1) Is it normal practice for the Minister to involve herself in negotiations at all stages for an Enterprise Bargaining Agreement (EBA)?

(2) Is it normal practice for the Minister to actively delay the EBA process by preventing contact between college staff and the Department of Training?

Mrs EDWARDES replied:

(1) No. However, I expect to be informed at various times and reserve the right to involve myself at any stage.

(2) I am not actively delaying the EBA process. An enterprise agreement can only be between the employer (represented by the Department of Training) and the appropriate union. The department since being given responsibility for negotiations on 10 September 1997 has met with the Australian Education Union on three (3) occasions specifically to discuss this issue.

COLLEGES OF TAFE - WORKPLACE AGREEMENTS

Delay - Reasons

2565. Mr RIEBELING to the Minister for Employment and Training:

(1) Is the Minister aware that what used to be independent colleges are now autonomous Technical and Further Education (TAFE) colleges under the Vocational Education Training (VET) legislation?

(2) Do academic staff at these colleges do the same job as academic staff under the current TAFE award?

(3) Why is there a delay in completing an Enterprise Bargaining Agreement (EBA) for the TAFE staff under the VET community colleges award?

(4) Considering that the TAFE EBA was signed in July 1996 and the community colleges came under the VET legislation on 1 January 1997 why has it proven so difficult to modify the TAFE EBA slightly so that those staff affected can work under the same conditions as other academic staff in TAFE?

Mrs EDWARDES replied:

(1) I am aware that the former colleges established under the Colleges Act are now autonomous Vocational Education and Training Colleges pursuant to the Vocational Education and Training Act 1996.

(2) Generally, there is a similarity between the duties performed by academic staff employed pursuant to the TAFE Lecturers Certified Agreement and staff employed under the Community Colleges (Western Australia) Interim Award 1995.

(3) On 7 August 1997, members of the Australian Education Union (AEU) at Hedland and Karratha Colleges "rejected the draft EBA document outright". Since that date, the Department of Productivity and Labour Relations has met with the AEU on two (2) occasions and representatives of the Department of Training have met with the Union on three (3) occasions.

(4) Prior to 10 September 1997, the AEU was negotiating with Karratha and Hedland Colleges and the Department of Productivity and Labour Relations. On 10 September 1997, the Department of Training advised the Australian Industrial Relations Commission that it was the agent acting on behalf of the Colleges. On 10 September 1997, the Union advised the Department that members at Karratha wanted the same conditions of employment as lecturers in TAFE colleges. Prior to this date, negotiations with the Union were premised upon modifying conditions contained in the Community Colleges Interim Award. The conditions of employment of community colleges and TAFE lecturers are not so similar that it is just a matter of "modifying the TAFE EBA slightly".

COLLEGES OF TAFE - MR DANNY CLOGHAN

Meeting with Staff

2566. Mr RIEBELING to the Minister for Employment and Training:

Why will the Minister not allow Danny Cloghan to meet with academic staff at Technical and Further Education and Vocational Training Centres?

Mrs EDWARDES replied:

Mr Cloghan has in the past, and will continue in the future, to meet with academic staff at vocational education and training colleges. I am not and have never prevented him from meeting with staff.

COLLEGES OF TAFE - MR DANNY CLOGHAN

Port Hedland and Karratha Visit - Minister's Instruction

2567. Mr RIEBELING to the Minister for Employment and Training:

(1) Why did the Minister instruct Danny Cloghan of the Department of Training that he was not to go to Port Hedland and Karratha to meet with academic staff after he had made arrangements to do so?

(2) Does the Minister acknowledge that this will delay the Enterprise Bargaining Agreement process?

(3) Is this the Minister's intention?

Mrs EDWARDES replied:

(1) Mr Cloghan had made arrangements to travel to Hedland and Karratha on Friday 17 October 1997. Following a discussion with the Chief Executive, Mr Ian Hill and Mr Cloghan, it was considered appropriate to delay Mr Cloghan’s visit. I did not instruct Mr Cloghan and I expect he will be meeting with staff in November.

(2) I do not believe the process will be delayed. In fact, representatives of the Union and the Department met on 11 October 1997, 5 days after my discussion with Mr Hill and Mr Cloghan.

(3) It is not my intention to delay enterprise bargaining discussions between the Department of Training and academic staff at Hedland and Karratha Colleges.

COLLEGES OF TAFE - PORT HEDLAND AND KARRATHA

Vocational Education Training Community Colleges Award - Disadvantage to Staff

2568. Mr RIEBELING to the Minister for Employment and Training:

(1) The academic staff at Port Hedland and Karratha colleges are expected to work under the Vocational Education and Training Act 1996 but are being treated differently to other Technical and Further Education (TAFE) staff, has this disadvantaged those staff?

(2) Is the disadvantagement of a minority group a discrimination?

(3) Do the small number of staff under the community colleges award constitute a minority group with the TAFE system?

(4) Have those staff affected been disadvantaged?

(5) Have staff at these colleges missed out on nearly $3 - 4 million in salary due to these delays?

(6) Is it only through the intervention of the State School Teachers Union involvement that staff at these colleges have received their increases from three years ago to their locality district allowance, increases that other government employees have received long ago?

Mrs EDWARDES replied:

(1) Academic staff at Hedland and Karratha colleges are employed under the conditions contained in the Community Colleges Interim Award. Academic staff at TAFE colleges are employed under the conditions contained in the TAFE Lecturers Certified Agreement. Academic staff at TAFE and Community Colleges (Hedland and Karratha) have had different conditions of employment since the inception of Community Colleges in 1986. From 1 January 1997 both TAFE Colleges and Community Colleges have, legislatively, come within the provisions of the Vocational Education and Training Act 1996 (VET Act). To safeguard the employees' current conditions of employment, the VET Act provided that staff retain all their existing and accrued rights in relation to employment. This provision is to ensure that all employees are not disadvantaged.

