Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE ASSEMBLY

Tuesday, 9 May 2000

Legislative Assembly

Tuesday, 9 May 2000

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

BUDGET PRESENTATION

Statement by Speaker

THE SPEAKER (Mr Strickland): I have agreed to a request from the Premier and Treasurer to alter the arrangements for question time on Thursday to enable the state budget to be presented as usual at 2.00 pm on that day. It is also necessary to change the times for private members' 90-second statements. As was the case last year, I will call for members' statements this Thursday at 12.20 pm, followed by questions without notice at 12.30 pm.

BILLS - APPROPRIATIONS

Messages from the Governor received and read recommending appropriations for the purposes of the following Bills -

1. Hope Valley-Wattleup Redevelopment Bill 2000.
2. Government Railways (Access) Amendment Bill 2000.

[Questions without notice taken.]

CRIME, GERALDTON-GREENOUGH AREA

Petition

Mr Bloffwitch presented a petition signed by 102 people of Geraldton-Greenough asking that the State Government stop crime and provide more police to stop the breakdown of law and order.

[See petition No 114.]

GNARABUP WASTE WATER TREATMENT PLANT

Petition

Ms MacTiernan presented a petition signed by 848 people opposing the Gnarabup waste water treatment plant on the grounds that it was previously and is currently damaging the environmental, geomorphological, flora, fauna, speleological, Aboriginal heritage, community, health and social values inherent in the site and calling upon the Government to not give any further approvals for expansion.

[See petition No 115.]

WESTERN AUSTRALIA POLICE SERVICE - ROYAL COMMISSION

Matter of Public Interest

THE SPEAKER (Mr Strickland): Members, today I received within the prescribed time a letter from the Leader of the Opposition proposing to debate as a matter of public interest the following motion -

> That this House notes the comments by the Chairman of the Anti-Corruption Commission that "a not insignificant number of detectives engage in criminal or corrupt conduct and a larger number, if not themselves actually involved, are either incredibly naive or turn a blind eye to what is going on" and calls on the Government to establish a royal commission to inquire into and report on the nature and extent of corruption and serious improper conduct within the Western Australia Police Service.

The matter appears to me to be in order. If at least five members stand in support of this matter being discussed, it will proceed.

[At least five members rose in their places.]

DR GALLOP (Victoria Park - Leader of the Opposition) [2.45 pm]: I move the motion.

What a mess we have in Western Australia today. What a mess we have in our Police Service, which performs such important functions in our community. We have serious and continuing allegations of widespread corruption in the Police Service, the most recent of which has come from Terry O'Connor, Chairman of the Anti-Corruption Commission. However, he is not the first person to raise these matters. We have a classic case of finger pointing and buck-passing by all government authorities and ministers involved in this issue. We have the classic scenario of denial and counter-denial, claim and counterclaim, and allegation and refutation. At the top of this cauldron of disputation and disagreement is the Government - an impotent and indecisive Government which is incapable of finding a way forward on one of the most important issues in Western Australia today. I cannot emphasise that point too much. Responsibility for this state of affairs rests with the Government. No amount of buck-passing or finger pointing can avoid that conclusion.

The Government does not seem to want to hear about police corruption. When someone mentions it - like the Chairman of the Anti-Corruption Commission, a Legislative Council committee, the former commissioner Les Ayton, or the former Director of Public Prosecutions John McKechnie - the Government responds to the problem as a public relations issue, rather than as a police policy and procedure problem. The difficulty for the Government is that the issue will not go away; it keeps coming back to haunt the Government. It is a bit like two other issues which must be addressed in the community today; that is, drug abuse and prostitution, with which the Government is incapable of dealing in a comprehensive and creative way. In the Premier's view of the world, these sorts of things should not or do not happen. He lives in Nedlands. He gets up, smells the roses, drives down Mounts Bay Road, goes into St Georges Terrace and thinks, "What a wonderful State we live in." He cannot comprehend problems like drug abuse, prostitution or police corruption; therefore, he sticks his head in the sand and thinks he can avoid them. They keep coming back, and every time they do, the Government displays an inability to respond in a comprehensive and creative way to the problem that is posed. Each time the Government has been presented with an opportunity to tackle the issue of police corruption and misconduct in an open and comprehensive way, it runs for cover. I note and stress those two key words - "open" and "comprehensive". Those two words were the key to the success of the Fitzgerald royal commission in Queensland and of the Wood royal commission in New South Wales.

Let us look at the historical record and the Government's performance on this issue. As I said, we have a mess today, and the responsibility for that lies with the Government because of its failure to respond in a comprehensive and creative way. In 1994, not long after the Government was elected, it was presented with an opportunity to tackle the issue when the Sinatra's Tavern affair, involving the armed robbery squad and the consequent investigation that followed, pointed to very disturbing results and also to a dangerous code of silence. This was not merely internal advice to government but a report to Parliament by the then Director of Public Prosecutions, John McKechnie. If members recall, Mr McKechnie was brought in to have a look at that issue on behalf of the police and in cooperation with the police, and report to Parliament on the disturbing findings and code of silence that existed. Have we heard all that before? I think we heard it last Friday. That was back in 1994.

In 1996 the Government had a second opportunity to grasp this issue and to do something about it. The Legislative Council select committee report came down on a bipartisan basis. It found serious misconduct and corruption was far greater than had been acknowledged by the senior executive of the Police Service. The Government had a chance then to do something. Of course, one year later in 1997 claims were made by the former Deputy Commissioner of Police Les Ayton that officers he believed to be corrupt were still in the Police Service. This is a man who had only recently been employed as the Deputy Commissioner of Police - the number two position in the force. He said further that police corruption would mushroom unless it was stemmed then and there by way of a full-scale judicial inquiry. There was John McKechnie, the Legislative Council and Les Ayton.

Then last Friday, Mr Terry O'Connor QC, the head of the Anti-Corruption Commission, did not mince his words. He said that the commission did not believe that there is endemic or systemic corruption within the public sector but the same could not be said for the Police Service. So that members do not misunderstand what Mr O'Connor said, in his statement to the Joint Standing Committee on the Anti-Corruption Commission he said -

> The situation is different with the Police Service. The Commission believes there are significant problems in the Police Service, mainly centred on the self appointed elite, the detective cohort, what used to be called the CIB . . .
>
> Among detectives there appears to be a widespread disregard of Standard Operating Procedures, permitted because in many areas supervision is, at best, perfunctory. Many detectives appear to spend significant parts of their working days engaged in activities other than police work, e.g. long lunches. Many appear to have inappropriate relationships with criminals, which relationships are not recorded in accordance with Standard Operating Procedures.
>
> Even more worrying is that there is evidence to suggest that a not insignificant number of detectives engage in criminal or corrupt conduct and a larger number, if not themselves actually involved, are either incredibly naive or turn a blind eye to what is going on.

Further on he said -

> It is also of concern that there appears to be attempts by police officers to intimidate ACC witnesses.

The head of the Anti-Corruption Commission was pretty clear in his statement. He also said that he had changed his mind on a very important question; that is, the question of open hearings. Previously he had opposed such hearings but he said that he was now in favour of them. That is the background to the claims that have been made in the community about police corruption.

What has been the coalition Government's response to those claims? This is where the story gets really interesting. It is the story of a Government incapable of responding properly to an issue that has been presented to it. Early in its term, it rejected advice from the Commission on Government to set up an effective anti-corruption commission and instead relied upon the appointment of Bob Falconer and his Delta program to solve the problem. When it was obvious that that was not enough - make no mistake, the Legislative Council select committee said as much - the Government revamped the Official Corruption Commission as the Anti-Corruption Commission but specifically rejected Labor amendments which would have enabled the special investigators who could be created by the Anti-Corruption Commission from utilising open hearings if circumstances were appropriate.

The Premier has a short memory on this issue. If he goes back through the records, he will note that on 2 July 1996, in this very Chamber, the Labor Opposition moved an amendment to the Anti-Corruption Commission Bill to ensure that open hearings could be held by such a special investigator. The Opposition's amendment stated -

> Notwithstanding subsection (1) the special investigator may direct that a hearing be held in public provided that the special investigator is satisfied that it is desirable to do so in the public interest connected with -
>
> (a) the subject matter of the investigation; or
>
> (b) the nature of the evidence to be given.

The Government's response to the Legislative Council report was inadequate, as everyone knew. The Opposition said so at the time, and its position has been confirmed by what has happened since.

On each occasion that the Government had a chance to do something, it has not acted. In 1994, in 1996 and today, it has rejected calls for a royal commission of inquiry to clear up the matter once and for all. Also, the Government never took the opportunity to establish the Anti-Corruption Commission on the proper basis as recommended by the Commission on Government.

Let us look at the arguments of the Government, which are the same each time one looks at the discussion. It was the same in 1996 as it is in 2000. The Government says, "Corruption is about the past, not the present. Corruption is about a few bad apples in the basket and can be handled internally or by the ACC." The same argument is used every time. Unfortunately, the issue does not go away; it keeps coming back to haunt the Government.

I remind the House of what happened in New South Wales in 1994. It is very interesting to examine that time in New South Wales. At that stage, the New South Wales Parliament was not in the hands of a major party as it was controlled by a minority coalition Government. The then majority in the NSW Parliament successfully moved to set up a royal commission. Who was the police commissioner at that time? His name was Terry Lauer. Who was the Police minister at that time? His name was Hon Terry Griffiths. Let us look at what Mr Lauer said before the Government set up the royal commission in New South Wales. He denounced the inquiry as a waste of money, and said that he would prefer to have the money spent on extra police on the beat. Have we not heard that argument in the past 24 hours from our Commissioner of Police? He used exactly the same words. The New South Wales Minister for Police in 1994, Hon Terry Griffiths, said there definitely was not any entrenched corruption in the New South Wales Police Service anymore because of the process of reform and restructure undertaken by the Police Service over the previous couple of years.

Mr Kobelke: Did they call it Delta?

Dr GALLOP: They did not call it Delta, but exactly the same arguments in exactly the same context were used as those we have heard from the Western Australian Minister for Police. The only difference is that his name is Kevin Prince, not Terry Griffiths. What happened as a result of the Wood Royal Commission into the New South Wales Police Service? It revealed systemic and endemic corruption in that Police Service, and led to some 90 officers resigning or being sacked, with many others being under the threat of dismissal. The royal commission provided a blueprint for practical and cultural change in the force. I refer members to an interesting article in today's *The West Australian* by Steve Pennells titled "Commissions exposed rot in the ranks" -

> The ground-breaking royal commissions in New South Wales and Queensland had been crucial in eliminating corruption in the two forces, police said yesterday.

It then referred to the cultural, organisational and procedural changes and the establishment of the New South Wales Police Integrity Commission. The comments made in 1994 by the then police commissioner and police minister in New South Wales are no different from the comments made in 2000 in Western Australia. They are virtually the same. We have had the same response in Western Australia through the years of this coalition Government. It continues to stonewall; it continues to hide; it continues to run away; and it continues to treat this as a public relations problem rather than as a policy and procedure problem. Meanwhile, the serious allegations keep bubbling up to the surface and a cloud of uncertainty is left over all police officers in Western Australia - a most unsatisfactory situation.

This takes us to the key issue: How does the Government take this issue forward? The Government has three options. The first option, and this is the one it is adopting, is the "let's have a talk about it" strategy. This is a common theme that we get back from the Government when presented with a major problem: "We will all have a talk. Will go behind closed doors and talk to people involved and try to settle it all." The Commissioner of Police will talk to the Chairman of the ACC - I think that will happen tomorrow; the Minister for Police will talk to the Commissioner of Police; the Director of Public Prosecutions will talk to the Chairman of the ACC; the Chairman of the ACC will talk to the Premier. They will all have lovely little chats, all behind closed doors, about these issues. It will be a completely ineffective and, might I say, inappropriate response in that it will leave the public in the dark and will not produce a proper forum in which all the claims and counterclaims can be properly assessed.

The second option available to the Government is to give the ACC the power to hold open hearings along the lines recommended by the Labor Opposition in 1996, when the legislation was debated in Parliament.

The third, and appropriate, relevant and proper response to this problem is for the Government to bite the bullet and set up a royal commission so that these matters can be cleared up once and for all. If the Government had done this in 1996, as it could have done as a result of the report of the Legislative Council, these matters would have been resolved by now and

a process of systemic reform would have been going on within the Police Service, backed up by the authority of a royal commission as we have seen in New South Wales. The money that is currently being spent on the ACC - a lot of it on police-related matters - would be available to a royal commission.

Let me make it clear to the Parliament why we need a royal commission: Firstly, to find out the truth of what is, and has been, happening. Secondly, to ensure that justice is done and seen to be done. Thirdly, to ensure improved procedures and processes are put into place that will combat the emergence and further development of corruption and misconduct in our Police Service. We need a royal commission to find out the truth, to ensure that justice is done and to put the authority of a royal commission behind the reform process that we need in our Police Service.

All over the world, if one looks at the problem of police corruption and allegations about it, these are the only ways and means by which one starts the process of change. These are the only ways and means by which one comes to the truth of what has happened. These are the only ways and means by which one guarantees that justice is done. At the moment we have a most unsatisfactory situation. We have the head of the ACC, appointed by the Government to do a job, telling us as parliamentarians that there is serious corruption in sections of the Police Service in Western Australia. The former deputy commissioner Mr Ayton is saying the same thing, just as the Legislative Council said back in 1996. This puts a cloud of uncertainty over every police officer in Western Australia. It has not been resolved by the way in which the Government has tried to tackle, and is tackling, this issue.

