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LEGISLATIVE ASSEMBLY

Tuesday, 28 March 2000

THE SPEAKER (Mr Strickland) took the Chair at 2.00 pm, and read prayers.

TAFEPLAN 2005

Statement by Minister for Employment and Training

MR BOARD (Murdoch - Minister for Employment and Training) [2.03 pm]: I rise to inform the House of an important development in the management of the State's TAFE network - the completion of TAFEplan 2005. This document is a comprehensive, five-year strategic plan for Western Australian TAFE, the first of its type ever produced for the college network. TAFEplan 2005 is also to be commended in that it is a cooperative effort developed by the managing directors of no less than 12 TAFE colleges in consultation with the chairs of their governing councils and the Department of Training and Employment.

TAFEplan 2005 sets out a vision for the TAFE network, articulates strategic directions for the network's development and establishes clear and achievable outcomes. The plan provides a framework for improving training development and growth in the TAFE network, especially in regional Western Australia; strengthening coordination of the network to make sure it continues meeting community needs; maintaining the autonomy of TAFE colleges, but ensuring better and more integrated long-term planning is in place; increasing TAFE's efficiency and effectiveness; and enhancing TAFE's ability to partner with industry and government. This plan is an expression of the willingness to cooperate that underpins our network of TAFE colleges.

It is also an important first step into the next five years and I am in no doubt it will be looked back on as a critical milestone document in the further development of TAFE in Western Australia. As our biggest provider of post-secondary education, the importance of TAFE must not be underestimated. In 1998, TAFE in Western Australia delivered training to 121 800 people, an increase 19 per cent since 1993. Almost 42 per cent of these trainees were under 25 years of age, confirming TAFE's role as a major provider of job pathways for young people.

TAFE's success in employment outcomes is impressive - 85 per cent of all 1998 graduates who wanted to work had a job within six months of completing their training. TAFE colleges are bigger and more efficient than ever before, with those in regional areas in particular undergoing solid growth in size and the number of available training places. For example, the amount of training offered by the Kimberley Regional College increased by 86 per cent from 1995 to 1998; South West Regional College recorded a 15.6 per cent increase; Hedland had a 28 per cent increase and C.Y. O'Connor, in the wheatbelt, had an 11.2 per cent increase. An overall increase of 24 per cent was recorded across the seven regional TAFE colleges.

The Government considers TAFE to be one of this State's most valuable assets and believes TAFEplan 2005 will further build on the strength of that asset. This document is a commitment to ensuring the TAFE sector keeps pace with the changes and challenges presented by the twenty-first century and continues to provide the highest quality, relevant educational opportunities to students of all ages. I table a copy of the document.

[See paper No 778.]

[Questions without notice taken.]

REAL ESTATE LEGISLATION (FIDELITY GUARANTEE FUNDS) AMENDMENT BILL 1999

Returned

Bill returned from the Council without amendment.

NOTICE OF MOTION No 10

Removal from Notice Paper

THE SPEAKER (Mr Strickland): I advise that private members' notice of motion No 10 submitted on 7 September 1999 will lapse and be removed from the next Notice Paper unless written notice is given to the Clerk requiring the notice to be continued.

FINANCE BROKING INDUSTRY, FAILURE TO REGULATE

Matter of Public Interest

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

> Dear Mr Speaker
>
> . . . Pursuant to Standing Order 145, I propose that the following matter of public interests be submitted to the House for discussion today.
>
> > "The House deplores the continuing failure of the Minister for Fair Trading to properly regulate the Finance Broking Industry in Western Australia.

Further, the House acknowledges that the mounting losses being incurred by the mainly self funded retirees could have been minimised had the Minister had taken early and appropriate action in his portfolio."

The letter is signed by the member for Fremantle. If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

MR McGINTY (Fremantle) [2.48 pm]: I move the motion.

This morning we woke to find on the front page of *The West Australian* that the primary investigator for the Ministry of Fair Trading had been nobbled by the ministry because he had been doing his job too well. That is an absolute disgrace. It establishes the point the Opposition has been making in this House for some considerable time; namely, that the Government has not wanted to deal with the corruption and malpractice which surrounds our finance broking industry in this State for simple reasons: Too many people too close to the Government are involved, and too much would be revealed about them if a proper inquiry were held. We have seen one crisis after another, and they will roll on in this State until a proper inquiry is called and the matter is dealt with adequately.

I will take time during this debate to deal with a problem which has arisen in connection with finance brokers which highlights a number of difficulties in this industry. Clifton Partners Finance Pty Ltd brokered a loan late in 1997 to Ryelstone Pty Ltd to build six units at 17 Hardy Street, South Perth. That loan has been in default since September of last year. The names of 74 investors appear on the certificate of title, and the property has a first mortgage totalling $3.9m. As it has been in default since September, some $300 000 of outstanding interest has also accrued which leaves $4.2m outstanding under the first mortgage. A second mortgage of half a million dollars is also in place, with a total mortgage value of the property of $4.7m. A range of people have spoken to estate agents in the area. This matter involves six luxury townhouses in South Perth. Today's best estimate of the value of this development in its completed form is $3.7m, and the six units are lying idle today; in other words, we are anticipating yet another Western Australian finance broker-induced loss on this project amounting to about $1m. A $1m finance broker-induced loss will be imposed upon citizens of Western Australia who have been induced, unfortunately, into investing their money in this project. That is the best estimate we can find. The loan has been in default since September of last year and that is where it stands today.

Among the investors are three charities. In the past when we have spoken about the finance brokers scandal, presided over by the minister for finance brokers, mainly elderly, self-funded retirees have been robbed of their savings by the actions of unscrupulous finance brokers acting in collusion with valuers. Again, on this occasion those victims - 74 investors in total - will lose money, and there is nothing more certain than that. We also see something which started to emerge in the debate in this Chamber last week when we drew attention to the losses being incurred as a result of investments made through Blackburne and Dixon Pty Ltd and through Global Finance by the St John Ambulance association and the St John Ambulance superannuation fund. The three charities that have invested money in this Rylestone project through Clifton Partners Finance Pty Ltd in South Perth are the WA Retinitis Pigmentosa Foundation, which has invested $150 000 in this project. That charity does very good work with eye diseases. Obviously it will now be significantly compromised in its capacity to continue to do that work. It is unfortunate that the Minister for Health is not here to listen to the plight of one of the most worthwhile charities which has invested money in this area and which will now find itself short of funds and unable to do that good work on behalf of the community and people with eye problems. It is also disappointing that the member for Warren-Blackwood is not in the Chamber because the Geegeelup Village Hostel in Bridgetown, which I believe is in his electorate, has invested $64 000 in this project. We are all familiar with the operation of aged hostels. Organisations, which do not have spare cash, are now putting money into Clifton Partners and losing some of that money and interest which they have not received. The third charity which has invested funds through Clifton Partners and which will incur a loss is the West Australian Motion Picture Benevolent Fund Ltd. That foundation was formed in 1936 to help the sick and needy who worked in the film industry in this State. It has been a good community organisation. It has invested $67 000 of its funds which it needs to help its sick and needy members, and those funds are now at risk. We can add 74 investors to the list of people who have funds at risk and who will suffer a loss. All told, those three charities have invested $281 000 through Clifton Partners Finance Pty Ltd in a deal that has gone horribly bad, and I estimate the total losses will be in the vicinity of $1m and every investor will lose money.

The people who are unfortunate enough to find themselves involved in the second mortgage will lose everything in exactly the same way as did the people of Wattle Grove recently. When the Wattle Grove Motel was sold, the second mortgagees and the third mortgagee lost everything they had invested. That is what will happen to the people who invested $500 000 on the second mortgage through Clifton Partners in the Rylestone development at 17 Hardy Street, South Perth. I anticipate that the second mortgagees will lose everything as did those in the Wattle Grove investment, and the first mortgagees will also lose part of their capital and probably all of their interest.

The firm that organised this loan is Clifton Partners Finance Pty Ltd. It is worth quickly looking at this firm, because it might help explain the inactivity of the Minister for Fair Trading. The principal of this firm is Mr Kim Clifton, a failed Liberal Party candidate who sought Liberal Party preselection against Dr Constable when she contested the seat of Floreat in 1991. Mr Kim Clifton put up his hand but was defeated for preselection on that occasion. Yet again we see people closely associated with the Liberal Party in this State presiding over disasters in the finance broking industry. The Government, in particular the Minister for Fair Trading, sat on its hands and tried to blame anyone except the body that is publicly supervising, disciplining and regulating the finance brokers in this State. The other interesting point about Mr Kim Clifton is that, until last month, he was also a member of the Finance Brokers Supervisory Board, which is the body that

exists to stamp out these sort of shonky deals and bad loans. Kim Clifton was a deputy member of that body until he resigned last month, for reasons that I am not sure of. If that is not putting Dracula in charge of the blood bank, I do not know what is. That is one of the problems to which the police alluded in their memorandum of only last week: The police did not want any cooperation with the Minister for Fair Trading beyond that which was minimal and necessary. The police did not the trust the ministry and the Finance Brokers Supervisory Board, because the people who were on the board supervising the industry were those engaged in the practices in this industry. That has been one of the essential problems that has existed here. We all saw the Executive Director of MFA Finance Pty Ltd stand down after initially resisting calls to resign from the board. Eventually even the Premier and the Minister for Fair Trading, who said he should remain a member of the board notwithstanding his conflict of interest, said he should stand down because MFA Finance had been in the spotlight for many months. Mr Kim Clifton resigned last month, but not before all of this loan, which I am detailing to the House today, had gone horribly bad. He was a member of the board supposedly supervising and regulating his own behaviour, which was appalling.

I want to touch on the failure of the minister, the Finance Brokers Supervisory Board and the Ministry of Fair Trading. Last week, this House was made aware of details of a Police Force memorandum prepared by the head of the commercial crime division of the fraud squad. Members will remember the memorandum said that the Ministry of Fair Trading was incompetent or appeared to lack competence to do the job properly. It also said the ministry was not to be trusted, because its inactivity had put it into an indefensible position. That is what the police had to say about this minister, the Ministry of Fair Trading and the Finance Brokers Supervisory Board. The police are absolutely correct in their assessment of the Ministry of Fair Trading and, for that matter, the minister who presides over this shambles.

Members will recall that on 17 August 1999, I detailed to the House the failure of Clifton Partners Finance Pty Ltd, the finance broker that we are dealing with in this debate today, to place Mr Chris Nicolaides of Nicolaides Nominees Pty Ltd on the certificate of title as a first mortgagee in respect of the $170 000 loan we are dealing with today, despite an undertaking from Clifton Partners that he would be given that security for his loan. I reported to the House that Mr Nicolaides was promised that security and it was not given to him. When he complained to the Ministry of Fair Trading, some fairly disastrous things occurred. I will detail them again, because it sometimes serves to revisit where we were in this debate six or seven months ago to crystallise some of the issues before us today. It was the same property - 17 Hardy Street, South Perth - and the same finance broker - Clifton Partners Pty Ltd. Mr Nicolaides invested $170 000 and was promised he would be given the security of a registered first mortgage. Clifton Partners did not give him that first mortgage. He complained initially to the Ministry of Fair Trading about that.

I have copies of all the correspondence with me if members are interested in reading it. The Ministry of Fair Trading replied to Mr Nicolaides in July 1999 that it had had a chat with Clifton Partners Finance Pty Ltd and it was simply an inadvertent oversight on its part which resulted in the failure to register Mr Nicolaides on the title as a first mortgagee. That is just not true and is an example of the sheer incompetence or deception practised by the Ministry of Fair Trading when people complain.

I have already told the House of 74 individual mortgagees of this property, all organised through Clifton Partners Finance Pty Ltd. When Mr Nicolaides first complained to the Ministry of Fair Trading that his first mortgage was never registered, it investigated the complaint and said there was no evidence that anyone else was in the same position and that the managing partners of Clifton Partners Finance Pty Ltd said that it was simply an oversight.

The Ministry of Fair Trading - this is absolutely appalling - then gave Mr Nicolaides' letter of complaint to the solicitors for Clifton Partners, Murie and Edward, who then threatened Mr Nicolaides with defamation for having raised the complaint with the Ministry of Fair Trading. What kind of a ministry is that? What kind of a minister is it who is prepared to give a letter of complaint, properly addressed, raising proper issues of concern about possibly having been defrauded of $170 000, to the solicitors for Clifton Partners who then threaten defamation action against him for raising the matter with the Ministry of Fair Trading?

It is no wonder that people are not prepared to go to this minister, to his ministry or to the Finance Brokers Supervisory Board with complaints as they will leak back to the people being complained about and the complainants will receive writs for defamation. That is exactly what happened and it is absolutely shameful. This minister presided over this matter and has never taken any action against the people in the Ministry of Fair Trading for passing on that information to Clifton Partners. It appears that Mr Nicolaides could receive a writ for defamation for having the temerity to raise the fact that Clifton Partners did not honour its undertaking to give him a first mortgage.

Mr Ripper: From whom did he get the letter?

Mr McGINTY: The letter came from the solicitors for Clifton Partners, Murie and Edward.

That is an absolute disgrace. Notwithstanding section 88 of the Finance Brokers Supervisory Act, which makes it an offence for anyone to disclose a complaint, or the identity of a complainant, to anyone else, it is obvious that the practice in the Ministry of Fair Trading is that if someone complains, the ministry goes to the person being complained about and lets them fix it up directly. In that way the Ministry of Fair Trading does not have to do any work. That is a disgrace and, among other things, a breach of its own Act; nonetheless, it was allowed to go through to the keeper. Not only was Mr Nicolaides not registered as a mortgagee on the title during the 18 months of the loan, and therefore lacked security, but also many more of the 74 people who invested in this loan were not given the security they were promised either.

One couple, Mr and Mrs Wildman, invested $50 000 in the South Perth property on 7 November 1997. The Wildmans were

not registered as first mortgagees on the title for two years. I believe everyone in this House knows the priority given to registered mortgagees over unregistered mortgagees. Had this loan defaulted or losses incurred because of neglect - perhaps even criminal neglect - by Clifton Partners Finance Pty Ltd, the security that these people were guaranteed and told they had, but did not have, would have contributed to even greater losses. All the 74 mortgagees now registered on the title were promised a registered first mortgage but only 18 of the 74 were initially registered on 19 November 1997.

On 20 October 1998, another four mortgagees were registered; on 27 January 1999, another two persons were added; on 26 March, another two persons were added; and on 1 April, prophetically as it turns out, another six people were registered for a second mortgage of $500 000 over this property. They will lose the entire amount they invested and for which they were registered on April fool's day last year as second mortgagees. Some people at Clifton Partners Finance Pty Ltd might think that is funny. I do not think people in this House should regard it that way.

By mid-1999, of the 74 mortgagees, all of whom were told they would have a registered mortgage, only 32 were registered. That was about the time Mr Nicolaides made his complaint. He wrote to the Ministry of Fair Trading and corresponded with the minister about this matter. Several letters were written between the minister and Mr Nicolaides about this matter, so the minister obviously knew what was going on and sought to reassure him that all was being handled well.

In his letter of 5 August 1999 to the Ministry of Fair Trading, Mr Nicolaides asked the ministry to specifically investigate others who were involved in the mortgage over the South Perth property and whether, like him, they were denied the security they had been guaranteed; in other words, whether anyone else was not listed as a registered mortgagee. That issue was also raised by me in the House. The ministry replied to Mr Nicolaides on 28 September and the minister replied to him on 8 October. What they said is instructive. They said there was no evidence to support the view that others were not secured by means of a registered mortgage.

They were blind. Well after this date, the majority of the mortgagees were not registered on the title. Therefore, either the Ministry of Fair Trading was completely negligent and incompetent, as the police memo suggests might have been the case generally within the Ministry of Fair Trading, or one can draw the even worse conclusion that it was wilfully blind to the facts; that is, most of the mortgagees promised a registered mortgage were not listed on it.

Dr Gallop: There is a third possibility; officers of the department might have been blindfolded.

Mr McGINTY: Perhaps they had a job to do on behalf of the minister, who did not want certain matters investigated on behalf of his political friends. As members will recall, I said that this loan went into default in September. After the wheels fall off and losses are about to be incurred, there is a mad rush by Clifton Partners and on 7 December last year it adds 50 mortgagees to the title. Whether that was under pressure from the Australian Securities and Investment Commission, it certainly was not under pressure from the minister or the Ministry of Fair Trading. However, members may recall that it was after the major fraud squad commenced its investigation into practices in this industry. Suddenly, after years of neglect and of placing in jeopardy people's funds because their first mortgage interest over the property was not registered, 50 names are registered. No extra money was coming in; the loan was in default at that stage. Why was that the case and why did the Ministry of Fair Trading lie to Mr Chris Nicolaides when it clearly said there was no evidence to support the view that others may have been in the same position as he was; that is, of not having their interest in the land listed on the title as a registered mortgage?

Had the minister, who wrote to Mr Nicolaides on the matter, or the Ministry of Fair Trading investigated the matter, a completely different picture would have emerged from that relayed by the ministry. It was interesting that the mortgage was registered only after the default.

I refer now to valuations, because a hallmark of so many of these shonky mortgage broker transactions have begun with valuers who were compliant and who provided valuations which bore no relationship to reality. Members know that central to the finance brokers scandal has been the overvaluation of properties by valuers licensed and supervised by the Ministry of Fair Trading. Three examples which are now notorious throughout Western Australia are Peppermint Park holiday chalets in Busselton, which had an MFA Finance Pty Ltd loan valued at $3.3m, purchased for $1.5m; the Bubbling Billy tearooms valued at $760 000, purchased for $203 000; the Wattle Grove Motel, valued at $3.69m, purchased for $1.85m. That is the pattern that emerges.

The same is true of 17 Hardy Street, South Perth and Clifton Partners' involvement in that property. On 5 September 1997, Egan National Valuers valued this project on completion at $5.5m. On 4 November 1998 they gave a revised valuation of $6.16m because the construction costs had increased by $600 000; therefore the final value - according to their logic - should go up by that amount. On 17 December 1998, Rylestone Pty Ltd's assets and liability statement valued the Hardy Street property at $6.6m. Now, in a rising market for luxury townhouse units in South Perth, the local estate agents estimate the value of the property at $3.9m; almost half of the valuation. Yet again, we see valuers who are licensed and supervised by the Ministry of Fair Trading and the Minister for Fair Trading providing what is patently a false valuation. That was certainly the basis upon which it was conveyed to the investors. That is at the heart of the misrepresentation. If that was not its true value, very serious acts have occurred with which I hope the authorities will deal.

I deal finally with the question of misrepresentation by Clifton Partners Finance Pty Ltd. On 7 May 1999, it stated that the six luxury apartments had been completed. That was not true. They also stated in writing that one had been sold. That was also not true; today none of them has been sold. There was an offer that had all the hallmarks of being a bogus offer in order to entice people to invest and to pretend ongoing interest in the matter, but that obviously fell over and did not come to completion. It was said of that offer that they would settle when new strata titles were issued within the next three weeks.

Clifton Partners and Rylestone did not even apply for the issue of strata titles until after December of last year. That was in May when they were making this outrageous assertion to their own investors.

Most worrying of all was the mortgage loan extension proposal which was sent to a number of investors which stated that $199 875 was to be deposited to the trust account of Clifton Partners Pty Ltd in the name of the mortgagor and drawn down monthly in arrears to the mortgagees. In other words, the extension of the loan was to pay interest to the mortgagees. However, in fact, that money was used to complete the building which they had said was already completed but which was not. Last week, Clifton Partners confirmed orally to two of the lenders - the Mocerinos and the Wildmans - that that money was used to complete the building; not held in trust and used for the purpose for which it was dedicated. I call on the major fraud squad in this State to investigate whether this constituted a criminal misapplication of money held on trust for a purpose. If money is held on trust for a purpose, it cannot be used for other purposes. That is clearly what Clifton Partners have admitted doing on this occasion. The loan went into default in September 1999, four months after the extension of the loan was approved.

All investors would have rejected the extension of the loan if the truth had been told about its status. Four investors were paid out early - they could obviously see what was happening with this loan and where it was going; they had some knowledge. Clifton Partners did not tell the remaining borrowers the truth, and therefore induced them to remain in this loan, and these borrowers are now suffering significant losses, whereas those people that had the foresight to get out of the loan and not grant an extension to it have walked away with their money intact. This is yet another very sad tale of deception practised by finance brokers and of inactivity practised by this minister, who is happy to see his friends engage in these criminal behaviours.

MR SHAVE (Alfred Cove - Minister for Fair Trading) [3.15 pm] I will briefly outline something that I outlined in the House before, and that is the history of the level of complaints we have had regarding finance brokers. It is important that people fully understand what the situation was.

Mr Ripper: Are you going to deal with people getting letters threatening defamation action?

Mr SHAVE: What I can tell members opposite is that this Government is very concerned.

Several members interjected.

Mr SHAVE: I was good enough to let the member for Fremantle make his address without interruption. He can rant and rave as much as he likes but I will make the points that I set out to make.

Between 1986 and 1996 less than 60 complaints against finance brokers in this State were recorded with the Ministry of Fair Trading. I made that point for a number of reasons, one being that one sector of the Press approached me the other day and told me that they had some letters written to the Government in 1984 by Peter Dowding which discussed changing the Act to have insurance, indemnities and protection for people. After that, one of the people from the mortgage association said publicly that the association had been writing to various ministers for a period of 15 years and that the ministers had not acted. We discussed Keith Wilson, Ian Taylor, Graham Edwards and Yvonne Henderson until we reached Peter Foss, who took over in 1993. I have said continually, with respect to Grubb Real Estate and Finance and Global Finances, that there was a lot of manipulation happening inside those companies and that the public was not aware of what was going on.

In 1998 the Government undertook a public review of the Finance Brokers Control Act -

Ms MacTiernan: Which you were going to deregulate!

Mr SHAVE: The member for Armadale can interject and try and throw me off my line of delivery but that will not work. I am going to make my points.

In *The West Australian* on 1 August 1998 the Government advertised a review of the Act and invited submissions. More than 600 copies of the review details were mailed out by the Ministry of Fair Trading asking people to participate and lodge a submission. If one were to believe the scenario painted by the Labor Party, one might expect that we would have got 1 400 or 1 500 submissions. According to Labor members, I knew, they knew, and the public knew what was going on. If members opposite were responsible people they would have participated in the review because it would have been negligent of them not to do so if they knew as they say they knew. They accuse me of knowing what was happening inside those companies. If they knew what was happening, they should have participated.

Several members interjected.

Mr SHAVE: Now I am receiving personal criticisms. The member for Armadale is referring to me as a moron. I will leave it to the Speaker's judgment as to who is the moron in this place. It is an important point, because members opposite have hung their hats on the notion that since the Liberal Party got into power in 1993, it has not acted on these brokers and is therefore to blame for the dishonesty that has occurred.

Mr Kobelke: The minister has that right.

Mr SHAVE: If the member throws enough mud, he should make sure it sticks. The 1998 public review was advertised in the newspaper, like Mr Grubb and his mates advertised in *The West Australian* for 11 per cent when everyone else was getting 5 and 6 per cent. Six hundred invitations and letters were sent out, including to members opposite. Yet, only 14 submissions were received.

Mr McGinty: They did not want to be sued for defamation.

Mr SHAVE: No, the proof is in the pudding. Fourteen submissions were received and not one was from any of the members opposite. They claim that they knew and we knew about it as far back as 1995. Yet, the review did not receive one submission from the Opposition, who claims this was known as long ago as 1994 and 1995.

Ms MacTiernan: When did the minister know about it?

Mr SHAVE: The proof is in the detail, because, as I have said, in the 10-year period up until 1996, the Ministry of Fair Trading received only 60 complaints about the 450 brokers that operate in Western Australia. That is the proof. However, the Opposition is not prepared to apologise; it will not have the decency or the courage to apologise to me.

Mr McGinty: What for?

Mr SHAVE: If the member for Fremantle knew in 1998 that these people were behaving in this manner, he was negligent by not making a submission to that inquiry.

Ms MacTiernan: It is in the *Hansard*!

Mr McGinty: The minister was the one who put the crooks on the board.

Mr Court: Who is the crook on the board?

Mr McGinty: We will wait and see whether the police lay charges.

Mr Court: The member for Fremantle just referred to a crook who was put on the board.

Mr McGinty: I said that the minister has been putting the crooks on the board. That is how active he has been.

Mr Court: Who are the crooks?

Mr McGinty: Is it not obvious? I just gave a speech about it.

Mr SHAVE: Well, tell us who it is.

Mr McGinty: I know the minister is a bit dopey.

Mr SHAVE: Who is the crook?

Mr McGinty: The minister will find out.

Mr SHAVE: Is the member for Fremantle not prepared to name the person?

Mr Kierath: Not even now?

Ms MacTIERNAN: If we name him, the minister will say he named him!

Mr McGinty: The minister is presiding over a disaster and he is not helping by his performance today.

Mr SHAVE: This Government has done more to control finance brokers than the Labor Party ever did.

Mr McGinty: The Government has done more to help them rip people off.

Mr SHAVE: I have always said that if there is a broker, a valuer or a borrower who has involved themselves in an illegal or criminal act, I want them charged. It suits me fine if they are put in jail. The Opposition has been trying to portray the image that the Government is trying to protect these people for some reason. That is absolutely untrue. At this stage, over 30 fraud squad police and associated personnel are working through a range of complaints and allegations against these people. No-one will be happier than I if they are charged and locked up. While the Opposition does not believe it, I have a sincere dislike for those who rip off elderly people. I am not here to protect dishonest finance brokers, nor will I will throw the blame at members of the Labor Party for the references and advice they received prior to 1993. Other people can make that judgment.

Ms MacTiernan: Will the minister name one?

Mr SHAVE: The letters between Peter Dowding and the board are all on file and, as far as I know, have been submitted to the Gunning inquiry. If the member for Armadale wants copies of those letters, she can get them from the Ministry of Fair Trading. If she cannot get them from the ministry, I will make sure I get copies for her.

Ms MacTiernan: Are you saying that pooled mortgages investors were having problems then?

Mr SHAVE: No, I will get to the pooled mortgage situation in a minute. The member knows that her predecessors, one of whom was a Premier of this State, were advised of problems with mortgage brokers and were asked about obtaining fidelity insurance, but did nothing about it. It is as simple as that. That is the truth. I am not here to defend people who may have behaved in a proper or an improper manner, but I want to table a letter written by Clifton Partners to the editor of *The West Australian* - they can defend themselves - together with a copy of a letter they sent to a borrower and an article which appeared in *The West Australian* on 11 March 2000. In that way the media will be well aware that letters were written to *The West Australian*, although they were not printed.

The front page article in *The West Australian* today referred to an issue that had been previously raised by another Western Australian journalist - Gay McNamara.

Mr Kobelke: What are the criteria by which *The West Australian* should print letters written to it?

Mr SHAVE: I will not pick on *The West Australian*, because I do not want it to think I am being unkind to it. However, if a newspaper runs an article which accuses the ministry or its officers of acting incompetently, and the chief executive of that organisation writes to the newspaper, in fairness it should at least print the letter in response. If a newspaper runs a front page story which it considers to be vitally important to the public, surely it should print the response from the chief executive of the organisation under siege and attack.

Mr Kobelke: You referred to Clifton Partners. Why did the newspaper not print that letter?

Mr SHAVE: I do not know; the member should ask *The West Australian*.

Mr Kobelke: Why should it print it?

Mr SHAVE: If a comment were made against me, I should have the right of reply and my reply should be printed in the newspaper. If something serious is said about someone, the public has a right to see both sides of the story. That is just my view.

Mr Kobelke: Has it denied you the right of reply?

Mr SHAVE: No, it is not denying the right of reply. However, in some cases articles appear in the *Sunday Times*, *The West Australian* or *The Australian* and letters are written to the editors in response. In this case it was *The West Australian*. I refer to this morning's edition and the article in the newspaper which has the same text as the article previously written in *The West Australian* by journalist Gay McNamara. I assume the journalist who wrote today's article referred to the previous article by Gay McNamara, to which the Ministry of Fair Trading responded in a letter to the editor of *The West Australian*. Despite that response, the same issues are raised again.

Mr Kobelke: I thought you were claiming you did not get a right of reply.

Mr SHAVE: No, I am saying that another journalist previously raised the issue. I am not defending finance brokers per se in this discussion now. I am trying to point out that certain comments and allegations were made previously by the newspaper about the behaviour of the Ministry of Fair Trading. The chief executive of the ministry wrote to the newspaper with a more correct version of events which it wanted the newspaper to print. The letter was not printed, then another journalist ran another front page story on exactly the same issue. The newspaper gets the story, it gets the reply, it does not print the reply and then it runs the story again.