(2) Differences in employment conditions for TAFE and Community lecturers have existed since 1986 and the introduction of the VET Act has not disadvantaged or discriminated against Community College lecturers.

(3)-(4) See answer (1) and (2).

(5) No.

(6) On 27 August 1997, the Department of Training was informed by the Department of Productivity and Labour Relations that the AEU was seeking to update Locality Allowance in the Community College Awards. The Union advised that the Allowance had not been updated for a number of years. The Department of Training responded promptly and met with the Union on 16 September 1997. Both the AEU and the Department of Training are finalising the actual figures for the schedule.

COLLEGES OF TAFE - PORT HEDLAND AND KARRATHA

Workplace Agreements - Compensation for Staff

2578. Mr RIEBELING to the Minister for Employment and Training:

Due to the delays in the Enterprise Bargaining Agreement negotiations does the Minister intend to compensate academic staff and backdate any salary increases to 1 January 1997 or does she intend to discriminate between those who used to be Community College staff at Port Hedland and Karratha, but are now Technical and Further Education (TAFE) Staff, and other TAFE staff under the Vocational Education and Training Act 1996?

Mrs EDWARDES replied:

Following the decision of members of the Australian Education Union at Karratha and Hedland Colleges to "reject the draft EBA document outright" discussions on the EBA have continued. If and when agreement is reached, I expect to receive advice from the Department of Training on any backdating of wage increases. I would expect any proposal to be within Government labour relations policy and wage indexation guidelines of the industrial relations tribunals.

COLLEGES OF TAFE - PORT HEDLAND AND KARRATHA

Cost Analysis of Awards - Delay

2579. Mr RIEBELING to the Minister for Employment and Training:

The State School Teachers Union and the Department of Training (DOT) have advised college staff that the DOT is carrying out a cost analysis of the two awards - TAFE and Community College -

(a) has the process taken too long, considering that DOT have had since July 1996;
(b) has it been intentionally delayed?

Mrs EDWARDES replied:

(a) I refer the member for Burrup to my answer to Question 2565 where the Australian Education Union on September 10, 1997 advised the Department of Training (DOT) that its members at Karratha were seeking the same conditions of employment as lecturers in TAFE colleges. It was also from that date that the Department of Training advised the Australian Industrial Relations Commission that it was acting as agent on behalf of the Colleges. Subsequent to that date, an analysis of the two awards is being carried out.

(b) Not applicable

COLLEGES OF TAFE - PORT HEDLAND AND KARRATHA

Workplace Agreements - Removal of Department of Productivity and Labour Relations

2580. Mr RIEBELING to the Minister for Employment and Training:

In relation to the Enterprise Bargaining Agreement for TAFE and Community College staff at Port Hedland and Karratha, the Department of Productivity and Labour Relations has recently been removed from the process -

(a) has this caused delays;
(b) Has this disadvantaged staff at these colleges?

Mrs EDWARDES replied:

(a) No.

(b) No. Further, the Australian Education Union advised the Department of Training that it was prepared to seek such an outcome in the Australian Industrial Relations Commission.

COLLEGES OF TAFE - PORT HEDLAND AND KARRATHA

Workplace Agreements - Hours, Income Deferral and Professional Development Leave

2582. Mr RIEBELING to the Minister for Employment and Training:

In relation to the Enterprise Bargaining Agreement (EBA) for TAFE and Community College staff at Port Hedland and Karratha, the main stumbling blocks to settlement appear to be hours of duty, income deferral and professional development leave -

(a) should people who do the same job under the same Act be able to expect the same hours of duty;

(b) should the staff at Port Hedland and Karratha colleges be able to expect the same income deferral that other teachers and lecturers enjoy as part of their EBA;

(c) is there a problem with the staff at Karratha College using their leave for professional training to improve their ability to perform and compete?

Mrs EDWARDES replied:

(a) Currently lecturers at Hedland and Karratha Colleges have "annualised" lecturing hours. I would expect that should the Australian Education Union be seeking parity with TAFE lecturers, the annualised hours should increase from 800 to 920 per annum.

(b) The Department of Training is unaware of the specific issue to which the member for Burrup is referring. It would be appropriate for the Australian Education Union to raise the matter directly with the Department of Training.

(c) The Department of Training is unaware of the specific issue to which the member for Burrup is referring. It would be appropriate for the Australian Education Union to raise the matter directly with the Department of Training.

COLLEGES OF TAFE - PORT HEDLAND AND KARRATHA

Workplace Agreements - Misleading Information to Staff

2583. Mr RIEBELING to the Minister for Employment and Training:

In relation to the Enterprise Bargaining Agreement for TAFE and Community College staff at Port Hedland and Karratha, has the director of Karratha College, acting under Ministerial direction, not informed or misled his staff in response to direct questions?

Mrs EDWARDES replied:

I have not given any directions to the Director of Karratha College. I am also unaware of any information given to staff at Karratha College.

COLLEGES OF TAFE - PORT HEDLAND AND KARRATHA

Workplace Agreements - Pressure on Staff

2584. Mr RIEBELING to the Minister for Employment and Training:

In relation to the Enterprise Bargaining Agreement (EBA) for TAFE and Community College staff at Port Hedland and Karratha, is it the Minister's intention to take advantage of the small staff numbers at these colleges to force the staff into an EBA that they consider unreasonable and unfair as a prelude to doing the same thing to other staff at TAFE colleges?

Mrs EDWARDES replied:

An enterprise agreement requires, as its name suggests, "agreement". It is not my intention to "force" staff into an EBA. I would expect any agreement "in principle" to be voted upon by members of the Australian Education Union, and similarly by staff at TAFE colleges when their agreement is renegotiated.