What is significant about a royal commission? Royal commissions are the State's highest form of investigative device, the findings of which in Queensland in New South Wales have been widely respected and, therefore, widely endorsed. Currently, we have people saying things about our Police Service. The basis upon which they are saying it is not known by the public. There is no open forum available for those claims to be tested. It is a totally unsatisfactory position and we are in this position because of the indecisive approach of this Government to this issue since 1996. Royal commissions have the power and authority to do the job and to make recommendations to change cultures and practices in our Police Service. We must remind ourselves that the Police Service has a very important role to play in our community and, because of the importance of that role, it is granted immense powers over our freedoms and property which it must use on behalf of the public interest. We need to be absolutely certain that this power is used in the public interest, and that it is not being abused through corruption and misconduct. When people such as Mr O'Connor say what he said on Friday, the people of Western Australia, and indeed the Police Service, require a decisive and comprehensive response from the Government. They are not getting that and, meanwhile, the problems continue. We have had too much indecision from the Government on this issue. It must stop treating this as a public relations problem for its own purposes, and start treating it as a genuine policy problem, come to grips with the problem, set up a royal commission and clear the air on these important matters once and for all.

MR COURT (Nedlands - Premier) [3.06 pm]: Any allegations or any corruption in government, whether it be in the Police Service or at any level of the Public Service, are very serious matters. When the Chairman of the Anti-Corruption Commission presented his report to the Joint Standing Committee on the Anti-Corruption Commission on Friday, I was concerned, as were many other people, about those comments and I made it my business to sit with the relevant parties to discuss those concerns. I will get to that in a moment.

It is ironic that the Leader of the Opposition just made that speech, because in the past year, particularly in the past six months, the Opposition has done everything it could to discredit the operations of the ACC. The Opposition has an agenda and it wants to disband the ACC.

Dr Gallop: That is not true and you know it is not true.

Mr COURT: The Leader of the Opposition and his spokesperson have said publicly -

> The ACC has been so far discredited that really what is needed is to set the ACC aside.

Members opposite have been caught out. They climbed onto Mr Quigley's bandwagon earlier this year when he ran a campaign to discredit the Anti-Corruption Commission, and made it their business to make sure that the ACC has a great deal of difficulty carrying out its role.

Dr Gallop: That is absolute nonsense.

Mr COURT: Members opposite do not like it, because this issue has turned around. They have spent six months discrediting the ACC.

Mrs Roberts: Who are you quoting?

Mr COURT: I am quoting the member for Midland.

Mrs Roberts: Where from?

Mr COURT: From a news report on 12 January. I will refer to previous events. In 1988, a member of the then Opposition, Andrew Mensaros, introduced a Bill in this Parliament to establish an official corruption commission because the Labor Government would not do that. When in government, the Labor Party did not work under freedom of information legislation and did not want to establish an official corruption commission. The Anti-Corruption Commission is now in place and is operating every day and, because it is hard for those working within the Public Service because someone is overseeing their activities, the Labor Party has set out to discredit that organisation.

Ms MacTiernan: It is not true, and that is not the issue. The issue is that the Anti-Corruption Commission says your Police Service is not working.

Mr COURT: The Government has said publicly on many occasions that if the Anti-Corruption Commission recommended the establishment of a royal commission into the Police Service or another matter, the Government would accept that recommendation. The ACC was one of the types of overseeing bodies recommended by the Wood royal commission. The main recommendation of the Wood Royal Commission into the New South Wales Police Service was to change the culture within the Police Service. To do that, it was often necessary to change the procedures, and that needed a body such as the Anti-Corruption Commission to be in place all the time. It could not be a one-off inquiry; a body needed to be there all the time to investigate these matters.

Ms MacTiernan: That might be true, but you also need a royal commission to do the basic work.

Mr COURT: There would be a need for a royal commission if there was a crisis in confidence in the administration of justice as a result of the operations of the Police Service in this State.

Dr Gallop: According to Mr O'Connor there is.

Mr COURT: No. The integrity of the Commissioner of Police is beyond reproach. The police commissioner says he does not have information or knowledge that would lead him to the conclusion that a royal commission is required. The independent Director of Public Prosecutions, who is also a person of the utmost integrity who knows exactly what is going on inside the operations of the Police Service, says no to a royal commission.

Dr Gallop: How does he know that, Premier?

Mr COURT: The DPP receives the evidence that is collected on any case of corruption. He says we have no need for a royal commission. The Chairman of the Anti-Corruption Commission, Mr O'Connor, says there is no need for a royal commission. The President of the Police Union (WA) also says there is no need for a royal commission. It would be rather unusual if all of those people - two of whom are heads of very powerful independent bodies -

Dr Gallop: It happened in Queensland and in New South Wales. The same people said the same things. It happens every time.

Mr COURT: I will tell the Leader of the Opposition what happened in Queensland. Queensland had a corrupt police commissioner, serious allegations of corrupt conduct and no overriding body to which people could take their complaints, such as the Anti-Corruption Commission and the Ombudsman in Western Australia. That was the situation in Queensland when the Fitzgerald Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct Royal Commission was called. The Western Australian Commissioner of Police, the Chairman of the Anti-Corruption Commission and the President of the Police Union have not said we need a royal commission. However, if the Chairman of the Anti-Corruption Commission said that it was appropriate and there was a need, we have said publicly on many occasions that we would accept that advice. I suggest members opposite read out further quotes from that report, because they left out the part that says, by and large, that the uniformed officers seem to be honest and hardworking, but, regrettably, it is not possible to reach the same conclusion for a number of detectives. Yesterday, the Attorney General, the Minister for Police and I met those three people and asked, in light of the comments of the Chairman of the Anti-Corruption Commission, whether there was a need for the Government to intervene. The answer was no. The chairman said he wanted his powers supplemented by the power to compel witnesses at all times to give evidence and the ability to hold some hearings in public. Members opposite are divided on the issue of public hearings.

Dr Gallop: No, we are not; we supported it in the Parliament.

Mr COURT: Yes, they are. There has been much debate about these issues. The Government has said that both proposals will be considered. We will wait to see the report from the Joint Standing Committee on the Anti-Corruption Commission.

Dr Gallop: You will stick your head in the sand and see!

Mr COURT: The Chairman of the ACC was giving evidence to a committee of this Parliament. Surely the Leader of the Opposition has an interest in the committee's recommendations.

Mr Thomas: Will you accept the committee's report?

Mr COURT: No. He has come up with two proposals.

I do not see the Government's having any difficulty in extending the ACC's powers to include compelling witnesses. That power already exists when preliminary investigations are undertaken. Some members in the other place might have a different view about compelling witnesses even if this House supports it.

No charges were laid as a result of the Wood royal commission, but it was successful because it led to a major cultural change and the establishment of a body such as the ACC to investigate on a continual basis.

As members know, the Police Commissioner has the section 8 power; that is, if the commissioner loses confidence in an officer, he can get rid of that officer. The use of that power in itself has been very controversial within the Police Service. These royal commissions have said that sometimes evidence exists, it is tested in court and the action may or may not be successful. However, in the process, the commissioner may lose confidence in the officer concerned. In those circumstances, the commissioner can use the section 8 power. However, it must be used sparingly.

I said at the beginning of my contribution that, if the Chairman of the ACC recommends the establishment of a royal commission, this Government will accept that recommendation. The Director of Public Prosecutions, the Chairman of the ACC, the Police Commissioner and the President of the Police Union have not supported the establishment of such a royal commission.

Members opposite cannot have it both ways: They cannot have a powerful, independent, well-resourced ACC that is constantly keeping an eye on police operations - which members opposite have led a campaign to discredit -

Dr Gallop: That is a ridiculous comment.

Mr COURT: Members opposite have been caught out. They jumped on the Quigley bandwagon earlier this year to discredit the ACC. Now they are saying that the Chairman of the ACC said this and that should justify that.

Dr Gallop: If you are willing to accept Terry O'Connor's view if he says we need a royal commission -

Mr COURT: Yes.

Dr Gallop: - why are you not willing to accept his view that there is a serious problem in the Police Service?

Mr COURT: I have accepted that view. What the leader says was "talkie-talkies" yesterday involved making it very clear that, as independent bodies, it is not appropriate that politicians interfere in the operations of the Police Service, the ACC or the DPP. The Government made it very clear yesterday that if members opposite have evidence that can assist the Police Commissioner in exposing corruption, he should have that information. The Opposition's record is clear: It did not want to establish a corruption commission in the first place. From opposition, it openly tries to discredit the operations of the Anti-Corruption Commission. Because the ACC constantly puts on pressure, because it is there -

Mr Carpenter: Ride off into the sunset.

Mr COURT: Does the member for Willagee not agree that the Opposition has been part of a campaign to discredit the ACC? The member for Willagee should wake up!

MRS ROBERTS (Midland) [3.20 pm]: There is obviously one clear difference between the Opposition and the Government on this issue; that is, the Opposition is keen to see any corruption rooted out of our Police Service by the most effective means. That means that now we absolutely must have a royal commission. That is the clear stage at which Western Australia has arrived. Some members would say that a royal commission has been needed for much longer than that. In fact, the committee headed by Hon Derrick Tomlinson in the upper House concluded in 1996 that we needed a royal commission. As opposition spokesperson on police matters, I have heard many stories of corruption that date back a long time. People talk to me about cases that occurred either before I was born or when I was very young, such as matters raised by Spike Daniels, the murder of Shirley Finn and a whole range of cases.

Last week's revelations have made the calling of a royal commission absolutely inevitable. There is no way the Government can continue to live in a state of denial on this issue. Politicians in this House must think about whom they represent. We are here as representatives of communities throughout Western Australia and we should be acting in those communities' interests. I suggest to the House that this Government has failed the community as it has been failing our Police Service. The community faces a fairly dire situation. In addition to the many earlier allegations of police corruption, the Chairman of the Anti-Corruption Commission has now accused a significant number of Western Australian detectives of criminal activities. Among the slurs on our top cops, there are claims of stealing from criminals, trafficking in drugs, boozy lunches and inappropriate relationships with criminals. He said there appeared to be attempts by police to intimidate witnesses who appear before the Anti-Corruption Commission and that criminal activity among our detectives was on a par with that exposed by the Wood royal commission and the Fitzgerald inquiry. Terence O'Connor went on to say that he believed the public and many honest police officers in the Western Australia Police Service would be horrified if they knew of some of the matters that the commission has uncovered.

Mr Prince: Do you agree with him?

Mrs ROBERTS: I am not in a position to know. I am saying that we need a royal commission so that we can find out. However, we have learnt this afternoon that the Premier agrees with Terry O'Connor.

At the same hearing on Friday, former Acting Police Commissioner Mr Ayton said that officers whom he believed to be corrupt had climbed the ladder of success. Terry O'Connor was critical of detectives in the Police Service, the Director of Public Prosecutions and his office and the internal affairs area of the Police Service. It was interesting to hear the Premier on the radio this morning talking about professional standards and ensuring great standards in the Police Service. He then comes into the House and says he agrees with Terry O'Connor.

Mr Court: Are you saying that the police do not have high professional standards?

Mrs ROBERTS: No, I did not say that at all.

Mr Court: If they have high professional standards, why would you have a royal commission? You are defeating your case.

Mrs ROBERTS: Let us look at the import of what Terry O'Connor had to say. He said that he believes a significant number of our top cops are involved in a whole range of criminal activities. At the same time the Police Commissioner is saying he is not aware of this and Terry O'Connor should bring him the evidence. Does that not suggest the system has already

failed? Firstly, if the system were working, surely Mr O'Connor would have brought forward evidence long before now. Secondly, he is saying that Mr Matthews, the deputy commissioners and the command group do not know what is going on under their very noses. Terry O'Connor is saying that the commissioner and deputy commissioners Bruce Brennan and Kingsley Porter, and the rest of the command group do not know what their detectives are up to.

The operation of police services throughout Australia and elsewhere is hierarchical. Those detectives are answerable to people higher up the chain. The Police Commissioner is ultimately responsible for the actions of his detectives and below him is his command group which is supposed to supervise the activities of those detectives. In addition we have the professional standards group and the internal affairs unit that the Premier was lauding as late as this morning for doing a good job in ensuring proper standards within our Police Service. He cannot have it both ways. These positions are in conflict. If Terry O'Connor is right, it is a dreadful slur on not only the detectives but also the police hierarchy, including the command group of our Police Service, because he is saying these dreadful criminal activities are occurring right under their very noses. If that is occurring, surely it is grounds for a royal commission.

Mr O'Connor also referred to the Director of Public Prosecutions, Robert Cock, whose public response was that he did not wish to debate the quality of material Mr O'Connor sent to the DPP's office. Now we have a public spat about the quality of whatever evidence or material has been sent to the DPP. Mr Les Ayton and Mr Michael Dean have criticised the competence of the ACC and its bungled inquiries.

The ACC has been beset with problems. The Premier has accused the Opposition of undermining the ACC. However, nothing could be further from the truth. The ACC has a very important role, which I believe it will continue to have.

Mr Court: Quigley started the campaign and he said he was doing it in conjunction with you. He has kept you fully informed of what he is doing to discredit the ACC. Don't try to twist what occurred.

Mrs ROBERTS: Perhaps the Premier will take that up with Mr Quigley.

Mr Court: I am taking it up with you.

Dr Gallop: We do not have a campaign to discredit the ACC - end of story.

Mr Court: You have been part of a campaign to discredit the ACC.

Dr Gallop: That is absolute rubbish; it is disgraceful for you to come into this Parliament and say such a thing.

Mr Court: You have said it publicly.

Dr Gallop: We have not said it publicly.