Mr Kobelke: Perhaps the lesson is you should speak the truth more often and not hide from it.

Mr SHAVE: I speak the truth.

Mr Ripper: Is this where your mates get their lawyers?

Mr SHAVE: The member for Belmont says, "My mates". If he refers to a particular person to whom he alludes as a friend of mine, I would be happy to discuss it. I do not know most of these people.

I received advice from the Ministry of Fair Trading about the article on the front page of *The West Australian* today. The chief executive of the ministry informed me that he takes the allegations very seriously. The article reveals that a person in the ministry felt aggrieved about the way he was being treated by other officers, who were not named in the article. The Gunning inquiry will provide an appropriate forum for that person to give evidence. Under the inquiry's terms of reference he will be required to appear and he will be cross-examined by a Queen's Counsel. He will be required to substantiate before that inquiry all the allegations he made about his fellow workers. In addition, the people against whom allegations have been made will have an opportunity to respond. They have not had that opportunity until now.

Ms MacTiernan: I don't know - you have been acting in this place as a defender of the finance brokers; you have been their agent.

Mr SHAVE: No, I have not. I will table the memo which the chief executive of the Ministry of Fair Trading wrote to me, a copy of a letter he has written to the Gunning inquiry, and a copy of a letter which was written to the Editor of *The West Australian* in July 1999.

Ms MacTiernan interjected.

Mr SHAVE: I do not want to do that.

Ms MacTiernan: It won't be an inquiry if people who will be representing someone else are able to cross-examine in private. It will be more like a court hearing, won't it? This is the first time we have heard of cross-examination.

Mr SHAVE: The member for Fremantle raised the issue of Mr Nicolaides who apparently wrote to me. I will explain to the House what happens in these matters. The scope of the Ministry of Fair Trading means I receive between 500 and 1 000 a letters every week on a variety of issues.

Ms MacTiernan: This is where you don't bother to respond.

Mr SHAVE: I do respond to the letters. As I tried to explain to the deputy leader of the Labor Party with regard to the Yaburarra land claim, when an inquiry comes in, it is farmed out to the particular policy adviser and that person deals with the ministry. If a complaint came in to my office from Mr Nicolaides, it would have been handled by the policy officer. That officer would have forwarded the complaint to the ministry.

Ms MacTiernan: Do you understand the principles of the Westminster system?

Mr SHAVE: I understand the principles of the Westminister system perfectly.

That issue would have been dealt with. The member for Fremantle came into the House and made a lot of allegations about the board's not acting on Mr Nicolaides' action. If people are interested in finding out the truth - other than what the member for Fremantle says, because he often mixes the truth with the untruth - I suggest they ask the ministry or me for a detailed response.

Several members interjected.

Mr SHAVE: The member for Fremantle comes in here and makes many unsubstantiated allegations. When I read the front page of the newspaper and see that the ministry has done this or has not done that, I contact the ministry and ask for a briefing by 2 o'clock that afternoon because I might be asked in the House about the issue. When I read the briefing I find that the fact does not fit what the member for Fremantle and other people have been telling the public. We can keep going down that path, but people will be given that opportunity with the Gunning inquiry. The member for Fremantle said that I would not go to the Gunning inquiry because there will not be any justice and there is no point in going; or that I had better not go because I might get asked this or that question. If the inquiry requires me to go, I will go - it is not a problem.

Ms MacTiernan: I bet you they won't because you know nothing.

Mr SHAVE: This is a very serious matter. The head of the Real Estate Consumer Association has said she does not want to go. RECA has given me a 14-page document containing many allegations and issues which need to be addressed. It says it is not interested in going to the inquiry because it does not think it will be worthwhile; it does not think this judge who has been on the bench for 22 years will come up with anything. I have suggested to the ministry that the document provided by RECA be sent to the Gunning inquiry and be evaluated. Every allegation made in the document should be dealt with. I am quite comfortable with that. If anyone in the ministry has acted improperly and the Gunning inquiry finds that, I am more than happy to see the appropriate action taken. However, it is a bit of a hangman syndrome. They are throwing spears at these people who are not being given the opportunity to represent themselves. We will go through that process.

The Opposition says the Government has not done anything or I have not done anything as the minister. That is totally incorrect. We have generated many initiatives. We have been working with the Australian Securities and Investments Commission for nearly three years.

Ms MacTiernan: You have known about it for three years, have you?

Mr SHAVE: No, we have been working with ASIC for three years to deal with any overlap in the federal legislation which does not encompass the state legislation, and vice versa. In June 1998 ASIC introduced legislation which will give it stronger control over finance brokers.

Mr Marlborough interjected.

Mr SHAVE: I am more committed to this than I am to what the member for Peel terms electoral reform. People who live in rural Western Australia would term that electoral deprivation rather than reform. It is okay for members in the city to take votes away from country people but it is not too flash in the country, and the Labor Party will pay the price at the next election. We will tell the people what the member for Kalgoorlie is trying to do to the electoral system.

Ms Anwyl interjected.

Mr SHAVE: The member for Kalgoorlie is on our list, as is the member for Burrup. The member for Kalgoorlie will be on the way back to Kalgoorlie and she will not travel in a government car. It will be either the overnight train or she will be driving her own car.

I will leave that electoral issue and return to the role of the Australian Securities and Investments Commission in this matter. It has been suggested that we have been unreasonably critical of ASIC. I am not looking to deflect any blame for what has happened to ASIC because, like the Labor Party, I do not think that until 1998 ASIC knew what was going on with these companies. If one reads through the newspapers of one or two weeks ago when Mr Ogilvie's photograph appeared, he said that until 1998 he did not have any complaints - not one. If there were widespread condemnation of what was going on, one would think that the regulatory body, ASIC, which can walk into those companies - it has far more power than the State in these matters - would have known about it. Mr Ogilvie's comment was that he thought Mr Shave was unfair because Mr Shave knows, or words to that effect, that ASIC was not aware of it. I will not argue that point. However, from 1992 these finance brokers were effectively under the control of ASIC. Although they were registered at a state level, ASIC had all the power. In 1998, ASIC moved, through federal legislation, to strengthen those controls. The Government supported that and worked on that matter with ASIC. Members opposite say that we have done nothing. I say that we have moved in these areas, and what has happened is that those opposite have been caught out. They have laid all the blame at our feet, and they know that while they were in government they did absolutely nothing.

There are other initiatives that the ministry has been undertaking. It has been examining various matters. I have recommended that there should be fidelity insurance. The board has been examining various issues, and I believe that in the fullness of time improvements will be introduced. However, I want to talk about other initiatives, because the member for Fremantle has been very quick to attack me, to say that the Government has been doing nothing and that I have sat on my hands. That is not the case. We have been looking at a number of initiatives.

Mr Carpenter: Obviously, they readily spring to mind.

Mr SHAVE: There is a number of them.

Mr Carpenter: You only have three minutes left.

Mr SHAVE: Okay. I will be quick.

In April 1999, Cabinet endorsed a range of recommendations to increase consumer safeguards. I will not go through those, but there was an amendment to the finance brokers code of conduct. The board was asked to initiate more frequent audits and to acquire compulsory indemnity insurance. We have funded not only the supervisors but also the liquidators in these actions, and that was my criticism of the federal people. We have established the Gunning inquiry and a finance and valuing industry task force. Significant increases in penalties are proposed across the board for breaches of the Act. The ministry is reviewing the use of compliance options. It is proposed to amend the definition of "consumer" in the Fair Trading Act, and that the Finance Brokers Control Act be amended to impose compulsory indemnity insurance.

If someone were interested in the list detailing what we have been doing, I would provide it. To the best of my knowledge, the Labor Party has never asked for details of what we are doing about these alterations. If it were interested, I would be happy for my staff to sit down and to give Labor Party members a briefing. If the member for Fremantle is interested in a briefing to ascertain any of those details, he can have it. At the end of the day, members opposite stand condemned for asserting that this Government knew there was a wash of complaints against the finance broking industry prior to 1998, yet they could not even pick up a pen to lodge a complaint about that.

[See papers Nos 781-785.]

DR CONSTABLE (Churchlands) [3.45 pm]: I will add a few remarks this afternoon in support of this motion. I venture to say that most members in this House have had contact with constituents who have lost money in loans that have gone sour. That is my experience, and I have spent a considerable amount of time with a number of my constituents. One particular woman whom I have helped is living on her own. Her husband made investments on her behalf. He is now in a nursing home and is unable to help her unravel the most dreadful situation in which she finds herself. She has gone from having all her life savings and superannuation invested in these mortgage loans to being almost destitute. All of us would be able to contemplate examples of that sort. Many people have lost money; many people have lost their life savings, or a major portion of them. That is what we are dealing with here. We are not dealing with the history of complaints back to 1986; we are not dealing with many of the matters that have been addressed this afternoon. We are dealing with the situation in which those people find themselves today because those loans have gone sour. All members must ensure that we deal not only with ministerial responsibility but also with our responsibility to our constituents, most of whom are self-funded retirees, who are in this hideous situation today. That is my main concern. For that reason, I have no choice but to support the motion before the House.

It appears that the Ministry of Fair Trading has known about serious problems in the area of finance and mortgage broking for a considerable time. Nearly every day we read of new examples of deals, shonky valuations and loans that have gone bad. It is time to stop and deal with this matter now, rather than just rake over what has happened in the past. The situation is out of control.

Once again we heard the minister go over history back to 1986, and tell us that, I think, between 1986 and 1996, there were 60 complaints, the implication being that there were only 60 complaints so it was not very important. One complaint, and the substance of it, is important, not the number of complaints that have been received. We could restate history ad nauseam and still not deal with the situation. We must deal with the present, and we must deal with the situation that so many self-funded retirees are in today. These people have worked hard all their lives. They have saved and gone without during their working lives to make sure their retirement is secure. Now they find their retirement is not secure, and they are looking to this Government and to this Parliament to do something about it. We must do something about it. I am not convinced that what is being done at the moment is sufficient to solve the problem, not only to help some of those people who find themselves in desperate situations now, but also to make sure that in the future more people do not find themselves in situations in which they lose their life savings.

It is no wonder that self-funded retirees - certainly the ones to whom I speak - have lost confidence in this Government's ability to handle this matter. There is little or no confidence in the community in the terms of the reference of the Gunning inquiry. The only answer is a proper, open judicial inquiry to look into any wrongdoing in the community among mortgage brokers, and in the Ministry of Fair Trading. We must do that quickly to improve the legislation. We must restore the community's confidence in this industry. I support the motion.

MS MacTIERNAN (Armadale) [3.50 pm]: History will reveal that the people who are in charge today of this affair were well aware in 1998 at the very least that there was a real problem with pooled mortgage investment schemes. The one thing that the minister completely forgot when he presented his side of the story today is that in the June edition of *Finance News*, which is the journal published by the Finance Brokers Board, the board alerted the industry members that it was aware of

a problem with pooled mortgage investment schemes and over-valuations. However, when we quizzed this minister in the Parliament later in 1998 about why the board had taken the step of advising the industry but had not given any warning to consumers, the response was: We did not want to upset the industry.

Mr Shave: Where did I say that?

Ms MacTIERNAN: We will find it in *Hansard*.

Mr Shave: I did not say that.

Ms MacTIERNAN: If that is the wrong answer, can the minister tell me now by way of interjection why he decided to do nothing?

Mr Shave: I did not say that.

Ms MacTIERNAN: The Finance Brokers Board knew about it in June 1998, but because it is made up of representatives of the industry and people who are engaged in these same scams themselves, it did not take the action of warning consumers. The Finance Brokers Board, which is directly answerable to this minister and for which this minister is responsible, did nothing from that time on. Forget the rest of history. If the minister had taken action in June 1998, many hundreds of these people would be in a better position than they are in today. The minister cannot escape responsibility.

Question put and a division taken with the following result -

Ayes (20)

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

Noes (26)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Minson	Mr Trenorden
Mr Baker	Mr House	Mr Nicholls	
Mr Barnett	Mr Johnson	Mr Omodei	Dr Turnbull
Mr Court	Mr Kierath	Mr Osborne	Mrs van de Klashorst
Mr Day	Mr MacLean	Mr Prince	Mr Wiese
Mrs Edwardes	Mr Masters	Mr Shave	Mr Tubby *(Teller)*
Dr Hames	Mr McNee	Mr Sweetman	

Pair

Mr Bridge	Mr Pendal

Question thus negatived.

FISH RESOURCES MANAGEMENT AMENDMENT BILL 1999

Second Reading

Resumed from 18 November 1999.

MR GRILL (Eyre) [3.56 pm]: This Bill amends the Fish Resources Management Act 1994 to create a new type of fishing licence to be called a fishing tour operating licence. This new type of licence will have some relevance to your electorate, Mr Deputy Speaker, particularly as it includes the Houtman Abrolhos. The Bill will provide for regulations to regulate fee for service recreational fishing tours. The minister indicated in the second reading speech that -

> The management of commercially-based fishing tour activities is clearly envisaged in the objects of the Fish Resources Management Act. However, regulatory powers in the Act that relate to this function require some refinement in order to properly meet the developing management needs of this growth industry.

I take particular note of the use of the word "refinement". I do not know whether refinement of the Act is necessary. I suspect that the failure to include a definition of "fishing tours" and to include a fishing tour operator licence was more than just an oversight but was a drafting defect and that the purpose of this Bill is to correct that defect. The objects clause of the 1994 Act refers specifically to "aquatic eco-tourism" and the management thereof. It does not include the management of tourism that is reliant on fishing or fishing tours. This Bill overcomes that defect.

One of the first questions that I endeavour to answer when I address legislation is whether the Opposition opposes or supports the legislation. My notes about this matter were made last week, and at that time I intended to say that we neither supported nor opposed the legislation but would allow its passage through this House - not that we could stop its passage. Since that time, our spokesperson on fishing matters and I have discussed the legislation. It has been taken to Caucus and I am pleased to say that the Opposition supports this legislation. We have some queries about it and we suspect that those queries will be answered by the minister in the second reading debate and, therefore, it will not be necessary to take the

matter into consideration in detail. As I said, if we had dealt with the Bill last week, we probably would not be supporting it, but this week, we are.

The doubts of our spokesperson last week, and for some weeks prior, was whether Fisheries WA should manage and regulate the fishing tours industry or the aquatic ecotourism industries. There are still some lingering doubts in his mind about part of that subject. For the edification of some members, we are talking about three types of businesses in relation to this legislation: Boat-based fishing tours; boat-based eco-tours; and land-based fishing tours. Recreational fishing - in general terms I suppose it will still be referred to as recreational fishing - is already controlled by a great number of rules and regulations. There are regulations for bag sizes and size limits and there are seasonal and area bans. There is a lot of regulation of recreational fishing and that is as it should be.

Mr House: It is probably one of those rare areas of government regulation in which there is strong support for that sort of regulation of size and bag limits, etc.

Mr GRILL: That is entirely correct. It seems that the more regulations that are put in place in this area, the better people like it, although the Government can go too far with regulations. However, the Government must be careful with the commercial fishing industry. Already there is a fair amount of regulation and a large number of rules. The question that exercised the mind of our spokesperson on this issue was whether we should further regulate the industry, given the current level of regulation, and whether Fisheries WA was the agency which should take the prime role in that regard. No doubt there has been some discussion of that within government. The minister and his officers want to take a whole-of-government approach to this matter. However, when it comes to the regulation of business, some questions could be raised.
It can be said that Fisheries WA has more than just a finger in the pie in relation to boat-based fishing tours and land-based fishing tours. However, when it comes to aquatic eco-based tourism, one starts to wonder. Aquatic eco-based tourism may have nothing to do with fishing. I know that people might look at fish and other sea animals while on an aquatic eco-tour, but at the end of the day it may have nothing to do with fishing. If aquatic eco-based tourism has nothing to do with fishing, is Fisheries WA the correct agency to have control of that business? If the minister could answer that question during the second reading debate, it would save the House going into consideration in detail. Essentially, that is the question we want answered about this matter.

On most occasions eco-based tourism may have little connection with fishing. Although we agree that an agency must deal with safety and service standards in relation to eco-based tourism, and things of that nature, one wonders why the Tourism Commission does not handle it, because it is mainly about tourism. I have been on two fishing tours in New Zealand recently and I will refer to that later. Another side of that is that the Department of Conservation and Land Management has a real role in the arena of aquatic eco-based tours. It manages marine reserves and marine parks and things of that nature. I understand it also has a licensing system of its own. Perhaps CALM should be the agency which regulates and controls this aquatic eco-based tourism. I raise these other possible models because there is the residual question in the minds of some members of the Opposition, especially the spokesperson, about why Fisheries WA should have the primary role.
I read in one of the papers that was made available to me by the minister's officers - I thank the minister for making them available to brief me on the matter - that CALM was involved with one of the working parties which came forward with these recommendations. I understand that the Department of Environmental Protection was involved in the deliberations to some extent and that there will be a memorandum of understanding between Fisheries WA and CALM on this matter. The conundrum about which agency should handle aquatic eco-based tourism is one which we would like to put to the Government in this debate, and we would like to hear some answers. The Opposition has no doubt that the discussion papers on this matter - that is, those which led up to this legislation - make it eminently clear that there must be a further level of regulation and control in this arena. Some of the figures that came forward were rather stark. The situation faced by the Government and Fisheries WA is whether they will allow the industry to continue to develop as it has been developing over the past decade, and to then find that there are too many operators in the system,that entry to the industry is uncontrolled and that the damage it can do to the environment is probably also uncontrolled.

I referred to some figures previously. In 1990 apparently 40 fishing and eco-based tourist boats were identified in the general area. In 1997, when the ministerial working party was set up to examine the matter and to either seek expressions of interest or conduct a survey, it found that in the seven years from 1990 the number of boats in the industry had greatly increased, from 40 to 135. The next set of figures is even more startling. When expressions of interest were called for, as a result of the working party paper in 1999, between 450 and 500 people were in the industry, about to enter it or interested in entering it. If I had been the minister, I would have been worried too. The Australian Labor Party agrees with the Government that this sector of the industry must be regulated.

One of the papers I read last week indicated definite concentrations of these fishing tour boats in Western Australia, particularly in Broome and Exmouth, with a potential concentration of boats at Shark Bay, the Dampier Archipelago, Geraldton, the Houtman Abrolhos, Fremantle and Mandurah. Strangely enough, Mandurah has a concentration of jewfishing. A potential concentration of boats not very far offshore can hammer the fishing industry.

This growing industry is keen to bring about some regulation of it. I referred to a working group set up by the minister in 1997 and a paper produced by that group. Those fishing tour and aquatic ecotourism operators formed a working group and produced a fishing management paper No 116 which was delivered to the minister in September 1998. It is clear from my reading of that paper that those tour operators want further management and regulation. The uppermost concerns in the minds of the working group were an increase in the population of tour operators during the past decade, growth in the

general tourism industry in the State, improved facilities at many coastal locations and better access to many remote sites on the Western Australian coast. Most of these sites can be reached relatively easily these days.

The group's underlying concern was the pressure on the fishing stocks and on the environment, which was becoming too much to handle. It was concerned also about the sustainability of this growth, safety standards, environmental damage and the fact that regulation of the industry appears currently to be fragmented. I have opened up debate about which agency or department should be the lead agency responsible for management and regulation. A number of agencies and departments have a finger in the pie - Fisheries WA, the Tourism Commission, the Department of Environmental Protection, the Department of Conservation and Land Management and others. There is no doubt that the working party was absolutely correct when it indicated in its paper delivered to the minister in 1998 that the management of the industry was fragmented. The working party was concerned about safety standards, standards of service and customer satisfaction and irresponsible fishing practices due to pressure from competition.

I have just returned from a holiday in New Zealand, a very beautiful country. We visited a few places along the coast. I am not a great fisherman but we fished in two or three locations. We fished on Lake Taupo, a very big, inland lake, which the Minister for Fisheries may have seen in the centre of the north island.

Mr House: No, I haven't.

Mr GRILL: It is a very beautiful area, believe me.

Mr House: Did you catch any fish?

Mr GRILL: I will refer to that because it is pertinent to this debate.

Mr Riebeling: You can cook in the hot mud pools.

Mr GRILL: One can do that. It is an immense and very beautiful, deep, freshwater lake. It is also an old volcanic caldera which, when it blew up, probably rivalled Mt Krakatoa. One can see active volcanos smoking at the southern end of the lake. Sometimes the activity of those volcanos ruins the skiing industry which operates on their slopes during winter. Sometimes it does not affect the skiing industry but affects the fishing industry because of the ash that blows across and onto the lake. I believe Mt Ruapehu is one of those active volcanos. Eight of us hired a big launch with a crew of two and went fishing on the lake. A number of operators use the same area. My wife and children and I had been there 20 years ago and had a wonderful fishing holiday. However, on this occasion the level of fishing effort was measurably greater. Back in 1980 we caught several fish on that first trip. My wife is very proud that she caught nearly all of them; I did not catch as many as she did. This time we caught the same number of fish. On this trip much more sophisticated gear was used on the boat, which was bigger and much nicer in many respects. We were on the lake for about four hours. The boat had a sophisticated echo sounder to detect fish as they moved around underneath the boat. We also had equipment called down riggers or down casters, which we had not used before. The water temperature is measured every day at different levels so that the crew know exactly the water temperature that suits the fish. Back in 1980 we fished virtually on the surface. However, this time we knew that the temperature of the water was such that the fish would be at around 110 feet. It was American equipment which measured in feet. We therefore down rigged to 110 feet and caught some fish there. However, we caught no more fish this time than we caught in 1980 with far less sophisticated equipment. That was a bit of a worry and I thought about it after I left Lake Taupo. I did not know the management regime of the boats but I believe there were fewer fish in the lake than had been there before, despite the fact that the New Zealand Government spends a great deal of money replenishing the fish every year, as it is a very big tourist attraction.

Western Australia does not have a lake in which fish can be replenished annually, as they are in Lake Taupo. If the number of fish tour operators gets out of control, the same pieces of fishing territory - for instance, outside of Broome or Exmouth - will be hammered by an increasing number of boats with equipment which is becoming increasingly sophisticated, which I do not believe is sustainable. Even on this day at Lake Taupo, we were out for four hours and when we came back, the operators had a rest and replenished the boat and they then went out with another group for another four or five hours. I think that another group had gone out earlier in the morning. On that day that boat would have done three trips.

Mr House: Did you have to get a recreational fishing licence?

Mr GRILL: We did.

Mr House: How much was it?

Mr GRILL: It was not cheap.

Mr Riebeling: You did not like the idea of paying for a recreational fishing licence.

Mr House: Is that going to be your policy for the next election?

Mr GRILL: Let us put it this way: At the end of the day, they are very expensive fish. It is something the minister would tackle at his peril. They do have such licences and they are checked very stringently. We took our fish back to the hotel that night. There is a lovely restaurant at the hotel and the owner had indicated before we went out that the restaurant was more than happy to cook the fish. He had to check the fish against the licence before they were put in the pan. He was not prepared to cook any fish with which a licence was not matched. The licence had to be signed by the master of the boat. It was a strict regime that worked fairly well there. I do not know whether it would work here. As I said, the minister would bring it in at his peril. I do not know whether it works in the ocean, but it certainly works on the lake.

Mr House: We already have different categories of licences for fish in Western Australia. You have to get a licence to fish for rock lobster.

Mr GRILL: There is no doubt that, at Lake Taupo, the value of the tourism effort vastly exceeds the value of the fish. That is the way they see it. They have to keep enough fish there to satisfy the tourism industry. As I said, the Government probably spends a lot of money on restocking the lake. However, the way it is hammered, it is a wonder that enough fish can be kept up for the market. That cannot be done here. We do not have enclosed fisheries and they cannot be managed in that way. If the situation is allowed to continue as in the past with this burgeoning industry, there will be too many boats and certain sectors of the coast will be absolutely hammered. That is why we are inclined to support this legislation.

We also fished at the Bay of Islands in the north of New Zealand, which is an absolute paradise.

Mr Cunningham: I hope that you took some of your mates with you.

Mr GRILL: I did actually. The member would have been most welcome to come had he indicated that he was that way inclined. We fished at the Bay of Islands, which is a mecca for swordfish and marlin. We went on some aquatic eco-based tourism jaunts. It is to that that I want to refer; not the fishing. I do not know how fishing there is regulated. However, I do know that while we were on the boats, we had a wonderful time because all of the boats in the tourism industry seemed to cooperate. When boats got onto a pod of dolphins or whales, that information was communicated to the other boats. They were prepared to share the information. We saw a lot of aquatic animals. It was a wonderful trip. If the industry in this State is allowed to grow out of hand, although initially there might be some cooperation, one would find as time went on that cooperation would dissipate. We would end up with the situation that occurred not so long ago with the ferries between Fremantle and Rottnest; that is, there was almost warfare between the operators. I appreciated that the New Zealand industry was well controlled. I do not know what the licensing regime was, but the operators seemed to cooperate. However, I do not think that would be the case if there were too many boats.

It seems to me that the recommendations of the tour operators fishing working group are very sensible indeed. Recommendation 1 states -

> That Government adopt this report as a strategy for a 'whole of Government' approach to management of the aquatic charter industry and this report be recognised as a key element in the Government's 'Nature Based Tourism Strategy'.

Recommendation 3 states -

> That the catch from charter operations be recognised and managed as part of the total recreational catch.

Recommendation 4 states -

> The aquatic charter industry should be recognised as an important stakeholder in the management of recreational fisheries and the marine environment and included in any consultation process to develop recreational management of the resource.

The report had a number of recommendations about the growth of the industry, excess capacity in the industry, dual licensing and risk of escalating effort, the lack of integration with management of other sectors, localised stock depletion, and access fees and recovery costs. I want the minister to tell us how he intends to charge, and what sort of charges he intends to put in place. The report also dealt with environmental issues such as the number of participants in limited areas and social issues such as the industry's image and things of that nature. It was a very comprehensive report and formed a very good base for further legislation.

As I said earlier, this legislation will put in place the legislative and regulatory powers. On top of that, there appears to be a third layer of regulation; that is, the fisheries ministerial policy guidelines. I read on the cover of the document that it was for the assessment of applications for the granting, renewal and transfer of fishing to operators licences and aquatic ecotourism operators licences. There appear to be penal elements to those guidelines and there are one or two questions that I would like the minister to answer in his reply to the second reading debate.

I seem to have conflicting information about the number of zones within which licences might be granted. The written information I have indicates there are five zones. However, the advice that I received from the office indicated there are three zones.

Mr House: My understanding is that there are three zones.

Mr GRILL: Included with the papers that were sent to me by the department is a map which indicates five zones. I may have made a mistake. I am looking at the map now and there appear to be only three zones. Perhaps that is as many as were ever contemplated, but somehow I got it into my head that there would be five. I ask the minister to confirm that there are only three. In the event that there are only three zones, will those zones be too large? In that context, the minister might indicate how it was decided to set up three zones, and how the Government intended to manage a situation, say, of almost every craft in one zone operating out of one port. For instance, the Pilbara-Kimberley zone operates from Onslow to Kununurra. There might be 200 craft licensed in that area and if they all congregated on Broome, Onslow or Karratha, how would that be managed? I am not saying it would necessarily happen, but there might be a concentration of fishing boats from one port hammering very hard indeed a certain section of a certain fishery. How will that sort of situation be managed with only three zones? The minister may like to address that in his response to the second reading debate.

I notice that the industry must keep log books, and that the fishing catch situation will be monitored. I also note that the regulations and guidelines seem to be directed towards the person in charge of the fishing tour, and not just the master, captain or tour guide. That seems to be an element of the legislation, and the departmental officers said they were endeavouring to direct the regulations at the person with the ultimate day-to-day responsibility for the tour operation.

One question that needs some clarification relates to entry into the industry. The cut-off date recommended, and probably regulated, is 12 December 1997. If that is correct, this is retrospective legislation, which this Parliament does not normally recommend or adhere to in a legislative sense. The minister might indicate why he is prepared to entertain retrospective legislation. In the event that people have come into the industry since 12 December 1997 - as I am sure some have - what is to become of those operators? I note that there is a safety valve in the sense that a director of Fisheries WA can allow some operators to enter the industry where they will not jeopardise the sustainability of the fishing effort in that arena. However, it seems to me that a number of operators in the industry now will be forced out of the industry and will be left with fishing boats, a fishing business, fishing gear and perhaps other capital items which they will not be able to dispose of. What does the Government intend to do with those people, a number of whom may be fairly badly hurt?