COLLEGES OF TAFE - PORT HEDLAND

Academic Staff - Award

2619. Mr GRAHAM to the Minister for Employment and Training:

(1) Are the academic staff of the Hedland College covered by an award?

(2) If yes to (1) above, what is the applicable award?

Mrs EDWARDES replied:

(1) Yes.

(2) Community Colleges (Western Australia) Interim Award 1995.

MINISTERS OF THE CROWN - SALE OF REAL ESTATE

Statistics

2656. Dr CONSTABLE to the Minister for the Environment:

In relation to each sale referred to in the Minister's answer to question on notice 1771 of 1997 -

(a) when was the agreement to sell entered into;

(b) who was the vendor of the property;

(c) who purchased the property;

(d) by what process was the real estate sold (for example, by tender, auction or private sale); and

(e) how were the proceeds of sale applied?

Mrs EDWARDES replied:

(a),(c)-(d)
The first 20 properties in the table are located in rural areas of the Blackwood River Valley, between Bridgetown and Nannup.

Property Location	Date of Sale Agreement	Purchaser	Method of Sale
Lot 2	31/5/96	Water and Rivers Commission	Private Treaty
Lot 15	31/5/96	Water and Rivers Commission	Private Treaty

Location 2347	31/5/96	Water and Rivers Commission	Private Treaty
Lot 1341	31/5/96	Water and Rivers Commission	Private Treaty
Location 11061	31/5/96	Water and Rivers Commission	Private Treaty
Location 11062	31/5/96	Water and Rivers Commission	Private Treaty
Location 47	5/6/96	PJ & SM O'Neill & JA & A Watkins	Private treaty after passed in at auction
Pt Location 84	1/6/96	GR & IT Mader	Auction
Location 4442	1/6/96	Hee & Hea Pty Ltd	Auction
Pt Location 48	5/6/96	Kitzberg Pty Ltd	Private Treaty after passed in at auction
Pt Location 1331]		LTV Energy Pty Ltd	
Location 1765]		Robin Lodge Pty Ltd	Private Treaty after passed
Lot 17]	5/6/96	25 Nominees Pty Ltd	in at auction.
Lot 2]			
Location 928	17/6/96	JA & MJ Ridley	Private Treaty after passed in at auction
Pt Location 6145	9/8/96	MR & AR Blizard	Private Treaty after passed in at auction
Lot 3	12/2/97	Lakemont Holdings Pty Ltd	Auction
Location 702 & Pt Location 8475	10/5/97	AJ & MW Watt	Auction
Lot 28	10/5/97	PJ & CJ DeLa Harpe	Auction
Lot 14	10/5/97	P M Maher	Auction
Location 2008	10/5/97	Austcove Holdings Pty Ltd	Auction
Lot 2	19/5/97	RJ & BA Hurdle	Private Treaty after passed in at auction
Location 985	9/6/97	G Olsen & EA Vickery	Private Treaty after passed in at auction.
Lot 4 Green Rd, Pemberton	5/10/96	MJ, KW, SN & BJ Dunnett	Auction
40 Adelaide St, Busselton	6/11/96	GO Johnston	Private Treaty after passed in at auction
Lot 7 Raspi Place Pemberton	19/4/97	M C Carter	Auction
Lot 11 Raspi Pl, Pemberton	19/4/97	DJ & DL Meehan	Auction
Lot 12 Raspi Pl, Pemberton	19/4/97	HP & JM Manning	Auction
Location 2479 Allanson via Collie	10/5/97	MS & J Davies & L Dabrowski	Auction
Lot 963 Patterson Way, Exmouth	28/5/97	WA Francis	Private Treaty after passed in at auction

(b) The Executive Director of the Department of Conservation and Land Management was the vendor of all the properties sold.

(e) The proceeds from all the property sales were applied to repayment of borrowings of the Executive Director of the Department of Conservation and Land Management.

HERITAGE - INCENTIVES

Approvals

2660. Mr PENDAL to the Minister for Heritage:

(1) In each of the past five years how many approvals have been given for heritage incentives based on relief from -

(a) land tax;

(b) metropolitan region improvement tax;

(c) local government rates;

(d) Water Corporation rates;

(f) a mix of any of the above?

(2) In each of the last five years, how many approvals have been given for heritage incentives based on -

(a) interest free loans;

(b) any direct funding,

(c) transferable development rights?

Mr KIERATH replied:

The information requested is not readily available and will require considerable research to extract and compile. I am therefore not prepared to commit valuable departmental resources for this purpose. However, if the member has a specific enquiry, I will endeavour to provide the information.

CHILD ABUSE - UNIFORM LAWS

2682. Dr CONSTABLE to the Minister representing the Attorney General:

What, if any, steps are being taken by the Attorneys General in each State and Territory to introduce uniform laws to protect children from abuse and facilitate the provision of evidence by minors against their abusers?

Mr PRINCE replied:

The Attorney General has provided the following reply.

Western Australia has laws in place which contain some of the strongest penalties for child abuse cases. Up to date evidential procedures within the Evidence Act include closed circuit television and closed room facilities, allowing minors to give evidence without having to face their abusers.

DETENTION CENTRES - CAMP KURLI MURRI

Maintenance and Utilisation

2683. Dr CONSTABLE to the Parliamentary Secretary representing the Minister for Justice:

(1) Is the facility known as the detention centre at Laverton (Camp Kurli Murri) owned by the Government?

(2) If yes, is the detention centre being kept on a 'care and maintenance' basis?

(3) If yes to (2) above, what is the annual cost of the 'care and maintenance'?

(4) If no to (2) above, are the buildings and equipment being maintained by any other authority?