Mrs ROBERTS: We must question the motivation of this Government in resisting a royal commission. We wonder whether it is because it believes no corruption exists. But the Premier said in the debate this afternoon, he believes what Terry O'Connor said. He also said on the weekend there was no point having a royal commission because it would only drag up past offences. I would like to know what other offences there are. What else could a royal commission reveal? Did he think it would be to "investigate future offences"? This was one of the Premier's more inane comments.

We must wonder whether the Premier's inaction is stonewalling. Is the Premier like the child who put his finger in the dyke in trying to stop the floodgates of corruption. I suppose that analogy is the one that has been best exposed this afternoon.

It is plain to all that the current system is not working. The Anti-Corruption Commission is costing more than $12m a year, but part of the Government's justification for not holding a royal commission is cost. The Chairman of the ACC, the DPP and the Police Commissioner are embroiled in public argument and police morale, particularly among detectives, is low. Whistleblowers and people who have any evidence of police corruption have little faith in the system, therefore a lot of matters will continue to be unreported. What is more important is public confidence. The public needs to have confidence in institutions such as our Police Service. All people in the community want to be able to have full confidence in our Police Service. It is insufficient for people just to be able to have confidence only in our uniformed officers. Detectives fulfill very important roles in investigating criminal matters, sexual assaults, child abuse, drug crimes and fraud matters. A member of the public who has information about such matters must be able to have the confidence to go to those detectives with that information and know that those detectives are not consorting with the perpetrators of the abuse or the Mr Bigs of the illegal drug industry. The ACC has failed to root out corruption, and we need a royal commission.

MR PRINCE (Albany - Minister for Police) [3.30 pm]: I wish to respond to some of the matters raised by members opposite and will do so, in part, by quoting a little more of the submission that was put to the Joint Standing Committee on the Anti-Corruption Commission by the Chairman of the Anti-Corruption Commission. I will not quote from that paper in total, because clearly that paper has been tabled in the Parliament and is publicly available. I will also mention some remarks that have been made over the years about the subject of royal commissions generally, and most specifically about the Wood royal commission, and will then talk about the particular matters that are facing our Police Service at this time. I do not criticise the Leader of the Opposition for selectively quoting from Mr O'Connor's paper, because clearly that is an appropriate thing to do.

Dr Gallop: You did not want me to read the whole thing, did you?

Mr PRINCE: No. I do not criticise the Leader of the Opposition. I am making the point that the Leader of the Opposition has selectively quoted, and that is fine, and I will quote just a couple of other parts of the submission.

Dr Gallop: It was a fairly important set of quotes -

Mr PRINCE: Yes it was.

Dr Gallop: - and it should be taken seriously and be responded to.

Mr PRINCE: The Leader of the Opposition should listen to these quotes. On page 2, the chairman said -

> The role of the ACC only needs to be thus spelt out to realise that it can be only one element of a much larger strategy to minimise corruption in the public sector. The ACC and like bodies are treating only the symptoms of the disease not the disease.

Further down that same page, Mr O'Connor said -

> . . . around the world we are seeing examples of corruption, criminal and improper conduct among officers. The tragedy of WA Inc is but one example. The public sector is, after all, a reflection of society itself.

At the top of page 3, he says -

> . . . if society does not engender in its children a real appreciation and understanding of the moral and ethical dimensions of their conduct, then that lack of appreciation and understanding will reflect itself in our society and inevitably be reflected in the people in the public sector.

The Leader of the Opposition quoted at some length from page 5. I refer him to the bottom of that page, and I continue with that quote -

> It appears that many officers, who would resent it being suggested that they are unethical, nevertheless adhere to the police code of silence and will not report or give evidence about misconduct including criminal conduct by their colleagues.

The next paragraph states -

> It is relevant that in a recent survey in the public sector, including the Police Service, 59% of the police officers who responded disagreed or disagreed strongly with the proposition 'Within my organisation I believe reports of serious misconduct can effectively be made in confidence'. Further, only 57% of police respondents agreed or agreed strongly with the proposition that they were likely to report issues of serious misconduct.

Therefore, six out of 10, in rough terms, do not think that any reported misconduct will be treated confidentially, but nonetheless about the same number are likely to report it. That is important to remember.

A little further down that page, and this is what the Leader of the Opposition did not say, he states -

> None of this should come as any great surprise given that such conduct has occurred in other police forces, both within Australia and overseas. The reasons for and the solutions to the problems among detectives are obviously a subject for another paper. I can say that I personally am convinced that it would be a significant step forward if all detectives were compelled to wear police uniforms . . .
>
> While there have been significant reforms of the Police Service and those reforms I am sure will continue, it is important that the honest police, who are in the majority in the Service, not only embrace those reforms, but also work to rid the service of those whose behaviour does not meet the ethical standards that are required.

Members opposite should take those words very much to heart and think about them. Further, Mr O'Connor said -

Dr Gallop: History is repeating itself!

Mr PRINCE: I am about to give the Leader of the Opposition a history lesson. On the subject of open hearings, which the Leader of the Opposition has just said his side of politics wanted and we resisted, Mr O'Connor says on page 8 that he is now convinced that open hearings would be good idea, and the reason is as follows -

> In the past I have said publicly that I did not believe that it was appropriate to conduct investigations in public. That was before the Commission had endured the campaign of vilification conducted by the Police Union and its lawyer.

Members opposite should read the whole of the report, and I have no doubt that if they have not, they will, because they will have the time to do so, because there is more there than they have selectively quoted. One of the points that the member for Midland should remember is that Mr O'Connor has not said there should be a royal commission. He has not said there should not be a royal commission either. He has left it open, as he should under his legislation.

Ms MacTiernan: For how long?

Mr PRINCE: It is open-ended, because under the legislation the ACC has the power to do it if it thinks it is called for. It does not do so at this time.

Mr Carpenter: Has he said there should not be a royal commission?

Mr PRINCE: Yes, he has.

Dr Gallop: No, he has not. He said he has an open mind on it.

Mr PRINCE: Mr Bartlett, who is employed by the Australian Broadcasting Commission, asked Mr O'Connor yesterday in an interview, a little before 9.00 am -

> So do we need a full royal commission or not?

Mr O'Connor replied -

> At this point we don't believe that it's appropriate, but if we come to the conclusion that it is, we will certainly not hesitate to recommend it.

Dr Gallop: He has an open mind on it.

Mr PRINCE: That is what I just said. He said also -

> We've got a number of inquiries going and it may . . . we may decide, following the outcome of those inquiries, that it is appropriate to recommend to government that there be a royal commission. But what people have got to understand is that the ideal thing for any corrupt person, be it public officer, police officer or individual, is that they should be tried and convicted.
>
> Royal commissions tend not to achieve that. Not one royal . . . not one conviction has flowed from the Wood royal commission, despite all the evidence that came out in that, save for conviction of one person for giving . . . for misleading the commission . . .

In fact, the guy was summonsed to appear but did not turn up and gave the excuse that he had slipped on a milkshake; and he was convicted for not turning up at the commission. That was the only conviction that arose under the Wood royal commission.

On the question of royal commissions and convictions, bear in mind that Mr O'Connor said yesterday -

> . . . the ideal thing for any corrupt person, be it public officer, police officer or individual, is that they should be tried and convicted.

I could not agree more, and well said. Here is another quote with which I agree. The following question was put to a person who is well known to us - I will tell members who it is in a minute -

> Is it better to go through the normal process of laying charges and prosecuting people, rather than the enormously expensive Royal Commission exercise?

The answer from this individual was -

> Not only is it better, it is fairer. It is fairer because all these other organs of government that have got the power to summons and compel largely conduct their business in private hearing rooms in much the same way as the police undertake investigations in private. Having then arrived at a conclusion that there exists a prima facie case, they prosecute that case in a public Court. What happens in Royal Commissions, as much as being a beast of politics, is that they are also an animal of the media. I say an animal of the media because I really believe that the momentum that they gather is driven by the amount of either criticism or praise they receive in the media.

That quote is from John Quigley, talking on the subject of royal commissions. Mr Quigley, I understand, is one of the Labor Party's anointed for a seat at the next election. I do not know that I would agree with everything John Quigley says, but I agree totally with what he says in that article about royal commissions, and particularly in that question and answer about whether there should be a royal commission or a prosecution for corrupt behaviour. He agrees with Mr O'Connor. The member for Midland may remember that Mr O'Connor invited him to take a Bex and lie down, so they do not agree on everything; but one proposition that we all agree on is that if there is corrupt conduct and it is criminal, it should be prosecuted in a court of law; and, when convicted, the person should be punished. Royal commissions do not do that.

Members opposite are now calling again for a royal commission. Ten years ago, their then Minister for Police, Graham Edwards, was responding to calls for a royal commission that were coming from the then Opposition. Mr Edwards said that the calls by the Opposition of the day - the Liberal and National Parties - for a royal commission represented another attempt to politicise the Police Force. He said that the Government was sick and tired of continued efforts by the Opposition to undermine the Commissioner of Police and the Police Force, and that the Police Force was sick and tired of being used as a political whipping post. He also said that those who call for a royal commission into the police - I agree with Graham Edwards on this - are power desperate and will stop at nothing to win government, including politicising the Police Force. That is exactly what the Opposition is doing. Graham Edwards also said that the root cause of the rumour and innuendo and, indeed, the root of any lack of morale which may exist within the Police Force is the Opposition's politicising it. Ten years ago, the Western Australian Labor Party was satisfied with an internal affairs squad of 10 police officers and a parole board. As opposition members have quite rightly said, we had the opportunity to call a royal commission in 1993-94 and it was seriously considered.

Dr Gallop: But you were not in government then.

Mr PRINCE: We were. I was not a minister until January 1994. In 1993-94 we had the opportunity. In the report from the Wood royal commission, Justice Wood talks about the police culture. He said that what needs to be abandoned are the

negative aspects such as intense group loyalty, the code of silence, the tradition of long lunches, the heavy consumption of alcohol, the elitism and mystique, the networks which acquire inordinate power, the indifference or contempt for outsiders and the distortion of the promotion system. He then refers to the process of reform. He says that there will have to be a will and commitment on the part of the service. He said that it must come from within and it must be a plan for reform; it must be supported by the Government; and the process must continue and be driven after the commission has been concluded. There is a lot more in the report which I could quote.

Dr Gallop: Can I ask you a question?

Mr PRINCE: If we had longer, the Leader of the Opposition could, but we do not have a lot of time. Justice Wood said that there must be a fundamental change in the approach of the service to corruption, and it must include a systemic restructure under which all officers are empowered to reject corruption. We established the professional standards portfolio, and it was a courageous thing to do. We completely reorganised the Police Service so that it is a completely different organisation from that which we inherited. We brought in an outside commissioner, the ACC was created, and the Ombudsman is also there. There is an extraordinarily strong emphasise on accountability, a flattened management structure and merit-based promotion. The Opposition has criticised all of those issues ad nauseam and has treated Delta as if it were contemptible. There must be a permanent independent body with police corruption as its focus. Justice Wood said that we have both the Ombudsman and the ACC.

The member for Midland has often said that the only way of restoring police confidence in the Police Service is to hold a royal commission. New South Wales had the lowest rate of public confidence in the police across Australia in 1996. It has gone up, and 78 per cent of the public now have confidence in the police.

Ms MacTiernan: That is because it had a royal commission.

Mr PRINCE: Does the member have any idea of the public confidence rate in the police in this State? The Productivity Commission report of 2000 indicates that it is over 80 per cent. We have had a consistently high rate of public confidence in the police since the Productivity Commission has been reporting on the States. We have an incredible amount of support from people who know what they are doing in police organisations, including Professor Rohl from the Australian Institute of Police Management, Alex Marnoch, now deceased, former commander of the London Metropolitan Police and many others.

As far as section 8 notices are concerned, there have been 42 notices of intention to dismiss. Of those, 12 have been reinstated, 26 have resigned, two have been dismissed and two are pending. Forty-two officers out of 4 800 is 0.8 of 1 per cent. In 1997-99, there was a total of 3 417 complaints, including 7 549 separate allegations against police officers. Of those, only 11.8 per cent were substantiated. All these investigations were overseen by the Ombudsman. About 88 per cent of allegations against police are unsubstantiated. Commissioner Matthews has said that. He has also said that any evidence of serious misconduct - not necessarily of criminal conduct - should be given to him and he will use section 8. However, the union does not want section 8 used and neither does the member for Midland, because that is where she gets her instructions. She is trying very hard to completely and utterly sink the section 8 process. The Opposition holds up New South Wales as wonderful since the Wood royal commission. An article in *The Sydney Morning Herald* states -

> Internal police investigations are "biased" and pursued with less rigour than criminal investigations, according to the police watchdog.
>
> In its first review of the reform process prompted by the Wood Royal Commission, the Police Integrity Commission . . . said more than a quarter of internal inquiries into complaints against police were "unsatisfactory".
>
> Junior officers investigated senior officers, . . . potential conflicts of interest . . .
>
> The report blamed failures on limited resources . . . reluctance to use undercover techniques or surveillance . . .

There is no reluctance around here. It continues -

> The failure of police investigations into complaints about police misconduct was at the core of the Wood Royal Commission, and the State Government subsequently appointed . . . Peter Ryan . . .
>
> The PIC's special report to State Parliament said the police had not matched the requirements set down in the Wood Royal Commission . . .

The article quotes from the report. It says -

> "The outcome of the audit revealed that these shortcomings and deficiencies are, to a substantial degree, still adversely affecting Police Service internal investigations . . .

The article continues to quote from the report. In other words, although New South Wales is trying, it has not got very far. Four or five years ago we had a complete restructure. There was a flattening of the hierarchy, merit-based promotions were introduced and different people were in command. We have brought in professional standards. The Ombudsman and the ACC are also there. All of that process is there to deal with and ensure there is integrity in the Police Service. There are corrupt officers; there always have been and there probably always will be. There must be a change in the culture, and that is happening so that in the future there will be a minimum amount of people who are corrupt.