That sums up the Opposition's concerns about the legislation from my point of view. There will be one other opposition speaker on this matter, and he may express further concerns. I ask the minister to address my concerns on the basis that the Opposition generally supports the legislation.

MR RIEBELING (Burrup) [4.36 pm]: I will comment on the activity out of Dampier in the archipelago, and the development of the fledgling charter boat operating fleet from that port. My understanding is that there are four zones. Is that correct?

Mr House: Yes. I have since been advised to look at the map again and there are four zones. I think the member for Eyre missed the southern zone which runs due south of Augusta.

Mr RIEBELING: I am interested only in the zone that takes in the most northern fishing region of those four zones. One concern relates to the shape of that zone which goes vertically northward. Where it is closest to the land, which is roughly the area of influence in relation to Dampier, people will be fishing in two zones rather than in one. For the life of me I cannot work out why it is shaped that way when the fishing communities of Onslow, Karratha, Dampier and Samson are affected by the shape of that fishery. There may well be a good reason for that.

At this stage I am not overly concerned about the number of charter boat operators over-fishing the Dampier Archipelago. Far greater impact is felt from net trawling, which is the major concern of sustainability in my area; it is not the explosion in the number of charter boat operators. It is true that about 10 operators work from Dampier. I have been to one of their meetings and I still get minutes of the meetings of the charter boat association, which has been set up to respond to community concerns and to act in a responsible manner so that when regulation is introduced, the operators are ready for it. It is pleasing that in this area the Government is moving towards regulation - I do not know whether that is because of the National Party - even though in every other area it is moving away from regulation. I think regulation in the fishing industry and charter boat operations is the correct way to go. There may be problems with the competition policy and the like in relation to the Hilmer report and restrictive government practice, but I think this course of action is right for the future and for the benefit of the State. Concern has been growing among the amateur fishermen in the area that these boats are large and, as the member for Eyre has indicated in reference to New Zealand, are very efficient at finding fish. The operators in the Dampier Archipelago are very good at tracking fish and enabling those who charter the boats to access fish. I am also confident that the operators in my area do not allow overfishing of the stock; they impose limits to ensure that, as much as possible, the fishery is sustainable.

I and people in the area who are not involved in the fishery are concerned to hear criticism - either justified or not - that, if Fisheries WA starts to collect fees from the professionals, it will have a vested interest in promoting that part of the industry to the detriment of the amateurs. The amateurs might think that perhaps a licence - which has been ruled out - is a solution to the economic imbalance. I do not agree, but the issue has been raised.

Strong concern has been expressed about ecotourism and the impact on the islands. As this is a form of ecotourism, I am interested in ensuring that this legislation does not cover land-based facilities that may be utilised in aquatic ecotourism. I gather that the definition of "aquatic ecotourism" refers to underwater ecotourism. However, the Dampier Archipelago is predominantly -

Mr House: Those islands are not controlled by Fisheries WA and will not be.

Mr RIEBELING: I can move on then.

There is a genuine desire for regulation on the part of the amateur fishermen and the fledgling charter operators. Those involved wish to project a professional image, and licensing could achieve that. I am confident that charter boat tourism, especially out of Karratha, will develop very rapidly. Dampier residents and the operators are very keen to see the imposition of regulations. I presumed that that desire on the part of the operators stems from a wish to restrict competition. However, the meetings I have attended suggest that, rather than wishing to restrict entry, those involved wish to ensure quality controls are in place. I may be naive in that belief, but that is the message I have received.

I congratulate the minister on this step. Retention of regulations has progressed in many industries under his portfolio responsibility, and I hope we see re-regulation in certain areas.

MR HOUSE (Stirling - Minister for Fisheries) [4.45 pm]: I thank the member for Eyre in his capacity as opposition spokesman for this portfolio area in this House for his general support of the legislation. The request for this model came directly from the industry. The first person to approach me about it was George King, who I am sure is well known to the member as a long-term Exmouth recreational fisherman and charter boat operator. As a result of his approach, we established the working committee. The member has seen the report and the recommendations the department has implemented.

The amendment we are now debating is, as the member said, the consequence of an oversight in the drafting. When we got down to the legalities, we were told it was like chartering an aircraft; that is, one charters the entire aircraft or the individual seats. The legal people said that, if some chartered the entire boat, the legislation would be appropriate. However, if a group of eight or 10 different people chartered the boat - which is often the case - the legislation may not be sufficient. The Government thought it was best to tidy it up because many people involved in the industry make very large investments.

The member for Eyre raised another question, and it was referred to by the member for Burrup, about the desire to protect the investment and the fish stocks. A charter operator in Fremantle might move up to Exmouth when the weather gets cooler in the south. Those permanently residing in Exmouth will have suffered through the lean times only to see an influx of boats in the peak season and, as a result, the available income is spread more thinly and they do not get an adequate return on their investment.

The driving force behind this move is protection of fish stocks. If 18 or 20 people on a charter boat all catch the recreational bag limit - for example, eight snapper - we are talking about an enormous quantity of fish. We need to regulate that in a more sensible way. I have not had any criticism from anyone in the industry about this proposal. I will return to the entry criteria, and the member has raised some appropriate questions. Aside from that issue, the measure has attracted broad support to protect not only business investment but also fish stocks.

Two or three different categories of people charter boats. One of the issues that has caused concern is the overlap of professional and recreational fishing. Someone might go barramundi fishing out of Wyndham and then run a charter or recreational fishing tour for a week. That operator must switch from recreational fishing to professional fishing, which is subject to a completely different set of rules and regulations. One fisherman told me that he even has to clean up his boat because the people who charter it do not like the conditions in which he works. That was the greatest impost on him. We want a good understanding of the issues involved.

I mentioned the increase in demand for charter boats in my second reading speech. People appreciate the ocean more, and more people are able to travel north during the winter. This problem needed to be fixed.

The legislation is designed to deal with the problem I mentioned earlier. It will now not be a problem when we issue official licences. The member also asked whether Fisheries WA should issue ecofishing licences for boat-based ecofishing. We debated this at departmental level and in Cabinet. The issues raised are real, but at the end of the debate we decided to leave that responsibility with Fisheries WA to streamline the process. If in time the decision proves to be incorrect, we will revisit it. Our view at the time was that it was better to streamline the process. Some people who boat operators take recreational fishing may want to take fish and others may want to look at fish, watch the ocean, have a picnic or whatever. Some operators will have multiple licences which will enable them to do multiple activities. It made sense for us to run that process out of the one department and to streamline it.

I had some serious debate with my department about whether we should get involved in controlling land-based fishing. Once again we decided that we needed to have some sort of control and understanding. Many people coming to the State from overseas pay big dollars to access our barramundi fishery and some of our other fisheries in the north. We need a regulated system that allows some control over that. This is not only about bag limits but also it involves making sure that those operators are licensed. If overseas visitors are taken out by a bodgie operator and do not get value for money, that reflects on the State. We want to ensure that people get value for money and good service. One could argue that is a bit outside Fisheries WA's charter, but it must fall somewhere. I feel it falls within Fisheries' area. We will streamline the process with a memorandum of understanding with the Department of Conservation and Land Management, so that we are coordinating our efforts.

Mr Grill: Will CALM still issue the licences or will that all be subsumed into Fisheries?

Mr HOUSE: My understanding is that Fisheries will issue the licences. That will be part of the detail of the memorandum of understanding.

The member is quite right about the technical advances that have been made. They have put a huge amount of pressure on recreational fishing everywhere. The best example in this State is the eastern gulf of Shark Bay which, as the member might remember, we had to close substantially to snapper fishing in order to protect the fish stock. That is largely a recreational fishery, not a professional fishery. Advances in global positioning systems and other aids, as the member has rightly pointed out, mean that that increased pressure will continue, with bigger boats, more boats and more people. It means that we must take steps to protect the fish stock. We have been replenishing the bream stock in the Swan River for some years. Currently we are looking at a program to put snapper into the eastern gulf at Shark Bay to replenish the snapper stock there. The snapper in the eastern gulf comes from a particular genetic stock and is different from the stock in the western and northern parts of the fishery running up to Carnarvon. We must be careful that we do not upset the genetic stock, so we must breed from the same fish.

Mr Grill: Where will you breed them?

Mr HOUSE: I understand that some of them have been bred. We are consulting with scientists to ensure that we do not upset the balance in other areas in the gulf by tipping those fish in there. Bodies such as RecFishWest are involved.

Mr Grill: How successful is the bream program?

Mr HOUSE: My understanding is that it was very successful until the Western Australian Turf Club decided to tip something else into the river which, as the member will know, caused quite a few fatalities. We are still catching up from that. The fish we have put in for the past few years were tagged. We have got back quite a number of tagged fish. Therefore, obviously the program is relatively successful. Only three or four professional fishermen are fishing in the Swan River. It is quite nice to see a bit of professional fishing in the Swan River. I do not know how early the member gets to his office these days, but I get to mine early enough to see a guy who pulls pots out near the east side of the Narrows Bridge every morning shortly after daylight. It is unique for visitors to see that happening on the city's doorstep. Those professional fishermen provide fish for people who do not want to go recreational fishing. Professional fishing has a place even in a river like the Swan. Of course we use those guys for technical advice about what is happening in the river.

In my interjection I said that there were three zones; in fact, there are four. I have the map in front of me. The member for Burrup raised the issue of the line that runs due north out of Onslow, and he has raised a very genuine point. I must admit that now I have looked at it I can see that it may well cause some problems in licensing across those two zones - the one marked Pilbara-Kimberley and the other marked Gascoyne. I will raise that issue with my departmental people. By the time this legislation gets to the Council, we might be able to resolve that issue by having discussions with the member for Burrup and other people. We need to sort it out. I am pleased that he brought it to my attention. I give him the undertaking that we will sit down with him and talk the issue through to see whether we can come up with a solution that resolves it.

Mr Grill: Will you deal with the question of the size of the zones and the fact that some get badly hammered?

Mr HOUSE: We had to put some lines somewhere so that we did not get people crossing from one zone to another, as in the example I have just given of Fremantle charter boats going to Exmouth. Frankly, we will need to be a bit flexible about that. If it proves that in the Gascoyne zone the vast majority of boats are working out of Exmouth rather than some out of Carnarvon and some out of Denham, we will have to make some adjustments to the licences in those zones and the control areas there.

Mr Grill: What regulations contemplate that situation?

Mr HOUSE: Regulations have not contemplated that situation. I am indicating that we need to look at the situation very carefully and be flexible about it. That same comment could be applied to the south coast zone from Augusta through to Eucla. All of the boats could be based in Albany. We might get the number we want but not have a good spread of boats. We need to deal with that issue and I am indicating to the member that we will do so.

We settled on a system of scaled licensing fees, with annual fees of $200 for a land-based licence, $500 for a charter boat licence and $200 for an eco-tour boat licence. Those fees have been set in accordance with what we think is a reasonable cost-recovery base.

The only other issue the member raised related to people being forced out of the industry when we get to the point of making decisions. The member made the point that we drew a line at 12 September 1997. That system has been followed by fisheries management for some time. We have decided to move on and regulate anew. The member will see the same situation applies with federal Treasury matters. We need to act. Because we have a history of allowing people who have fished in a zone to be licensed, we have very directly let people know that we have drawn a line under a certain practice at a certain date and that we will legislate as we can to enact a decision of the minister.

Mr Grill: It is important when you do that that you let people know by advertising and so on. A thorough job was done in that respect.

Mr HOUSE: I think that is so. As the member pointed out, the next point is that when those people come along to be licensed, they must adhere to certain criteria. One criterion is a history of fishing prior to that date. We have established people to look at those entrants. We will need to look very carefully at some of the people who apply. As I understand it, some have been in contact with the department and they are very well aware of the situation. People who have approached the department saying that they might establish a charter boat operation are very clear about the criteria and the legislative requirements. Everyone is well aware. There may be some, as always, who are not aware of the situation for whom we might have to make a determination as they come long. I can give the member for Eyre an assurance: Representations were made to a wide range of people across the State, and we gave the matter as much publicity as possible at the time. There is no lack of understanding. That does not mean that the odd exception will not be thrown at us, but we will look at those cases as they arise.

I thank the members for Eyre and Burrup for their support for the legislation. I will ensure that answers are provided on matters raised before the Bill reaches the Legislative Council.

Question put and passed.

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

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL 2000

Declaration as Urgent

MRS EDWARDES (Kingsley - Minister for Labour Relations) [5.02 pm]: In accordance with Standing Order No 168(2), I move -

That the Workers' Compensation and Rehabilitation Amendment Bill 2000 be considered an urgent Bill.

The need for this motion is obvious to all involved with workers compensation legislation. We introduced this Bill less than two weeks ago and it has not been on the Table for three weeks. Although we have a commitment from the insurance companies to abide by the intent of the amendments involved, it will provide some certainty and confidence to everybody involved if the amendments pass through both Houses of Parliament as quickly as is reasonable.

Question put and passed.

Second Reading

Resumed from 15 March.

MR KOBELKE (Nollamara) [5.03 pm]: The Opposition is happy to treat this Bill as urgent because the workers compensation system is a total mess. This Bill does not address the fundamental issues as it attempts to fix up one small area. The Opposition supports the Government in its limited intent in an area with a range of major problems. However, the Labor Party is committed to the establishment and maintenance of a workers compensation system which works. This system is a very important part of the fabric of law and policies which underpin conditions of employment and provide a support mechanism for the working men and women in this State. It is fundamental to the quality of life of people in Western Australia that they can attend work and come home safe and well. I will not attempt to address that wide area of health and safety in the workplace in considering this Bill.

Accidents happen on occasions, and a system of guarantees and support is needed so that workers injured through no fault of their own are supported to overcome a difficult time so they can return to work. The workers compensation system is fundamental to employment conditions in Western Australia. As such, a Labor Government will give priority to reforming the system so that it works efficiently. Huge political differences do not exist between the Labor Party and the Government in some regards. The political differences can be marked out. However, the workers compensation system is about management of a complex system which can easily get out of balance. An important role of government is to continually monitor, reform and adjust the system so it works properly. The Government has totally failed in that regard; therefore, we have a workers compensation system which is close to unworkable. This Bill is evidence of that situation.

The Court Government has totally mismanaged our workers compensation system, and injured workers are paying the price because they do not have the level of support and benefits to fall back upon which they need and deserve. Employers find that the system is also failing them as many must pay totally unacceptable premiums. This places a cruel cost burden on employers which makes it difficult for them to survive and for their businesses to flourish. Premiums have increased by 38 per cent on average from the premium rate set last year, and the equivalent figure was 13 or 15 per cent in the previous year. At a recent determination the Premium Rates Committee reduced by approximately 10 per cent the average premium rate. However, insurers are able to charge premiums at 100 per cent above the rates set for industry sectors. The premium rates employers are required to pay has not decreased.

Sectors such as nursing homes and other human services contracted out by the State and Federal Governments have no ability to meet additional workers compensation premiums as they are run with very small margins. They try to do as much as they can with the amount given by the Government to undertake the contract of service. When they receive a substantial increase in premiums for workers compensation insurance, to survive many simply cut the level of services delivered. Many such services are under threat of closure. The Disability Services Commission sought special funding, and Cabinet granted $6m over three years because service providers could not survive with the increased rate of premiums foisted on them by the mismanagement of the Court Government.

A range of other problems has arisen with workers compensation premiums. A growth in premium splitting is evident; that is, the insurance policy covers only the statutory benefits, and a separate policy is written for potential common law action. This gets around the set rate for which they are supposed to charge only 100 per cent extra. I hear stories of employers paying many times the set rate for their industry presumably through a method of premium splitting.

Also, there is a large growth in non-compliance. Workers compensation is supposed to be universal; that is, all employers are expected to take out such insurance for employees. However, the last WorkCover annual report indicated that 21 per cent - I emphasise that figure - of all employing companies inspected had no valid workers compensation insurance. According to WorkCover investigations, one in five companies are not covered. That shows the disaster of the Government's policy in administering workers compensation. We hear stories every day of companies which have unlawful or inadequate workers compensation. I heard indirectly about one company which has turned all employees into working directors to use an aspect of the legislation to avoid paying workers compensation premiums. In other areas, employers push employees into a subcontract arrangement so that employees take on the cost of workers compensation insurance. That 21 per cent non-compliance is the tip of the iceberg, because it reflects a number of small companies being phased out or new companies being established.

The bigger problem is underinsurance, of which there can be two forms: Non-compliance through companies, firstly,

incorrectly and fraudulently stating their total wages bill below the actual amount and insuring way below the level of wages they are paying; and secondly, classifying their work force under a sector that has a lower premium rate. For example, a metal fabrication shop which might have a premium level at 9 or 10 per cent classifies its workers as clerical and pays a rate of about 1 per cent for workers compensation. This is particularly prevalent in the area of contract labour, where employers pay an hourly, daily or weekly rate to a labour hire firm and do not know what workers compensation arrangements stand behind the contract. The labour hire firms have only two variables: First, what they pay the workers - I know cases in which workers have been paid at below the minimum required by law - or, secondly, they classify the workers, for workers compensation purposes, in an area which has a lower rate of workers compensation premium. In that way they avoid paying the correct amount for workers compensation premiums. I could use these and other examples to show a huge problem of non-compliance. That reflects the fact that people do not have confidence in the system, are worried by the high rate of premiums for workers compensation, and are seeking, often by illegal means, to avoid their responsibilities.

The cause of the problem has been brought on by this Government. All workers compensation systems are difficult to manage. We see examples throughout Australia and around the world where workers compensation systems get out of balance. Keeping a workers compensation system in balance and running efficiently is always a difficult management issue. However, the Court Government has abrogated its responsibility. It has not dealt with the fundamental issues in a timely way to address the problems which have arisen. The Court Government has not cared about the workers compensation system. It thought it could muddle along with the system, and has not made the commitment to monitor it and to fix the problems as they arise.

The major source of the current problems was generated by the Court Government in its 1993 amendments to the Workers' Compensation and Rehabilitation Act. In 1993 there were cost pressures on the system. In 1992-93 the total premiums paid in were not much in excess of total payments out of the system; therefore, the system was in a tight situation. In some years during the 1980s and into the early 1990s there had been total collection of premiums of 30 per cent above total payouts, and the system was doing very well for insurers. In 1992-93 there was real pressure on the industry, and the Government needed to do something. However, the Court Government did not address the fundamentals of the workers compensation system. The Government wanted a quick fix to put some money into the Treasury by selling off the State Government Insurance Office, the Government-owned insurance arm which had a large portfolio of workers compensation. The changes to the Act in 1993 were aimed mainly at fixing up the bottom line of the SGIO, so that when it was privatised the Government could get the maximum dollar possible on the market for the sale of that institution. In saying that I do not reflect on the management or the current owners of the SGIO. The Government's decision ensured it got maximum market value for the sale of the SGIO without taking account of the consequences in the years to follow.

We are now reaping the consequences of the Government's total abrogation of its responsibility in 1993 to deal properly with the workers compensation system. The Court Government was more interested in the quick dollar than in proper management of workers compensation. That is a story we hear regularly from the Court Government. It is about selling off assets and contracting out in order to get money to show it has reduced debt. It takes little account of the financial consequences of that action over the following years. We have seen the fruits of that in the workers compensation system. Companies have been pushed to the edge because of the Government's decision in 1993 to hold up the privatisation of the SGIO until it rushed its changes to workers compensation through the Parliament to maximise the value of the SGIO in the marketplace and leave for subsequent years the problem which we now reap with unacceptable levels of premiums for workers compensation insurance and of workers being denied fair and proper benefits when they are injured at work.

The issue that was the catalyst for the problems that grew through the 1990s was the removal of redemptions in those 1993 changes. Lump sum redemptions are a means by which insurers can pay out injured workers, so that workers no longer receive weekly payments and are left to fend for themselves outside the system. That system is open to abuse and the minister of the day was aware of that and spoke much about it. I think he was quite genuine in that. The fact is that the minister was told at the time that the almost total removal of lump sum redemptions was not workable. Members of the Opposition and industry sources told the Government of the day that it could not shut off redemptions as it proposed. However, the Government did not listen and many people were caught in the system. They could not get out of the system, and that meant that costs grew at an enormous rate. The cost of weekly payments grew because injured workers were paid for a longer time, as did the medical costs of sending people for examinations and getting reports while they were still in the system, and the management costs of the insurers having those people on their books for longer periods. All of those factors drove up the costs of the system. It was due to the Government doing what it was told not to do - that is, removing lump sum redemptions in 1993. The Government knew it had made a mistake, because it drafted an amendment Bill in 1995 to return lump sum redemptions. That Bill was not introduced into the Parliament until 1996 and the Labor Opposition supported it. Opposition members took issue with some of the amendments, but they supported the Bill. Right from the start the Opposition supported the return of lump sum redemptions. However, that Bill sat in this Chamber during 1996 and the Government did not bring it on for debate. That Bill was in the Parliament in 1997, but the Government did not proceed with it, even though the Opposition supported it. That Bill was in the Parliament in 1998 and it still had Labor Party support. The Bill to return redemptions was not passed until the end of 1999

Mrs Edwardes: You are missing some history there. I remember having an agreement with the Trades and Labor Council and the Chamber of Commerce and Industry which the Labor Opposition refused to support.

Mr KOBELKE: That was not due to redemptions, and I will come to that in a minute.

The saga of the Court Government's errors in this area could occupy this Parliament for weeks. One would have to go a

long way to find a bigger mess than that which was manufactured by the Court Government. The mess the Court Government has created in workers compensation is unbelievable. I am speaking for the moment about lump sum redemptions and I will come to other matters such as common law shortly. The catalyst that created the problem was the removal of redemptions in 1993. It was not the underlying cause but it was the catalyst that made the system grow to the extent where it was almost about to explode. The Opposition supported that Bill, all the way through, but it got caught up with a range of other issues. Before we go on to those other issues which the minister was alluding to by interjection, I ask for an explanation from the Government on why it delayed. Having known from 1995 that it had made a mistake in 1993, why did it not bring the Bill on? It failed to do so. One can only surmise that the Government had no interest in workers compensation.

The matter was of such a low priority that the Government let the Bill sit on the Notice Paper, allocating no time to debate it in 1996 and inadequate time in 1997. The reason may have been simply because the then minister's ego prevented him from undoing the mistake he had made in 1993. That is clearly not the present minister. However, for a reason that the Government has failed to explain, the Bill to restore redemptions was not passed until the end of last year. In June 1998, amendments were attached to what was then the 1995 Bill and, in October 1999, the Government sought to substantially reduce the benefits available through common law action, using this amending Bill.

The Government wrongly diagnosed the problem. It misunderstood the issue. It wanted to blame everything on a blow-out in common law when the sources of the problems were much more complex and related far more to the removal of redemptions than to the fact that common law was on the increase. It has been increasing for 30 years and reflects increased litigation in society. However, the Government could see only that if it cut common law costs, it would fix the system. That was a misdiagnosis of the problem.

I have researched the costs of the various sectors for 1992-93 and compared them with the figures in 1998-99, the last year in which annual reports were released. The overall cost in the system as a whole increased by just over 50 per cent. Common law costs grew by about 55 per cent, which may cause the Government to say that the increase was driven by common law. That would be a superficial and false analysis. From 1993, the closing down of redemptions led to people using the second gateway of common law as a backdoor means of redemption.

I added the figures for the 1992-93 and 1998-99 years to find the total payout for common law, the total paid for redemptions and the total amount for second schedules which, in a minor way, can be used to encourage people not to use common law. They are the three key areas in which lump sum payments are made to injured workers to remove them from the system. The total increase since the 1993 changes is substantially less than the overall cost increase to the system. If that is the case, the increase cannot be said to be driven by common law costs.

Mrs Edwardes: You have based your speech over the past 10 minutes on the fact that lump sum redemptions would have saved the system.

Mr KOBELKE: I said that it was the catalyst that caused the explosion.

Mrs Edwardes: How many lump sum redemptions have been made since the legislation was proclaimed in October last year?

Mr KOBELKE: The system is still in crisis. That will not be the answer. The minister is chasing a red herring.

Mrs Edwardes: Your answer is not proving to be a panacea.

Mr KOBELKE: The minister should do that some other time; I have limited time to address the huge bungle she and her Government have made of our workers compensation system. As I indicated, the removal of the redemptions locked people into the system and led to a huge blow-out in the cost of weekly payments and medical costs, which amounted to the largest percentage increase, but which is a smaller amount in total. That has meant that the cost to the system has grown at an unacceptable rate.

The Government has heaped insult onto injury because it has seen this out-of-control increase in premiums as a bigger base for taxation. What did the Government do? It changed the stamp duty rate on workers compensation and premiums. The minister can correct me if I am wrong, but I believe it was from 1 July 1998 that the Government increased stamp duty from 3 per cent to 5 per cent. As a result of a Bill passed last year, the stamp duty is to apply on top of the 10 per cent GST. Effectively, stamp duty on workers compensation premiums is now 5.5 per cent; an increase from 3 per cent about two years ago. That means that from taxation on top of workers compensation, the Government will take $30m every year.

The Government has seen this problem for employers as a windfall taxation gain - a way of making money from the problems experienced by businesses in funding their workers compensation premiums.

The Government has done little or nothing about the non-compliance to which I alluded earlier. It does not carry out inspections for underpayment of premiums. From my reading of the annual report, workplaces with employees are inspected to ascertain whether valid workers compensation insurance is being paid. However, detailed inspections are not being carried out to see whether companies are under-insuring and filling in declarations with false levels of wages.

Only lately has the Government considered what reforms it can make to WorkCover, the function of the Premium Rates Committee and the rate of transparency of insurers. These are all matters the Pearson review recommended and which the Government has slowly addressed to see whether it can do something. The same goes for medical costs.

Mrs Edwardes: How do you get consultation with the community without doing it properly? It must be done slowly. Do you want me to make decisions and put it into action or do you want me to consult?

Mr KOBELKE: The minister could have started the consultation process within a few weeks of the Pearson review being released. She did not have to wait months to start the process.

Mrs Edwardes: What nonsense. You are unbelievable.

Mr KOBELKE: The Government has initiated a system of injury management and I wish to support that. However, it is early days to see what benefits may flow from that system of injury management and what effect it will have on the cost to the system. We will wait before making judgment on whether that is effective.

As emphasised by the need to pass this Bill, the Government has failed to properly manage the workers compensation system. This Bill is the fourth workers compensation amendment Bill we will have dealt with since October last year. Four separate Bills have been introduced in just over five months.

Mrs Edwardes: Is there a problem in endeavouring to get it right?

Mr KOBELKE: It is lack of consultation. Due to the minister's not being willing to give the priority to the workers compensation system that it requires, we are dealing with the fourth amending Bill in just over five months. This Bill does not improve the system; it simply tries to address a minor error that has caused disadvantage to some injured workers due to changes made last year. At the end of last year, we had to quickly pass another Bill due to rushed previous legislation which, due to inadequate consultation, resulted in another mistake which had to be resolved.

Mrs Edwardes: I do not apologise for attempting to get it right. If that means an amendment must be made, that is what will happen, and the Government will get it right.

Mr KOBELKE: I hope the minister will do that, but she will not get the whole system right with this Bill. It may resolve one small area causing embarrassment because the legislation is wrong. The Opposition is happy to help resolve this issue, but many other areas are wrong. The Government does not seem to have the appetite to address the other areas.

Mrs Edwardes: What nonsense; we are going through the proper process.

Mr KOBELKE: This Bill has been introduced to amend legislation that was passed last year. I wish to briefly outline the background so that members can make some sense of this amending Bill. In mid and late 1998 the Government attempted to make changes which would severely restrict access to common law. The Opposition, along with minor parties in the other place, sent that Bill to a committee and did not accept the changes proposed by the Government. The minister alluded to the fact that there was some agreement between some parts of the Trades and Labor Council and the employers. The Opposition did not find those changes adequate. They were not good enough, and the Opposition hoped the Government would address the workers compensation system in a better and more fundamental way to produce a better outcome. However, the Government was not able to do that. This Government got it wrong at almost every turn, and simply was not willing to work with the Opposition and the minor parties to resolve it. The Opposition put forward suggestions but the Government did not see the merit in them.

The key issue leading to this Bill was the recommendation of the Pearson review to replace the second gateway to common law with a totally new mechanism which hinged around an election. Within six months of an employee receiving weekly payments, workers had to elect whether to remain on those payments and receive medical expenses, or to forgo those rights and sue at common law. That option was to be totally open to those with a body disability of less than 30 per cent. The Government saw a problem with that, and the Opposition accepted that it probably would not work in the way the Pearson committee had suggested. The Opposition suggested that a system of deductibles, as used in third party motor vehicle insurance, would be a simpler and fairer method, but the Government decided to introduce a new mechanism to create a new second gateway.