(5) If yes to (1) above, what plan does the Government have in place to utilise this asset?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) No, the buildings that formed Camp Kurli Murri were leased. The lease was terminated and all buildings recovered by the lessee in November 1996. Other plant and equipment has been recovered and stored by the Ministry of Justice for use at other facilities.

(2)-(3) Not applicable.

(4) See (1).

(5) Not applicable.

CHILD ABUSE - TRIAL EVIDENCE VIA VIDEO

Outcome of Trial

2686. Dr CONSTABLE to the Parliamentary Secretary to the Minister for Justice:

(1) On how many occasions has a child sexual abuse victim given evidence at trial via video?

(2) On each such occasion, what was the outcome of the trial?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Supreme Court (March 1994 - December 1996)

(a) pre-recorded video evidence prior to trial - 42

(b) evidence given via closed circuit television from remote room on day of trial - 29.

District Court (January 1997 - 14 November 1997)

(a) pre-recorded video evidence prior to trial - 16

(b) evidence given via closed circuit television from remote room on day of trial - 56

The *Criminal Law Amendment Act* proclaimed 1 November 1996 effectively caused the transfer to the District Court of a number of sexual assault cases previously destined for the Supreme Court.

(2) Supreme Court (March 1994 - December 1996)

(a) 20 not guilty, 22 guilty

(b) 13 not guilty, 16 guilty

District Court (January 1997 - 14 November 1997)
Data relating to outcomes of specific trials is not available in the format requested.

BUILDING INDUSTRY - BUILDING AND CONSTRUCTION INDUSTRY TASK FORCE

Number of FTEs and Investigations

2721. Mr KOBELKE to the Minister for Labour Relations:

(1) What is currently the number of full time equivalent staff working for or with the Western Australian Building and Construction Industry Taskforce?

(2) Does this number for full time equivalents also include police officers?

(3) Has the Western Australian Building and Construction Industry Taskforce received any form of delegation to enable them to look into matters which may come under Federal jurisdiction?

(4) If so, what is the nature and extent of any such delegated powers?

(5) How many investigations were undertaken by the Taskforce in the 1996-97 financial year?

(6) How many charges were laid from investigations undertaken by the Taskforce in the 1996-97 financial year?

(7) How many people were charged following investigations by the Taskforce in the 1996-97 financial year?

(8) How many individuals were convicted of charges laid following investigations by the Taskforce in the 1996-97 financial year?

Mr KIERATH replied:

(1) The WA Building and Construction Industry Taskforce (Taskforce) employs three full time equivalent staff directly, and one full time equivalent administrative person.

(2) One of the Taskforce staff is also a special constable appointed under the WA Police Act.

(3) No.

(4) Not applicable.

(5) Ninety three.

(6) Eleven.

(7) Four.

(8) One.

OCCUPATIONAL HEALTH AND SAFETY - EAST PERTH METROBUS WORKSHOP DEMOLITION

Charges

2725. Mr KOBELKE to the Minister for Labour Relations:

(1) Have any charges been laid in relation to safety matters concerned with the demolition of the East Perth MetroBus workshop on which Mr Mark Allen was killed on 6 September 1996?

(2) If so, are they currently proceeding or have these particular charges been suspended or dropped?

(3) If there are charges pending then what are they?

(4) Is it currently intended to pursue further possible charges relating to unsafe work practices with respect to this demolition work?

Mr KIERATH replied:

(1)-(4) Prosecution action under the *Occupational Safety and Health Act 1984* has been initiated in relation to demolition of the East Perth MetroBus workshop. No further charges will be made.

WORKSAFE WESTERN AUSTRALIA - EAST PERTH METROBUS WORKSHOP DEMOLITION

Visit by Inspectors

2727. Mr KOBELKE to the Minister for Labour Relations:

(1) Did Chief WorkSafe WA inspector, Mr Frank Keough, visit the MetroBus workshop demolition site on 6 September 1996 and if so, was his visit before or after the accident that killed Mr Mark Allen?

(2) Did Chief WorkSafe WA inspector, Mr Frank Keough, visit the MetroBus workshop demolition site on a day prior to the 6 September 1996 and, if so, what was the date of such visit or visits?

(3) Did any WorkSafe WA inspector other than Mr Frank Keough, visit the MetroBus workshop demolition site on 6 September 1996 and, if so, was the visit before or after the accident that killed Mr Mark Allen?

(4) Did any WorkSafe WA inspector other than Mr Frank Keough, visit the MetroBus workshop demolition site on 6 September 1996 and, if so, what was the date of such visit or visits?

Mr KIERATH replied:

(1) Chief Inspector Keough visited the demolition site on 6 September 1996 after the fatality occurred.

(2) Chief Inspector Keough visited the demolition site on 13 June prior to the commencement of demolition.

(3) Four other WorkSafe Western Australia inspectors visited the site on 6 September after the fatality occurred.

(4) The question is not clear. As per the answer to (3) above, four other WorkSafe Western Australia inspectors visited the site on 6 September after the fatality occurred.

EDUCATION BILL - DEBATE

2733. Mr RIPPER to the Minister for Education:

Will the Minister guarantee that the Government's School Education Bill will not be subject to the guillotine in order to push it through the Legislative Assembly before the end of 1997?

Mr BARNETT replied:

Yes. The School Education Bill is an important piece of legislation that will provide a legal and administrative framework for school education in this state into the next century. I plan to introduce the Bill into the Legislative Assembly in this session and envisage debate on the Bill commencing in the autumn session in 1998.

INDUSTRIAL RELATIONS - WORKPLACE AGREEMENTS

Effect on Retail Industry

2742. Mr BROWN to the Minister for Labour Relations:

(1) Have workplace agreements, as stated by the Western Australian Retail Association, caused instability in the workforce resulting in lack of consumer spending?

(2) If not, what official facts or statistics prove otherwise?

Mr KIERATH replied:

(1) No.