Question put and a division taken with the following result -

Ayes (20)

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

Noes (27)

Mr Ainsworth	Mr Cowan	Mr Kierath	Mr Shave
Mr Baker	Mr Day	Mr Marshall	Mr Trenorden
Mr Barnett	Mrs Edwardes	Mr Minson	Dr Turnbull
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Nicholls	Mrs van de Klashorst
Mr Board	Mrs Holmes	Mr Omodei	Mr Wiese
Mr Bradshaw	Mr House	Mrs Parker	Mr Tubby *(Teller)*
Mr Court	Mr Johnson	Mr Prince	

Pairs

Mr Marlborough	Dr Hames
Mr Bridge	Mr MacLean

Question thus negatived.

DAIRY INDUSTRY AND HERD IMPROVEMENT LEGISLATION REPEAL BILL 2000

Third Reading

MR HOUSE (Stirling - Minister for Primary Industry) [3.50 pm]: I move -

That the Bill be now read a third time.

MR BRADSHAW (Murray-Wellington - Parliamentary Secretary) [3.51 pm]: The passage of this Bill, if it is passed by the upper House, will be sad for many families and businesses in Western Australia, particularly in the south west where it will have a flow-on effect through the community. As I pointed out in the second reading debate, the Government will provide a $27m assistance package which will be broken down into various components. In round figures, approximately $12m will be distributed to the farmers to help them get on with their lives.

There has been much discussion on this issue and I would like this money to be equitably distributed to the dairy farmers with no strings attached. I have been continually fighting for this, and I do not believe we should put in place a bureaucratic process which requires farmers to jump through hoops to obtain this money. Often with bureaucratic hurdles in place, it is difficult, if not impossible, for people to access the assistance provided. It is important to give as much assistance as possible to these dairy farmers.

People do not realise how damaging this move is for many dairy farmers and their families. As was pointed out in the second reading debate, historically dairy farms are run and controlled by families and they are often passed down from one generation to the next. People who have been in the dairy industry all their lives, and whose fathers and forefathers have also been in that industry, possibly will not be able to continue in the dairy industry for much longer because of the lower returns and the reduced number of cows they will have to milk in relative terms. It is important to give these people as much assistance as possible, perhaps to help pay off their debts or to pursue some other area of the agricultural industry. They should not be presented with bureaucratic hurdles.

The Western Australian Government is the only Government in Australia that has been prepared to allocate money for this purpose; I would like $60m to have been provided, as was requested by the Western Australian Farmers Federation in its submission to the Government. Unfortunately, Cabinet could not agree to that $60m and, instead, approximately $12m will be available for farmers, and an amount will go to the Dairy Industry Authority and the herd improvement services. It is better than nothing and although I would have preferred the amount to be $60m, we must be thankful for what has been given.

There is a lot of anger and hurt in the community, and many farmers feel the Government has let them down. They believe that the quotas they held were a property right, and that they should be compensated for those quotas being taken away. Their quotas have no value now, whereas previously they were worth between $100 000 and $500 000. The second effect of this legislation is that their incomes will drop and, thirdly, the value of their land will drop. The dairy farming community will be hit hard at three levels, and it is a sad state of affairs. It is a sad day in the history of the dairy industry in Western Australia.

Question put and passed.

Bill read a third time and transmitted to the Council.

PROTECTIVE CUSTODY BILL 2000

Second Reading

Resumed from 23 March.

MR McGINTY (Fremantle) [3.56 pm]: The Opposition supports this Bill, both its content and, more importantly, the general idea that underpins it. We shall take some time, however, during this debate to draw attention to a number of shortcomings in the Bill.

I start by briefly summarising the provisions of the Bill. It deals with the apprehension of intoxicated persons, whether that intoxication is by means of licit or illicit substances. In the classic case it deals with the drunk in the gutter, but it also deals with the glue sniffer and the people who have ingested illicit drugs. It enables the police and other bodies to apprehend those people. It also deals with the management of the people who are intoxicated and taken into the care of the authorities. The Bill also deals with issues relating to the length of detention and the release of intoxicated people, and makes provision for review. Very importantly, this Bill contains no offence and no penalty provisions. It can be seen as an attempt to deal with the pressing problem of people who are intoxicated and in public places. That is the reason the Opposition supports this legislation, but I will deal with a number of points and I hope the minister will be in a position to respond to some of them.

In some cases, in order to make this good legislation, it may be necessary for the Government to consider changes to the wording of the legislation. Part 2 deals with seizing intoxicants from children. This part of the Bill empowers authorised officers - in the general course of events they will be police officers although not exclusively so - to seize intoxicants from children when they have reasonable grounds for suspecting that the child has used, or is about to use, the intoxicants. It deal not only with the power to seize an intoxicant when a person is already intoxicated. I instance a child sniffing solvents from a plastic bag or tin. The police do not need to wait until that child is intoxicated; if the child is in possession of such a substance and there is a reasonable belief that the child will use it to become intoxicated, there is provision in clause 5 for the authorised officer to seize the intoxicant. That has the Opposition's full support.

I am sure most members of this House have seen young kids walking around with a silver face or their head buried in a bag or tin and inhaling those intoxicants. I have often wondered why some adult does not remove the intoxicant to prevent the ensuing brain damage and public dislocation that occurs. This Bill will provide that power and the Opposition supports that.

Part 3 of the Bill deals with apprehending and detaining intoxicated people. It enables authorised officers to apprehend intoxicated persons when they are in a public place or trespassing on private property. That would cover everywhere but their home. We are talking about people intoxicated not only in a public place but also anywhere outside their own home. This part also provides the power to apprehend an intoxicated person for his own safety or the safety of others, or to prevent his causing serious damage to property. This gives the police a very wide - perhaps almost unfettered - discretion to apprehend intoxicated people. A person can be apprehended if he is not in his own home, is intoxicated and there is a likelihood or a reasonable suspicion in the view of the police officer that his health and safety or the health and safety of another person must be protected or he is likely to cause serious damage to property. Other members will raise the issue of whether it is appropriate to vest such a broad power in the police.

Once apprehended, authorised officers can detain intoxicated persons. The word "detain" is significant. I will deal with that in a minute because it gives rise to a drafting difficulty. Perhaps the minister can explain it. The power to detain an intoxicated person once that person has been apprehended is exercisable only as long as necessary and requires that he be released when he is no longer intoxicated, a danger to himself or others or a threat to property.

Mr Prince: Please go back to the issue you thought was a drafting problem.

Mr McGINTY: I have concerns about clause 26. I will deal with that in more detail later. The problem relates to the use of the word "detain" in clause 7 when read in conjunction with clause 26.

Part 4 deals with apprehended people. This part enables authorised officers to search apprehended persons for their own safety, the safety of others and the security of property. It also allows an authorised officer to seize a thing found if it is an intoxicant or may endanger the health and safety of anyone. Once seized, it can be destroyed if it contains alcohol or it is reasonably suspected that the person will use it to become intoxicated. We are dealing with the power to search, to seize intoxicants and to destroy an intoxicant. Again, the Opposition raises no real objections to this provision.

Part 5 of the legislation relates to releasing apprehended people. It requires that apprehended children be dealt with promptly by releasing them into the custody of a parent, guardian or other responsible person. Apprehended adults are dealt with promptly by releasing them into the care of a friend, relative or a person in charge of an appropriate facility. These options must be considered before detention in a police station or lockup. The appropriate facilities to which someone can be taken once he has been apprehended must also be considered.

Part 6 relates to judicial review. The issue that must be addressed in respect of this part is how real that review by a justice of the peace will be. This part provides for an apprehended person to apply to a JP to review the person's suitability for release and the requirement that an apprehended person be taken before a JP after being detained for eight hours. The JP then has a number of alternatives in relation to the release or continued detention of that person. An apprehended person also has the right to apply to the Local Court for the issue of a declaration that at the time he was not intoxicated. A number

of the provisions, particularly the provision enabling a person to apply to the court for a declaration that he was not intoxicated at the time, sound fine on the surface. However, how will a person who has been apprehended and locked up apply to the Local Court for a declaration that he was not intoxicated after the event? The significance of that escapes me.

Mr Prince: A small group of people, mostly those who have head injuries or some form of disability of the brain, have the appearance of intoxication. When I was Minister for Health I was strongly in favour of issuing them with cards describing their problem. These people often cannot speak very well. They appear to be intoxicated, so they are constantly picked up by the police. Such a person would resent being labelled "intoxicated". There should be a process whereby such a person can seek a review and a reversal of the determination. It is a very small group, but it is simply a matter of providing a process for redress if that happens.

Mr McGINTY: The evidentiary issues relative to a police officer reasonably suspecting that a person is intoxicated and acting on that versus the word of someone else that that person was not intoxicated might mean that this provision is rarely used. I envisage someone on medication saying that the medication gives him that appearance.

Mr Prince: Yes.

Mr McGINTY: It may be more illusory than real.

Mr Prince: If we have no redress, it is simply the opinion of the person at the time. As a matter of principle, that is not the right thing to do.

Mr McGINTY: Part 7 contains miscellaneous provisions. It makes provision for a number of matters that I will briefly mention. First, an authorised officer does not need a warrant to apprehend an intoxicated person. I have no objection to that. Second, no person detained under this Act can be questioned or charged with an offence. Again, that is appropriate given that this is not meant to be a criminal statute or to be punitive. It is more of a "care and protection" piece of legislation. Third, an apprehended person who escapes from detention is not to be charged with escaping from lawful custody. These are all provisions to ensure that the nature of the detention does not equate with being in police custody.

The minister can approve places for apprehended persons to be taken. The Commissioner of Police can appoint community officers. Community officers are volunteers, and persons carrying out functions under this Act are protected from liability. I appreciate that issues concerning people's rights and liberty are very difficult to address. However, equally, someone who is intoxicated may be a threat to his own health and the health, safety and property of others. When people's judgments are impaired, situations involving them may be difficult to address. I do not think the police would decide lightly to intrude in those situations. Nonetheless, I raise no objection to the protection of individual officers and the actions they may take under this Bill, provided they are done in good faith, because that will exempt them from liability.

Mr Prince: It is a rewrite of the indemnity Bill for police officers that was introduced last year.

Mr McGINTY: Yes, and we raise no objection to that. Provision is also made for regulations to be made pursuant to the provisions of the Bill.

In the context of the underlying principles of this Bill, we have a problem with people who are intoxicated. We also have a problem with people on the streets whose functioning is impaired due to having taken illicit drugs. We must have a way of dealing with these people, not in a punitive or quasi-criminal way, but, as much as anything else, to care for them in their own interests. That is what we support in this Bill.

However, a number of issues present difficulties. I refer first to the problem of Aboriginal people and the recommendations of the Royal Commission into Aboriginal Deaths in Custody. Some people are concerned that the Bill contains a number of very significant issues that represent a return to the days of people being arrested for drunkenness and being put in the police lockup. We should not return to that. I have already pointed out that the legislation does not provide for the arrest of these people; it provides for their apprehension and then their detention.

I am aware that it is not intended that we return to the days when public drunkenness was an offence, but it is important to analyse the contents of the Bill to see whether that will be its effect. Most remarkably, this legislation could impact disproportionately on Aboriginal people. I want to judge this legislation against the recommendations of the Royal Commission into Aboriginal Deaths in Custody. The recommendations of the royal commission came not long after Western Australia decriminalised public drunkenness. If my memory serves me correctly, that was done by the Dowding Government in 1989.

Mr Prince: It was done under section 53 of the Police Act in 1989.

Mr McGINTY: I do not have a copy of the Police Act with me. The relevant part of the royal commission deals with the reason Aboriginal people were so over-represented in our prisons. They still are, but that is another issue. In volume 3 at page 3 of the report, the commissioners reported as follows -

> It has been established . . . that the high number of deaths in custody of Aboriginal people in relation to the size of their population is explained, primarily, by their disporportionate detention rates. It is a matter of fundamental importance to address the reasons for this disproportion. Some of these reasons (ultimately the most important of them) are, in the opinion of the Commissioners, related to what have been referred to in the work of the Commission as the underlying issues; that is, the social cultural and legal factors, which the Letters Patent authorize me to consider.

> But others of them are more immediately related to the processes of the criminal justice itself, starting at the point of policing and carrying through to sentencing in those cases where a person has been charged with an offence and a finding of guilt made. This part of my report deals with this question.

Further on under the heading of "Decriminalization of the offence of public drunkenness and other offences" the commissioners reported as follows -

> In this chapter I consider some of the princpal means of diverting Aboriginal people from police custody.

In a great many cases, this Bill effectively provides for drunks and intoxicated people to be taken into police custody and locked up in a lockup. In some cases they will be taken to a sobering-up centre. I am sure every member of this House has visited a sobering-up centre. I visited one in Derby last year which was a very impressive facility. They exist in a number of the larger towns throughout the State.

Mr Prince: They are in Kununurra, Halls Creek, Fitzroy Crossing, Wiluna and Broome.

Mr Riebeling: There is also one in Roebourne.

Mr McGINTY: Yes. From what I have seen of sobering-up facilities, they are well run and appropriate facilities into which intoxicated people can be received. However, the experience of many people is that they will be taken into police custody and held overnight in a lockup when they are apprehended for being intoxicated.

Mr Prince: I suspect that is occurring now.