The Government originally said the second gateway would apply only to those with a disability level between 25 and 30 per cent, and above that they could go to common law with no restriction. Those with a body disability between 25 and 30 per cent would have much more limited access to common law whichwould be capped. The Opposition negotiated and after much to-ing and fro-ing, the Government reduced the body disability level to 16 per cent from its opening claim of 25 per cent. It still has some problems but, given that we were trying to save money, it was a workable proposal. A mechanism was then needed whereby people could get into that category of between 16 and 30 per cent disability. The legislation created a very complicated legal quagmire with respect to that. Much was intended to be done by regulation but, as I pointed out at the time, too much was proposed to be done in that way. The regulations have major problems, but that is not a matter for debate today. I am sure we will have an opportunity at another time to look at the many problems those regulations have created for people electing to go to common law when they have a body disability of between 16 per cent and 30 per cent. The system is far too complex and I am happy to place on the record that I have great difficulty understanding how this part of the system works. I know many lawyers also are having difficulty with it. It is far too complex to be workable.

In this amendment, the Opposition wants to fix an error or two in the system. In doing so, it does not address the unacceptable level of complexity in the system. Although the changes will be to the advantage of a small number of injured workers, the Bill does nothing to assist many injured workers who have been locked out of the system. Their previous rights have been removed and they are left with no alternative but to stay on statutory benefits.

I shall make some general comments about workers compensation systems, because people must understand how they work to know what we are dealing with in relation to common law actions and the election for workers with 30 per cent or less body disability. The Opposition supports a dual system that pays statutory benefits on a no-fault basis, and allows injured workers to sue at common law. The dual system has many strengths. The Comcare system is totally composed of statutory benefits, and currently the systems in Victoria and some other States do not allow access to common law; they all fundamentally only involve statutory benefits. The costs in systems around the world based totally on statutory benefits are in some cases also out of control. If someone is injured, clearly as a result of negligence by the employer, and that person becomes a quadriplegic, the cost of maintaining that person for the rest of his life - perhaps 40 or 50 years - could be huge. Therefore, there could be a cost saving in paying that person $3m or $4m and allowing him to manage his own costs for the rest of his life. There is much more to it than that, but it is a simple example to indicate the problems with systems which rely totally on statutory benefits. On the other hand, the old system in Western Australia relied totally on common law claims and no benefits were paid to injured workers unless they sued their employer. The dual system provides for a no-fault statutory benefits system. Therefore, if someone is injured at work, a range of benefits is available regardless of whether there was negligence on the part of the employer. There is also a limited common law system, whereby the worker can sue the employer in cases of negligence. To establish a good system, it is necessary to achieve a balance between those two arrangements. The problem in Western Australia is that our system is no longer in balance. It is an ongoing, difficult problem to establish and maintain that balance in a workers compensation system. It is not easy. This Government took its eye off the ball and the system fell apart. The Government has not done sufficient to maintain that important balancing act.

The comments I have made on the system in general are important, because I make it clear that there cannot be open slather in access to common law while retaining a no-fault statutory payments system. The costs would be prohibitive. Under a no-fault statutory benefits system, under which injured workers automatically receive benefits, the trade off is restrictions on the ability of injured workers to sue at common law. I am not suggesting a system without restriction on access to common law. The fairness and the workability of those access mechanisms are fundamental to this system working properly.

The amendment moved in the Workers' Compensation and Rehabilitation Amendment Bill (No. 3) of 1999 fixed one problem, because the complex mechanism the Government had established for the new election for common law claims meant that a huge number of injured workers were excluded as a result of a technical problem in the drafting. That was fixed at the end of last year. This amendment will fix another problem that arises when a worker is not able to establish in the given time that the degree of disability is between 16 and 30 per cent and, therefore, cannot make an election. There is the issue of how to submit the forms according to the regulations, the time it takes to process the forms from the employer, insurer and WorkCover and the decision on whether a person has the degree of disability that enables him or her to elect to go to common law. If that is not done within six months, the person simply cannot elect. In some cases the intention of the Government to allow people to elect is simply denied them, because the bureaucratic process means they do not get the decision until after the termination date. The termination date is fixed by the legislation as being six months after the start of receipt of benefits. If a person has not elected by the termination date, then he or she has no right to elect and is left on statutory benefits.

The amendments relate to section 93E of the Act. I will go through the relevant subsections in the Act and compare them with the provisions which would exist if they are amended by this Bill. Section 93E(3) indicates that damages can be awarded if someone's disability is not less than 30 per cent, which is the area where there is no need for election and there is no limit; or, alternatively, if the person has a significant disability and elects, which covers the area of disability from 16 to 30 per cent. Subsection (4) states that if a worker has significant disability and it is determined that the degree of disability is not less than 16 per cent, then the agreement or determination has to be recorded in accordance with the regulations. Subsections (5) to (7) follow. The Bill seeks to amend subsections (5) and (6) and I will read those into the record. Subsection (5) states -

> Subject to subsections (6) and (7), if weekly payments of compensation in respect of the disability have commenced, an election cannot be made under subsection (3)(b) after the termination date.

Subsection (6) states -

> Despite subsection (5), if -
>
> (a) medical evidence complying with section 93D(6) was produced to the Director not less than 21 days before the termination day; and
>
> (b) a dispute arising from section 93D(8) has not been resolved before the termination day,
>
> an election can be made under subsection (3)(b) within 7 days after the dispute is resolved.

If these substantive amendments are carried, section 93E(5) and (6) will read as follows -

> (5) Subject to subsections (6) and (7), if weekly payments of compensation in respect of disability have commenced, an election cannot be made under subsection (3)(b) after the termination day.
>
> (6) Despite subsection (5), if -
>
> (a) medical evidence complying with section 93D(6) was produced to the Director less than 21 days before termination day and;

(b) at the end of the seventh day before the termination day the question of whether the degree of disability is not less than 16 per cent has not been agreed or determined,

an election can be made under subsection (3)(b) within seven days after the question is agreed by determination.

Therefore, those who have actually started the mechanism, wish to make an election, and seek to have their degree of body disability recognised which is necessary for the purposes of election, but for whom the matter has not been determined by the termination day, have an opening which would enable them to have the termination date moved backwards. That is now set by, first, the determination and, secondly, the new termination date which is seven days after the determination. That certainly does not mean we will have the situation where, simply because the matter has not been determined, the person has all his rights to elect taken away, because the complexities of the system.

To the extent that this provision will fix up the problem for people in the future, we would clearly support it. However, there are some difficulties with the solution. The critical point is that after the determination by the director, the election has to be notified within seven days. If the determination by the director is not notified to the applicant, then he cannot elect. The mechanism is not that the applicant is notified, and then has so many days after notification; but rather the matter that determines it is the determination by the director. While in most cases that will work, it will not always do so. There can be glitches in the system. It may be that after waiting for some time a person has been admitted to hospital or because of a tragedy in the family a person may need to go to the eastern States for five or six days during which time the determination is made and the person is not notified. Then that person simply physically cannot elect. There is a problem with the mechanism. I do not want to name the person involved, but a lawyer wrote to me and said one of his clients had sought to elect and there was deemed agreement that the degree of disability was not less than the relevant level; that is, it was over the 16 per cent mark. The letter from WorkCover informing him of this was dated 23 February 2000, but it was not received in the lawyer's office until 10 March 2000, which is clearly more than seven days after determination. In that case, according to this letter from the lawyer, his client was simply denied the right to elect because the notice did not arrive in time to enable him to make a decision.

Clearly administrative problems will arise from time to time and this mechanism does not have the flexibility to deal with them. However, a more fundamental issue arises with respect to the unfairness of the seven days from determination within which the person must elect; that is, the person is making a major decision. In electing to go to common law, the person knows he will have to forgo his right to statutory benefits and the payment of medical expenses. He will have to go onto unemployment or sickness benefits for the period that will elapse before the case is determined and it may be 12 to 18 months before that occurs. Then there is a restrictive limit on the amount he can claim. He must make a judgment as to whether or not he will be better off. One might say he should have done that before starting the whole process, but the time involved is very short. The whole process must be completed within six months of the person starting on benefits, which is usually a day or two after the injury. The person may have spent a fair bit of that time in and out of hospital. He or she will have experienced all the trauma of readjusting and working out their family situation and, throughout all that, will want to leave open their rights to go to common law and to elect, but they must establish the degree of medical disability and in the early days of injury that may be very difficult to do. He must work out the likely future options for himself and his family. He submits an application and receives notification that he has the right to elect if he wishes and within a maximum of seven days - which, in reality, is likely to be four or five days - he must make that decision. He may not be able to get an appointment with his lawyer in that time so that he can talk through the issues. In a small number of cases it may be necessary to make an appointment to see a doctor because from the time of submission during the three, four or five weeks until he gets a determination, his medical condition may have changed. He might be halfway through a medical procedure and he may need to make an appointment with his specialist. It is impossible to do that within seven days.

If we are to stick with the minister's model - my preference would be for a model which was tied to notification, but that may have drafting problems and I do not know whether it can be done - it seems the least we can do is to make the period 21 days from the determination of the dispute. If the period is 21 days, there will be time to notify the person, and he or she will have a couple of weeks to make up his or her mind and return the notice. I cannot see any extra cost burden, because the person would have gone through the process of having the determination made, the medical judgments would have been made, and he or she would then simply have a final period of 21 days within which to decide whether he or she is going to make the election and pursue common law or remain with statutory benefits. We will discuss during the consideration in detail stage whether the minister is willing to accept that. It must be an additional amendment, because the amendment in the Bill relates to the previous parts of the section. That is the final part of proposed subsection (6), and we must draft an amendment to change the reference from seven days to 21 days, if that is acceptable. The Opposition will move the amendment regardless, because members on this side want to see an improvement, but the minister may come up with a different mechanism.

The changes we are making do not appear to apply retrospectively. I am not sure what, if anything, we can do for the many people who have already submitted their applications.

Mrs Edwardes: I have a commitment from the insurance companies that they will abide by the intent of the amendment.

Mr KOBELKE: I have great difficulty with that. As I become more and more conversant with the operations of the Workers' Compensation and Rehabilitation Act, I do not find it acceptable that we do deals and say, "This is our understanding." We should be laying down laws in this place which people follow and not tell people that if they look after us we will look after them.

Mrs Edwardes: I resent that. It is not a deal and it is not a debate about people looking after one aspect and our looking after them.

Mr KOBELKE: That is what the minister is saying.

Mrs Edwardes: Not at all. We told the insurance companies what we intended to do and that they would be required to abide by the intent of the amendment; otherwise, it would be made retrospective. They said, "You do not need to make it retrospective; we will abide by the intent of it." It was not a deal or anything else.

Mr KOBELKE: The intent should be in black and white in the legislation before us, not something additional to that. The way I read this - I am happy to be corrected -

Mrs Edwardes: It does not need to be retrospective. Everyone will abide by the law. No-one will lose out on his or her entitlement to make that election.

Mr KOBELKE: The minister is not making much sense. She cannot say it is because she is anti-retrospectivity, because she has introduced more retrospective legislation than anyone else in history. I have no trouble with retrospectivity that preserves or enhances people's rights. The problem arises when it imposes an additional or new burden. The Opposition is trying to open up people's rights. The minister might say that that is an extra burden on the insurers.

Mrs Edwardes: It is not an extra burden.

Mr KOBELKE: I cannot see why we cannot have a very clear statement that this will apply to the large number of people who are caught in the transitional arrangements; that is, the people for whom the termination date was 5 January this year. Many of those cases have yet to be determined and some seem to have been pushed out the door on the technicality that the medical statements setting out the degree of disability and the determination were not finalised before 5 January. Because there was no determination and no dispute, those people were told they could not elect. I do not know how many people are affected, but some have complained that their rights have been removed by a technicality. They submitted the statements required to enable them to elect and they thought they would then have the right to do so. However, they were then told that, because the determination was not made by 5 January, they missed out. If the insurer had disputed the claim, that would have opened up other mechanisms in the Act that would have enabled them to progress their case and they would have had the right to elect. These people are not helped by this amendment.

The Opposition is also seeking to help those whose cases have not been determined.

Mrs Edwardes: It is a different issue and you know that.

Mr KOBELKE: It is, but there is no retrospectivity for them either. We are dealing with those people whose cases are still in the system. According to the law, the termination date has come and gone and they do not have the opportunity to elect.

Mrs Edwardes: The insurance companies will abide by the intent. No-one will lose out.

Mr KOBELKE: Under the Act as it is currently framed, the people who have passed their termination date and do not have a determination do not have the right to elect.

Mrs Edwardes: My advice is that that is not correct.

Mr KOBELKE: What is their legal status?

Mrs Edwardes: I will get that information and the numbers.

Mr KOBELKE: I turn now to the other amendment in the Bill; that is, the substitution of "93D(12)" for "93D(9)". The comment in the briefing note is that this corrects a minor error in the definition by changing the reference to section 93D(9), which does not refer to agreements, to section 93D(12), which provides for deemed agreements where the employer does not respond in time to notification by the director of a question referred. Am I correct in believing that this is a drafting error?

Mrs Edwardes: Yes, that is correct.

Mr KOBELKE: What is the effect of that drafting error? Have any injured workers been disadvantaged as a result of it?

Mrs Edwardes: No.

Mr KOBELKE: Has the error had any effect? Has that section ever been used?

Mrs Edwardes: I will provide that information in my response.

Mr KOBELKE: The minister wrote me a letter, which I received on 8 March - I believe that she also wrote to the Law Society - indicating that she envisaged three changes, including amendments to sections 93D(7), 93D(8) and 93E(6)(a). This Bill does not reflect that. What happened between the writing of that letter and the Bill's introduction a week later?

Mrs Edwardes: The drafting was improved.

Mr KOBELKE: So it was redrafted.

Mrs Edwardes: There was an opportunity to make it simpler.

Mr KOBELKE: I commend that, but it makes a mockery of consultation. Lawyers have rung me because I faxed the second reading speech to a range of people, including the Law Society, from whom I seek advice and whom I endeavour to inform about what is happening. They have asked, where is the rest of the Bill referred to in the letter from the minister.

Mrs Edwardes: The parliamentary draftsperson was able to come up with an amendment which made it simpler and which provided a better effect. That is what we have before us.

Mr KOBELKE: In concluding my remarks, I wish again to make it clear that this is a minor improvement that the Opposition will support. There is a problem in that the seven days from determination opens up other problems -

Mrs Edwardes: Would you accept 14?

Mr KOBELKE: I am trying to fix the problem. What is the major downside of making it 21 days? The more quickly common law claims can be brought to determination, the better it is for the overall cost to the system. When we are asking a person to make a fundamental decision, ensuring that they have at least two weeks - which means 21 days -

Mrs Edwardes: How do you stretch two weeks to 21 days?

Mr KOBELKE: The day it is sent and the last day do not count. It goes to the lawyer who then tracks down the client and so on. Normally three or four days are taken up with transmission and so on. If the legislation allows 14 days, in reality it may mean as little as 10. That fixes up the aspect of ensuring there is not much chance of it getting lost, but there will still be the very rare case of someone not being contactable. It does not take account of the difficulty people have in making this major decision. This will apply real pressure. If we provide for 21 days, the legislation will be much fairer. I am happy to hear from the minister whether there is some problem in administration or cost implications. It is my judgment - I am happy to stand corrected - that the change from seven to 14 or 21 days will not cause major problems. It is far too difficult for injured workers to come to grips with their rights under the legislation and how they can get the maximum possible benefits.

Sitting suspended from 6.01 to 7.00 pm

Mr KOBELKE: Before the suspension, I was concluding my remarks on the main points of the Opposition's understanding of the intent of this Bill, which we support. I will now comment on the next section following that which we are amending.

The improvement being put forward by the Government will provide the opportunity for a worker to elect to go to common law and not be thwarted by the administrative intricacies which go with the process required to approve the level of disability. To that extent, the amendment is an improvement. However, I hope the minister will be able to tell the House how this applies to people who have currently initiated the process to elect and who have passed their termination date. This mechanism provides a way for the termination date to be extended while the administrative processes continue so that people are not denied their rights by that administrative process.

Section 93E(7) allows the director, in such circumstances as are set out in regulations, to extend the period within which an election can be made beyond the six-month period, which would be the normal termination period. That matter was debated extensively when the amending Bill was dealt with last year. The Opposition wanted that to provide an opportunity for people to have time to consider their circumstances. The regulations that the Government has put in place are not adequate for that purpose. However, that is not a matter for debate here. It is just one other example of the many problems we have with the amendments made by this Government to the Workers' Compensation and Rehabilitation Act. We support the amendment contained within the Bill. However, it does not address the full range of issues that we should be addressing to improve our workers compensation system.

MR TRENORDEN (Avon) [7.03 pm]: I listened to the member for Nollamara's speech and it was more about attempting to rewrite history than much else. The two key issues of the workers compensation issue are the cost of the insurance to employers and access to common law for employees. In recent history, the upper House has totally ignored the cost of premiums to businesses in rural Western Australia. A lot of businesses have closed over this issue. Most of us who live in rural WA could name companies that have closed over the issue of workers compensation. That is a very important issue. I know of a shearing contractor whose premium increased from $16 000 to $34 000. That increase resulted in his having to close his doors. The Labor Party will not know this, but the wool industry is in dire straits; it is facing extreme hardship. Premium increases make it very difficult for that industry. The result is that people are exiting the industry. The increase from $16 000 to $34 000 is not a small amount of money, particularly when the business receives a bill that it must pay when it estimated from the previous year that it would be a $16 000 bill not a $34 000 bill. That is a very critical issue for a hard-pressed industry.

The Labor Party, and the other parties in the upper House, have shown they are anti-rural on this issue. Workers compensation premiums have heavily affected rural industries and, even more importantly, affected rural employees. Many of the premiums that people are now expected to pay are either equal to or in excess of the cost of an employee, which is an important factor that should not be ignored in this debate. Commodity prices are down and rural industries and businesses are in trouble, and the opposition parties in the upper House are taking no notice of that. All they have done is lock on to an issue that they consider to be a political winner. Most other States have closed access to common law. All the States are Labor States except South Australia and they are not doing anything to reinstate common law for workers compensation. Some of the rhetoric coming from the Labor Party and other minor parties in Western Australia does not relate to reality.

Workers compensation is about no-fault cover. It is vital for all employees to have the cover. However, unless the two spectrums of workers compensation are met, we are in trouble; that is, unless the employers are able to afford the premium and the employees get the benefits they deserve, the system will collapse. In Victoria a number of years ago it got to an extremely critical state.

Over the past few years in Western Australia, while the upper House was messing around with workers compensation, it reached a critical stage. Businesses were hurting over the issue of workers compensation. We will always have problems with workers compensation. Some issues are well-defined and have been much debated. The cost of health care by the carers in the system is an important issue. It is an issue that needs to be constantly monitored, and is continually monitored. I cannot remember too many years when this House has not had to deal with a workers compensation amendment. They happen on a regular basis. We will constantly have to review practices in the health care and Medicare areas. Lawyers have no role in workers compensation; they have no role in a no-fault system. Where is the logic in having a lawyer involved in a no-fault system? The problem is that we have a mixed system of common law and workers compensation and the lawyers thrive in that process. They should be barred from the process.

There have been two arguments over the past two or three decades concerning insurance companies. There was a long argument some years ago about having a single insurer, whereby workers compensation is put into a single system. That has been tried in this nation. The other system is an open or multi-insurer system. All sides of politics would agree that, over the past three decades, the multi-system has worked better, but that does not mean there are no problems with that system now. Currently, insurance companies are very keen to recover their losses from the past few years. However, those losses have been their own fault. Some companies have been very keen to cut premiums, therefore to cut revenue to themselves, and are now seeking to recover that revenue. That is a problem for workers compensation and it needs to be one of the issues which is constantly monitored.

Common law is fault driven and therefore is in direct conflict with the no-fault system. While we talk about workers compensation, with this blend we will always have problems. The current system is in some ways ground-cover for ambulance-chasing rabbits, because it gives them access to pools of money to cover their exorbitant legal fees. In 1993 when I was looking at this issue, one legal firm alone was pulling in over $2m of workers compensation funds. No wonder such firms are heard on the radio squealing to keep their privileged position. They need to be watched and they need to be excluded from the no-fault system. The problem with common law claims is not workers compensation but the excessive costs of the courts and lawyers, so that workers do not have access to justice. That argument is run on not only workers compensation but all things to do with justice. I survey my electorate every year. Every year the question of the cost of access to justice comes back very strongly in those surveys. People feel precluded from the system.

We will not solve the problem for workers and their necessary access - I repeat, necessary access - to common law where an employer is at fault by linking it to the workers compensation system. Why should employers who are not responsible for the fault pay the premium? Where is the logic in that argument? Why should workers' access to common law be limited? As the member for Nollamara said in his speech, that must be a consideration. Why must it be a consideration? It is a consideration because the access to justice and to law is too expensive. As a result, the Labor Party shoved the cost onto a milch cow, and workers compensation should not be that cow. While we keep doing that, we will continue these rounds and rounds of argument. The non-guilty should not be paying for common law, so not all employers should be in that process. Forcing common law into workers compensation only increases costs to employers and reduces benefits to employees. It reduces benefits to the 98 per cent of injured workers who never have recourse to common law. That is an important issue. The 98 per cent of people who never go into common law are appreciative of the fact that they receive benefits for a given period of time to get them over a very difficult period in their lives, which is what workers compensation is designed to do. Labor, in focusing on the political issues, is getting away from some of the core positions.

The call from the public through community newspapers is for some apolitical activity to take place in the workers compensation area. We cannot win the present argument when we are at opposite ends of the spectrum. If the Labor Party and the smaller parties keep pulling the way they are and if we keep pulling the way we are, there must be conflict in the system and it must continue. The net result must be, while there is no resolution in the upper House, that premiums go up for employers and benefits go down for the 98 per cent of employees who are in the workers compensation scheme with the no-fault system. Common law and access to common law are a critical part of this. I will not say much about it because it is not part of the amendments that are coming to the House. We need to look at a different access for employees to common law.

Mr Kobelke: The amendment relates directly to one aspect of common law - access.

Mr TRENORDEN: If I were designing the scheme, I would move it totally away.

Mr Kobelke: You would abolish access to common law?

Mr TRENORDEN: Yes, but I would create another form of access, which is what I am trying to say. We do not have to look at this with mono vision. While we mix workers compensation and common law in the same bucket, we will have the tensions which the member for Nollamara quite rightly outlined through the whole of his speech. How does one get the balance right between employers paying affordable premiums and employees getting benefits on which they are able to live for a sufficient period to get them over a very serious time in their lives?

Mr Kobelke: What approach would you adopt? Are you talking about two separate schemes or a different arrangement between the two?

Mr TRENORDEN: I would have a totally different arrangement for common law. I would look at the legal system. I would have the State subsidising workers before common law. I would be doing that outside the system and having lawyers involved in that process, where they should be because it is a fault system. That is where the difficulty lies.

Mr Kobelke: That is what we have now. You have not outlined how you would change it.

Mr TRENORDEN: The fees are now paid for by the employers in the workers compensation system.

Mr Kobelke: Those legal fees are a very minor part of the costs.

Mr TRENORDEN: Yes, but they are a part of the cost.

Mr Kobelke: It is $15m out of $500m.

Mr TRENORDEN: I have said that we must look at the other issues. We must constantly look at insurance companies and the health and caring benefits which probably represent the biggest slice of the cost. We are talking about thousands of people who need health care, and we want to make sure those people get health care. We also need to recognise that people are specialising their businesses to live off workers compensation. There is nothing wrong with that, but we must make sure that they do not take any more than they need to sustain a reasonable income from the process. That will need to be constantly looked at. We will not be able to write law today that will maintain the position for five years or even three years because circumstances change, medical practices change, and new technology and better processes come in. All those things need to be recognised by people giving care to the workers. We must also look at the premium base, which is being done all the time.

I would urge a different attitude to the process. We can see what the history of workers compensation has been. One does not have to be an actuary. I was told years ago when I was in the insurance industry that an actuary is a bloke who drives down the highway looking in the rear vision mirror. One does not have to be one to work out what will happen in the future. Whether members on that side of the House or on this side of the House like it or not, the only way to maintain costs is to take benefits away. The benefits will be taken away from common law. We will end up with the Victorian and New South Wales position where there is no access to common law. Members opposite do not want that and nor do I. There is a good argument for looking at the world and giving consideration to a different bucket of money, mechanism and court process to give workers some time and some rights before the court to see if they can get justice as they see it. Win or lose, establishing fault is what common law is all about. As the member has already said, workers compensation involves an automatic no-fault system. The smoother we make it run, the better. Lawyers are not needed to make it run smoother. It needs advocates, I agree. Over the past decade the best advocates in the system have not been lawyers but union officials, because they have the knowledge of the people and the system. They have been the best means of walking their members through workers compensation. Why not? That is an excellent role for a union official.

We are going nowhere. We have an impasse in the upper House, while a large number of businesses are hurting badly. I had a telephone call from a businessman outside my electorate whose premium was to go up by $1m. I do not know whether it went up by that amount in the end but that is what the businessman's premium notice said. This is a serious matter which affects people at both ends of the spectrum. I support the efforts of the minister and the Government. The member for Nollamara and the Labor Party run the risk in rural Western Australia of isolating themselves on this issue. They keep telling us that the Victorian circumstances will happen here and that the Labor Party will do well in the bush because we have been terrible to the people in the bush. However, this is one area where the Labor Party is not doing too well.

MR MARLBOROUGH (Peel) [7.20 pm]: The problem with the debate on the Workers' Compensation and Rehabilitation Amendment Bill in the past number of times it has been before the House is that members on this side of the House and members on the government side of the House clearly have a different view about how the victims of injury in the workplace should be treated by the system. The current Minister for Labour Relations inherited a workers compensation system that had gone from being described by the then minister as the greatest workers compensation legislation in the world to being described by everybody as a great monster that had been thrown at the feet of the Western Australian public. The insurance companies could not live with it and the unions could not live with it. In the end the Government realised that the legislation the previous Minister for Labour Relations had brought into this Parliament was riddled with flaws and was nothing but a lot of nonsense that was creating a great deal of pain for everybody and had to be removed as quickly as possible. Unfortunately, by the time it was decided to cut the canker out of the system, it was nearly terminal, because the previous minister had simply allowed it to continue regardless and could not be dissuaded from following what he described as the greatest piece of workers compensation legislation that had ever been created.

It was only after the previous minister had been removed from that portfolio that there was a real look at the damage that had been done. However, not only did members in this House have diametrically opposing views about the changes that needed to be put in place, but also there were amazing differences in the evidence about what was wrong with the system. We had the situation with the upper House committee where Brendan McCarthy from the Chamber of Commerce and Industry of Western Australia made the amazing statement that he had been around the system for a long time and he knew what was wrong with it, and it had nothing to do with the fault of the workers or of the unions but had to do with the insurance companies fiddling the books and colluding on the cost of policies. He said also that if he was given the time before that committee, he could say a lot more. When we have a change of government after the next state election, we may revisit that statement in a proper inquiry.

Mrs Edwardes: Don't get your hopes up!

Mr MARLBOROUGH: I preferred it when the minister lost her voice for a long time.

Mrs Edwardes: Do not wish for it again!

Mr MARLBOROUGH: It is amazing how cocky they become so quickly!

Mrs Edwardes: I am amazed that all of a sudden you are prepared to listen to Brendan McCarthy, because when Brendan McCarthy representing the employers, and Tony Cooke representing the injured workers, came to an agreement with this Government, you ignored them. The member for Nollamara said that was only some parts of the Trades and Labor Council. Tell me which parts of the TLC you support and which parts you don't support.

Mr MARLBOROUGH: I do not need to tell the minister anything. The truth of the matter is that the minister is accusing me of wanting on this occasion to listen to Mr McCarthy. Let us look at the circumstances. A committee that was set up under the Westminster system of government took evidence on oath. What does the minister think that committee should have done with Mr McCarthy's evidence?

Mrs Edwardes: What do you think you should have done when we had an historic agreement between the workers and the employers? The Opposition - the Labor Party - listened to the lawyers who live off injured workers. That is what you did. That is who you listen to.

Mr MARLBOROUGH: Oh dear. We listen to all sorts of people. We listen to the minister. That does not give us any joy, but we listen to her. That is just a burden I have to carry as a member of Parliament. I have to listen to all sorts of people I do not like and who have different views from mine. That is what makes the world go around. It is a serious question, minister. It is not a matter of what the minister may have done away from the parliamentary process with the TLC or the insurance companies, or any other group. I am asking the minister what she believes should have been done with Mr McCarthy's evidence that was put before a committee of this Parliament that was set up under the Westminster system.