(2) Information from the Australian Bureau of Statistics (ABS) indicated that for September 1997, using seasonally adjusted figures, retail sales in Western Australia was $1.1264 billion, compared to $1.0387 billion for September last year. This represents an increase of 8.44% in consumer spending for September 1997, compared to September 1996. Over this period, Western Australia's growth rate exceeded that for Australia as a whole at 6.17%.

DEPARTMENT OF PRODUCTIVITY AND LABOUR RELATIONS - ROUTINE VISIT PROGRAM

Number of Officers

2750. Mr KOBELKE to the Minister for Labour Relations:

(1) When was the routine visit program by the Department of Productivity and Labour Relations (DOPLAR) initiated?

(2) How many officers were originally assigned to work on the routine visit program of DOPLAR?

(3) Has the routine visit program been concluded and if so what was the date at which it finished?

(4) On an annualised basis what was the full time equivalent number of officers dedicated to the routine visit program?

Mr KIERATH replied:

(1) February 1997.

(2) Two. One additional officer was assigned in August 1997 to assist with a project in the hospitality and retail industries.

(3) October 1997. However, follow-up action is still being undertaken by one officer.

(4) 1.3 FTE.

WORKSAFE WESTERN AUSTRALIA - MR FRANK ALLEN

Investigation

2752. Mr KOBELKE to the Minister for Labour Relations:

(1) Is Mr Frank Allen under investigation as an employee of WorkSafe WA, by Mr Bartholomaeus, the WorkSafe Commissioner?

(2) Was Mr Frank Allen employed by WorkSafe WA or on secondment to a non-government organisation at the relevant time?

(3) If Mr Allen is under investigation, then what is the nature of the breach or offence for which he is under suspicion?

(4) Is any other WorkSafe employee or employees under investigation for similar or related activities?

Mr KIERATH replied:

(1) Yes.

(2) Mr Frank Allen is an employee of WorkSafe Western Australia and is on leave without pay at his own request.

(3) A breach of the Public Sector Management Act.

(4) No.

QUESTIONS WITHOUT NOTICE

LOCAL GOVERNMENT - CITY OF WANNEROO

Inquiry - Terms of Reference

790. Dr GALLOP to the Minister for Local Government:

I refer to the proposed inquiry into the City of Wanneroo and ask -

(1) What can this inquiry produce that has not already been uncovered by the five other investigations into the Wanneroo council that have been undertaken since 1992?

(2) What terms of reference are proposed?

(3) Who will conduct the inquiry?

Mr OMODEI replied:

(1)-(3) The Wanneroo royal commission report related primarily to the operations of the City of Wanneroo between 1976 and 1992. Other inquiries have been undertaken since 1992 by the Department of Local Government and the resultant reports were referred to the royal commissioner for comment. The process as per the Local Government Act -

Dr Gallop: You chose this process; you could have chosen another process.

Mr OMODEI: The same process was agreed to by the Opposition when we discussed the Act.

Mr Court: You supported the legislation; you supported the process.

Dr Gallop: That process did not deal with this situation where we had a royal commission report, and you know it. There has been a lack of leadership on this issue. You are letting the people of Wanneroo hang yet again.

Mr Court: With legislation you supported.

Mr OMODEI: As I mentioned yesterday during the debate on the royal commission report, the member for Fremantle, who was then the Leader of the Opposition, got up in front of 800 local government people from around the State at the Burswood conference centre and gave bipartisan support to the Local Government Act 1995. That legislation provides that suspension is available and then an inquiry will be undertaken. That is fair.

I have been asked on a number of occasions in the past 24 hours about those councillors elected to the Wanneroo City Council in the past six or 12 months who were not extensively involved from 1992 and whether they have been afforded natural justice. An inquiry means that that process is appropriate. The suspension and then an inquiry allows people natural justice.

Dr Gallop: You used a different approach with the City of Perth. When you were looking after your mates in the central business district, you chose a different course of action.

Mr OMODEI: The Leader of the Opposition does not need to raise his voice to make a point.

Dr Gallop: You have one set of standards for big business in the City of Perth and a different set for the ratepayers of Wanneroo. We know from where you come.

The SPEAKER: Order!

Mr OMODEI: The City of Perth was a totally different matter.

Dr Gallop: It was all your big business mates.

Mr OMODEI: A number of Acts of Parliament needed to be changed to effect the division of the City of Perth. The 1960 Local Government Act -

The SPEAKER: Order! The level of interjections is far too high, Leader of the Opposition. He has had a good go, but he is getting beyond it.

Mr OMODEI: The 1960 Local Government Act did not have the capacity of the current Act to deal with these matters. The section dealing with suspension is comprehensive. If the Leader of the Opposition had taken the time to look at that section, he would have found that it is adequate to deal with the situation at the City of Wanneroo.

The inquiry needs to look at that period between 1992 and 1997 to assess whether the processes in place at the City of Wanneroo were appropriate at that time. The inquiry will then recommend either dismissal or reinstatement of that council. The Minister can reinstate only if that is the recommendation.

POLICE - SERVICE

Budget Crisis - Accuracy of Claims

791. Mr MacLEAN to the Minister for Police:

What is the correct situation regarding recent claims of a budget crisis in the Western Australia Police Service?

Mr DAY replied:

I have been very interested in the past couple of days to hear claims of a supposed budget crisis in the Police Service. There is no crisis in the service, in budgetary terms or in any other terms. As I have said on many occasions, the service's budget has increased by 62 per cent over the term of this Government; it has increased from $240m during the last term of the Labor Government to nearly $400m this year.

The current debate is not about the Police Service budget but about management within the service. It is a question of how staff are rostered and how budgets are managed at the local level. Obviously stations and squads have to operate within their budget allocations. For some that is a new experience and some are finding it a challenge. However, it is an experience from which all members of the service are learning.