Mr McGINTY: Yes, but this legislation makes provision for that. It is now a decade since the report of the Royal Commission into Aboriginal Deaths in Custody was brought down. This legislation will impact disproportionately on Aboriginal people. It is appropriate to judge this legislation, and be guided, by what the royal commission said. Volume 3 at page 6 of the royal commission recommendations continues -

> By far the most potentially significant area for achieving this aim, which has been highlighted by the Commission's investigations, is that of public drunkenness. I deal with this issue first and foremost because of the crucial importance which detention for public drunkenness occupies in Aboriginal custodial over-representation.

Further down on the same page the royal commissioners said -

> The Commission has noted repeatedly the high rates of incarceration or detention in police cells of Aboriginal people for public drunkenness. As part of a more general movement to limit the involvement of police in essentially non-criminal behaviour, law reform in a number of Australian jurisdictions has aimed to decriminalize public drunkness.

That is the point I made a moment ago. That occurred the previous year here in Western Australia. The report continues -

> One objective of such reform has been to reduce the role of police in responding to public intoxication.

This legislation will reinsert the police intervention in dealing with matters of public intoxication.

Mr Prince: In many respects this legislation is a rewrite of the 1989 legislation.

Mr McGINTY: The royal commission made the observation, which I will not quote, that in jurisdictions in which public drunkenness had been decriminalised, it had led to a greater level of police intervention. However, the reasons for that are not relevant to my point. To continue -

> Yet the statistical evidence available indicates that the number of police interventions and detentions in police custody usually increases after decriminalization. Moreover, in some regions this phenomenon has particularly affected Aboriginal people.

As background to this issue, which is the subject matter of this Bill, I point out that not only have we had the benefit of a royal commission inquiring into it, but also, a little over a decade ago, we had the benefit of the decriminalisation of public drunkenness which was previously an offence under the Police Act of Western Australia. It would be informative to revisit the report of that inquiry and I shall raise some of the points contained it for the minister's consideration. Volume 3, page 14, contains the heading "Providing Adequate Alternatives To Police Cells". One of the issues with which we are dealing here is the availability of alternatives to police cells, because for many people there is no alternative but to spend the night in the police lockup if they are apprehended for public drunkenness. The report states -

> Experience suggests that a counterpart of removing public drunkenness from the range of offences is the provision of adequate alternatives to police intervention and detention. However, although the legislation governing public drunkenness provides in most places for the establishment of alternative facilities to police cells for the care of apprehended persons, the actual provision of these facilities (and in some cases the use of such facilities) has been tardy.

Ten years after that report was written, I echo those sentiments about the position with which we are again faced here in Western Australia, and it gives rise to some difficulties with this legislation. On page 15 of volume 3, the commissioner continued -

> Some police and other government departments and agencies have opposed decriminalization in the absence of the provision of alternative custodial facilities. Considering the Interim Report's recommendations for decriminalization of drunkenness, the Queensland Police Service responded that there should be no such move unless proper facilities were made available, warning that the cost of such 'would have enormous financial consequences for the Government and the department responsible'.

I am happy that, as the Minister for Police has indicated to the House, in the past decade there has been significant provision of sobering-up centres, particularly in larger country towns, but that situation is by no means universal as yet. I come now to the point of the recommendations of the report of the royal commission where, on page 16 of volume 3, it states -

> It was recommended in the Interim Report that legislation which decriminalized drunkenness should place a statutory duty on police to utilize alternatives to detention of apprehended persons in police cells.

It goes on further down the page -

> It is my view that legislation in other jurisdictions should also reflect this standard.

That was the standard applied in New South Wales which placed a positive onus on police to utilise alternative facilities where they were available. I raise the point with the minister as to where in this legislation that positive duty is imposed on the police to use every resort other than a police lockup. I have not been able to find it, except for a hint in respect of children.

Mr Prince: I do not think you will find it in there.

Mr McGINTY: Perhaps that obligation should be contained in this legislation, given that it was an expressed view of Elliott Johnston, QC, the royal commissioner who inquired into Aboriginal deaths in custody.

Mr Prince: I will respond in time. It is my observation that, with things having changed so much, and there being sobering-up shelters in many places, much of the work of picking people up is actually done by Aboriginal street patrols in our larger country centres.

Mr Bloffwitch: In the majority of them.

Mr Prince: Yes. One operates in parts of Perth. They are not taking people to lockups anyway. I hope it would be the minority position that where there is no Aboriginal street patrol, no sobering-up shelter and no home for people to be taken to, they wind up in the lockup. From the police point of view, they have not so much a fear but a well-grounded belief that the last place these people should be put is in a lockup. That is largely what came out of the Royal Commission into Aboriginal Deaths in Custody. The police simply do not want people like that in the lockups. They should not be there.

Mr McGINTY: I can understand that, but I would feel a little more comfortable with this legislation if the duty were cast on the police, as the royal commission said it should be. On page 16 of volume 3, the commissioner went on to say -

> The inappropriateness of the use of police cells for the care of intoxicated persons must be positively accepted and addressed by both governments and police services.

This aspect of the legislation will be criticised and it would ameliorate that criticism if that provision could be used only as a last resort. That would not in any sense detract from what the legislation is designed to achieve, but it is a shortcoming in this legislation that that recommendation of the Royal Commission into Aboriginal Deaths in Custody was not acted upon. Deaths in detention or apprehension - which is the terminology used in this legislation - will occur in the future as they have in the past, because people who are intoxicated are vulnerable. One of the aspects that came out of that study of the unfortunately large number of Aboriginal people who died in custody was that a great number did not die in jails; they died in police lockups soon after they were arrested and frequently they were in an intoxicated state.

Not only are the people with whom we are dealing here vulnerable, but also they are at risk of committing suicide or of dying in some other manner in custody because of the state they are in when they are taken into custody. The royal commission found that to be the case over a decade ago, and it would do no harm for the minister to give some thought to inserting a simple sentence in the legislation that the use of lockups is to be as a last resort. We on this side of the House appreciate the practical necessity in places where there is no sobering-up centre, the centre is full or where some like situation arises that this provision may need to be used, but it should only be used as a last resort. Although we have progressed somewhat since this royal commission reported, the number of people who die in custody is still increasing. Another person died in jail last weekend, so there has been no abatement in the incidence of deaths in custody and there is no reason to think that people who are apprehended and detained under this legislation will not die in that apprehension or detention. Therefore, there is an obligation to ensure, if it can be done, that this provision should be used as a last resort. This would act as a simple reminder to people who exercise the powers contained in this legislation, given that it involves intoxicated people being deprived of their liberty and being taken into custody effectively, although that is not the term used in this legislation.

In completion on this point in relation to the Royal Commission into Aboriginal Deaths in Custody, on page 17 of volume 3, the commissioner reported -

> It is my view that positive efforts must be made to move public drunkenness outside the realm of the criminal justice system. It should involve not only dissuading police from using police cells for the detention of intoxicated persons but also in developing civilian alternatives to police apprehension of intoxicated persons.

I know that has happened in a range of areas to a certain degree, but we still do not have enough facilities to cater for every person throughout the length and breadth of the State who is apprehended in an intoxicated state. I urge the Minister to make the amendment I suggested to him. To complete what I wanted to say to the House today on this aspect, I refer to two recommendations that flowed from the Royal Commission into Aboriginal Deaths in Custody. Recommendation 80 states -

> That the abolition of the offence of drunkenness should be accompanied by adequately funded programs to establish and maintain non-custodial facilities for the care and treatment of intoxicated persons.

I stress the term "non-custodial facilities". Recommendation 81 states -

> That legislation decriminalizing drunkenness should place a statutory duty upon police to consider and utilize alternatives to the detention of intoxicated persons in police cells. Alternatives should include the options of taking the intoxicated person home or to a facility established for the care of intoxicated persons.

Both of those recommendations emphasise that this legislation needs to contain a provision that directs that custodial facilities, such as police lockups, should not be used, and if they must be used, they should only be used as a last resort. I indicate to the Minister for Police that, in my view, this legislation, as currently drafted, by its failure to contain a last resort provision in relation to the use of lockups, is in breach of the recommendations of the Royal Commission into Aboriginal Deaths in Custody. That being the case, the Opposition would feel much happier if the minister considered the view that I have put to him during the course of this debate.

Mr Prince: Yes, certainly.

Mr McGINTY: I thank the minister. I have dealt at some length with what will obviously be one of the major problem areas of this Bill; that is, its impact on Aboriginal people. That is a problem today and will be in the future. The best guide to inform us on the appropriate policies to adopt is the royal commission recommendations, and I have canvassed them for that purpose.

Perhaps the Minister for Police can assist me on the next matter to which I will refer. As drafted, clause 6 of the legislation provides for the apprehension of intoxicated persons. As I have indicated, there is a power for an authorised officer who reasonably suspects that a person is intoxicated and needs to be apprehended to protect his or her own health or safety, or the health and safety of another person, or to prevent serious damage to property, to apprehend that person. That power, generally speaking, but not exclusively, will be exercised by a police officer. Under the heading "Apprehended person may be detained, but for no longer than necessary", clause 7 refers to the detention of an intoxicated person in an appropriate facility. The issue that I raised with the minister prior to this debate was how that sat with clause 26(3) of the Bill, which provides -

> Nothing in this Act permits the detention of an adult or a child in an approved place.

On the face of it, I do not understand what the intention is. I do not know whether it is possible for the minister to -

Mr Prince: Under the Police Act amendments that were made in 1989, section 53E states that a person who has been detained under this part shall not be released unless the person signs a register - and so on - and is not intoxicated. That is the situation under the law at the moment. This Bill is saying that a person must be (a) not just intoxicated but (b) in need of apprehension to protect his own health and safety, or the health and safety of another, or to prevent the person causing damage. When people are no longer in that state, but may well still be intoxicated to some extent, if they want to go, they go. That is why clause 26(3) is in the Bill. There is no absolute power of detention against a person's will. If people want to go, they can, as long as they are then no longer a threat to their own health and safety, or the health and safety of someone else, or they will not cause damage to somebody else's property.

Mr Grill: That changes the current law.

Mr Prince: Yes, it does, because at the moment under the current law a person who is intoxicated cannot be released until he is not intoxicated. This Bill is really saying that a person should be detained for as short a time as possible.

Mr McGINTY: However, it does not say that. That is why I am looking a little incredulous.

Mr Prince: Yes, I realise that. I am reading my notes.

Mr McGINTY: If that is the intention, it may be useful if the legislation said that.

Mr Prince: Yes. It comes also from a great deal more science than we perhaps had 15 or 20 years ago concerning blood alcohol levels and things of that nature. We know in a general sense the capacity of the body to rid itself of alcohol. A person can still have a detectable blood alcohol level, which is not permitted from the point of view of driving, many hours after his last drink, after having slept and after having eaten and all the rest of it. However, that person is no longer a threat to health and safety or to somebody else's property, and if that person wants to go, he or she should be allowed to go, although he or she is still intoxicated.

Mr McGINTY: That may be what is intended. The difficulty is that clause 7 of the legislation appears to give the police the power to detain.

Mr Prince: It gives an authorised officer the power to detain.

Mr McGINTY: Yes, it is an authorised officer or a police officer. Police officers will be authorised officers. Clause 7 gives a power to detain, but that power of detention cannot be exercised in an approved place, which is the only place the power of detention can be exercised.

Mr Prince: It is certainly intended that the two clauses be read together. One does not have an absolute power of detention simply because of intoxication. There must be the trigger of threat to health and safety and/or property.

Mr McGINTY: The only problem is that the Bill does not say that. However, perhaps I will leave that matter for consideration. The reason I raise it is that we have indicated we support the thrust of this legislation, and we do not want the whole of the legislation to be a nullity because of some drafting. On the surface at least, it does not make sense to me, although I understand the intent.

Mr Prince: You raised it with me and it is being looked at by the brains trust at the back.

Mr McGINTY: Another matter to which I will briefly refer in concluding my comments is, firstly, the nature of the police discretion. I appreciate that in matters of this nature the police, particularly acting without warrant, should have a fair degree of flexibility in dealing with intoxicated people. It is a difficult area. Nonetheless, one of the problems that has been raised with me is the unfettered nature of the police discretion in clause 6 of the Bill. The Opposition has no problem with the police discretion in clause 5, which deals with children and intoxicants. However, in clause 6, which deals with intoxicated people generally, all that is required on the part of the police officer, or the authorised officer, is a reasonable suspicion, and a reasonable suspicion can give rise to a person being deprived of his or her liberty.

Mr Prince: That is right.

Mr McGINTY: There are some other minor qualifying matters: First, the person must not be in his or her own home, which is what I take to mean by being in a public place or trespassing on private property. In technical terms, it does not really leave any option other than a person's own home. Secondly, the person must be intoxicated. A reasonable suspicion that someone is intoxicated is fine. Thirdly, the person needs to be apprehended for his or others' health and safety.

Mr Prince: And it is an "and".

Mr McGINTY: Yes, certainly it is something which must be satisfied. However, if the authorised officer reasonably suspects that someone should be apprehended in his own interests, or in the interests of the health and safety of others, or in the interests of property, that is a wide power. I do not object to it and I do not suggest it should be amended. I simply make the point that it could easily be wrongly used, and the consequences of wrongly using it are to take the ultimate sanction and to deprive someone of his liberty. It should be monitored, and if there are any suggestions that the police have been over-zealous, the Opposition would want to see that tightly controlled and, if need be, amendments made to limit the powers of the police in what is otherwise a very wide discretion. However, I do not put that suggestion forward now because I appreciate -

Mr Prince: I draw the member's attention to clause 17, which in many respects is also a rewrite of the existing provisions of the Police Act which were brought in in 1989.