Mrs Edwardes: We have gone beyond that. What have you been doing for the past two and a half years? Is workers compensation just a new-found love of yours?

Mr MARLBOROUGH: I will tell the minister what I have been doing. I have been noting that the minister's moves and the way she operates have not changed since Wanneroo. All the old tricks that the minister got up to in Wanneroo are involved in her present portfolio. We might change the name of the leopard, but we cannot change its spots. All I am doing is putting the minister on notice that when there is a change of government, we may need to revisit that committee and look at Mr McCarthy's evidence, because I do not think this workers compensation Bill will sort out the major differences between us. I do not think it will solve any of the problems that we are facing. It will be an ongoing source of concern that we have a piece of legislation that, in our opinion, treats one party in the system unfairly while it attempts to accommodate the other parties in the system. When there is a change of government we may revisit Mr McCarthy's evidence and give him the opportunity of coming back to a government committee. After all, he represents a trade union of the bosses. Does the minister think I should listen to him? He told that parliamentary committee that he was appearing before it on behalf of the Chamber of Commerce and Industry, and he carried with him all of the weight of that body - a body that has no small influence on this Government's policies at all levels. I thought the minister's own side of politics would listen to every word he had to say. After all, he represents the Government's industrial arm!

Mrs Edwardes: How come the Labor Party did not listen?

Mr MARLBOROUGH: We listened all right.

Mrs Edwardes: No you did not. You might have listened, but you certainly did not hear. That is your problem.

Mr MARLBOROUGH: We might not have heard with the degree of speed with which the minister would like us to hear, but we have now caught right up. There is now no gap. We are now right on to what he said. It may be that it is so significantly important to the future and to arriving at a proper balance in workers compensation that we will need to revisit his evidence. That is why today we are at the stage where we still have major disagreements about amendments to clauses that, once again, will minimise benefits to people who, through no fault of their own, have been injured at work and may need to take the matter through the civil processes. That is why when my colleague the shadow Minister for Labour Relations was discussing the proposed amendment to section 93E(6) with regard to our preference for 21 days, he should have been listened to very carefully. The minister covered the rationale behind subsection (6)(b), which states -

> an election can be made under subsection (3)(b) within 7 days after the dispute is resolved.

However, that must be looked at in the light of subsection (6)(a), which states -

> medical evidence complying with section 93D(6) was produced to the Director not less than 21 days before the termination day . . .

Therefore, the need for that time period is recognised in the first part of the processes that need to take place. It should not suddenly vary to a seven-day period. The minister obviously has some doubts about it as she said in an interjection to the shadow minister, "Would you be happy if we made it 14 days?"

Mrs Edwardes: That was because it was his suggestion last week. It is now up to 21 days this week. Will it be 30 days next week, or 55 the following week?

Mr MARLBOROUGH: No. If the minister wants some guidance for approval of the 21 days, she will find it is already implicit in the legislation before us. We find a 21-day period in one paragraph, and it is reduced to seven days in another. Legitimate reasons exist for accepting the 21-day period as appropriate. I am concerned about section 93E(4) of the principal Act, which reads -

> For the purposes of subsection (3)(b) the worker has a significant disability if it is agreed or determined that the degree of disability is not less than 16% and that agreement or determination is recorded in accordance with the regulations.

The regulations are not before us at the moment; however, a subtle and very important change impacts on the provision and the authority of the director. Section 93E(3) outlines that damages can be awarded only for disabilities of not less that 30 per cent and, as outlined in paragraph (b) of that subsection, when -

> the worker has a significant disability and elects, in the prescribed manner, to retain the right to seek damages and the election is registered in accordance with the regulations.

The regulations do not refer to a "significant disability" but one described as "the worker will require major surgery in respect of the disability in the extension period." In other words, the broader term of "significant disability" is dropped. When workers need more time, the power is given to the director. This changes the "significant disability" requirement to the following in regulation 19N(1) -

> The Director may grant an extension of time under section 93E(7) of the Act if the director is satisfied that . . . the worker is likely to require major surgery . . .

The power by which the director can make an allowance under the regulations is too restrictive. It is far more restrictive than applying "significant disability" as it specifically refers to surgery, not to any other ailment with which the worker may suffer. I do not argue about whether this is being done deliberately; however, I draw it to the minister's attention.

Mrs Edwardes: Was this not the John Kobelke amendment which the Government agreed to?

Mr MARLBOROUGH: Not that I am aware of.

Mr Kobelke: It was the most we could extract from you.

Mrs Edwardes: This was proposed by the member for Nollamara, to which the Government agreed.

Mr MARLBOROUGH: I do not know whether it was proposed by the member for Nollamara. However, it is clear when comparing the Act and its regulations that different terminology is used in the space of two paragraphs. It refers to "significant disability" where the worker has the ability to elect in the prescribed manner to seek damages; however, the director may advance the rights of the worker for a period only on the basis of major surgery. That is an anomaly. It is too narrow. It should be at least brought into line with "significant disability", which is a broad term. A worker at that time may not require surgery, but other compelling reasons may exist for extending the time. What is the intent of giving these powers to the director?

The Opposition argues strongly that occasions will arise for workers to be given more time. If we agree that that is the key to giving the director authority, the director's authority for extending workers' time should not be confined to major surgery.

Mrs Edwardes: You're confusing the two sections. One deals with disabilities - that relating to 16 per cent - and the other deals with the extension, which is not dealing with entitlement. You're comparing apples with oranges.

Mr MARLBOROUGH: The process within section 93E(3) will affect the rights of workers. I take this opportunity to point out where rights are being restricted. It should not happen. This measure gives us an opportunity to look at the problems within the section which the minister repeatedly brings to Parliament for amendment. It contains further problems which should be looked at and rectified. It is not appropriate for us to keep on making amendments. How many times has this Act been before us?

Mr Kobelke: It is the fourth amending Bill since last October.

Mr MARLBOROUGH: Yes. Any criticism we make of any part of the Bill should be considered in the context of the Government's handling of this matter. It continually brings amendments before us. I am sure that we will have more amendments before us in time. This Bill, as I indicated earlier, was drafted for the wrong reasons. It was put in place to overcome a disastrous position that had been created by the Government under the previous Minister for Labour Relations. In putting the processes together it was quickly decided through the political processes, rather than the evidence before members, to pull the legislation into line and to stop the blowout of costs in workers compensation premiums by taking benefits away from workers. In the Government's rush to do that it has continued to bring back before the House all of the errors it had built into such a process. Based on the Government's track record the Opposition is pre-empting what will occur. The Government has been down this path of change before, and we are likely to be faced with the same outcomes. This is an opportunity to advise the minister that from a reading of the legislation we believe there will be further restrictions on the rights of workers. We need to ensure that the Bill does not restrict workers' rights to the extent that the minister intends. I am not putting any blame on the Government; I hope it will take a further look at the drafting and the words that are used to describe "a significant disability". Those words carry a far better understanding of the difficulties experienced by workers who are injured at work. As my colleague indicated earlier, the Opposition supports the intent of

the amendment, as it has done with all of the other amendments the Government has brought before the House. It is like a mosaic, and, as pieces fall out, the Government comes back with patches; it hopes that the colour and size will match and that it has stuck the right side to the wall. The Opposition realises that to make some sort of a system that will stick together the Government will need its assistance. On the basis of proper management of this Bill and our clear intent to improve the legislation, the Opposition will continue to put every facet of the legislation under the microscope, and to make suggestions as clauses come before it. I agree with my colleague's earlier statements to support the general thrust of the Bill, and I ask the minister to look at the matters I have raised: To increase the director's responsibility and not to limit his or her ability when dealing with workers who face major surgery but to expand the definition to read, at least, "a significant disability", and to support the 21-day period. If the minister agrees to those amendments we may, in those areas that are before us, at the end of the process have a better document within which to work.

MS ANWYL (Kalgoorlie) [7.44 pm]: The Opposition has an amendment on the Table, but I do not think the minister has indicated whether the Government will accept it.

Mrs Edwardes: I have not said anything in respect of it.

Ms ANWYL: Is there some reason for that, minister? I find it novel that we have to debate matters without any idea of the Government's attitude to our amendment.

Mrs Edwardes: I have not been convinced as to the Opposition's argument.

Ms ANWYL: The minister and I were both legal practitioners - I am not sure whether the minister has a current practice certificate, but certainly I do - and it always intrigues me that one is expected to debate matters in this House with a paper bag over one's head. The Opposition has put a simple matter before the Government: The Opposition is trying to achieve justice for workers. However, the Government's attitude is that it will think about it and for the Opposition to again put its arguments. We have been putting arguments on this matter to the Government for years. For years and years we have been drawing to the attention of the Government the injustices that workers face.

Mrs Edwardes: The member for Kalgoorlie was not in the House before dinner when we were talking about this. I indicated that 21 days did not seem to be an appropriate length of time and I wondered whether the member for Nollamara would accept 14 days. I mentioned 14 days because that was the number of days that the member raised in the briefing he was given. The member should not get on her high horse and talk about paper bags and the like, because she might start a trend. That would not be appropriate either.

Ms ANWYL: I thank the Minister for Labour Relations for that erudite contribution to this debate. If the minister who has the carriage of this legislation is not in a position to explain why she is not prepared to accept an amendment to "21 days" we will not get very far. I ask the minister to indicate her attitude now, before I launch into a half hour speech. I do not think that is unreasonable, because this legislation impacts on a number of injured workers in Western Australia.

The minister is right; we have been through this debate time and again. We sat here and listened to the minister give undertakings to this Parliament about what would happen to insurance premium rates. As the minister has heard, many members on this side of the House were not happy with the compromise that the Opposition reached. However, we reached a compromise on the basis of the delivery of lower premiums to employers. That has not occurred, and the minister is on the record as acknowledging that. There have been plenty of newspaper articles about that fact. I am now receiving increased numbers of calls from employers who are concerned about the current situation and are absolutely mortified that their premiums are continuing to skyrocket. We have heard nothing from the minister about how she will deal with this.

Mrs Edwardes interjected.

Ms ANWYL: I do not want to take the minister's interjections because we have heard nothing from her on how she will introduce accountability into the insurance system of this State. The minister has done absolutely nothing to make insurance companies accountable for the premiums that they impose. We had a situation last week in which a member of the legal profession illustrated the loophole in the minister's wonderful legislation which enables a 100 per cent loading on premiums imposed by workers compensation insurers. We have been through a debacle. The minister has come into this Parliament several times and attempted to amend this legislation piecemeal. I get nostalgic about the days I practised in this area of the law. I have just been for a walk down the Terrace. That is when I get most nostalgic, because inevitably I bump into acquaintances who, like us, work irregular hours in their law offices and sometimes leave at this time of night. I am glad that I am not now advising people about the detail of this legislation because it is a dog's breakfast; it is an absolute mess. The minister can sit and smirk, because he is probably happy it is dog's breakfast

Mrs Edwardes: Don't be so rude.

Ms ANWYL: I was referring to Mr Kierath, the former architect of this legislation, and the types of injustices we now see affecting the average working people of Western Australia. We could probably cop all of that if it had delivered some real benefit to employers who are struggling to cope with pre-GST charges. Employers cannot accept, and certainly the Opposition will not accept, glib assurances from the minister that she will do something about making the insurance industry accountable, because she is a failure in that regard. She has done nothing to make the insurance industry accountable on this. What is more, the minister has the temerity to bring this dog's breakfast into this Parliament.

Section 93E that the minister seeks to amend is already fairly complex, although average people are expected to understand it. This is the sort of legislation for which the minister says people do not need lawyers. She expects people to make

decisions that will affect their lives and the lives of their families forever. This amendment concerns a time frame within which people may elect to stay on weekly workers compensation payments or choose the lottery of a common law action for damages for negligence. If the minister does not think they are complex decisions to be made by lay people I suggest she sit in on plaintiff lawyers trying to explain it to their clients, particularly if they do not have an education or they are not from an English-speaking background. It is extremely complex to get across to another lawyer who does not practise in this field but who is used to reading legislation, let alone a lay person who has no knowledge of the law.

The minister wants to insert the following words -

> . . . at the end of the seventh day before the termination day, the question of whether the degree of disability is not less than 16% has not been agreed or determined.

The Opposition is seeking a 21-day provision, which is not too unreasonable. I must give the minister some credit for the fact that this legislation has been brought forward because she has acknowledged a major problem in the drafting of the previous legislation. I can recall drawing attention, at least twice in this Parliament, to the fact that the previous legislation did not contain adequate clarity; nonetheless that legislation was passed. However, as I have already indicated, no benefits have been reaped from it in the form of falling premiums. We have seen massive confusion of workers, and workers who have fallen outside the 16 per cent threshold but have sustained extremely serious injuries.

In my electorate where people are used to earning large amounts of money due to the long hours they work and the risks involved in underground mining and other occupations, they have often missed out on claims that would have been worth hundreds of thousands of dollars. What are the employers reaping by way of benefit from this? Nothing. Their workers compensation premiums have continued to climb. Who is benefitting? Perhaps at the next election the Liberal Party will receive some really good donations from the Insurance Council. I do not know; but I do know that the workers are not benefitting.

Mrs Edwardes: You are no better than some of your colleagues on that side of the House. I expected better.

Ms ANWYL: I will be looking at the minister's party's returns.

Mrs Edwardes: I resent that.

Ms ANWYL: Is the minister telling me the insurance industries of Western Australia will not be contributing $1 to the Liberal Party for the next election?

Mrs Edwardes: You are linking that to changes to workers compensation. There is no link whatsoever.

Ms ANWYL: We know who the Liberal Party's political masters are.

Mrs Edwardes: I would not know.

Ms ANWYL: Does the minister not know who donates to the Liberal Party?

Mrs Edwardes: I do not have the same interest in the returns as you do.

Ms ANWYL: I have a real interest here. I want to know why the workers in my electorate are being disadvantaged at the same time as the employers. Who has benefitted from these changes? Silence from the minister who was so vociferous a moment ago. There are no real benefits to the working people of Western Australia or to the employers of Western Australia, who are still confronting massive premiums. How has this legislation achieved a benefit for Western Australia? Where can we point to examples of extra people being employed because premiums have dropped? Where can we point to any sort of economic benefit to the State? I do not think we can; so that makes me look for other explanations. Can one explanation be that the Government stands to benefit in some other form?

Mrs Edwardes: No. Can it be that it is your profession and my profession that are benefitting from it? Can it be that when I had agreement with the CCI and the TLC, the Labor Party supported the lawyers who live off injured workers. That is who the Labor Party supported, evidenced by the amendments it wanted.

Mr Marlborough: When lawyers represent injured workers they are leaches!

Several members interjected.

The SPEAKER: Order! Let us have a little bit of order. If the member on her feet pauses, people are encouraged to interject.

Ms ANWYL: Thank you Mr Speaker. I will try not to pause. I paused to give the minister an opportunity to respond, but perhaps I will not do that again.

The minister and her Government are trotting out the classic line "Let's blame the lawyers". They want to blame them for the fact that injured people are missing out in Western Australia and that workers compensation premiums, that they promised would decrease, have increased. It is the lawyers' fault. It is a bit like the Premier's line in relation to An Feng Kingstream Steel Ltd - "But it's the lawyers' fault." The fact that a lawyer happens to be the president of the Liberal Party means nothing, because all the lawyers are to blame for the problems with native title, when the Government is creating massive problems and is aiding and abetting some of the rorts. In fact we heard today that the minister's own members are so far into it because part of that $1m bill from the president of the Liberal Party related to conversations someone in his

firm had with either the Minister for Lands or someone from his office. Is "Let's blame the lawyers" the new catch cry of the minister's Government?

Mr Marlborough: Blame Canada!

Ms ANWYL: The member for Peel has obviously been watching the Academy Awards. However, we are finding that this Government is not prepared to put up its hand and say to employers - its natural constituency - that the promised reductions in workers compensation premiums will not occur; therefore the Government is sorry, it will do something about it. We get these pathetic little attempts to rectify legislation that is delivering neither justice to anyone nor benefits to the State.

I pointed out a short while ago the massive pain that small businesses in particular are feeling, as well as large businesses, charities and other organisations, due to increased workers compensation premiums. I took a phone call about two hours ago from a constituent of mine who runs a pest control business and who thought he would see significant savings in his workers compensation premiums, but they have increased. I have received calls from small to medium employers who I suggested go back to their workers compensation insurer to query the increases. They have done that and in some cases they have negotiated lower premiums. The minister promised the previous legislation would result in a reduction in premiums. That has not occurred. There was to be a significant saving for employers and that has not occurred. They have not even been hit with the GST yet. If we are to continue to see an increase in the amount of workers compensation premiums at the rate we have seen to date, at the very least, those employers have the right to a proper inquiry being carried out in an attempt by the Government to regulate in respect of these increased premiums.

It seems that the Opposition agreed to this legislation on the false premise that rates would fall, but they have not done so. I do not know whether the minister is prepared to do anything about that; I have not seen any evidence that she will.

With reference to the amendment of 21 days versus seven, the minister suggested 14 days might be appropriate. I make one final plea; that is, my constituents do not necessarily have ready access to solicitors. Any time frame can be extremely difficult. Many of my constituents work on remote mine sites where they do not even have access to telephones. They rely on satellite telephones that fall in and out of range. They do not necessarily have access to their solicitors between 9.00 am and 5.00 pm. They may well be working underground during those hours. It is not always easy to contact a solicitor by telephone and give instructions. These are complex matters. Some of my constituents work six weeks on and one week off. That one week off they may spend in Kalgoorlie-Boulder while their solicitor is in Perth. Many people in Kalgoorlie-Boulder elect to have solicitors in Perth. That is their choice. Seven days is a short time in which to make these arrangements and the complexity of the law makes it more difficult. People might be illiterate, have poor educational backgrounds or not be from an English-speaking background. These are extremely important decisions. Of course, not all the people making the decisions will be working, and it could be argued they have more access. However, people subsisting on workers compensation payments are often receiving a lower rate of entitlement than the wages they previously received and have massive commitments, such as mortgages and other expenses. It is not a simple matter to hop on a plane to Perth. It costs about $450 for a Perth to Kalgoorlie return flight, which is a lot of money. People simply do not have that access to solicitors. I ask the minister to accept the Opposition's amendment and extend the time period to 21 days. I also ask the minister to take into account the fact that not everybody resides in the metropolitan area. Kalgoorlie residents are fortunate because there are a number of private practitioners, but there are many other areas in which there are no legal practitioners and which are much further away from Perth than my electorate.

MRS EDWARDES (Kingsley - Minister for Labour Relations) [8.01 pm]: I thank members opposite for their contribution and their support for the amendments. It is nice to learn that when they go over the history of workers compensation amendments, they are quick to blame the former minister. However, they also fail to put some of the blame on themselves. When one reflects on history, it is often from one's own perspective, and the proper account is not considered. One particular theme that arose during the members' speeches related to the insurance companies. I am sure members opposite are well aware of the review of the insurance arrangements I have announced, and that they were not being mischievous by totally ignoring it when they said the Government had not taken any action.

Mr Kobelke: Why did it take the minister more than six months to announce the inquiry?

Mrs EDWARDES: I remind members exactly what the Government is doing through that review. The review will ensure the employers get a good deal, provide flexibility in the system to negotiate premiums, and establish good management practices for the effective management of claims. The Government wants to ensure that the insurance companies are operating at best practice and are not, as the member for Nollamara suggested, simply increasing premiums time and again without being able to justify the rate of increases. I will receive the report of that review by the end of July. I will bring that to the Parliament and the House will discuss those recommendations, as it will do with the review of medical and other associated costs. That report is due in April and has gone out for proper and appropriate consultation. Through that review, the Government wants to ensure that injured workers receive appropriate treatment. The Government does not believe the increased medical costs are justified and that is why it established the review, in accordance with the recommendations made in the Pearson report. The Government wants to ensure that all service providers are accountable for the medical and other associated costs. The member for Nollamara and I can both point to examples where we do not quite believe the costs can be justified or where the level of servicing is inadequate. We want to make sure there is a focus on the services that are provided.

Members opposite also raised the issue of the injury management practice. It is creating a new culture and the outcome is probably still to be determined through proper evaluation. I think there are some encouraging signs. I would like the insurance companies to do far better, and instead of shuffling claims across the desk, I would like to see them get involved

in the cases. Generally it is the small to medium-sized insurance companies which cannot afford the consultancy rates paid by the larger ones that get involved in the cases. When they get involved they see a real benefit from the employers, particularly when the program is linked to a WorkSafe plan. There is a real benefit because everybody is working together towards the same end. I recently presented a WorkSafe award during which one of the insurance company representatives was present. The workers commented that the members of the insurance company were like family and friends because when workers were injured, the insurance company was there to assist.

Mr Kobelke: Was it a self-insurer?

Mrs EDWARDES: No, it was not. It was good feedback because that is what the Government wants to achieve. Wesfarmers Federation Insurance Limited is one of the best insurance companies. It has got the cost of the premiums for its clients down to 1.9 per cent. That is pretty impressive, even though it should be taken into account that part of that is because it has a discrete market. However, the company effectively manages the claims, gets involved with its clients, looks at its WorkSafe practices and treats injured workers. Once the worker is injured, he is not alone. He has the full benefit of the injury management scheme because the insurance company plays a key role.

Mr Kobelke: Will the minister comment on compliance, which I raised?

Mrs EDWARDES: I will get to that. The important thing about injury management is that we must take control of the worker's return to work. The cost to the system is reduced when people can quickly get back to work in whatever capacity, supported or otherwise. The Government has undertaken a major change and Western Australia is the only jurisdiction in Australia which has done that. Therefore, it is a lie when the Opposition comes into this House and says the Government is doing nothing for injured workers.

Mr Kobelke: The minister is being dishonest. I raised the issue of injury management and commended her on it. She should not say we knocked it.

Mrs EDWARDES: The member for Nollamara mentioned that, but in the same breath he said the Government was doing nothing for injured workers.

Mr Kobelke: It was the one area that was positive. The Government is doing next to nothing in the other areas.

Mrs EDWARDES: The member for Nollamara cannot be general in his comment. There was a suggestion of employers under-declaring wages. The Government wants to be constantly vigilant in this area because of some of the experiences of places like New South Wales.

Mr Kobelke: The Government is doing next to nothing at the moment.

Mrs EDWARDES: Insurers have a contract which gives them the right to inspect the wage books of employers and that is done regularly.

Mr Kobelke: Yes, but they do not have the power to enforce it.

Mrs EDWARDES: The indications are that the extent of under-declaration is small. If the member for Nollamara has any information that says otherwise, he should take it straight to WorkCover WA and it will be followed through. However, the advice is that where there is under-declaration, it is generally picked up by the insurers as part of their wage book audits - it does not escape.

Mr Kobelke: I am not convinced of that.

Mrs EDWARDES: If the member knows anything to the contrary, he should let us know but that is the advice we have.

Another point raised by the member for Nollamara concerned the extent of uninsured employers. The member quoted from WorkCover WA's annual report. I am not sure he was suggesting this but it was almost as though he was suggesting that one in five employers was uninsured. He referred to 21 per cent.

Mr Kobelke: Of the companies investigated.

Mrs EDWARDES: Yes, of the companies investigated, 1 734 employers were identified as failing to maintain a current policy of insurance compared with 17 per cent the previous year. However, that was a result of specifically targeting particular areas. WorkCover decides to look at one particular industry and targets it. About 21 000 investigations were conducted overall and 21 per cent of that 21 000 would not be uninsured. That is not the case. It is just when they suddenly do a random audit of particular industries and target those industries.

Mr Kobelke: To what extent do the compliance officers for WorkCover check whether the premium is correct by classification and total wages as opposed to checking whether they have a policy? My reading of the annual report is they primarily target a valid policy - that is reflected in those figures - not the extent of proper payment.

Mrs EDWARDES: I will get advice and give the member that information while I am on my feet.

The member for Nollamara also raised the number of transitional workers who would be impacted on by the overlap. Of the 1 395 matters referred for consideration in support of medical evidence, it is more than 161. The threshold, less than 500, were potentially affected by the overlap. As I have indicated, the insurers will accommodate that. Some of these matters have proceeded to preliminary review and others have been the subject of agreement already.

Mr Kobelke: You are saying that there are 500 cases in which people may have exceeded the termination date because of bureaucratic procedures but they still have the opportunity to elect if they are judged to have the correct percentage body disability.

Mrs EDWARDES: It is less than 500 and the insurers said they will accommodate that.

In respect of the 21 days as against seven days for election following determination or agreement on the extent of the disability, the member for Nollamara suggested that workers would have a narrow window of opportunity and that that would virtually be at the six-month point. Our experience in the matters coming through is that in almost 90 per cent of the matters, the determination of the agreement is actually between four and six months past the time frame because of the dispute. Therefore, we already have an extension of that six-month time frame. We knew that that would be the case because of the process we were putting in place. If members are talking about a narrow window of opportunity, it is not really the case. Workers have adequate time to look at and examine all of their options.

Mr Kobelke: I do not accept that.

Mrs EDWARDES: The point I was making is that as the member raised that issue, and having considered the point he was making about the exceptional cases et cetera, I am prepared to agree to 14 days. Why 14 days against 21 days? We continue to extend it and there is ample time. With the time of the decision and in terms of notification, 14 days is probably more practical. That was the point the member for Nollamara made which I accepted; it is more practical to extend it from seven to 14 days. I would be prepared to accept 14 days. It is an important consideration although I do not see it as being a major issue generally in terms of the ability of workers to make their decisions.

By way of interjection, I raised a number of other points when clauses were being referred to. The member for Peel made the point about section 93E(7) that significant disability relates to 16 per cent and subsection (7) deals with an extension which does not necessarily deal with the level of entitlement.

We need to reflect that last year the Premium Rates Committee made a recommendation of an increase of 35 per cent and in November it reduced that figure by 10 per cent. Some employers will still be paying increased premiums. We always said last year that all we would achieve would be a foot on the hose; it would not turn the system around overnight. Much more needs to be done and some confidence needs to be put into the system that the changes we put in place last year will take effect. There is every reason at the moment to believe that they will have an impact given the reduced numbers which are coming through on a daily basis. However, my concerns are still in three areas: The medical and associated costs - I am still concerned about the potential levels of over-servicing, the potential cost blow outs and how we can deal with those; the insurance companies themselves - I believe there can be a greater level of improvement in the way insurance companies manage claims; and I am concerned about legal costs - while they may only be a small proportion of the overall costs of the system, they have risen 44 per cent. We need to be conscious of that.

Mr Kobelke: Compared with what year? What is your base year for that 44 per cent?

Mrs EDWARDES: September to September.

Mr Kobelke: I think you will find it is actually below what it was in 1993.

Mrs EDWARDES: From September 1998 to September 1999 legal costs rose by 44 per cent.

Mr Kobelke: However, that is when all the activity was on over the uncertainty.

Mrs EDWARDES: We need to be conscious of it.

Mr Kobelke: Don't use that as a baseline.

Mrs EDWARDES: Do not defend them. We need to identify the costs drivers.

Mr Kobelke: Exactly, rather than distort it.

Mrs EDWARDES: That is right. We also need to identify what we need to do about them. There is an indication that they have risen. We need to know why and to look at them, particularly as one of the Pearson recommendations was to allow them back into the conciliation review committee. There will need to be some cost benefit analysis done about that and some justification before they will be allowed back into that system. I am not convinced that it will assist the system rather than lead to further increases in that cost driver. I think I have addressed all the issues members opposite raised.

Mr Kobelke: Could I raise one other matter? The section we are dealing with obviously hinges fairly heavily on significant disability; that is bodily disability. Has the minister received complaints or concerns that that was proving very difficult because of the confusion between disability and impairment relating to schedule 2?

Mrs EDWARDES: No.

In closing, I point out to members that we need to be constantly vigilant with workers compensation. The reason is that many cost drivers are involved. I make no apology for bringing in this amendment or the amendments last year. I make no apology if further amendments are needed arising out of the review of medical and other associated costs, or as a result of the review of the insurance industry or any other factor that is brought to the Government's attention in an endeavour

to improve the system, particularly to ensure that the needs of injured workers are met, and at the same time reducing costs for employers. I will continue to work with members opposite, if they wish to work with the Government in a bipartisan way, to ensure that a good and cost-effective workers compensation system is in place in Western Australia.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: Section 93E amended -

Mr KOBELKE: Only two matters are contained within clause 4, which is the substance of the Bill. The first relates to correcting a typographical error, and the second relates to the major changes about which I wish to move an amendment. First, I will refer to the small change which appears to correct a typographical error. I do so simply to get on the record a clear understanding of what is judged to have been the impact of this error, which I take, from the minister's interjection earlier, to be of no effect. That should be made absolutely clear. For that purpose, I will put on the record what the change is and ask the minister to respond by either agreeing with the proposition I will put or correcting it so that we understand its effect. Subclause (1) refers to changes in the definition of "agreed" in section 93E(1). Section 93D(9) will be amended to read "93D(12)".