As a result of the debate of the past couple of days, I asked the Commissioner of Police whether a budget crisis exists at a global level. Of course, his answer was that it did not. The commissioner has advised me that, if there is a problem, he will let me know. As I said, the Police Service has more resources and staff -

Mrs Roberts: Why not talk to police officers?

Mr DAY: The member should take her own advice. The Police Service has more resources and staff than was the case previously. In the past two years an additional 800 operational officers have been recruited. As a result of an enterprise bargaining agreement, which lead to officers receiving a 17 per cent salary increase, the service is now more productive. That has lead to an effective increase of about 260 officers.

In the past couple of months, the Police Service has been allocated an additional $300 000 to assist it in enforcing Operation Final Dose in the drug law enforcement area. Many new police stations are being opened from one end of the State to the other. The Police Service has never been in better condition.

ROYAL COMMISSIONS - CITY OF WANNEROO

Final Report - Absence of Member for Wanneroo during Debate

792. Mr CARPENTER to the Premier:

Yesterday the Government suspended the Wanneroo City Council and apparently benched the member for Wanneroo.

(1) Will the Premier advise why the member for Wanneroo was ordered from the Chamber by the Liberal Party Whip during question time yesterday?

(2) Is it true that the Government gagged the member for Wanneroo from speaking during yesterday's substantive debate on the Wanneroo royal commission report or did the member fail in his responsibility to his constituents by remaining silent on what is a damning indictment of the conduct of local government in his electorate?

Mr MacLEAN: Point of order, Mr Speaker.

The SPEAKER: I will not give the member for Wanneroo the call -

Mrs Roberts interjected.

The SPEAKER: I formally call the member for Midland to order for the first time for interjecting while I am on my feet. The question was directed to the Premier and he will answer questions for which he is responsible. If he cannot, he will not.

Mr COURT replied:

The member for Wanneroo was in the Parliament yesterday.

Mr Carpenter: Until he was kicked out by the Whip.

Mr COURT: Does the member want me to ask, where was the member for Cockburn yesterday?

Several members interjected.

The SPEAKER: Order!

REAL ESTATE - REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Comments by Member for Armadale

793. Mr BAKER to the Minister for Fair Trading:

(1) Is the Minister aware of comments by the member for Armadale on 1 November in *The West Australian*, regarding a complaint by Mrs Myra Parker to the Real Estate and Business Agents Supervisory Board?

(2) What is the Minister's response to the comments attributed to the member for Armadale that "the investigation was a whitewash and proved the ministry's inability to handle such cases"?

Mr SHAVE replied:

(1)-(2) I did notice in *The West Australian* -

Mr Graham: There's a surprise!

Mr SHAVE: Yes.

Mr Brown interjected.

The SPEAKER: Order!

Mr SHAVE: It was the second edition of 1 November. In an article headed "Agency cleared in real estate setback" the member for Armadale was quoted as saying that the investigation was a whitewash. Did she say that to the Press?

Ms MacTiernan: Words to that effect.

Mr SHAVE: Did she not say it was a whitewash?

Ms MacTiernan: I cannot recall.

Mr SHAVE: She cannot recall!

Ms MacTiernan: If it makes you happy, I will say that I said it was a whitewash, and then you can get on with it.

Mr SHAVE: At least we have got that clear. If the member for Armadale is saying that it is a whitewash, is she implying that the board's investigations have been improper?

Ms MacTiernan: They have certainly been incomplete and they certainly do not stack up on our legal advice.

Mr SHAVE: If it is a whitewash, then obviously something has been improper.

Ms MacTiernan: You are saying that. I am saying that the investigations are incomplete. You give me time in government time and I will tell you.

Several members interjected.

The SPEAKER: Order! Members, we cannot allow that to continue. I am sure the Minister will answer the question. The Minister is entitled to accept some interjections, but we have too much of it at the moment.

Mr SHAVE: The member for Armadale has already told this House that this investigation was a whitewash. I will give members a little bit of background to the investigation. There have been two independent investigations relating to Mrs Parker by the Ministry of Fair Trading.

Ms MacTiernan interjected.

The SPEAKER: Order!

Mr SHAVE: If the member for Armadale is suggesting that a government department has conducted a whitewash, she is suggesting it has acted improperly or without integrity. The member is deliberately using the media to attack decent, hard working public servants. What makes this attack on public servants even more disgusting -

Several members interjected.

Mr SHAVE: I wish the member would attack me rather than attack these people who cannot come into this place and defend themselves. The last inquiry was conducted by a former crown prosecutor for the Federal Government. He was not even an employee at the Ministry when the two previous inquiries were held. The member has used the Press to denigrate these people, knowing very well that they have no way of defending themselves. I suggest that is a very cowardly act. The Government is very sympathetic to Mrs Parker's problem, but what the member for Armadale has done in this unsavoury exercise is to use an elderly woman for her own political purposes in a very uncaring and callous manner. She should be ashamed of herself.

Ms MacTiernan interjected.

The SPEAKER: Order!

ROYAL COMMISSIONS - CITY OF WANNEROO

Final Report - Government's Acceptance of Findings

794. Mr RIPPER to the Premier:

I refer to the Royal Commission into the City of Wanneroo and the royal commissioner's conclusion that the money passed to Dr Phat at the Shevlock Reserve was not for a donation and Colin Edwardes was wrong when he said that was the reason.

(1) Does it disturb the Premier that his Minister for the Environment and her husband are still today attempting to mislead the public by saying the money was for a donation when the royal commission has concluded otherwise?

(2) Does the Government genuinely accept all the findings of the royal commission?

Mr COURT replied:

(1)-(2) I find it amazing that after four years and a royal commission coming down with this report -

Mr Ripper: Do you accept the findings or not?