Mr McGINTY: I will deal with clause 17 and the prospect of review, because in clauses 17 to 20 of this legislation there is no real provision for review. The Bill says that a person who is treated as an intoxicated person has the right to a certain review. The first objection I raise is that nowhere is a duty cast on the police or the apprehending officers to tell people of their right to review. The average person taken into one of these facilities - perhaps every person taken into one of these facilities - would not be aware that there is a statutory provision for review by a justice of the peace. This legislation would be enhanced if a duty were cast on the apprehending officer to advise people of their rights, because, being new legislation, it is not an area in which people would have knowledge of an ability to have their apprehension and detention reviewed by a justice of the peace.

Mr Prince: Section 53I of the Police Act reads -

> (a) a person detained under this Part may, at any time, request a police officer to take him or her before a Justice . . .

This Bill contains a rewrite of the existing law.

Mr McGINTY: The point I make is that we are not talking about judicial processes or people being arrested, which is what the minister is talking about in respect of the Police Act.

Mr Prince: No, this very definitely says that nobody shall be arrested. What you did in 1989 -

Mr McGINTY: This relates to public drunkenness?

Mr Prince: This is intoxication by reason of alcohol only. We have extended it to any form of intoxication.

Mr McGINTY: That includes illicit substances?

Mr Prince: Yes.

Mr McGINTY: Nevertheless, my point remains valid: People will not be aware of their rights. Nothing in this legislation casts upon the authorised officer any obligation to alert people to the fact that they have a right of review before a justice

of the peace. A range of circumstances are spelled out in clauses 17 to 20 where judicial review can be undertaken if the person being apprehended for being intoxicated requests it. However, there is no obligation on the police to alert people even after they have been detained for eight hours and are to be taken before a justice. There is no explanation of their rights. It applies similarly in clause 19 where a justice of the peace is to review detention. It applies particularly after the event, up to 30 days after people have perhaps been wrongfully apprehended and detained when they have the power to go to the local court to apply for a declaration that at the time they were not intoxicated.

I mentioned before that there will be great evidentiary problems with utilising that provision, particularly after the event and particularly if it is a power that the apprehending officer exercises in good faith. It will be very difficult to establish to the satisfaction of a magistrate in the local court that the person was not intoxicated. This legislation would be enhanced if there were a duty, perhaps not at all stages but at some stages, on the apprehending officer to advise people of their rights, particularly when they are being apprehended forcibly as this legislation envisages in some cases they will be.

This legislation does offend the recommendation of the Royal Commission into Aboriginal Deaths in Custody and would be enhanced if an amendment along the lines I have suggested is considered. Further, the judicial review provisions of this legislation are somewhat illusory and again could be enhanced by some proper informing of people's rights, not at the point of apprehension, because in many cases it would be -

Mr Prince: A pointless exercise.

Mr McGINTY: Yes, as pointless perhaps as the judicial review provisions if no-one knows they exist.

Mr Prince: You keep saying that, but it is drawn from section 53L of your legislation.

Mr McGINTY: I know the line the Government likes to keep running is to refer everything back to the 1980s. The minister will not get an argument with me that everything done at that time was right. This is something that could be reviewed and is certainly a point that has been raised by lawyers.

Mr Prince: I do not want to make more of it other than to say that it is not new in the sense that some of these matters you have raised have been in the Police Act since 1989.

Mr McGINTY: A number of provisions in the Police Act could be updated. There has been a problem with a new Police Act for many decades. Perhaps we might leave that there.

With the reservations I have expressed, this legislation has the support of the Opposition. A major issue of concern to us is the absence of alternative facilities to police lockups in which to detain such people.

MS WARNOCK (Perth) [4.43 pm]: I am very supportive of the Bill and pleased to address the subject in the House. My ever learned colleague the member for Fremantle has addressed a number of concerns that I am sure are shared by many members in the House, particularly those who are lawyers or have some connection with the law. I want to address those briefly. I have previously asked questions in the House about a planned intoxicated persons Act. I am assuming that this Bill represents the substance of that proposed Act that had been in drafting for some time.

My interest in the subject comes from quite a long way back. As a young journalist, of course some years ago now, I regularly saw a parade of intoxicated persons, some making an almost daily appearance, go through the lower courts in the city. It seemed to me then very sad and silly, as it was quite obvious that the mostly old drunks in those days would continue to drink and make another court appearance very soon. As I saw it then, the offence of drunkenness was largely used as a way of cleaning up the streets for the rest of the citizens. Apart from a night's sleep perhaps, it was not offering a great deal to the people who were suffering from excessive drinking. Some years later another, more serious problem developed, which has been alluded to by my friend the member for Fremantle, when a depressingly large number of Aboriginal people were dying in custody, many because they had merely been apprehended for drunkenness. That led eventually to a change in 1989 when drunkenness was decriminalised. Things seemed far more compassionate and it was hoped that deaths in custody would be dramatically reduced. It also meant that police would spend less of their time arresting people for a relatively minor offence and taking them through the courts - a fairly expensive business. The 1989 change allowed for the apprehension and detention of people who were intoxicated by alcohol and it assisted in making them safe and stopping them from making problems for others. I will say more about that in a moment, but I want to go on to why I support this Bill.

It was becoming pretty obvious to most people who looked around the streets of our city that the 1989 Bill did not go far enough. It dealt only with people suffering from alcohol abuse. In the City of Perth, and no doubt elsewhere in Western Australia, one could see young people and not so young people staggering around the streets, badly affected by sniffing paint, glue or solvent or having used amphetamines or heroin. No-one could do very much about those people in public places unless they committed an offence. It has been something of a scandal and problem in our streets for some time and certainly very worrying for people who have been concerned about what they can do to assist people who are obviously in an altered state, as someone else has put it, and who may not be able to help themselves and may be about to cause a great many problems for other people. The Bill will give authorised persons the power to apprehend all types of intoxicated persons in public places. It will allow those authorised persons to manage their care and protect them properly. No offence is involved, which is very good to hear.

This is a very good idea and a necessary piece of legislation. However, like my colleague, I am concerned about a number of aspects of the legislation. I hope that it will protect particularly young people who are obviously badly affected by any

substance abuse in a public place, and also assist others who have been frustrated by the fact that nothing official can be done about the situation. However, I have the same concern about this legislation as I had about the decriminalisation of drunkenness. We have heard today about how there are a number of sobering-up or detoxing facilities in country areas, as indeed there should be. However, if there are not enough of them - I am thinking particularly of the city because that is the area I represent - this law, however well intentioned, will not be very useful. It will leave us with the same sort of obvious problem that exists in several public squares in Perth now. I am sure the Minister for Police will have heard me speak about this before, because it is a concern I have had since I represented the city area in this Parliament. Numbers of Aboriginal people have come to me with their concerns about their own people being left in public places in a state of intoxication from whatever cause. Other people have come to me about young people - not related to them but people they see around the place - in a state of intoxication and wonder what can be done to assist them. That is not to speak of what they might do to other people, but what they are doing to themselves. I am sure other people have had the experience of starting off at traffic lights that have changed to green to find someone staggering in front of them obviously affected by a substance, and completely unaware of where they are. It is worrying to have people in this state, and to be aware there is not a great deal that one can do about it. It is absolutely essential with this otherwise good legislation that the Government, with the assistance of non-government and charitable organisations, provide enough facilities to assist these people. If there is nowhere to take them or not enough people funded to help them we will develop similar problems to those that arose when mental health patients were deinstitutionalised - to use that awful word. If there is nowhere for them to go and no-one funded to take care of them, this legislation will not be much use and we will have failed the people we set out to help with this legislation.

In the case of the Aboriginal community, which was alluded to by the member for Fremantle, particularly in the bush, it is expected that community volunteers will help to protect the intoxicated from themselves. We have heard already that to an extent that is being done already in some towns. This Bill will give authorised officers the power to remove people from the streets for their own protection. It will be helpful in the smaller, close-knit communities. I understand it is working quite well in some of those communities. However, seven years as a member of Parliament representing the city electorate has taught me that a lot of people have these problems and not enough care is provided for them.

The major concerns I have about the legislation are whether it will take care of that problem, because it will not be inexpensive to provide sufficient detox facilities, and whether there will be any guarantee of funding for more care places. It is obvious that taking some young people back to their parents will not help them much and in some cases it would not be recommended. We must follow through on this, otherwise it will not work.

I have mentioned this to the Minister for Police already. Last week I discussed this Bill with a group of young people who are working with other young people who are homeless and some who have drug problems. I had just read the Bill and started to write a few notes about it. There was a concern among this group of people about what "apprehending the intoxicated" was likely to mean. How long would they be detained, notwithstanding the lack of an offence arising out of the apprehension, would any other offence arise, and will the action of being apprehended by an authorised person - for example, often it will be a police officer - cause even further mistrust of authority by some of these alienated young people? Considerable misgivings were expressed in this group, and I can understand this. They were referring to a WA Drug Abuse Strategy Office paper which has been circulated and which refers to intensive support and compulsory intervention for young people with serious drug abuse problems. I have mentioned this already to the Minister for Police and he knows the paper to which I am referring. He tells me it has no connection with this Bill. However, having read the Bill and mentioning it to this group of people, I can understand why they would be concerned about it, because this issue is very much in their minds.

Mr Prince: That paper is out for discussion at the moment. As Minister for drug strategies, I know about that paper.

Ms WARNOCK: Yes; and they were part of the discussion. I subsequently read it and found it interesting.

Mr Prince: It is not a proposal; it is a paper.

Ms WARNOCK: I understand that. I have received comments on the paper from young people who have read it. I do not think this Bill deals with the same issue. However, we all need to be assured of that and perhaps the minister can do that in his reply. That is because many people could easily misconstrue the Bill's purpose. These young people also had something to say about the current lack of facilities for drying out or detoxing young people. They already have a concern about that, never mind if any more legislation were to be introduced and therefore create more clients for detox centres. Parents and others who work with young people with drug problems have made it clear that it is necessary to have a special detox facility for young people. Again I emphasise my concern that funding be provided for such facilities. A detox facility for young people with these kind of problems does not presently exist and it is a concern of the group of people to whom I was speaking last week that it should be provided and they would like to be sure, given that this legislation is supported by the Opposition as well as the Government, that in the event of its introduction such facilities will be provided. I share the concerns of the people I spoke with last week. If they are not provided, further problems will be created. They gave me a number of notes they had made about this subject. Their major concern was that if such a piece of legislation is introduced, proper facilities should be provided and there should be no offence and no compulsory treatment. That was a great concern that there should be a special drying out detox facility for young people, because some of the facilities that exist for adults are unsuitable for groups of young people.

I will leave it there because my colleague has covered the issue very well. I welcome the legislation for the reasons I have given. Like my colleagues I will be listening carefully to the minister's reply because I want to be sure that we have lots of checks and balances in a piece of legislation of this kind.

MR GRILL (Eyre) [4.57 pm]: I will make a few remarks about this legislation in the context of the eastern goldfields, Kalgoorlie-Boulder and some of the other towns in my electorate. I have had only a brief look at the legislation. At first glance it appeared to be fairly benign legislation designed to protect people and give some care for their management after they have been apprehended while they are intoxicated. It enlarges the provisions within the Police Act which largely deal with drunkenness. It softens up some of the provisions of the Police Act in the way those people must be handled and the way in which it is necessary to release them. I believe that the provisions of clause 7 are more benign than the current section in the Police Act, so I am a little puzzled by one or two of the comments of previous speakers; although it may be that I have missed something in this matter.

I had the privilege in the past of establishing a committee which set up a sobering-up shelter. The other people and I on that committee carried out that task from go to whoa; that is, from the inception of the concept of building a sobering-up shelter in Kalgoorlie-Boulder to supervising its building.

Mr Prince: Was that Bega?

Mr GRILL: The Bega Garnbirringu Health Services runs the sobering-up shelter. However, the shelter is not part of Bega; it has a contract to run the shelter. The sobering-up shelter was put in place by my committee. It was opened by one of the minister's predecessors, the current Attorney General. Bega was the agency that was given the task to run it at the end of that period. It could have been the Salvation Army or another group. However, given the number of Aboriginal people who use the hostel, it was probably highly appropriate that it was Bega. When the Australian Labor Party worked towards setting up that sobering-up shelter it was part of only a mosaic of much-needed facilities including suitable medical facilities. Bega provides good medical facilities for many Aboriginal people who find themselves intoxicated and placed in those shelters. However, we also believe that detoxification and rehabilitation centres are needed. As far as I am aware, there is no detoxification centre in Kalgoorlie-Boulder, or anywhere in the goldfields, nor is there a rehabilitation centre. Members who have spoken so far on this legislation have indicated that the initial changes to the Police Act were occasioned by the decriminalisation of drunkenness; that is correct. That then led to the necessity for setting up sobering-up shelters. I am concerned that sobering-up shelters can be abused. They can be used as flophouses by people who do not want to pay for overnight accommodation and who simply want a warm bed, a new set of clothes, a nice shower and something pleasant to eat in the morning. The facility in Kalgoorlie is abused often in that sense.

Mr Prince: People have the money to be able to afford to become intoxicated so that they can enter it in the first place.

Mr GRILL: I can tell the minister that, contrary to public belief, many Aboriginal people have high disposable incomes. The problem is not that they do not have the income -

Mr Prince: You mean they have the income but are prepared to dispose of it in that way?

Mr GRILL: Yes, the issue is really about the way in which the income is disposed of. I have said before in this place, and I will say it again: I believe Aboriginal welfare policies are profoundly mistaken. That fact will be appreciated in time and this generation of people will be condemned, as the previous generation of people has been condemned, for its lack of knowledge in that area. That is incidental to the issue and is my view which I do not believe is a view held currently by the community. Nonetheless, that will come to pass.