The definition of "agreed" is crucial, because unless there is an agreement, an injured worker cannot elect to go to common law. Therefore, "agreed", relating to such an agreement, is an important definition. Under the definition of "agreed", it says -

> "agreed" means agreed between the worker and the employer, whether under section 93D(9) or otherwise;

Section 93D(9) is in error. I take it that if this means that section 93D(9) is of no effect because something else applies, we will be able to take up the provisions in section 93D, which means that there is a default situation. Section 93D(9) relates to the director considering a dispute in consultation with parties. That has no relevance to the definition of "agreed". Section 93D(12), which will be inserted following the amendment, states -

> Unless notification is given by the employer under subsection (8), the employer is to be regarded as having agreed that the degree of disability is not less than the relevant level.

To paraphrase, subsection (8) provides that the employer has 21 days in which to notify. Therefore, subsection (12) says that if the employer does not give the notification to dispute or otherwise within 21 days, the default situation is that the employer is taken to have agreed. However, because of a mistake in the definition of "agreed", it did not correctly refer to section 93D(12), so it does not emphasise that default mechanism. It is my assumption that the incorrect reference is of no effect, because the definition of "agreed" contains the words "or otherwise". Therefore, I take it that the effect of the default in subsection (12) is not interfered with in any way, it has full effect, and therefore it is possible that the agreement is seen legally to have been reached because of the employer failing or not wishing to contest within 21 days. I seek clarification that that is the case. That being so, I seek clarification that no injured workers could in any way be disadvantaged because the 21 days had expired and no notification had been received from the employer, and that a party may have tried to run the line that, therefore, there was no agreement because the default clause could be declared inoperative in some way. It seems that the default clause should always be operative, despite the typographical error. However, if there are any other complications or possible scenarios which could lead to people having their rights denied because of the typographical error, I hope that the minister will put that on the record.

Mrs EDWARDES: No, the position is as the member outlined. It specifically relates to a situation in which an employer fails to respond. As I indicated previously, my advice is that there has been no disadvantageous impact or effect on any injured worker.

Mr KOBELKE: I now deal with clause 4(2). This is an amendment to section 93E(6), which refers to subsection (5). Subsection (5) states that an election cannot be made by an applicant after the termination day. Basically, that is set at six months. Therefore, if a person has gone beyond six months - that is, beyond the termination day - that person cannot elect to go to common law. To paraphrase, subsection (6), which we are amending, states that despite that, if the medical evidence was produced not less than 21 days before the termination day - therefore, the director has been given at least 21 days prior to the termination day to consider the matter - and a dispute has not been resolved by the termination day, an election can be made. However, we will amend subsection 6(b) to read -

> at the end of the seventh day before the termination day, the question of whether the degree of disability is not less than 16% has not been agreed or determined,

The last part of that subsection will also be amended by deleting "dispute is resolved." and substituting "question is agreed or determined." It turns on the words "agreed or determined", not on the word "dispute", therefore there may be a dispute which is determined, or it may simply be by agreement or determination. The language has been changed somewhat. I cannot see any problem with that. It is complex. I say again that I do not fully understand the complexities of this section. It is incredibly difficult. However, I take it that the change from the words "dispute is resolved" to the words "question is agreed or determined" will not create other problems within the section.

The mechanism in the middle part of this amendment, which enables the matter to go beyond the six months' termination day, rests on two factors. If medical evidence has been produced to the director not less than 21 days before the termination day, and a dispute has not been resolved before the termination day, the director can put the matter on hold to be determined, and an injured worker will then have seven days after the determination to make an election. That time period is not adequate. I listened to the Minister's response, but she did not convince me. I am aware that extensions of time may create costs, and I do not intend to do that. However, the minister has given no evidence that an extension of time from seven days to 21 days will create significant costs.

There are two important reasons that the time period should be extended to 21 days. Firstly, the critical matter is the determination of the director. Subsection (6)(a) states that the director is to be notified within 21 days. Therefore, the bureaucracy needs 21 days in which to make its consideration, yet the injured worker, who needs to make a major decision about his future and that of his family, is given only seven days from the determination, not from the notification. If there is a hold-up in the bureaucratic process of conveying the determination to the applicant, the person may miss the opportunity to make an election because he was not notified of the determination. Therefore, on the basis of equity it should be 21 days in both cases.

Ms MacTIERNAN: I would like to hear further comment from the member for Nollamara on this very important topic.

Mr KOBELKE: We cannot expect a person to make such a major decision within seven days of the determination; and it will really be only five or six days, because the end days do not count. The person may need to make an appointment with his lawyer, and in a small percentage of cases the person may need to see his specialist doctor. The person may also need to discuss with his family the consequences of that important decision.

Mrs Edwardes: He would have done all of that.

Mr KOBELKE: In most cases, yes, but a person may be getting towards the end of his six months and have submitted all the paperwork to make an election because he has no other choice, but he may still be undergoing medical treatment and be in and out of hospital, and he may want to know from his doctor whether the operation he had last week will stabilise his condition or whether he will need to undergo a further range of medical procedures. In cases where a major operation is required, another mechanism is available to seek an extension of the termination day, but that is very narrow. I assume that only a small number of cases will be caught by this provision. Most people will make their application in four or five months, as the minister suggested, and will not be right up against this time limit. However, if people are not sure of their medical condition and what will be best for them, the time limit of seven days will place them in an impossible position. I will consider a time of 14 days if the minister can give me some evidence that an extension of time to 21 days will create a major cost problem. However, I do not believe there will be a problem. It will be far more equitable and workable to have 21 days, and it will also be less likely to cause a situation where injured workers are denied their right to make an election because of a delay in conveying the notice of the determination to those injured workers. I have received a letter from lawyers who advised me of a case with which they were dealing where the determination was made on 23 February, but the person was not notified until 10 March. In that case 16 days had elapsed from the date of determination to the date of notification. A period of 21 days may not be foolproof, but it will make it extremely unlikely that a person is denied the right to make an election because of an administrative hold-up in conveying the notification.

The second important reason for an extension to 21 days is that in difficult cases people will find it extremely hard to make a decision because they have no clear determination about future medical processes but have no option other than to make an election. It will be like a lottery for those people. People such as that need at least 21 days, but I will consider the minister's compromise if she can put up a convincing argument that such an extension will create major costs and administrative problems.

Mrs EDWARDES: The member has missed the point, because by this time there has already been a submission of medical evidence, and the person has sought legal advice; therefore, the person has already started to consider whether he wishes to go to common law.

Mr Kobelke: Not in every case.

Mrs EDWARDES: The member is dealing with what-ifs. We can always pass legislation in this place that deals with the what-ifs, and we endeavour at all times to cover the what-ifs, but at what point do we draw the line in respect of the what-ifs? We have dealt with the what-ifs in the legislation and we have gone through an extensive process to get to this stage. In most cases we are talking about three to four months in excess of the six months. The point that the member started off with and the point that found favour with me is the case to which the member referred. In that instance, the benefit of the doubt was given to the solicitor that he had received it on that date. I do not know whether he had been in court for a week or whether he had not picked up his mail. However, the benefit of the doubt was given to him in an endeavour not to disadvantage the injured worker. That case is well known. The point made by the member found favour with me. The issue is not that the injured worker must do something or that he might not be there; the issue is the administrative process. It endeavours to ensure that injured workers are given the maximum amount of time needed. Having gone through that, they have reached a final determination for their election which would be extended from seven to 14 days, and that would be fair and reasonable. As such, if we are talking about cost, we are talking about the numbers who would be employed and the rate of pay they would be under with statutory benefits, etc. I do not have those figures.

Mr Kobelke: If they elect, it comes off their benefits.

Mrs EDWARDES: That is not the issue so I will not try to work through the issue of costs with the member. We have been through all of that, and we have dealt with the process. The point that found favour with me is making sure the administrative process goes smoothly, and that is the reason the change from seven to 14 days can be accommodated. That is quite appropriate and makes it fair and reasonable in order to ensure that injured workers have a further seven days in which to finalise their decision.

Mr KOBELKE: The minister has not given me any arguments to convince me that 21 days is not acceptable. It seems that the minister is just interested in keeping it bureaucratically tight. She has not countered any of my arguments that 21 days is a far more workable and equitable approach. As I have said, the director requires not less than 21 days to be notified, so the bureaucracy should put the requirement on injured workers that they will have at least 21 days before the termination date.

Mrs Edwardes: They must process it and get it to the employer in that time. It is a different time frame. They must employ a different process.

Mr KOBELKE: Absolutely. It is a bureaucratic process for them; however, for injured workers it is about the whole future of their lives and that of their families.

Mrs Edwardes: It is not a decision which comes to them within a short time frame. They would have been making a decision and seeking advice on it for months.

Mr KOBELKE: I accept that there will be many cases which the minister's statements correctly reflect. However, it does not correctly reflect some cases. Some cases are not medically stabilised at an early stage.

Mrs Edwardes: It will be even longer for those cases, because of that complexity. What the member is saying defeats his argument, because those people will have even longer for their consideration.

Mr KOBELKE: No, it does not. With the extension we are dealing with the determination on the dispute. We are not talking about extension for the purposes of stabilising the medical condition. That is not an allowable extension. That is what we argued for in the debate last year. The minister did not allow for it. The extension can take place only because of a major or serious medical procedure or operation, which in many cases may not apply, or when the person cannot get access to a medical consultant. There is a third technical reason in the regulations which I cannot recall. For many people whose situations have not stabilised, there is not that extension. The extension we are talking about is just the determination of the dispute. If people started saying that because they are not stabilised that is part of the dispute, they would be ruled out very quickly under the current situation. It will not go on and on. Those people who make an early determination, and who get in well before the 21 days, have had their consideration and it is not a problem. However, it is a problem for others. In some cases it may be due to indecision, but for many people it is the fact that it is a difficult decision to make, they are up against the barrier of the termination date and they have very few options available to them. They submit their application for election so they can keep it alive. This is to do with the matter coming back a few days afterwards and the minister throwing it back to them with seven days, or she may accept 14 days. I believe 21 days is a much fairer way to go. On that basis, I move -

Page 2, after line 22 - To insert the following -

(b) by deleting "7" and inserting instead "21".

The DEPUTY SPEAKER: I will put this amendment in two parts. The question is -

Page 2, after line 22 - To insert the following -

(b) by deleting "7" and inserting instead

Amendment put and passed.

The DEPUTY SPEAKER: The question now is to insert "21".

Amendment put and a division taken with the following result -

Ayes (17)

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

Noes (25)

Mr Ainsworth	Mrs Hodson-Thomas	Mr McNee	Mr Trenorden
Mr Baker	Mr House	Mr Nicholls	Dr Turnbull
Mr Barnett	Mr Johnson	Mr Omodei	Mrs van de Klashorst
Dr Constable	Mr Kierath	Mr Osborne	Mr Wiese
Mr Court	Mr MacLean	Mr Prince	Mr Tubby
Mrs Edwardes	Mr Marshall	Mr Shave	*(Teller)*
Dr Hames	Mr Masters		

Pairs

Dr Gallop	Mr Cowan
Mr Brown	Mr Board
Mr Bridge	Mr Pendal

Amendment thus negatived.

Mrs EDWARDES: I move -

Page 2, after line 22 - To insert "14".

Amendment put and passed.

Mr KOBELKE: I am disappointed that the minister would not accept "21". I accept though that she is willing to come a little way and, although only a small improvement, it is an improvement. On that basis the Australian Labor Party supports the amended clause.

Clause, as amended, put and passed.

Title put and passed.

PLANNING APPEALS BILL 1999

Consideration in Detail

Resumed from 23 March.

Debate was adjourned after clause 15, as amended, had been agreed to.

Clause 16: Notice of setting down for investigation -

Ms MacTIERNAN: I move -

Page 10, lines 19 to 26 - To delete the lines.

The provisions in clause 16 state that the registrar must give each party to an appeal a copy of any submission made in relation to the appeal. However, clauses 4 and 5 provide a process for withholding confidential information from copies of the submissions provided. The lines that the Australian Labor Party proposes to delete would allow a class of confidential information. An appellant may present a submission that is required to be secret so that it is not capable of being tested by the other side in that process. That is contrary to the notion of natural justice.

There are a few provisions in this Bill which state that the assessors, and subsequently the panel, should operate in accordance with the rules of natural justice. A primary component of the rule of natural justice is that people are entitled to know the case that is being mounted against them. A second component is the right to respond to the case that is mounted against them. How is the notion of natural justice in any way compatible with the notion of secret evidence? These secret submissions are not only unavailable to the public but also to the other side. These submissions could be complete and utter fabrications and there would be no capacity to test them. Firstly, people would not know that any such submissions had been made; secondly, they would not know the contents of such a submission and would not have an opportunity to dispute them.

This type of provision makes this legislation an absolute joke out in the real world. Much as the minister might claim that this legislation has broad support, it simply does not. This provision has been fastened upon by every stakeholder in the industry. They say that it is unacceptable and our proposed deletions must be proceeded with. It is definitely the view of the Western Australian Municipal Association, the Law Society committee which deals with planning law and the development sector. No tribunal process can have any legitimacy if it permits secret evidence to be given.

It absolutely defies belief that the minister can come into this place and argue that his legislation in any shape or form conforms with the requirements of natural justice with these provisions for secret evidence that no-one will know about nor have an opportunity to respond to, dispute or contest. I cannot believe the minister is proceeding with this clause and I cannot believe he got it through Cabinet. I would like to know where in the Chapman report it said this is what should be done.

Mr KIERATH: Despite the member for Armadale's protestations, this clause simply reflects current practice in the Town Planning Appeal Committee proceedings. There are three areas in particular where it is used and it is fair to say that it is used only on special occasions, not to prevent evidence coming forward. Firstly, there may be some information that is commercially confidential and in some cases that must be respected. Invariably, that is not an overwhelming influence on the character of any decisions; however, there are commercially confidential factors. Secondly, there are often personal details revealed in submissions. For instance, an appeal on compassionate grounds may include personal, medical and financial details and intimate family details that should not be made publicly available. It is interesting that WAMA said what the member stated it said because in my response to it I said that it was being overly reactive in this area.

The third area is that often councils have submissions before them for consideration that are not on the public record. Often confidential discussions are going on and councils request that the details not be made public. These are mostly minor

matters and usually are special details. They do not generally go to the heart of the evidence or the facts of the matter before the appeal committee. That clause is to protect and reflect current practice in the town planning appeals committee. Rather than reinvent a whole new system, we have tried to take the current procedures and practice, as implemented in the ministerial appeals system, and put them into practice. I acknowledge to some extent that a person could create a mischief and do something that is not intended by this legislation. However, it would be of a minor nature and very rarely go to the heart of the matter.

Ms MacTiernan: How do you know?

Mr KIERATH: Quite often those issues are in reports before the ministry and when freedom of information requests are received, people have the right to object to information being made available, and in many cases do. Often information is deleted, but those situations are very few and relate to minor matters.

Ms MacTIERNAN: The minister's answer has been most instructive because it demonstrates that this legislation is not about getting rid of ministerial appeals. It is about setting up ministerial appeals across the board. This town planning appeals committee is the committee that services the minister in making his ministerial decisions, and it is precisely the character of that appeals committee and decision making that we are supposed to be jettisoning in this legislation. However, on the minister's own admission, the Bill is not doing that. At the moment, the Town Planning Appeal Tribunal does not allow secret submissions or secret evidence to be given. That is allowed only in ministerial appeals. Once again, we see a demonstration of what the Opposition, the Law Society, the developers and WAMA have been saying; that is, this Bill is not about getting rid of ministerial appeals. On the minister's admission, this provision seeks to entrench the worst aspects of ministerial appeals and apply them across the board. It is extraordinary that the minister thinks it is a defence. Does he understand that these particular provisions have brought ministerial appeals into disrepute? It is this problem of supposedly private and confidential information that can be taken into account, the supposed hard luck story and supposed compassionate grounds on which ministers say they base their decisions, that leads to scepticism about the undue influence on planning decisions.

It is extraordinary that here tonight the minister is conceding that he is doing what all those people have been accusing him of; that is, he is taking the town planning appeals committee - his little committee he has set up that services him in his ministerial appeals - the procedures and processes of which are to become the standard for dealing with town planning appeals in this State. It is no wonder that every stakeholder in the industry is absolutely and irrevocably opposed to this provision. The minister is not dealing with ministerial appeals; he is proposing to extend them across the board. I ask the minister what sort of advice he has received about this provision. Have any of his advisers supported this or is it a frolic of his own? In particular, can he name one industry player who supports this provision?

The minister said he would be surprised if WAMA did not support it. WAMA has said that these provisions confirm that the proposed new system will be very similar to the current ministerial appeal process. The only right which is expressly given to the parties is to make written submissions. Clauses 16(4) and 16(5) - which the Opposition seeks to delete - are a concern from the natural justice point of view as they enable confidential information to be included in the submissions to be withheld from the party. It would be a clear breach of procedural fairness if a decision were made based on information received which was not provided to either or both of the parties for their comment.

The minister cannot claim in any way that this has the support of WAMA. It is true that parties from time to time go to the minister and provide information in confidence, and it is extraordinary that the minister has said councils do it from time to time.

Mr Kierath: They certainly do.

Ms MacTIERNAN: I know, and that is one of the problems with ministerial appeals. There is a temptation for some local authorities to say one thing publicly to appease their constituents, and then go behind their back and make a separate statement to the minister. I am not saying all local authorities do it, but some do. However, WAMA as a body totally rejects this proposition.

Mr KIERATH: I must admit that the member for Armadale sometimes amazes even me. I place on the record that I am not changing the ministerial appeals system because I think it is fundamentally flawed. The major criticism of the system was not the effectiveness of it, but the involvement of the minister in it. I have made no secret of the fact that in simple terms, the effect of this Bill is to maintain the best parts of the ministerial appeals system, but without the involvement of the minister. That was clearly my intention from the outset. However, a review was carried out and it is not just solely that. That indicates the position I have come from. The member for Armadale would have us throw out the baby with the bathwater. Whether or not the member likes it, most people choose the ministerial appeals system because of all its advantages, including cost, simplicity, level of agreement and other factors. Most of the criticism made of former ministers was about political involvement in the appeals system. I have never made any secret of the fact that I would attempt to formalise those parts of the system that work, but remove the minister's involvement. The minister would be involved only in those appeals called in, and they would be publicly identifiable.

I do not know why the member went out on a tangent and said I was making major changes to the system because I thought it was wrong. Quite the contrary. I said that most of the current system is right and the problems have arisen with the involvement of the minister. This proposed system will remove the involvement of the minister except on rare occasions. I said that WAMA was concerned about this and I agree with the member. I have written the following letter to WAMA -

> Your Association is concerned about the exclusion of confidential information which, in its view, would result in a clear breach of procedural fairness if a decision were based on that information and was not available to the other party. I have to comment that there are a number of occasions in the existing Appeals System which involve the disclosure, by appellants, of a whole range of issues which are of a very personal nature and which the appellants would not wish the world to know. These are frequently to do with the appellant's health or some family situations, some financial problems being experienced or the like. I recognise that, being a Ministerial system where I am required to make a decision on appeals, there is more likelihood that such information will be presented to me. I do not, however, want appellants to feel in any way inhibited that the system is not addressing their concerns and that they are not capable of putting information of that kind into the appeal process because of the fear that it may be widely broadcast. The intention of that Section is to protect the interests of the public in that regard and given that decisions are now already only made in the rarest of circumstances based on compassionate grounds, it is even less likely that decisions will be predicated on compassionate grounds through the new system. As the Tribunal has indicated in times past, personal and compassionate reasons are not a sound basis for planning decisions but, if they are latent in the appeal and the appeal is of a marginal nature, then it may tip the balance in favour of that party. I consider that the Association's reaction to this Section is somewhat over-reactive to a Section which is intended to demonstrate some compassion to those who want to use the appeal process.

I am not aware of any other person or organisation, other than perhaps the Law Society, who is disputing that clause.

Ms MacTiernan: You are not aware of the developers who are concerned about that?

Mr KIERATH: No, we have had discussions with the Urban Development Institute of Australia and have received letters from it.

Ms MacTiernan: Certainly the developers who represent probably the majority of the development industry, the actual developers as opposed to the other professionals, take very strong exception to that.

Mr KIERATH: Our discussions with the UDIA - which is the peak body in this regard - have not brought that to our attention. I can understand that the Opposition is paranoid about this provision but it reflects current practice and it works extremely well. I have tried to put the bits of the current system which work really well into this Bill and to leave the bits people do not like out of it. I can understand the Opposition's dislike of the clause but it is there to protect those parties. I repeat, it applies only in those very exceptional cases, it is not used as a rule. It would be fair to say that more than 75 per cent of the time - probably 90 per cent of the time - it is used for personal details and not other details. I cannot remember, other than once or twice from a council, where it was used otherwise; in 90 per cent of cases it is used for personal details of people.

Ms MacTIERNAN: At one point the minister said that he believes this personal information is probably irrelevant in making planning decisions -

Mr Kierath: You didn't listen. I said except in marginal cases when it may tip the scales in favour.

Ms MacTIERNAN: From my time in local government, these supposedly personal factors were often used by proponents of developments. In my view, they were completely spurious. I have seen that in many cases in a variety of tribunals; people use supposed personal circumstances to avoid attending court cases and the meting out of justice. However, the problem here is that there is nothing in this provision which in any way limits the secret information to this class of highly personal information. An assessor merely needs to conclude that it is desirable to exclude the confidential information from the submission. It could be anything. In addition, there will be no mechanism for scrutinising this. How will we know how often a particular assessor uses this information? It also seems that this information need not go to the panel and the panel might not have any power to refer it back to the investigator.

The difficulties are: First, it is probably highly improper for us to contemplate considering personal factors in determining a planning appeal; second, there is nothing in the legislation which in any way limits the secret information to personal information; and third, there will be absolutely no way of anyone outside the system monitoring how often this information is kept confidential. We can only rely on the bland assurances of the Government that it will never happen. We all know the Royal Automobile Club ads, it will never happen is basically what the Government is telling us. The minister may be able to answer my final question by way of interjection. What does the minister think the principles of natural justice involve?

Mr Kierath: This does not relate to that but I will rise and speak in general terms when you sit down.

Ms MacTIERNAN: It is interesting that the minister says it does not relate to natural justice because it goes to the very heart of what natural justice is. I will tell the minister again. The principles of natural justice require that a person know the case which has been mounted against him and that he has a right to respond to that case. Having secret evidence runs completely and utterly in opposition to the principles of natural justice. It is nonsense to have a Bill which purports to include in one provision the rules of natural justice when the very structures it sets up are quite contrary to natural justice. I put it to the minister that he does not understand the rules of natural justice. If he did, he would understand that what he has in this Bill is a complete and utter paradox.

Mr KIERATH: I do understand. The difference is the member does not accept my explanation. I returned to what we were trying to do in conjunction with this. I was advised that this section must be read in conjunction with the rest of the Bill,

which encourages the parties to agree through the principles of natural justice. That is the only so-called relationship to that. What I said was, in my view - and I have just checked some figures - this has mainly been used to prevent certain personal details being released. On a couple of occasions there have been certain confidential council discussions. I am not aware of any cases in my time as minister in which a claim for commercial confidentiality has been upheld. I have been minister for about three years and I do handle nearly 800 appeals a year. Therefore, in round terms I would probably be getting close to 2 500 appeals and other than a couple of councils, almost all of the exclusions have been related to personal and private information. They are personal details which do not go to the heart of planning principles. However, if it is a marginal proposition I have been advised, "Minister, you could go this way or that way and if you are of a mind and you think the compassionate grounds are important enough or serious enough, you might take them into account in your decision." That is when this provision has been used. I can tell the member for Armadale that when I look back over the 2 500 appeals I have been involved in, the vast majority of the exclusions have been for personal information.

In this area it is not just the assessor; the party can request it but the exclusion is at the discretion of the director. One would expect the director to apply the objectives and principles of the Act when considering those requests. This provision will formalise that arrangement. It will be a check. It is not simply a party saying it does not want the information to be made available to the other party; the director would have to approve the request. The person seeking the exclusion would need to request that the information be excluded from the copy of the submission given to the other parties. The director would look at it and decide whether that request had some standing.

Ms MacTiernan interjected.

Mr KIERATH: In my experience, the cases for compassionate grounds invariably do not go to the heart of the planning issues. They are peripheral.

Mr Kobelke: Why allow them?

Mr KIERATH: There are some marginal cases wherein compassionate grounds are taken into account. These are the most difficult because it is complicated to legislate for compassionate grounds. I have seen some appeals where the case is 50-50. In those situations, compassionate grounds might tilt me in their favour. It occurs in a small number of cases. Many of the compelling cases for consideration on compassionate grounds often have strong planning reasons against them. Only a few are 50-50. Many members - including quite a few in the Opposition - who have requested consideration on compassionate grounds have some understanding of the system and they acknowledge their request does not stack up on planning grounds. I often receive compassionate appeals to take into account the circumstances of a person. The only time I can really do that is if it is a marginal proposition because other courts have determined that it is the only time such circumstances can be taken into account. If planning grounds go against the case, compassionate grounds do not come into it. However, a number of cases are 50-50 and in that situation, I take them into account. It is only reasonable that such information is excluded from public view.

Mr KOBELKE: The minister mentioned examples whereby local governments consider parts of their decision making in secret. That is different from the appeals system in many respects. My limited understanding is that a committee goes in camera to keep matters secret because there is some commercial aspect it does not want made public at that stage of the decision-making process. The information is normally made public once the decision is made. The council may have a major building commitment or is looking at proposals by more than one proponent. It would go in camera while the matter were considered. However, once the council's decision making has progressed, the matter is no longer secret. That is different from this situation which involves an appeal, whether it is in planning or another area. In this situation, the applicant seeks, through the appeal process, to have a decision overturned or varied. The applicant is going one step further up the system to seek a variation to a decision. The member for Armadale was correct when she pointed out that the process must be open, accountable and seen to measure up to the principles of natural justice. There should no longer be a process in which information is kept secret and withheld from parties who will be affected by the appealed decision. The minister may argue the secret information is of some use in only a small number of cases. However, the applicant should be left to make that judgment and should not have to seek to retain information that is confidential or secret. The applicant makes the decision, whether it is an area of commercial confidentiality or personal information. The applicant needs to weigh up whether the value of the commercial information or privacy outweighs the possible impact it will have on the appeal. It should be solely the applicant's decision.

We know it is not an accepted planning principle to look at the economic viability of a particular proposal as a planning consideration. Two fast-food outlets competing over a planning decision would have both done their figures for the likely catchment and potential turnover and profit. Those details may be of considerable commercial value to the individual companies and neither company would wish to share them with a competitor, whether or not that competitor is part of the appeal process. It is up to the appellant to make the decision: Should the appellant produce figures relating to potential turnover and customers which have commercial value because they might be seen as relevant to the decision making? If the appellant thinks they will influence the decision maker through the appeal, it can put them forward. In doing so, it should also look at the disadvantage of showing its hand to a potential competitor who may be part of the appeal or totally unrelated to it. They must make that decision. It is their call, but they do not have the right to keep information secret throughout the whole appeal process. The same applies to an individual who, for reasons of privacy, does not wish to disclose information he feels may influence the decision maker on the appeal. It is his decision. He can either keep that information confidential and not submit it, in which case it is not taken into account, or he can put the information forward and forgo his right to privacy in the hope it might influence the decision maker. Allowing secrecy subverts the proper processes.

Mr KIERATH: I accept that people have a discretion. I have a list of members from the Opposition who have asked me to take into account personal details to consider an appeal on compassionate grounds. That information might be financial. I have had requests from several people dying of cancer who are trying to get their affairs in order before they go.

Ms MacTiernan: Like Mal Colston?

Mr KIERATH: The member for Armadale should not be so nasty. She is a hard, uncaring person. I am certain I have a letter from her seeking compassionate grounds for one of her constituents. I will dig it out and show her. My point is that people do not want this information to be made public. Ordinarily, if the planning arguments are against them, it will not affect the decision. However, there are some circumstances - and they are the minority - in which it could go 50-50. That is when compassionate grounds enter into the argument. In my experience as minister in considering nearly 2 500 appeals, I cannot remember one example of a party seeking commercially confidential information to be excluded. I have received one or two requests from councils asking for certain situations not to be revealed at that stage.