Mr COURT: Yes. I will read out the findings -

> There is insufficient evidence on which to base a finding as to why the payment was made.

Several members interjected.

Mr COURT: The member for South Perth is being very mean spirited in his interpretation.

Several members interjected.

The SPEAKER: Order!

Mr COURT: I am reading it. Members opposite cannot have it both ways. They have had their $5m royal commission and now I will give them the results.

Several members interjected.

The SPEAKER: Order! I formally call to order the Minister for Housing for the first time. That is not usual because the Minister is normally well behaved. Members, we cannot allow that sort of behaviour to continue. The member for Nollamara has also had a good go.

Mr COURT: I will tell members why I say the interpretation of the member for South Perth is mean spirited. The report reads -

> There is therefore no evidence before the Commission which enables me to make any finding as to why Mr Edwardes handed a sum of money in cash to Dr Phat on that day. It follows that, specifically, there is no evidence before the Commission on which to base a finding that the reason was connected with the impending elections and any desire on Mr Edwardes' part to secure the votes of Vietnamese electors. I can take the matter no further. . . .
>
> There is insufficient evidence on which to base a finding as to why the payment was made.

Twist it how they like, members opposite have it wrong.

ROYAL COMMISSIONS - CITY OF WANNEROO

Mr Edwardes' Conduct - Commissioner's Findings

795. Mr RIPPER to the Premier:

As a supplementary question, does the Premier agree with his Minister and her husband when they say that the money was for a donation or does he agree with the royal commissioner's finding that that was not the case?

Mr COURT replied:

I have just read what the royal commissioner said on the matter.

NATIVE TITLE - FEDERAL LEADER OF THE OPPOSITION'S COMMENTS

Impact on Western Australia

796. Mr SWEETMAN to the Premier:

The federal Leader of the Opposition, Kim Beazley, made several comments yesterday on native title. Is the Premier aware of these comments and the impact that his policies would have on land administration in Western Australia?

Several members interjected.

The SPEAKER: Order!

Mr COURT replied:

Confusion reigns supreme in the Labor Party on this issue. The current Leader of the Opposition is saying that the 1993 native title legislation means that pastoral leases would extinguish native title.

Dr Gallop: Why are you reading? The answer was written for you, was it not?

Mr COURT: Yes, by Graham Richardson! I realise he is a suspect source. Kim Beazley's response was to say, "Absolutely we believed that at the time."

Mr Carpenter interjected.

The SPEAKER: Order! I formally call the member for Willagee to order for the first time.

Mr COURT: Graham Richardson said that one thing is certain: Paul Keating and his Cabinet firmly believed that no native title existed on pastoral leases and were confident that the legislation they finally agreed to would give force to that view. He said that Paul Keating now denies that was the intent of the legislation. Who are we to believe: Kim Beazley, Graham Richardson or Paul Keating?

There has been a lot of comment that the proposals by the coalition are racist. The 1993 legislation validated invalid pastoral leases and extinguished native title. That was Labor Party legislation.

Dr Gallop: This is not 1984, Premier.

Mr COURT: It is 1997. Has the Leader of the Opposition had the opportunity to read the minority report?

Dr Gallop: No, I have not. I have just received it.

Mr COURT: Has any member opposite read it?

Dr Gallop: Has the Premier read it?

Mr COURT: I certainly have read it. We have just been told that in a debate on native title the Labor Party has come down with changes recommended in its minority report, but no-one in the Labor Party has read that report!

Dr Gallop: Go and jump off your high horse; this is the State Parliament, Premier.

Mr COURT: The issue we are debating is federal native title legislation. We are trying to debate with the members opposite and they do not even know their own policy! The point I make today is that we are trying to have a rational debate on a serious issue and members opposite have not even read the recommendations put out by the Labor Party.

NATIVE TITLE - CONSTRAINT ON RESOURCE DEVELOPMENT

797. Mr RIPPER to the Minister for Resources Development:

Does the concept of native title represent a constraint on resource development in Western Australia?

Mr BARNETT replied:

Clearly native title does present a constraint on resource development. Like environmental issues a decade earlier it has complicated the process of resource development, particularly the development of towns. That is well known. It is an issue I hope Australia will gradually learn to live with, overcome and manage better. The reality is that the issue has not been handled well since the original Mabo decision.

SHIPPING - EMERGENCY POSITION INDICATING RADIO BEACONS

Compulsory

798. Mr MARSHALL to the Minister representing the Minister for Transport:

Many boat owners in the Dawesville electorate are confused about whether they need to purchase an emergency position indicating radio beacon and some are alarmed at the cost. Can the Minister explain -

(1) What prompted EPIRBs to be compulsory?

(2) Will there be a review?

(3) How were the zones of need determined?

(4) When will this new safety regulation come into effect?

(5) Will noncompliance with the regulation result in a fine, and can the high 22 per cent sales tax on EPIRBs be reduced?

Mr OMODEI replied:

I thank the member for some notice of this question. The Minister for Transport has provided the following answer -

(1) Emergency position indicating radio beacons have been compulsory in private vessels operating beyond 30 nautical miles from the mainland or one nautical mile from an island since 1993. The regulation has been amended to reduce these ranges two nautical miles and 400 metres respectively following consideration by a special safety group chaired by the member for Carine, Ms Katie Hodson-Thomas. The group took public submissions on the subject and consulted with experts in the marine safety field. The amended EPIRB regulations accord generally with those applying in other States.

(2) A National Maritime Safety Committee formed with the agreement of the federal, state, and territory Ministers for Transport and charged with negotiating uniform national marine safety standards will be considering a national EPIRB policy. When this has been agreed, Western Australia will adopt the national standard, which may lead to further review of the regulations. In any case, the Government has directed that the EPIRB regulations will be reviewed after one year of operation.