Mr Prince: Sometimes you belong more naturally on this side of the House.

Mr GRILL: In some senses I do.

Mr Court: It is not too late to jump ship.

Mr GRILL: That is very unlikely. I am concerned that sobering-up shelters can be abused. They should be used for the purpose for which they were set up. If they are abused, it is less likely that more money will be put into the development of other facilities. We need more sobering-up shelters but we do not need a sobering-up shelter in every small town around the State; that would be a major waste of money. On occasions lockup cells will be used so that people can sober up. Even the lead speaker on this Bill, who has just returned to the House, will appreciate that fact and I am sure he was not suggesting that every small town should have a sobering-up shelter.

One of the ironies of the recommendations of the Royal Commission into Aboriginal Deaths in Custody was the finding that the people who went before a court and were placed in custody in some parts of the Northern Territory were far less likely to be injured or to have misfortune befall them than those released on bail. That was a profound finding and one which has been glossed over in the past; however, it is there among the findings. I believe we have a duty towards people who find themselves intoxicated for a range of reasons and the lockup is a proper place if there is no sobering-up shelter in place, provided police officers show sufficient care.

I remember a further matter which became apparent when the Royal Commission into Aboriginal Deaths in Custody was established. It was clear from the statistics of people dying in custody provided by the Attorney General of Western Australia that the incidence of deaths among Caucasians in prisons and lockups was higher than that which prevailed among the Aboriginal population. The Aboriginal Deaths in Custody inquiry probably should have been called the Deaths in Custody inquiry. I temper those remarks by indicating that I believe there was a higher incidence of deaths among Aboriginals than among whites per head of population in lockups. However, overall there was a higher incidence of deaths among white people in the two sets of figures of deaths in prisons and deaths in lockups.

As I said, this is benign legislation and we should strongly support it. It exists for the protection of people and for their managed care. I would like to direct a few remarks to the minister as there may well be scope to enlarge the legislation.

Mr Prince: In what way?

Mr GRILL: Under clause 5 of the legislation juveniles are placed in a special category with provision to confiscate some intoxicants and other items in their best interests. There are other provisions later in the Bill for the return of some of those items. In other parts of this country, notably the Northern Territory and South Australia, Governments have introduced dry area legislation. Is the minister aware of that concept?

Mr Prince: I am.

Mr GRILL: The legislation of the Northern Territory and South Australia is not identical. Basically, the legislation provides that certain areas can be declared dry and if alcohol is taken into those areas, police officers - or authorised persons as referred to in this Bill - have a right to confiscate that alcohol.

Mr Prince: They do that under the Aboriginal Communities Act.

Mr GRILL: Yes, in Western Australia. There is no provision for declaring dry areas in Western Australia, as there is in the Northern Territory and South Australia, and there is no provision for confiscating alcohol or other intoxicating substances.

Mr Prince: The declaration of a dry area is made in consultation with a local authority.

Mr GRILL: It must be done in close collaboration with a local authority; it could not be done otherwise. I drafted some legislation which has not yet seen the light of day, mainly because the local authority in Kalgoorlie-Boulder lost interest in it.

Mr Prince: You mean as a law under the Local Government Act?

Mr GRILL: No, as legislation to go through Parliament.

Mr Prince: Was your intention to empower the local authority to declare a dry area or for it to be done by a State authority in consultation with the local authority?

Mr GRILL: I cannot remember the exact provisions of the legislation and I did not refer to it for this debate. However, it would be legislation which would allow dry areas to be prescribed. My understanding, as I recollect it now, is that dry areas would be prescribed by the State Government in collaboration with the local government which would give police officers in that area the power to confiscate alcohol.

Mr Prince: I just have in the back of my mind that you might wind up with a local council at one stage dominated by a group of people who believe that all alcohol should be banned and there would be significant breaking of the prohibition law in a particular area by the local populace. It works for discrete Aboriginal communities in the sense that they are effectively self-governed. However, if the Kalgoorlie-Boulder council, for example, decided to declare Kalgoorlie-Boulder dry, assuming there were the numbers on the council to do so, it is not likely to be a law that would be obeyed.

Mr GRILL: No, it is not

Mr Prince: Which is why we need to have local government input but with state imprimatur to veto.

Mr GRILL: We agree on that. I would not give a council that right. I do not think the legislation in either the Northern Territory or South Australia gives that right to local government. It is done in collaboration with the police and state authorities. The problem in places like Kalgoorlie-Boulder and other places in the goldfields such as Leonora is that many Aboriginal people, fringe dwellers, etc - they are not exclusively Aboriginal people - have nowhere to drink. They tend to buy their alcohol at drive-in bottle shops and consume it in the street. Having done that, they become intoxicated in the street. Quite often they are a danger to themselves in the sense that they can be among the traffic and are an irritant to other people. That causes friction in the streets between those inebriated people and normal law abiding citizens.

Mr Prince: It is often unfortunately racial friction.

Mr GRILL: Yes. I do not want to suggest any racial overtones on this matter, but the minister is right, those situations exacerbate racial overtones.

The Opposition thought it was worthwhile examining that form of legislation in other States. A committee, strangely enough paid for by ATSIC, travelled from Kalgoorlie-Boulder. It included the mayor and the chief executive officer of the council and a number of other people. On its return it recommended legislation on which, to some extent, the member for Kalgoorlie and I collaborated in drawing up. However, they lost interest and the legislation has gone nowhere. In due course, they will probably return to the position that some sort of dry area legislation is necessary.

Mr Prince: I suggest what you are talking about would be more appropriately part of the amendment to the Liquor Licensing Act, rather than this. I appreciate what you are saying when you say this legislation could be enlarged. However, the Liquor Licensing Act is the more logical Act to amend.

Mr GRILL: I think our amendments concerned the Police Act, but I will check that. The amendments are more akin to the legislation with which we are dealing today rather than the Liquor Licensing Act. We would not be touching licensed premises in any way.

Mr Prince: No, but licensing is an exercise in licensing people to sell and supply liquor and permitting people to consume it in some areas. You are referring to a form of licensing of an area for no consumption.

Mr GRILL: Yes, it is the reverse. The intrinsic problem for police and street drinking - in these circumstances it occurs on a fairly large scale - is that, under the law, they must apprehend people in the process of consuming alcohol. The police have asked for the ability to confiscate alcohol when people are in a certain area and it is likely they will consume it. Clause 5 goes a long way down that track. In those circumstances, the police would not have to arrest anyone for street drinking nor would they have to prove street drinking. They would simply have the power to confiscate.

Under the legislation, we considered the power to confiscate in itself was a sufficient penalty. If people took alcohol into an area, the police would have the right to confront them and to confiscate it. The motive was that, having had their alcohol confiscated once, they would not do it again. There is something in that, but the alcohol must be strictly accounted for. We could not confiscate it from people and not account for it later.

One other concomitant matter is necessary if dry areas are to be provided. We must deal with a basic problem and provide places for people to drink; that is, for the indigenous people who do not have the ability to be acceptable customers in a hotel. We must put in place the opposite to dry areas; that is, wet areas. The council and others must be prepared to set aside areas in which liquor can be supplied and in which people can drink. They go hand in hand.

It is interesting that this legislation moves some way down that track. It is not all that radical. It has been put in place in the Northern Territory and South Australia, and principally applies in Alice Springs, Ceduna and Port Augusta. It may work in Western Australia. If it did work, it would overcome many problems and racial tension would be reduced.

Many of the complaints we receive on racial disharmony are due to people's perceptions. Most of the fringe dwellers who drink in the streets are not a problem in any real sense. They do not break into houses. They are mainly unruly, loud and boisterous when they drink. Due to the traffic, they are a danger to themselves when they are on the roads and they defecate and urinate in strange places, which puts people offside. Outside of that, they are not law-breakers; nevertheless, the perception held by so many people within the community is that they are the root cause of a range of problems, including commercial problems because businesses object to them frequenting certain parts of the main street.

Legislation of that kind may well be the way to go in future. The Opposition supports this Bill, which certainly goes some way towards doing that.

DR TURNBULL (Collie) [5.16 pm]: This afternoon I rise to support this Bill. I have been of the strong opinion for a long time that a Bill of this nature is necessary. As a doctor in the town of Collie for about 25 years, and as a member of Parliament, I have found intoxication and the influence of drugs to be a very large cause of people's disorderliness and of the problem of people offending against law and order.

It is very important that police are able to apprehend intoxicated Aboriginal people and move them away from where the effects of their intoxication are impacting heavily on the community to another area where they are safe. Unfortunately, the behaviour of intoxicated people - very often Aboriginal people - in shopping centres and in supermarkets can lead to aggression against other people and it can result in altercations.

The police do not want to charge those people. They do not usually have anything to charge them with, but they need to be removed to another place. For that reason, this Bill to amend the legislation is very important.

We must recognise that, biologically, Aboriginal people cannot deal with alcohol in the same way as Caucasian people. Enzymes in their liver cannot break down the toxic components of alcohol as easily as those of Caucasians; therefore they become intoxicated after drinking a much smaller amount of alcohol than a Caucasian person would need to drink. As the member for Eyre said, these people do not have anywhere to drink their alcohol. However, the other factor is that when they do drink alcohol, they do not have to drink as much as a Caucasian before it affects them.

I will not go through the whole Bill because, as I said, it is a good Bill and I fully support it. I have supported it during all the discussions and papers that have gone into the process of formulating the amendments. However, I want to ask the minister a number of questions concerning juveniles. Clause 11 deals with releasing apprehended children. I fully support that an authorised officer will be able to take young people into custody for their own protection or because they are intoxicated. However, the important question is what the authorised officer does with them then. As has been said, we do not want those people to land in the lockup. In country towns there is a problem of what to do if a child cannot be released into the care of a person who is that child's parent or legal guardian or a person who will consent to take charge of the child. The problem is that the officer will be left with the child. I ask the minister how much negotiation has taken place with Family and Children's Services on the question of how a person in charge of an appropriate facility, such as specified under clause 11(1)(c), would be found.

Mr Prince: We have had a great deal of consultation with officers from Family and Children's Services. It is difficult to find them after four o'clock.

Dr TURNBULL: That is exactly what I mean.

Mr Prince: They have real problems with the concept of children being in lockups, so we arranged, with some difficulty, for them to be given a guided tour on a Friday evening, including a visit to a number of the lockups, and they came away with a significant change in their views.

Dr TURNBULL: I hope that has flowed down as far as the regional centres.

Mr Prince: I doubt it.

Dr TURNBULL: I hope it has also flowed out to the smaller towns.

Mr Prince: Not yet.

Dr TURNBULL: I do not feel that it is right for a police officer to be required to deal with this subject at any time after four o'clock on a working day, including on weekends.

Mr Prince: It is not intended that the police officer should be the first point of contact. It is intended that others should be the first point of contact and the police will be the last resort when nobody else is there. That is the case in some of the smaller country places; there is not anyone, other than the police officer and his cell, if one likes. For Aboriginal people in the larger country towns, the use of the Aboriginal street patrol, the sobering-up shelter and taking those people home is by far the preferable way of handling the matter. There are sobering-up shelters and, if necessary, medical facilities. When one does not know the nature of the intoxication and perhaps becomes worried, it would be best if the youngster was in hospital surroundings. The last resort is the lockup, and in many respects the last resort is the police officer, because the authorised officers should be people who work with Aboriginal street patrols, Family and Children's Services officers and a few others in society who have similar powers. I am thinking of Health Department social workers who work as street social workers dealing with dysfunctional youth.

Dr TURNBULL: Yes. In my electorate, there are virtually none of those, except for police officers and Family and Children's Services. As the minister mentioned, Family and Children's Services is not available on weekends or at night. On a Monday, at about 10.30 pm in one of the towns in my electorate, I saw in the park about six people, at least three of whom would be classified as less than 18 years, who were well and truly intoxicated. One of those persons in particular was most likely to be a danger to himself. I have been told that on other occasions - not at the time I saw them - those people had been a great irritation and perhaps even caused danger to others. This legislation is very good. However, I do not want the load to fall totally on the police in country towns. Unfortunately, I feel that it most likely will. We must work hard to make sure that Family and Children's Services assists the police in these cases.

I support this legislation. I thank the minister for the comments he has made during this speech. I am pleased that Family and Children's Services has been consulted on this subject. I conclude by saying that the powers of search and the powers to destroy any alcohol or intoxicating substance which is found are good additions. I support the Bill.

MR BROWN (Bassendean) [5.26 pm]: Like my colleagues, I also support the Protective Custody Bill 2000. There are equity and economic reasons for the State to take interventional action to try to stop the type of substance abuse that is sought to be covered by this Bill. The equity considerations are that the State should seek to intervene to try to prevent all people, particularly young people, injuring themselves through substance abuse and placing their lives at risk as a result. There are also equity considerations in involving the State in trying to prevent young people harming others. Equally, there are economic considerations. They involve seeking to prevent a situation occurring whereby a person who is constantly abusing himself is placed in a position in which the State needs to support him for an extended period, or, alternatively, to prevent a situation whereby, as a result of substance abuse, a person can seek to harm others or engage in antisocial or criminal behaviour. That has a clear economic cost. Therefore, there are both economic and equity considerations which support direct intervention to try to prevent people harming themselves through substance abuse.

The manner in which that intervention should be targeted is always a matter of some debate; that is, should the intervention be geared to a health initiative, a crime prevention initiative or a social initiative? This Bill strikes a right chord, in that although it is appropriate that it uses the Police Service to intervene in the first instance -

Mr Prince: And others.