Mr Kobelke: I have examples of planning appeals that I have tried to get through freedom of information and which have been withheld because of commercial confidentiality. I am not contradicting the minister, but that was not a situation in which both parties had access to the file. It was an appeal to the minister; it was only the minister's information.

Mr KIERATH: When the appeals are considered, most of the parties are aware of what has been said against them. We run through all the planning arguments. I revise my figures: On reflection it is peripheral information in 98 or 99 per cent of cases. We have received freedom of information requests for the letters detailing the decisions. During my time as minister, I have tried to put all the reasons in the letters, so a person knows all the main facts that were used to arrive at that conclusion. In almost every case, those individuals do not want the personal information released. They are reasonably happy to have the thrust of the planning arguments released, but they do not want the personal details released.

Ms MacTiernan: Reasonably happy?

Mr KIERATH: I am trying to summarise the position of many different people in many different situations. Invariably, when the freedom of information process is explained to people, they do not want that personal information released; that is blotted out. However, by reading the letter, one can tell that it is about only personal information, which does not go to the heart of the planning principles. I think the member is blowing this out of proportion.

Ms MacTIERNAN: Absolutely not. Madam Acting Speaker (Ms Anwyl), I think you would appreciate that what we have here is a minister who basically wants to act as if he is a medieval king. He wants to be in the position of the kings when they established the courts of equity, when decisions could be made without reference to the rules of -

Mr Kierath: Don't be so ridiculous!

Ms MacTIERNAN: That is the case. The minister wants to take into account a range of factors that he has acknowledged have absolutely nothing to do with planning grounds. That is his justification. I think that in itself is flawed. However, we go further and say that what the minister is permitting under this legislation is far broader than that. I want the minister to walk me through this. I want to clarify this clause, because when we look closely we might find that something else is at play here. Clause 16(4) states that if a submission made under subclause (2) contains confidential information, the information may be excluded. Clause 16(2) states -

> A person notified of an appeal under subsection (1) may make written submissions to the Assessor . . .

Subclause (1) reads -

> When an appeal is set down for investigation the Registrar is to notify the person specified in Schedule 1 in respect of appeals of that type . . .

If we go to schedule 1, guess who we find is the first person mentioned? It is the Minister for the Environment, and that minister is notified. Therefore, the Minister for the Environment can give a confidential submission to this body. The Heritage Council, the East Perth Redevelopment Authority, the Subiaco Redevelopment Authority and the Swan Valley Planning Committee also can give confidential submissions. I want to know what sort of personal, compassionate grounds the Minister for the Environment, the Heritage Council or the East Perth Redevelopment Authority might want to raise on a planning matter. What sort of compelling private details that any of these parties might bring to bear could be relevant and confidential? Does the minister concede that these persons to be notified under schedule 1, which include the Minister for the Environment, the Heritage Council, the East Perth Redevelopment Authority, the Subiaco Redevelopment Authority and the Swan Valley Planning Committee, are not people who would have in this capacity any personal, compassionate grounds that they would need to keep secret?

Mr Kierath: No. That should be read in conjunction with other clauses in the Bill. Clause 16(4) refers to the parties. Subclause (1) states -

> When an appeal is set down for investigation the Registrar is to notify the person specified in Schedule 1 in respect of appeals of that type . . .

If one looks at the bodies relating to that type of appeal, those are the people who should be notified. However, they are not people whom I would expect to come back -

Ms MacTIERNAN: No, but they are the people whom the minister is empowering. Subclause (1) states that when an appeal is set down, the persons specified in schedule 1 are to be notified.

Mr Kierath: In respect of appeals of that type.

Ms MacTIERNAN: Yes, that is right. Subclause (2) states that a person notified of an appeal under subclause (1) may make written submissions. Therefore, subclause (2) is referring to those people set out in the schedule. Subclause (4) reads -

> If a submission made under subsection (2) contains confidential information . . .

Therefore, what we are talking about can be submissions - maybe even exclusively - made by the minister, the Heritage Council, the East Perth Redevelopment Authority, the Subiaco Redevelopment Authority and the Swan Valley Planning Committee. Does the minister agree that that is how the legislation works? Those persons or bodies are notified by virtue of subclause (1). By virtue of subclause (2), they are given the right to make written submissions, and by virtue of subclause (4), they are given the right to give secret information.

Mr CUNNINGHAM: I have problems. I want to hear more about this subject. I am not sure that I have heard enough.

Ms MacTIERNAN: It is important to sort this out, because it is inconsistent with what the minister is saying. I will go through this one more time: Subclause (1) specifies the various persons or bodies in schedule 1 that are to be provided with notice of an appeal. Subclause (2) gives any of those people who have been so notified the right to make written submissions. Subclause (4) says that any of those persons who have been given the right under subclause (2) to make written submissions may also make secret submissions or apply to have their submissions kept confidential. Therefore, I want the minister to justify to this House why any of those bodies - any of those government agencies or ministers - specified in schedule 1 might be entitled to give confidential information.

Mr KIERATH: From the Government's point of view, there is no doubt that this was aimed mainly at protecting information that people wanted to be kept confidential. When one reads this clause, one can take the point of view to which the member referred. Equally, those agencies, to which I will refer in a moment, may well have certain personal information that must be kept confidential. There could be a range of things. Under the East Perth Redevelopment Act, the purchasing of land could be involved. The situation could be similar with the Subiaco Redevelopment Authority. In some cases, there may be deliberations that the Heritage Council does not want to be made public. This gives those people the opportunity to put forward their case. Information is not automatically excluded; it is at the discretion of the director.

Ms MacTiernan: Yes, who is your ministerial appointment. This is an absolute outrage. The more one goes into this legislation, the more disgraceful it is. How this ever got past the Attorney General is beyond me. Will the minister acknowledge that this provision applies to those people listed in schedule 1?

Mr KIERATH: I have already made my comments on the record.

Ms MacTiernan: I want to clarify that the minister is acknowledging -

The ACTING SPEAKER (Ms Anwyl): Unfortunately, the member for Armadale does not have the call. She had the call previously. Technically, she is out of order.

Mr McGOWAN: I was listening intently to the member for Armadale. I did think that the minister intervened and spoke. I thought that the member for Armadale then had the right to address the House. In any event, I was listening to what she was saying, and I want to hear more.

Mr KIERATH: I have nothing further to add. I have put my comments on the record. These people have the right to put forward a case. The exclusion of information on compassionate grounds is considered in only very special cases. If people are involved in transactions at some stage which they want to be kept confidential, it is not an automatic right that that information will be excluded. I am just repeating myself. I have put this on the record previously. The member may want to check it, but when I got up before I detailed that and said that those people obviously do have the right if they are listed under schedule 1. However, the thrust of this is intended to be for compassionate reasons, and for private and confidential information, and it is not meant to be used for other aspects; and I have given my reasons and experience with regard to that matter.

Ms MacTIERNAN: Does the minister believe that a government agency may have personal and compassionate reasons for not wanting to disclose information? Is that the essence of what the minister is saying?

Mr Kierath: That is not the essence of what I said.

Ms MacTIERNAN: How will this legislation work to provide anyone other than government agencies with the power to make confidential submissions?

Mr Kierath: Read subclause (4).

Ms MacTIERNAN: Subclause (4) refers to "a submission made under subsection (2)". The class of persons under subclause (2) is "a person who is notified of an appeal under subsection (1)". Subclause (1) states, "When an appeal is set down for investigation the Registrar is to notify the person specified in Schedule 1". Therefore, it appears that the only class of people who can make these secret submissions is government agencies.

Mr KIERATH: We give drafting instructions, but the form of words is done by parliamentary counsel. I am not shifting the blame or anything else, but I know what our instructions were. It is my understanding that the nature of subclause (4)

is simply to protect confidential information that is given. I give an undertaking to the member that I will have this matter examined by parliamentary counsel, and I will then take the appropriate action of either coming back to the House or requesting that changes be made in the other place. I believe this does reflect our advice to parliamentary counsel, but I will give parliamentary counsel a copy of the debate on this clause and ask it to reconsider this matter in the light of the member's comments. I do not think I can be more reasonable than that.

Ms MacTIERNAN: Given that the minister has admitted that it is unclear what is intended here, how can we vote on this clause? The minister has acknowledged that this clause does not do what he thought it does.

Mr KIERATH: I do not agree with that at all. It does what I thought it would do, but it goes further than I thought it would go. I give an undertaking that if the advice is to the contrary, I will bring this matter back to the House. I gave that undertaking before on another clause, and I found out that parliamentary counsel was right and the member's interpretation was not correct. I am simply seeking to do the same sort of thing with this clause and give the member my word that if the advice of parliamentary counsel does bear out the member's comments, I will bring the matter back to the House.

Mr McGOWAN: I am not planning to steal the member for Armadale's thunder, but if we put this clause to the vote knowing that there is a potential flaw in this clause, will we not be passing a clause that we are not sure we agree with? The Government has a majority of a substantial number, and this clause will no doubt pass, but are we not being a bit irresponsible in voting on this clause? I am seeking a bit of guidance about the procedure.

Dr Hames: You have the option of changing it in the other place; and in the past with some of my legislation we have come to an agreement to change it in the other place in response to concerns expressed by members in this place.

Mr McGOWAN: It is 9.45 pm, and we are due to finish at 10.00 pm. Would it not be better if the minister came back tomorrow and clarified the points raised by the member for Armadale? In the past I have dealt with issues in this place and ministers have given me assurances that they will consider certain matters, but we have never heard another word about it. We do not have the resources to constantly follow up these things if ministers do not see fit to do so. Having regard to the time, I believe that is a reasonable position.

The ACTING SPEAKER (Ms Anwyl): It is possible for the minister to seek to postpone the vote on this clause. The other option, as has been suggested, is to move to adjourn the debate.

Mr KIERATH: I am happy to postpone the debate on this clause, although I did provide to members - perhaps I should have put that on the record - the explanatory notes on this clause, which I believe put it reasonably clearly; and I am fairly certain that will be the answer that I get from parliamentary counsel. My only reason initially for not going along with the amendment is that the Opposition wanted to delete these words completely, and I was not prepared to do that. However, in hindsight, I am prepared to defer the consideration of clause 16 until I seek further advice from parliamentary counsel.

Further consideration of the clause postponed, on motion by Mr Kierath (Minister for Planning).

Clause 17: Investigation of appeals -

Ms MacTIERNAN: I move -

Page 11, line 12 - To insert after the word "appropriate" the following -

but not the Minister for Planning or his or her representative or agent

The minister has told us that he believes there are many desirable features in the ministerial appeal system and he is seeking to entrench those across the system, but the one thing that needs to change is that the minister must be taken out of the system. However, what we have here and in a range of other places within this legislation is that the minister is staying well and truly in the middle of the process.

We know that the minister personally appoints all the assessors and the members of the panel. We know that the panel does not have any traditional independence, and we know that the assessors do not have the independence of being public servants appointed under the Public Sector Management Act and that they have all the indicia of ministerial appointments. From other provisions in the legislation, we know that the minister gives himself the express power to go in at any time and look at all the documents that have been lodged in the appeal. Now the assessor is entitled to have discussions with the parties, witnesses, experts and anyone else the assessor considers appropriate. We have fundamental problems with the whole structure of these investigative assessors, and we have gone into that on several occasions. We are trying to give effect to the promise made by the minister that, for all the other flaws, the denial of natural justice and the other difficulties, at least we might achieve one thing from this - taking the minister out of the appeal process. With this motion we are indicating that it is not appropriate for the assessor, who has been appointed directly by the minister, to have discussions with the minister on the appeal process. Our desire to remove ministerial influence from the outcome of a decision will be undermined if the assessor can have discussions with the Minister for Planning. As we know from the previous clause, those discussions can be confidential, secret and not made available to the other side. This is a simple amendment encapsulating a simple principle which only this evening the minister has said he supports; that is, that we must remove the minister from the planning appeals process. It is absolutely wrong that an assessor appointed by the minister should have the right to have discussions about any appeal with the minister.

Mr KIERATH: That shows how desperate the member has become. The clause states "and anyone else the Assessor considers appropriate". The member was right when she said that I wanted to take the minister out of the appeals, and the

minister will be taken out of the decision-making process. However, there may be an appeal for some reason - I cannot think of one - and the assessor may think it appropriate to speak to the minister in that case. There may be some planning issues with which the minister has been involved; after all, he is the Minister for Planning and is responsible for this legislation. If the issue did not involve the minister in the normal process, I would not believe that the assessor would refer the matter to the minister at all. The assessor would have to give some basis for doing that. It would not just be seeking the minister's opinion; the assessor would have to give some basis for doing that. There is no reason to rule out the minister. It is highly unlikely that the assessor would go to the minister, but I see no reason to rule it out.

Ms MacTIERNAN: Again we have the RAC defence: "It will never happen." Does the minister acknowledge that this leaves it open for the minister to be consulted by his staff member in investigating an appeal and that he can be directly consulted by a person he has appointed?

Mr Kierath: Do you ever listen to what I say?

Ms MacTIERNAN: Yes.

Mr Kierath: What did I say? I said that I thought it was possible but highly unlikely.

Amendment put and a division taken with the following result -

Ayes (15)

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

Noes (26)

Mr Ainsworth	Mrs Hodson-Thomas	Mr McNee	Mr Trenorden
Mr Baker	Mr House	Mr Nicholls	Dr Turnbull
Mr Barnett	Mr Johnson	Mr Omodei	Mrs van de Klashorst
Mr Bloffwitch	Mr Kierath	Mr Osborne	Mr Wiese
Mr Court	Mr MacLean	Mr Prince	Mr Tubby
Mrs Edwardes	Mr Marshall	Mr Shave	*(Teller)*
Dr Hames	Mr Masters	Mr Sweetman	

Pairs

Dr Gallop	Mr Cowan
Mr Brown	Mr Board
Mr Bridge	Mr Pendal

Amendment thus negatived.

Debate adjourned, on motion by Mr Kierath (Minister for Planning).

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL 1998

Receipt and First Reading

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

House adjourned at 10.01 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

OMBUDSMAN, COMPLAINTS ABOUT POLICE SERVICE'S INTERNAL AFFAIRS UNIT

1142. Mrs ROBERTS to the Speaker:

(1) How many complaints has the Parliamentary Commissioner for Administrative Investigations received during 1999 concerning the Western Australian Police Service's Internal Affairs Unit?

(2) How many of those complaints were made by police officers?

(3) How many complaints did the Parliamentary Commission for Administrative Investigations receive in 1998 concerning the Western AustraliaN Police Service's Internal Affairs Unit?

(4) How many of those complaints were made by police officers?

The SPEAKER replied:

The Parliamentary Commissioner has informed me that the current system of recording complaints used by his Office does not specifically identify complaints where the subject of the complaint is the Internal Affairs Unit of the Western Australia Police Service. However, after a manual check of records the following is believed to be the information sought by the member for Midland:

(1) Seven (7) complaints were received by the Parliamentary Commissioner in 1999 about the Internal Affairs Unit.

(2) Six (6) of those complaints were made by serving or former police officers.

(3) Eight (8) complaints were received by the Parliamentary Commissioner in 1998 about the Internal Affairs Unit.

(4) Six (6) of those complaints were made by serving or former police officers.

The Parliamentary Commissioner has further advised that these figures include certain complaints where the officer complained about was not an Internal Affairs Unit member but was engaged in an Internal Affairs Unit activity.

EDUCATION, INTERNET 2

1731. Mr BROWN to the Minister for Education:

(1) What action has the Government taken on -

(a) promoting; and
(b) developing,

Internet 2 to provide a high-speed research and education network for the delivery of courses across networks, collaborative networks searches, digital libraries and remote access?

(2) What resources has the Western Australian Government allocated to this task?

(3) What progress has been made to date?

Mr BARNETT replied:

(1)-(3) No specific action has yet been taken with regard to promoting or developing Internet 2 at the Education Department of WA. The focus at the moment is on developing a robust telecommunications infrastructure that is accessible by all government schools. Internet 2 is a research and development project aimed at providing applications not currently possible with current technology. The opportunities provided by Internet 2 will be researched and if appropriate and affordable will influence future Department service delivery over the Internet.

TEACHERS, PATERSON, MS MARION

1741. Mr McGOWAN to the Minister for Education:

I refer to Ms Marion Paterson ID No 141254 and the fact that she has not been allocated a permanent teaching position in the Education Ministry and ask -

(a) why does Ms Paterson not have permanency;

(b) is the minister aware that Ms Paterson has had temporary status for the 16 years of teaching service;

(c) is it the case that teaching staff with far less teaching experience who occupy "clear vacancies" have attained permanency easily;

(d) if so, why; and

(e) when can Ms Paterson expect to obtain permanency?

Mr BARNETT replied:

(a) Ms Paterson is not a permanent teacher with the Education Department as, for a number of years, it has not been possible to offer permanency to primary teachers. This has been due to the insufficient number of teaching positions available to accommodate an increase in permanent staff. The situation has been redressed to some degree and the Department is now in a position to offer some additional permanent positions.

(b) I am aware that Ms Paterson has been a fixed term teacher for 16 years.

(c)-(d) Principals are invited to recommend fixed term teachers on their staff for "clear" vacancies in their schools which are not filled by permanent teachers wishing to transfer, or by the appointment of Permanent Area Teachers. These recommendations are based upon the suitability of teachers to best meet particular student needs. Fixed term teachers were advised of this in a letter dated 8 November 1999 from Mr Peter Browne, A/Director General of Education, which stated, "Where there is more than one temporary teacher at the school competing for the same position, the principal will recommend who is to be appointed on the basis of who best meets the position profile and needs of the school." Seniority of teachers is not part of the criteria and to include it would be to breach Equal Opportunity legislation. Where schools do not have suitable fixed term teachers on staff, clear vacancies are filled by the Staffing Directorate of the Education Department matching school requests with teacher applications, based on location and teaching preferences.

(e) Ms Paterson should apply widely for placement in 2001 in order to enhance her prospects of being appointed to a "clear" vacancy. By applying widely she will increase her prospects of the student needs of the school matching with her teaching capabilities and nominated teaching preferences.

SOUTH PERTH PRIMARY SCHOOL, ADMINISTRATIVE UPGRADE

1763. Mr PENDAL to the Minister for Education:

I refer to his department's plans for the upgrade of, and improvements at, the South Perth Primary School and ask -

(a) what is the status of plans to complete an administrative upgrade at the school;

(b) when will it be completed;

(c) what other work is proposed, or listed, for the school; and

(d) when is this work scheduled to begin and be completed?

Mr BARNETT replied:

(a)-(b) At present, the preliminary feasibility plans have been agreed to by the school. Oldfield Knott Architects Pty Ltd have been commissioned to undertake the design, documentation and contract administration of the project. Work should be completed by early next year.

(c)-(d) No other works are listed or proposed for the school at present.

TEACHER TRAINING, DISABILITIES AND LEARNING DIFFICULTIES

1775. Dr CONSTABLE to the Minister for Education:

(1) Will it be a requirement of the Education Department as from the beginning of 2001 that all prospective teaching staff will have undertaken a minimum of one half-year unit's study in disabilities and learning difficulties during their pre-service training?

(2) If yes, what systems are to be set in place before December 2000 by EDWestern Australia to ensure that all applicants, including those from the Graduate Diploma of Education programs, meet this requirement?

Mr BARNETT replied:

(1) No. All Western Australian universities include a compulsory unit focussed upon the teaching of students with special needs, including learning disabilities, in their four year teacher training course. However, students in Graduate Diplomas in Education may elect to study units relating to special needs but are not compelled to do so.

(2) Not applicable.

EDUCATION DEPARTMENT, DISABILITY SERVICE PLAN

1776. Dr CONSTABLE to the Minister for Education:

What action has been taken to implement Outcome 4 of the Education Department's Disability Service Plan to "provide disability awareness training for Department staff, with priority given to training all school principals, customer contact staff and policy development officers in the first instance"?

Mr BARNETT replied:

Disability Awareness training is provided to District Office, Central Office and school personnel by the Education Department's Centre for Inclusive Schooling. A number of conferences, seminars and workshops were offered during 1999 by the Centre covering disability awareness. A number have also been planned and advertised for 2000. The Visiting Teacher Service from the Centre for Inclusive Schooling works directly with school communities, including customer contact staff and principals. Training for school principals is seen as a priority area and the Department is waiting on a specific self-paced disability awareness package becoming available in July 2000. The package has been developed by the South Australian Education Department and is currently being prepared for publication. A comprehensive audit of the Department's implementation of its Disability Service Plan is being undertaken during 2000. This will result in an updated plan being published later in the year.

KING EDWARD MEMORIAL HOSPITAL, MIDWIFERY COURSE

1782. Dr CONSTABLE to the Minister for Health:

(1) Why has the Minister for Health moved the midwifery course at King Edward Memorial Hospital (KEMH) to Curtin University?

(2) What will the effect of the change of location be on the level of practical experience available to students enrolled in the KEMH midwifery course?

Mr DAY replied:

(1) The Minister for Health has not moved the location of the midwifery course. The decision to transfer midwifery training follows a directive from the Nurses Board of Western Australia which stipulates that all midwifery training be transferred to the tertiary sector by 2003. In addition to this, the Australian College of Midwives' national position is that all midwifery programs were to be transferred to the tertiary sector by 1995. The King Edward Memorial Hospital School is the last school of midwifery in Australia and the transfer brings King Edward Memorial Hospital into alignment with the rest of the country.

(2) The future model for the training of midwives has not been determined at this stage and is likely to include collaborative programs between the hospital and university sectors. the effect of the change of location on the level of practical experience available to students has therefore not yet been determined. Edith Cowan University has registered its interest in providing midwifery education in addition to Curtin University's established program.

KENSINGTON PRIMARY SCHOOL, INCREASED ENROLMENTS

1786. Mr PENDAL to the Minister for Education:

I refer to the Kensington Primary School and the upsurge in student enrolment and ask -

(a) is the school expected to be re-classified next year because of the increase in student numbers;

(b) if so, is it correct that the present principal and deputy principal will be replaced by a new principal and two deputies;

(c) is the Minister aware of the archaic office accommodation for the existing principal and staff which involves the principal vacating his office to allow other specialist staff to use his office on many occasions;

(d) is the Minister aware that the "waiting" or "reception" room is in fact an open corridor/exit-entry point to and from the school;

(e) is the Minister aware that the photocopying "room" was also designed originally as a second entry/exit to and from the school; and

(f) given these serious deficiencies and others, including an inadequate staff room, will he guarantee that all necessary work is carried out, including an administrative upgrade, in time for the next school year?

Mr BARNETT replied:

(a) Yes. Kensington Primary School will be reclassified from a class 4 primary school to a class 5 primary school for 2001.

(b) As a Level 5 school, Kensington Primary School is entitled to two Deputy Principals. The present Deputy will continue in his current role and a second will be appointed to the vacant position. The current principal will be assigned Employer Initiated Transfer status and transferred into another Level 4 primary school. He is eligible to apply for Level 5 schools via the merit process. A new principal will be appointed on merit or through the Employer Initiated Placement process.

(c)-(f) The School has not yet submitted a request to the Cannington District Education Office to be considered for a possible administration upgrade. Schools are required to make a submission to the relevant District Office for consideration by the Capital Works Committee. This Committee considers all submissions for Capital Works in the District and prioritises them for consideration by Central Offie. Kensington Primary School will be informed of the process.

EDUCATION, INTENSIVE LANGUAGE CENTRES

1854. Ms WARNOCK to the Minister for Education:

(1) What are the terms of reference for the review of the relocation for primary Intensive Language Centres in this State?

(2) What is the time limit for any consultative process?

(3) Who will be consulted?

(4) Are there any plans to relocate lower second Intensive Language Centres at other locations in the metropolitan area?

(5) If so, where?

(6) If children of, say, refugees, have to go to school in Western Australia (like the children of business migrants and "provisional spouses") should they not also be provided with Intensive Language courses?

(7) Will the Minister negotiate with the Federal Government to get funding for these children?

Mr BARNETT replied:

(1) The terms of reference for Stage 1 of the Planning Process; Developing a Draft Plan were:

Consider and analyse all information;
Refine the grouping of schools;
Develop all options; and
Make recommendation(s).

The terms of reference for Stage 2 of the Planning Process; Extensive Consultation with School Communities as follows -

Develop a consultative plan which:

- explicitly states how the consultation process is to be conducted including establishing that all discussions and documentation are open for the public record
- ensures that all stakeholders are fully informed about the draft Plan options;

Consider and respond to issues;

Ensure decisions comply with principles and planning indicators;

Confirm or propose changes to the recommended organisational pattern of schools in the area as specified in the draft Local Area Plan, and as appropriate:

- modify reinvestment proposals, including sources of funding
- modify time lines for implementation of the recommendations; and

Prepare consultation report.

(2) It is intended that the consultation process will be completed by the end of Term 3, 2000.

(3) The Consultation Committee has yet to finalise the consultation strategy, which will identify all the stakeholders. The Committee will determine who will be consulted in the strategy when it is finalised.

(4) Due to the planned closure of Swanbourne Senior High School, the Intensive Language Centre has been relocated to Perth Modern School. This and the other ILCs are expected to be reviewed through Local Area Education Planning, with the process commencing in 2000.

(5) This is yet to be determined.

(6) Intensive Language Centres within Western Australia are funded through the English as a Second Language New Arrival Grant within the Commonwealth Programs for Schools. Eligible students are required to be Australian citizens or those who arrive in Australia on permanent residency visas. Students who arrive in Australia on temporary visas are not eligible to attract this Commonwealth funding.

(7) This issue will be raised with the Federal Government at an appropriate forum.

GOVERNMENT DEPARTMENTS AND AGENCIES, ONSITE CHILD CARE

1861. Mr BROWN to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

(1) What departments and agencies under the Minister's control offer or provide on-site childcare facilities for employees?

(2) What is the nature of the facilities offered?

(3) Are any departments or agencies under the Minister's control giving consideration to offering such on-site childcare facilities?

(4) If so, what departments and agencies?

(5) Do any departments and agencies under the Minister's control have the plans to offer or provide on-site childcare facilities to employees?

(6) If so, when?

(7) What is the nature of the facilities that will be provided?

Mr SHAVE replied:

LandCorp
(1) LandCorp does not provide any on-site childcare facilities.
(2) Not applicable.
(3) No.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

Western Australian Electoral Commission
(1) The Western Australian Electoral Commission does not provide on-site childcare facilities.
(2) Not applicable.
(3) No.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

Ministry of Fair Trading
(1) Ministry of Fair Trading does not provide childcare facilities.
(2) Not applicable.
(3) No.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

Department of Land Administration
(1) The Department of Land Administration does not provide on-site childcare facilities.
(2) Not applicable.
(3) No.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, ONSITE CHILD CARE

1866. Mr BROWN to the Minister for Employment and Training; Youth; the Arts:

(1) What departments and agencies under the Minister's control offer or provide on-site childcare facilities for employees?

(2) What is the nature of the facilities offered?

(3) Are any departments or agencies under the Minister's control giving consideration to offering such on-site childcare facilities?

(4) If so, what departments and agencies?

(5) Do any departments and agencies under the Minister's control have the plans to offer or provide on-site childcare facilities to employees?

(6) If so, when?

(7) What is the nature of the facilities that will be provided?

Mr BOARD replied:

WA DEPARTMENT OF EMPLOYMENT AND TRAINING
(1) Central Metropolitan College of TAFE
Midland College of TAFE
Bunbury Campus of South West Regional College
Great Southern Regional College of TAFE
Central West College of TAFE
Karratha College
Eastern Pilbara College of TAFE

(2) Child care facilities are provided on campus through private providers at the following TAFE colleges:

Central Metropolitan College of TAFE - The facility is licensed to provide for up to 37 children from zero to six years of age.

Midland College of TAFE - Childcare centre for children zero to six years of age.

Bunbury Campus of South West Regional College - Community operated childcare accessed by general community.

Great Southern Regional College of TAFE - Full childcare service from zero to six years of age.

Central West College of TAFE - On-site facilities are provided to employees through an outsourced private provider. Staff at the Carnarvon campus have access to a créche on a user pays basis.

Karratha College - Occasional childcare. Currently provided by College however will be transferred to independent community management on 1 July 2000:

Eastern Pilbara College of TAFE - Long day care.

(3) No.

(4) Not applicable.

(5) No.

(6)-(7) Not applicable.

MINISTRY FOR CULTURE AND THE ARTS

(1) The Ministry for Culture & the Arts does not provide on-site childcare facilities for employees.