(3) The zones were determined by reference to the practice adopted in other state marine safety jurisdictions.

(4) The amended regulation will come into effect on 1 October 1998.

(5) Failure to carry EPIRB may result in an on the spot fine of $100. The maximum penalty is $500. Imposition of sales tax is a federal matter. The State supports a reduction in sales tax on compulsory marine safety equipment and has recently approached the Federal Government on the matter, without success.

EDUCATION - DEPARTMENT

Equal Employment Opportunity - Abolition of Gender Equity Consultant's Position

799. Mr RIPPER to the Minister for Education:

I refer to the Equal Opportunity Tribunal's scathing assessment of the Education Department's equality of opportunity record in which it says that equal employment opportunity policy and training within the department was very much ad hoc and the department had done very little about equal employment opportunity in any practical or constructive sense. Given this record why has the Minister -

(1) Abolished the equal employment opportunity branch of the department?

(2) Abolished the position of gender equity consultant?

Mr BARNETT replied:

(1)-(2) The question implies that I took some personal action in that regard.

Mr Ripper: You are responsible for the restructure. You initiated it.

Mr BARNETT: I accept responsibility. I did not take any personal action with respect to that. However, I support the director general in what she is doing in reorganising the department.

Mr Ripper: Including abolishing the gender equity consultant?

Mr BARNETT: I will make a couple of comments about gender in schools. The Equal Opportunity Tribunal has made some reports that will dramatically affect employment practices and staffing in country areas. We accept that. We recognise it will be a difficult issue to manage. There are a few practical points. Most people in this Chamber - certainly most parents - would see as reasonable a school that has a female principal and a male deputy and vice versa; or if there is a principal and two deputies it would be desirable to have a male and a female for obvious reasons. That will not meet the fine criteria of equal opportunity. Let us face it, we are dealing with young children in schools and we must be pragmatic. We have a problem in trying to ensure some balance. Members could imagine the situation if there are no female staff in a school and half the population is female. That is not typically the problem. The more common problem is no male teachers in primary schools, where half the population is male.

Mr Ripper: Given those problems why have you abolished the branch of the department that should help you to solve these problems?

Mr BARNETT: We have an equal opportunity employment policy.

Mr Ripper: You do not have a branch to deal with it.

Mr BARNETT: At the same time anyone with any commonsense recognises that gender in senior positions in schools is relevant. Parents support that. We must have a balance. I am not aware of the specific reasons for abolishing that branch.

Mr Ripper: You are not on top of the detail of your portfolio.

Mr BARNETT: No. We are about to hold a forum in the teaching area to look at the issue of employment, and the transfer and promotion of teachers. That will involve all groups and teachers themselves. I made it known to all groups in the education sector that the next big issue is employment conditions. We do not need a gender group. The Education Department is an equal opportunity employer.

FUEL AND ENERGY - GAS

Windimurra Vanadium Project

800. Mr SWEETMAN to the Minister for Energy:

I refer to a recent report in *The West Australian* relating to plans by Precious Metals Australia Ltd to fast track development of its $95m vanadium project at Windimurra near Mt Magnet, and ask whether the Government will consider the extension of a gas pipeline lateral from the main Dampier to Bunbury line to provide gas to the project and possibly supply gas for power generation in the Murchison region.

Mr BARNETT replied:

The development of the Windimurra vanadium project is significant for the member's electorate. Members may not be aware that Precious Metals Australia has reached an agreement with Glencore International AG, a major Swiss commodity trading group, that should result in the project coming into production in the latter part of 1999. This is a significant project. There are larger resource projects around the State, but a project of $95m in that region will be critically important.

The project components have raised the issue of gas supply to the project. It would make a substantial improvement to their competitiveness. The project will not in itself support a gas pipeline, but if the Government can bring together that project and other gold producers in the area, and in particular bring in Western Power and the power supply to Mt Magnet and Meekatharra, it may be possible for a private sector group to extend gas supplies to the Murchison.

It is relevant that Western Power loses approximately$1.4m a year on power supply to Mt Magnet and $1.9m in Meekatharra. I would appreciate the member's support in trying to bring together the civic needs in these townships and other energy consumers, because it may be an opportunity to take advantage of this project to bring a fundamental resolution of power costs in the Murchison and, therefore, improve the competitiveness of prospective future projects.

DOMESTIC VIOLENCE - PREVENTION UNITS

Implementation of Strategies

801. Ms ANWYL to the Minister for Women's Interests:

(1) Why are 16 regional domestic violence prevention committees still waiting to implement strategies to tackle domestic violence in their communities, when the Minister has had copies of their action plans for no less than 11 months?

(2) Why has the Minister failed to convene a meeting of the implementation advisory committee since June this year?

(3) Why is so much of the $2.3m budget for this year unspent, given the urgent need for domestic violence services in Western Australia?

Mrs PARKER replied:

(1)-(3) The Government has a very clear commitment to the prevention of domestic violence and has made a significant funding allocation. Part of that commitment has been to ensure that an integrated resource plan is in place across the State so that not only government agencies but also community groups are involved in decisions on committing funds and planning. That plan has been endorsed by Cabinet and the Justice Coordinating Council and it is proceeding. It is complex and goes across the State, and involves the cooperation of all groups. It is proceeding.

Ms Anwyl: It is not. I chair one of those committees and I can tell you it is not proceeding because we do not get any response from your units.

Mrs PARKER: I will find out what is the situation in the member's area, and she can raise it with me specifically if she wishes to do so. This Government has a strong commitment to women and the prevention of domestic violence. Only yesterday it announced the Edith Cowan Fellowship awards. This year the topic nominated for research is domestic violence, and the Government doubled the funds allocated to that research. This is indicative of the Government's commitment. It was widely supported by the people there and it is part of the Government's clear commitment to the prevention of domestic violence.