(2) Not applicable.

(3) Yes.

(4) The Ministry for Culture & the Arts.

(5) This will be considered as part of the Ministry's current EBA commitment to analyse childcare needs with the Ministry.

(6)-(7) Not applicable.

OFFICE OF YOUTH AFFAIRS

(1) Nil.
(2) Not applicable.
(3) No.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, ONSITE CHILD CARE

1869. Mr BROWN to the Minister for Works; Services; Citizenship and Multicultural Interests:

(1) What departments and agencies under the Minister's control offer or provide on-site childcare facilities for employees?

(2) What is the nature of the facilities offered?

(3) Are any departments or agencies under the Minister's control giving consideration to offering such on-site childcare facilities?

(4) If so, what departments and agencies?

(5) Do any departments and agencies under the Minister's control have the plans to offer or provide on-site childcare facilities to employees?

(6) If so, when?

(7) What is the nature of the facilities that will be provided?

Mr JOHNSON replied:

Department of Contract and Management Services

(1)-(4) Contract and Management Services is able to access the Dumas House family room. The family room comprises a work station and phone for staff with a bed, television, video and toys for children.
(5) This issue will be raised for the next CAMS Workplace Agreement.
(6) Next CAMS Workplace Agreement.
(7) CAMS Workplace Agreement will continue to enable family friendly employment conditions.

State Supply Commission

(1)-(2) The State Supply Commission is able to access the Dumas House family room. This facility provides a fully functioning work station with a computer, telephone and space to occupy and entertain children.
(3) No.
(4) Not applicable.

(5) No.
(6)-(7) Not applicable.

Office of Citizenship & Multicultural Interests
(1) The Office of Citizenship and Multicultural Interests does not provide on-site child care facilities.
(2) Not applicable.
(3) No.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

YOUTH, MULTICULTURAL PROGRAMS

1934. Ms WARNOCK to the Minister for Youth:

Will the Minister provide details of what, if any, programs for young people from different ethnic backgrounds have been established by the Office of Youth Affairs?

Mr BOARD replied:

The Office of Youth Affairs was established in 1996 to:

> develop, co-ordinate and implement youth policy initiatives and programs across the government and non-government sector;
> improve access to information and links to community resources for youth; and
> develop programs that address the needs of young people.

The Office of Youth Affairs' mission is *to promote the development and potential of young people* and it aims to assist all young people, regardless of ethnic background, aged 12 to 25 years of age. Through the Office of Youth Affairs, programs have been implemented which have had a significant impact on all young people and the community in general. For example, there are now 84 Youth Advisory Councils (YACs) operating around the State. YACs have been designed to enable all young people who wish to participate to advise the Government direct about issues facing young people and ways to address those issues.

The Cadets WA program has also been popular with young people and there are now 149 units established in Western Australia. The program gives all young people wishing to take part the opportunity to learn invaluable life skills in a structured and safe environment. Examples of programs specifically targeted at ethnic youth include a State Ethnic Youth Conference/Camp held on 25-27 October 1996, in which 60 young people representing 14 different nationalities participated. They were asked a range of questions relating to their background, the results of which have been used to help shape programs and policy. Additionally, through Leadership WA a joint venture has been formed with the Australian Asian Association. This has seen participants who are either young people themselves or those involved in working with young people participate in a program called "Promoting Excellence" through which they will develop key leadership competencies.

LAND, HANNANS, KALGOORLIE

1950. Mr BROWN to the Minister for Lands:

(1) How many new blocks of resident land have been released by the State Government in the north west sector of Hannans in Kalgoorlie since 1 January 1999?

(2) Did Native Titles issues previously prevent the release of land in Hannans?

(3) Have those Native Title issues been resolved?

(4) On what date were they resolved?

(5) What action has the Government taken to release land since that time?

(6) How many blocks of land are able to be released?

(7) What is the timetable for the release of the land?

Mr SHAVE replied:

(1) Nil.

(2)-(3) Yes.

(4) On Monday 28 June 1999, the National Native Title Tribunal made a consent determination in accordance with the conditions agreed by the State and the Claimants for the acquisition of land in the North West Sector of Kalgoorlie by DOLA.

(5) -An enquiry by design workshop facilitated by the Ministry of Planning to review the structure plan for the whole of the North West Sector and the Outline development for the first phase of the development.
-The appointed planner has reviewed and prepared a draft structure plan.
-Consultations and liaison with Council to address any issues before facilitation.

-Due diligence process for the development is underway.
-In progress of engaging a project manager for the development.
-Formation of the Kalgoorlie-Boulder Golf Course Steering Committee to oversee the relocation of two golf courses.

(6) Nil at this point of time.

(7) Residential land could be on the market late 2000.

MUNGARI INDUSTRIAL PARK

1962. Mr BROWN to the Minister for Lands:

(1) What plans does the Government have to facilitate development of strategic industry at the Mungari Industrial Park?

(2) What resources has the Government allocated towards achieving these plans in the 1999/2000 financial year?

(3) What amounts have been allocated for this purpose in the forward estimates?

Mr SHAVE replied:

(1) The Mungari Industrial Park is ready to respond to the needs of strategic industry following rezoning, environmental and subdivision approval and resolution of Native Title issues.

(2)-(3) LandCorp, the owner and developer of the industrial park, has the resources to facilitate development as demand requires. An amount of $18,000 has been allocated in the 1999/2000 financial year for marketing and minor consultancy work.

QUESTIONS WITHOUT NOTICE

Point of Order

Dr GALLOP: The Minister for Fair Trading is not in the Chamber and we have questions for him. Could I make that a point of order?

The SPEAKER: I understand but I will follow the procedures.

AUSTRALIND BYPASS LAND, SALE

635. Mr KOBELKE to the Minister for Regional Development:

In relation to the meetings held between the Deputy Premier and Mr Len Buckeridge over the sale of land near Bunbury, I ask -

(1) Is it true that the South West Development Commission hired a consultant to prepare a proposal for the rezoning from rural to industrial of the land it owned near the Australind bypass?

(2) Is it true that Mr Len Buckeridge was informed of this on or about 10 March 1999?

(3) Is it true that the Deputy Premier again met with Mr Buckeridge regarding this issue on or about 15 March 1999?

(4) Will the minister explain why the South West Development Commission then decided not to proceed with the rezoning of the land, which it sold to Mr Buckeridge?

Mr COWAN replied:

(1)-(4) I do not think the member would expect me to give clear answers to the first parts of his question without my being given some prior notice. There has not been any notice but I will give the member the precise answers. I know that I have had some phone conversations with Mr Len Buckeridge on this issue. I am not aware that I have ever had a formal meeting with him to discuss the issue. Nevertheless, the phone calls contained the subject matter on which the member has asked the question.

Mr Kobelke: Briefing notes were prepared for you for these meetings.

Mr COWAN: I am trying to explain to the member for Nollamara that I do not think there were any meetings. There is no doubt that I would have received a briefing note from the South West Development Commission about this issue. I think the critical part of this is not so much the question of whether there were meetings or phone conversations, or the timing of these things. On the question of the expansion of the Bunbury port, the Bunbury Port Authority decided that it no longer required the land that had been acquired by the South West Development Commission 10 to 12 years ago for the port's expansion. When the Bunbury Port Authority made it clear that it no longer required the land, I advised the South West Development Commission that, as it had no need to keep the land, it should sell it. The South West Development Commission, on its own initiative, decided that it would be more appropriate for the land to be sold as industrial land rather than under its current zoning, which is rural. It applied to the Bunbury City Council for a rezoning and it was told by the

council that the council would not contemplate rezoning the land to industrial. The reason for that was that a majority of members on the council felt that they did not want an industrial site as an entry statement to the City of Bunbury. I then indicated to the South West Development Commission that, because it was surplus to its requirements, it should still place it on the market. It did so. It called tenders, and the highest bidder was the Buckeridge group. The land was purchased for $509 000 after four tenders were submitted. The Valuer General had valued the land at $1m if it were zoned industrial; however, it was still zoned rural. The South West Development Commission had sought permission to get it zoned industrial but that approval was refused by the Bunbury City Council.

Mr Kobelke: Was it refused by the council or the officers?

Mr COWAN: I understand the council refused permission. I will confirm that for the member. My understanding is that the South West Development Commission took my advice and decided to sell the land as rural and called for tenders. It was an open, public process and the highest tender won the bid.

THREE-STRIKES LEGISLATION

636. Mr MASTERS to the Premier:

Is the Premier aware that the Attorneys General from the four Labor-governed States last week tried to force Western Australia to change its "three strikes and you're in" legislation for repeat home burglary offences, and is the Attorney aware that the federal Labor leader, Kim Beazley, is prepared to use federal legislation to override our state law? If so, what action does the Government propose to take on this issue?

Mr COURT replied:

I thank the member for the question. I am aware of those actions and the Government does not propose to change its legislation. The federal Labor Party leader is prepared to use the external affairs powers to override Western Australian legislation. It is outrageous that a federal leader - who is from Western Australia - wants to override the will of this Parliament. The Attorneys General from the four Labor-governed States want us to scrap the law. The Western Australian Labor Party says it wants the law scrapped, yet I understand the state Labor Party leader supports the legislation. Eleven federal Labor members from Western Australia are campaigning to scrap the law.

Mrs Roberts: The Parliamentary Labor Party is united on this issue.

Mr COURT: The Labor Party supports Kim Beazley's proposal. The state's Labor Party senators want to use the external affairs powers to override the laws. I would hardly call it a united position.

Ms Warnock: Has the Premier not noticed we support him?

Mr COURT: The Parliamentary Labor Party members say that this time they support the Government's legislation -

Mr Ripper: What is John Howard's position?

Mr COURT: John Howard has made it very clear that he has no intention of overriding the Western Australian legislation. Interestingly, a telephone poll published today by the Community Newspaper Group says that 93 per cent of people support the legislation. These people not only support the law, but they believe the Government's position is too soft. This Government fully accepts that it must concentrate more on preventing crime in the first place. That is why it has implemented the Safer WA strategy, which is now starting to get results. The community is also saying that it would like a bipartisan approach to these issues.

Ms MacTiernan: The Government has got it!

Mr COURT: Well, could the member for Armadale please tell me what the Labor Party's position is on the "three strikes and you're in" legislation?

Opposition members interjected.

The SPEAKER: I remind members that interjections are disorderly. I have allowed quite a few, but it appears that it is too many.

Mr COURT: If the Opposition cannot speak with a united voice on a relatively simple issue, it has a problem. The last comment I make is about the so-called United Nations report. It is a joke, and it belittles the reputation of the United Nations to say that a report has been prepared after proper consideration of the Western Australian legislation, because it has not happened. It belittles that organisation to throw around the term "United Nations report" and to be critical of this legislation when the United Nations has not properly considered it.

At the next election, should people look at the Labor Party policy or the policy of the Parliamentary Labor Party? Which one should we listen to?

MACDONALD RUDDER, TELEPHONE CALLS

637. Mr RIPPER to the Minister for Lands:

I refer to the minister's denial that he or his office had any involvement in negotiations with the Kingstream-funded Yaburarra native title claimants or their representatives Macdonald Rudder, and ask -

(1) Can the minister explain why David Johnston's legal firm, Macdonald Rudder, has billed the Yaburarra for telephone calls to his office on 20 May 1997 and 20 October 1997, and a telephone call to the minister on 11 December 1997?

(2) What was discussed in these telephone calls?

Mr SHAVE replied:

(1)-(2) When I was asked the question last week, I commented that I had had no discussions with Mr Johnston on the Yaburarra claim. However, I undertook to make some inquiries for the member, and I now have detailed advice from my department and from the Department of Land Administration on those discussions. I am happy to table them.

[See papers Nos 779 and 780.]

MACDONALD RUDDER, TELEPHONE CALLS

638. Mr RIPPER to the Minister for Lands:

Will the minister answer the questions about the telephone calls to his office and to him?

Mr SHAVE replied:

I answered the question. The member asked whether I had had discussions on the issue with David Johnston and I said I had not.

SOUTH WEST HEALTH CAMPUS, FUNDING LEVELS

639. Mr OSBORNE to the Minister for Health:

My constituents greatly appreciate the services now available to them through the magnificent new South West Health Campus. Is there any truth in recent criticism by the Opposition of the funding levels for this facility?

Mr DAY replied:

I thank the member for some notice of this question. I am aware of comments made recently by the Opposition about the South West Health Campus in Bunbury. In particular, I am aware of the arguments put by the Opposition that the health campus is supposedly being run on a shoestring budget, and that there is a growing perception that the hospital is not large enough for the services it needs to provide. There obviously will never be an end to the whingeing and whining from members opposite about the South West Health Campus. This is despite the fact that this Government has established a magnificent new health campus together with the St John of God health care system. This $68m campus was opened 12 months ago, and has led to 130 public beds being established on the new site collocated with 90 private beds.

For the first time, chemotherapy services, inpatient mental health services, renal dialysis and palliative care facilities are available to people in the south west region. The Labor Party could only dream of that when it was in government, and may have promised it but never delivered it.

As far as the level of funding is concerned for the South West Health Campus, in particular the Bunbury Regional Hospital for which the Government has responsibility, when the Labor Party was in government it allocated $14.7m in 1992-93. This year the Government has allocated $29m. The amount has doubled in the time we have been in government, and that is far above the rate of inflation.

It is also worth considering some of the comments from local people about the services provided - what they actually think, as opposed to what visitors from Perth might think who feel they can lecture local people from the Labor Party perspective which is thrust down their throats. The following comments have been made by local people: "From personal experience everything from emergency upwards is good." "I've been in Bunbury more than 60 years and think the health facilities and services here are very good. Every year they improve with more doctors and clinics coming to Bunbury." "We were very happy with the service compared to what you receive in the Eastern States." I made that point last week.

It is also interesting to compare what this Government has delivered with what the Labor Party promised when it was in government. The best the Labor Party could achieve was the wasting of $2m of taxpayers' money in digging a hole in the ground, establishing a sand pad, putting in a few concrete foundations and sticking up a sign saying "This is where the new hospital will be." Like much of what the Labor Party did when it was in government, that was a fraud on the people of Bunbury. This Government has delivered and it is time the Labor Party stopped its whingeing.

SEWAGE, GNARABUP BEACH PTY LTD

640. Ms MacTIERNAN to the Minister for Water Resources:

I refer to the minister's answer to a question on notice 10 days ago in which he said that the carting of sewage from the Gnarabup beach development was not anticipated and therefore no cost undertakings were secured from the developer.

(1) How does the minister explain correspondence from the Water Corporation dated 24 November 1999 wherein the corporation confirmed the understanding that the developer should be responsible for all cartage costs associated with the trucking of raw sewage?

(2) Does the minister accept that it was negligent not to require a cost undertaking to ensure that taxpayers are not subsidising private developers to the tune of around $40 000?

Dr HAMES replied:

(1)-(2) I am aware of the question on notice, the answer to which was given to the member on 21 March. A commitment about carting costs was not sought because usually with any development of this nature it takes some time after the developer has been given the approval to proceed for it to sell those properties and make arrangements for the construction of houses. The Water Corporation makes a commitment under contract to provide the sewerage facilities well in advance and the facilities are paid for by the company seeking them. On this occasion, concerns were expressed by local residents and environment groups about the siting of the waste water treatment facility. The matter was taken to court to resolve the location of that facility and the extended works required by the Water Corporation. There has been some carting, but the member will be aware that the cost is not $40 000; it is $34 500 to this time. The Water Corporation is seeking to recover those funds from the company.

SEWAGE, GNARABUP BEACH PTY LTD

641. Ms MacTIERNAN to the Minister for Water Resources:

I have a supplementary question. When did the Water Corporation first become aware that there would be a problem?

Dr HAMES replied:

I do not know the answer to that question but now it has been asked, I am happy to provide that answer to the member.

Several members interjected.

The SPEAKER: Order, minister!

Dr Hames interjected.

The SPEAKER: Order! When I call order, ministers, I expect people to have some sense of the situation. I called order and we had a minister calling out in the Parliament, which is not a very good example. If the minister does it again, I will formally call him to order.

PROSTITUTION LEGISLATION

642. Mr SWEETMAN to the Minister for Police:

The latest newsletter of the Australian Family Association supports the legislation introduced by the Government to crack down on street prostitution and prostitution involving children. What efforts has the minister made to have this Bill passed by the Parliament in an effort to rid our society of these terrible practices?

Mr PRINCE replied:

The Australian Family Association was founded by the late B.A. Santamaria and it lists a number of very eminent Australians among its patrons. The first named is Hon Kim Beazley senior with all his qualifications. The organisation often comments on what is going on in society. Its latest newsletter states -

> To its credit the Court Government has introduced legislation to crack down on street prostitution, recruitment advertising and child prostitution. However, the ALP, Democrats and Greens gutted the bill last year in the Legislative Council by removing the essential police powers that gave the bill teeth. Without these provisions the bill will remain symbolic and fail to help police effectively stop street prostitution and trafficking in women.
>
> The AFA calls on these parties, and especially on the Australian Labor Party, to come to the table with the Government on this issue and ensure bipartisan support for an effective prostitution law.

The Community Newspaper Group today published the results of a survey indicating that the people would like to see bipartisanship. It would appear - the Leader of the Opposition confirmed again in question time - that we have bipartisanship with a minority of the Labor Party on the "three strikes and you're in" approach to home burglary offenders. When the Prostitution Bill was introduced into this place and rigorously debated, members opposite agreed with it and it went to the Legislative Council, in which the Labor Party has a minority of members. A small proportion of that minority said that the legislation was the greatest affront to human rights ever seen and proceeded to gut it.

I have negotiated with the Australian Democrats. I give Hon Norm Kelly full credit for the fact that he has been consistent throughout the debate and will not agree to pass the latest version of the Bill currently before the Legislative Council. I have also negotiated with the member for Midland and proposed to her that we remove the clauses relating to sexual offences - although it seems illogical to do so. I do not know whether it was discussed in the Labor Party Caucus today. However, I would like to know whether we have bipartisan support to pass the Prostitution Bill, or whether we will have -

Mrs Roberts: We are looking at your eighth draft of the Bill.

Mr PRINCE: So the answer is no. The Labor Party Caucus in this Parliament will not agree to pass a Prostitution Bill.

Mrs Roberts interjected.

The SPEAKER: Order! The member really cannot keep having tit for tat. The minister should bring his answer to a close.

Mr PRINCE: Yes; I will in a moment. The Labor Party's endorsed candidate for the seat of Perth, Mr John Hyde, who has a very high profile, is taking to his council tonight a proposition that some of the streets of inner Highgate be blockaded to stop kerb crawling and street prostitution. He is very supportive of this legislation.

Mrs Roberts: Because your Government has done nothing.

Mr PRINCE: Do I understand from the member that the Labor Party Caucus will not support the Prostitution Bill?

Mrs Roberts: I am not a minister; I am not answering your questions.

Mr PRINCE: It appears that the answer is no. Members opposite are condemned for their own inaction.

WEBB, MR MIKE

643. Dr EDWARDS to the Minister for Forest Products:

I refer to the business exit assistance application submitted by Albany truck driver Mr Mike Webb and ask -

(1) Is the minister aware that more than two months have passed since Mr Webb submitted his application?

(2) Why has it taken the Government more than two months to process Mr Webb's application?

(3) Is it because the Government has not yet secured the Commonwealth's $20m contribution to the forest industry structural adjustment package?

(4) When can Mr Webb expect to have his application processed so he can get his truck back from the finance company and find proper work again?

Mr OMODEI replied:

(1)-(4) The member is well aware of Mr Webb's situation. He was a contractor for Bunnings Forest Products Pty Ltd, which had a contract with Whittakers Limited. On the collapse of the Whittakers sawmill, it was deemed that, because the karri resource and a great proportion of the jarrah resource had been removed from the Whittakers site, Mr Webb was entitled to some regional forest agreement or FISAP assistance. Because of that, it became a complex matter. A thorough process has been undertaken in assessing Mr Webb's situation. I think the member raised this matter last week during the second reading debate on the Conservation and Land Management Amendment Bill and the Forest Products Bill. I understand that the matter had been processed as of last Friday. Nothing has come across my desk about whether Mr Webb has been advised of that.

Dr Edwards: He has not been advised.

Mr OMODEI: Obviously, if he has not been advised, that advice is not far away. I have not yet signed off on anything. However, I understand that the Department of Conservation and Land Management came to some final arrangements last Friday.

SMALL BUSINESSES, REGIONAL AREAS

644. Mr BLOFFWITCH to the Minister for Works:

As small businesses in my area are struggling, will the minister please advise of any strategies to foster the development of small and medium-sized firms in regional areas?

Mr JOHNSON replied:

I thank the member for Geraldton for the question. Being a regional member, I know that he has a keen interest in this subject. First of all, I think the most critical strategy for small and medium businesses in regional areas is the Government's decision to outsource the work previously undertaken by the Public Service. The outcome of that is that approximately 90 per cent of all contracts awarded by the Department of Contract and Management Services go to small and medium firms. In 1998-99, over 1 000 building contracts were awarded. Seventy-five per cent of those were for less than $100 000, and 65 per cent were for less than $50 000. In addition, of all regional contracts awarded last year by CAMS, almost 90 per cent were awarded to local firms. It is also worth noting that even large businesses often subcontract to small businesses, particularly in regional areas. Again, that is the result of a deliberate government policy. CAMS has written into its conditions the need to source the large majority of works and services from local small and medium firms. Therefore, I think the Government is doing its bit to help the regions.

HOMESWEST WAITING LIST, INCREASE

645. Dr GALLOP to the Minister for Housing:

I refer to the minister's decision last year to break the coalition's 1996 election promise to reduce Homeswest waiting lists by 25 per cent and to replace it with a commitment to reduce the time spent by applicants on waiting lists and ask -

(1) Will the minister confirm that the Homeswest public housing waiting list blew out from 13 160 to 13 815 in the 12 months between January and December last year?

(2) Will the minister also confirm that the average waiting period on the Homeswest waiting list increased from 11.25 months to 14 months in the six months between June and December last year?

(3) What does this tell us about the worth of the Government's promises to the people of Western Australia?

Dr HAMES replied:

(1)-(3) It is a very good question, and I am pleased to have this opportunity to discuss this important issue. The Leader of the Opposition is correct. I did change the commitment that was made by the previous minister to reduce waiting lists by 25 per cent to a commitment to reduce the waiting times. The reason for that was the New Living program. This program is being undertaken in the seats of many members on the Labor side - Labor members represent almost all of the areas in which that New Living program is being undertaken in Western Australia - and they are getting an enormous benefit from the changes that this Government has put in place. In doing that, the intense tenancy of Homeswest high-storey accommodation is being reduced. Often, that represents up to 40 or 50 per cent of Homeswest tenancy in some suburbs, and that is being reduced to around 12 per cent. In this process, we are selling off some houses to the private sector and we are redeveloping other houses.

Dr Gallop: Answer the question.

Dr HAMES: I am answering the question. The Leader of the Opposition should understand that this is the key.

Mr Court: We are pork-barrelling your seats.

Dr HAMES: We are pork-barrelling Labor seats, as the Premier said. We are putting a huge amount of effort and resources into upgrading those Homeswest houses in Labor areas. However, in doing that, a large number of people in those areas must be moved out to alternative accommodation. Because of that, huge pressure is put on us. The money we are putting in not only to upgrade those houses but also to purchase and develop new houses - something like 1 600 new units are being developed this year - is allowing us to carry out this tremendous New Living program across the State, both in regional and metropolitan areas. We are doing it not only in major suburbs, like Kwinana and Rockingham, but also in suburbs like Koondoola, Girrawheen, Balga, Westminster, Karawara, Coolbellup, Langford and Armadale. All those areas are getting major new programs, and between those areas we are carrying out infill programs.

Dr Gallop: Tell us about the waiting time.

Dr HAMES: I will get to that in a minute because it is equally important. We are carrying out our New Living program in all those other areas as well. It is creating a huge change in the environment of Homeswest tenancy estates. Members opposite should be applauding it at every opportunity they get. Because of that program and some of the other initiatives we have introduced, particularly some of the home-purchase packages, like the Right to Buy and the Good Start programs, which make it much easier for people to be able to buy their homes - the great Australian dream - more and more people want to get onto the waiting list so that they can access our tremendous programs. That is one of the reasons that waiting lists have blown out. I have looked at all the waiting times. Some, particularly those in the member for Fremantle's area, are totally unacceptable. I am sure the member is aware that in some sections of his electorate people have been waiting up to 10 years for accommodation. I am particularly concerned about the waiting time for seniors. We are putting a lot of money into spot purchases in all of those electorates, particularly that of the member for Fremantle, to try to reduce those waiting times. I am especially trying to reduce the waiting times for seniors across the State.

PRIMARY SCHOOLS, VASSE

646. Mr MASTERS to the Minister for Education:

The latest edition of the *Sunday Times* contains a large article about primary schools in my electorate of Vasse. Could the minister please advise the House of the many inaccuracies in this article and summarise the Government's commitment to education in Vasse over recent years?

Mr BARNETT replied:

I thank the member for the question. The article relates to Vasse Primary School, which is the subject of a royal visit this Friday. The article was written by a young journalist who has recently become involved in education matters for the *Sunday Times*. She has written some excellent articles on high schools, particularly Girrawheen Senior High School. Unfortunately, this article is not of the same standard. The heading for the article is "Sorry Ma'am, you'll have to join the queue". It includes a photo of women outside a toilet with the caption -

ROYAL FLUSH: Busselton teachers hope the Queen won't be forced to join them in their line-up for the loo.

First, the article refers to 20 women teachers sharing one toilet at Vasse Primary School. There are four toilets available for women teachers at Vasse Primary School and I readily concede that the toilets are not conveniently located. The women in the photograph are not teachers; it was a staged photograph. Indeed the teachers at the school were upset that they were portrayed in that way. The article goes on to say that classes were forced to be held under trees or on the veranda. Those groups were not classes - they were individuals or small groups of students undertaking the literacy program who were doing withdrawal, intensive programming, as happens very commonly in schools around the State where individual children are taken to one side for a one-to-one lesson on literacy. That is desirable.

The article also refers to the fact that the heritage house museum is riddled with asbestos. The heritage house museum was purchased by the Education Department last year at the request of the school. There have been no such complaints. Finally, the article states that library and computer resources have not kept pace with the student population. The school received a new library resource centre in the 1998-99 budget. In the 1999 school year, the school received $23 000 in technology learning funding, and it will receive $26 000 this year. The school has already achieved the target of more than one computer for every 10 primary school students. Indeed, the record for Vasse Primary School is that in 1995-96, it received a covered assembly area at a cost of $306 000; in 1996-97, it received a preprimary centre at a cost of $141 000; in 1998-99, it received a technology centre and library at a cost of $353 000; in 1999-2000, it received another preprimary centre; and, in 1999, there was the purchase of the principal's house, which is to be used in conjunction with programs. I acknowledge that the school has had a rapid growth in population. A significant reason for that is the inclusion of an on-site kindergarten.

The article was hopelessly wrong. The photograph was staged. It did not portray teachers but a group of parents, I presume; and I do not even know whether it was actually taken at the school. I make it clear, particularly to members opposite, that the teachers at that school are delighted with the preparation that the children have put in for the visit by Her Majesty the Queen on Friday. It will be a highlight for Vasse Primary School. I hope the member for Vasse can be present, because it will be a great day for that school. I, and I believe all members on this side of the House, are proud that Vasse Primary School will represent all schools in this State. It is a great primary school and will do itself proud.

SPEECH PATHOLOGY SERVICES, TOM PRICE-PARABURDOO

647. Mr RIEBELING to the Minister for Health:

I refer to speech pathology services in the Tom Price-Paraburdoo area.

(1) Can the minister confirm that there is a six-month waiting list for students to access this important service?

(2) Is the minister concerned that the basic educational needs of a large number of children are not being met?

(3) What actions will the minister take to address this serious situation?

Mr DAY replied:

(1)-(3) Our health system is expected to do a great deal, and it does a great deal. Generally speaking, the services that are provided are of extremely high standard and are very comprehensive. No Government has provided more funding for our health system, in either actual or real terms, than has this Government. As I have said on many occasions in the past, the amount of funding that is going in now is $600m per annum more than when we came into government. However, there are ever-increasing expectations in the public arena about what Governments, and about what Governments on behalf of taxpayers, can do for people, and I know that there is some pressure in the delivery of community-based health services, such as speech therapy, in some areas. I am not aware of the particular circumstances in the Tom Price-Paraburdoo area, but I am happy to make inquiries and to see what can be done in that area if it is judged that there is a real need that is not being met relative to other parts of Western Australia.