Mr BROWN: I will come to the others - it does not preclude others. Indeed, others have a significant role to play in, hopefully, the rehabilitation of people, particularly young people, who are into substance abuse, and particularly those who are into continual substance abuse. I have had an interest in this matter for a long time, primarily because some people - non-Aboriginal and Aboriginal juveniles and adults - in the electorate I am fortunate to represent engage in the type of substance abuse we are referring to in this debate. One of the major problems that has been brought to my attention is young people sniffing; that is, walking around inhaling whatever substances may be contained in bags held to their faces.

Mr Prince: Glues, paints and solvents.

Mr BROWN: Those substances are fairly pungent and one can only envisage the sort of damage they are doing. Although I have not undertaken detailed research, I understand that whereas some illicit substances might produce a more sublime temperament, the inhalation of glues, solvents and so on can make people particularly aggressive and angry. They can become quite volatile and unpredictable and pose a potential threat to themselves and to members of the community who are interfered with while going about their lawful business. In the electorate I represent, I have advocated the need for a strong intervention program for substance abusers, particularly young abusers. I took up that matter with Family and Children's Services about a year or more ago and have been vocal about it in the local newspaper and elsewhere. It seems that the only way to reach some of these young people is through direct intervention programs in which a youth worker meets, associates and works with them. Young substance abusers do not attend recognised youth groups such as police and

citizens youth clubs or the local football or cricket club. Many are alienated and do not see a position for themselves in mainstream society. They see a position only at the fringe. They engage in this sort of destructive behaviour because of the need for escapism. Nevertheless, it needs to be prevented. If possible, it is important to engage these young people to get their confidence. No-one underestimates that it is a difficult task. Some years ago, I had the opportunity of talking with an excellent worker employed by Centrecare in the city. He worked with a range of mostly Aboriginal families. He told me about the complexities of his work and how when he started working on a problem that looked fairly superficial, all sorts of idiosyncrasies and family pressures often needed to be dealt with to help pull the young person out of that situation and get his life together. It is not an easy task and requires great care, skill and sensitivity. It also requires the support of other agencies. No agency can combat this issue by itself. That has been mentioned time and again by virtually everyone who has studied the issues of crime prevention. In 1994 or 1995, I was asked to present a paper about crime prevention to a major conference organised by the State Government. At that conference, it was recognised that all agencies had a role to play. It is not simply a policing matter but one in which agencies with different perspectives need to become involved. It is particularly pertinent for young people. Some years ago, I had the opportunity to study the crime prevention system in Canada. I was impressed by the national crime prevention council that had been established following a major parliamentary inquiry in 1991-92. Council members were drawn from different agencies: Police, social security, health, welfare, education and so on. People from those different disciplines, with different views on the subject, worked together to formulate programs that would hopefully guide and assist young people who found themselves in a situation similar to the one we are confronting today. After looking at the situation in Canada, I believe the necessary level of sophistication or coordination does not exist in Western Australia. We fail in a number of respects. We simply do not provide the long-term funding requirements that are necessary for those programs to work. The funding made available to non-government organisations and local authorities for these types of programs is often limited in quantum and life. The Government has a penchant for changing funding guidelines without any regard for the nature of the service. An example is the Cyril Jackson Senior Campus, a good second-chance school in my electorate for mature-age students. It caters for older secondary school students who have decided to return to school to try to get on with their lives and for young people who have missed out on a normal education. A number of those young people have problems, some of them with substance abuse. A small program has been established to assist some of those students.

The funding guidelines for that program were changed again only last year. We had to scrabble around the year before in the hope of putting some pressure on the system to ensure the funding was not removed. Those organisations face an enormous task in dealing with young people who often do not have self-confidence or the skills of adult life and who search for, but cannot see, a place for themselves in the community. Various organisations work with those young people to give them some self-esteem, to channel them in the right direction and to put them in contact with decent programs. However, the workers do not know whether they will have a job in three months' time or whether funding will be available for their organisations. They constantly search for bits of funding here and there from a federal or state program in order to keep the organisation alive to provide the service. They must also constantly change their service delivery methods to meet the new funding criteria because someone in Family and Children's Services, the Office of Youth Affairs or elsewhere has said, "No, we now want another outcome and another set of reporting arrangements. If you do all these things, we will be gracious enough to give you $15 000 or $20 000." Big deal!

Although this Bill is a positive step, it is only the start of the process when the police intervene, take a person off the street to a sobering-up centre or an appropriate place and take away any substances they may possess. Indeed, it would be of assistance if the only result of this Bill was that police intervened and removed a young person or an intoxicated person from the street to be placed out of harm's way until he or she sobered up or got over the substance abuse, and that person was then released. However, that will not go far in overcoming the systemic problems facing the community. An overall framework is needed to address those matters. This Bill is a start; however, it will not achieve long-lasting results unless it is backed up with a framework through agencies such as Family and Children's Services, Education and Health. This framework should ensure that young substance abusers who are picked up on a number of occasions are referred to an appropriate program to be case managed. Part of that case management will involve attempts to get those kids to school so they can receive an education and to get them involved in sport or a community activity.

One can take a leaf from the book of the South West Metropolitan Social Development Council, which worked with kids at risk. It did not have predetermined programs. It sat down with those at-risk kids and asked them what they wanted to do.

Mr Prince: I think the member is right. Through the Safer WA committees, at least the social services can share this information around with Education. There should be an agency that acts as the case manager. It should be Family and Children's Services when dealing with youth.

Mr BROWN: That could be done in a number of ways. It is fine to use Family and Children's Services, but some other organisations could also be used. I have been reporting to my electorate about crime prevention for the past six years. I floated the suggestion in one of those reports of using crime prevention officers - not police - who have an overview of all the things taking pace. These people can liaise with all the agencies and bump the agencies along to deal with these issues. We all know what happens at an agency level.

Mr Prince: I understand your point. However, if people who are not focused on crime prevention, but are focused on trying to get people back into mainstream life, were harnessed, for example, out of Education and Health, the end of crime prevention would be achieved. It is a question of who case manages the individual.

Mr BROWN: That is right. It is also a question of where they are stationed. If they are stationed in one department, they must have entree into other departments.

Mr Prince: I agree.

Mr BROWN: I will provide the House with a classic case: A parent in my electorate has sought some special assistance through the Education Department because of problems she is facing with her son, who has a mild intellectual disability and is falling behind at school. That support has been very difficult to obtain. The boy, who is quite a large lad, is becoming aggressive and difficult for the parents to control. We now see an outflow of that situation. Someone from the Education Department may say, "This is all too expensive for us. We will not provide the resources that are necessary for this child." Government - irrespective of its political persuasion - must understand that if the Education Department makes that decision, a consequence will be felt in the community, the Police Service and the family. That is not to suggest that we can pick up every single piece in the community and attend to it. However, a more focused view is needed on some of the problems that arise at the difficult social end of our society. Society can do one of three things: It can ignore the problems, or it can fail to properly deal with them. When some people finish up in the criminal justice system and in prison, society can pay for it then. Alternatively, society can seek as best it can to deal with the problems at an early stage.

The Minister for Police would agree with me that, generally, two broad types exist in the criminal justice system: The bad - and there is no real cure for them - and the slightly mad, for whom something can be done through intervention at an early stage.

Mr Prince: I agree. Whether they are called psychopaths or sociopaths, some of those people could not be prevented from entering the justice system in the first place. They tend to be a very small number, but are often the most violent people. For the majority, environmental influence has contributed to their criminality. Consequently, that is not only correctable when they become criminals, but also it is preventable so as not to create criminals. Professor Homel of the school of criminology and criminal justice in the Griffith University in Queensland published a fascinating report in January 1999. I have been talking around the State about preventive and risk factors in childhood, in infancy, even right back to underweight and premature babies. It is fascinating stuff. A lot of it was commonsense and are things you and I know about because we have been involved in the area, but a number of things were a surprise to me. I entirely agree with that type of thing. Through the Safer WA local committee organisation and case management of at-risk families - I use that term as broadly as possible - in time, I hope, the environmental factors that lead ultimately to criminality will be reduced.

Mr BROWN: I agree in terms of local problems and local solutions. Certainly the Canadian approach is based on that, and I support it. However, there is a risk, in that the Government must be prepared to commit a reasonable level of resources and give those local groups some authority.

Mr Prince: Which in itself is a threat to the middle level of the department.

Mr BROWN: That is right. If the Government does not do that, those local groups feel it is window-dressing. Some of the people to whom I have spoken who had a lot of enthusiasm when this process started are already saying it is window-dressing. They say they go to the meetings and have discussions but nothing happens. That is not the fault of the local sergeant or senior sergeant, or because they are unsympathetic; but they cannot ring the Minister for Health, the Minister for Family and Children's Services and various other people to say certain things must happen. Nothing happens and, therefore, the people involved can become very cynical.

Mr Prince: Breaking down the departmental barriers is both the hardest exercise and the one that will undoubtedly reap the most benefits.

Mr BROWN: It is, and in part it comes down to information protocols, what information is exchanged, the way it is exchanged between departments and agencies, the chief executive officers' duty statements, their obligations for the narrow and the peripheral issues, and their assessment of these matters. It becomes a question of making sure that departments and ministers - there must be a discipline between ministers - are not tempted to pull back at the edge to retain money for another discretionary program. The issue in Midland with the Indec's program is a classic example. Every minister pulled in a bit, and the Indec's program collapsed through lack of funding because no-one was prepared to fund it. It was a great program which dealt with school refusers.

The other issue is that if the Government is to follow a social development model, which was very successful in the South West Metropolitan Social Development Council, there are some attendant risks. It is not a matter of operating nice little programs in neat boxes. It means working with kids at risk, particularly substance abusers, and trying, firstly, to raise their self-esteem and, secondly, to place them in programs. It may be a question of getting them into a band, a basketball team or whatever; it does not matter what these kids are channelled into, as long as it is a legitimate activity. That can be the trigger to end the abuse or at least minimise it and move on with the task.

Although I support this Bill because of what it seeks to do, when it comes into operation - I am sure it will have a swift passage through this House and the other House - if the action is limited to that which is envisaged in the Bill, it will have some success but not the type of success it could have. This should be the front-end of the process in which the information is gained, so that the police are able to work with other agencies which will pick up the ball. Those other agencies must be encouraged to pick up the ball, otherwise it will be yet again the local police officer who goes to the railway station to pick up the three fellows he has picked up 15 times previously. The police officer will get fed up with it, and the person in charge of the police station will get fed up with it. Everyone will say it is a joke and it does not work.

The Bill is good because it provides an entree, some power and an opportunity to do the basic research and identify particularly the young people involved - that is the area about which I am most concerned - but backup must be provided

after that. That backup is not a policing role. In part, it is a role for the Health Department, Family and Children's Services and the Education Department, and in part a role for the Office of Youth Affairs. Those matters must be worked through to ensure, as much as possible, that young people who find themselves apprehended in accordance with this Bill are case managed in every sense of the word.

I understand we shall give consideration to the Bill in detail, and I shall raise an issue at that time. I note that the term "responsible person" is referred to in the Bill itself and, given the debate we have had previously about the meaning of that term and how it is defined, it would be appropriate to take up that matter at that stage.

MR McGOWAN (Rockingham) [5.56 pm]: I support the remarks of my colleagues, the members for Fremantle and Bassendean, on the Protective Custody Bill. I have examined this Bill and support the general thrust of it, in that it is an attempt to enhance the position of those people in our society who suffer from addiction to substances such as petrol, paint, glue, solvents and illegal drugs.

The current situation has arisen because in 1989, the offence of being drunk in public was removed from the statute book. However, the law still provided that people who suffered from drunkenness in public could be placed in protective care to ensure they did not hurt themselves or others. That provision has received applause from people involved in the health industry throughout the State. It has also received applause because it removed from the criminal system people who were merely suffering from an addiction to alcohol. It stopped them being treated as criminals as a result of their addiction. Those moves were made by the Dowding Government, and everybody supported them.

This Bill is designed to extend those provisions to cover illicit substances which are used by a range of people suffering from addictions to them. It is a good move. The previous amendments covered only drunkenness and not these other substances to which some people are addicted. It is appropriate for people who are intoxicated, by whatever means, to be put into care that is sympathetic to their needs, takes account of their condition and does not treat them as criminals. I am pleased the minister has agreed that the use of the lockup will be an option of last resort, and that an attempt will be made to place people in this condition into other sorts of facilities if at all possible. In this day and age that is a good provision.

Sitting suspended from 6.00 to 7.00 pm

Mr McGOWAN: The front page of today's *The West Australian* contains an article in which the Government indicates that it will put in place laws to deal with the sale to minors of what are otherwise legal solvents. These solvents are often misused by minors to get high. The Government's response has been some time coming; I am not sure how long. No doubt it will introduce laws later in this session to deal with the issue. I congratulate my colleague the member for Bassendean, who has raised this issue with regard to people in his electorate who are engaged in this activity. This problem also exists in my electorate. In early to mid 1998, the issue arose because the front page of *The West Australian* ran a photograph of a 16 or 17-year-old woman in my electorate engaged in chroming. A solvent is put in a plastic bag, put over the mouth and nose and one inhales deeply to take in as much as possible, which results in a high. The young woman caused a great deal of controversy at that time. I think she went on to develop a heroin addiction and overdosed and died about a year after that picture was featured.

I will recount a series of events that took place after that picture appeared in the newspaper. I was vaguely aware that activities such as solvent abuse took place in my electorate, but I was never as starkly aware as I was when that photograph appeared. I was shocked by what these substances can do to young people. It prompted me to observe what young people in my community were up to and to try to get something done about it. After that event, on 25 June 1998 I made a 90-second statement in the House in which I advocated that the Government should take steps to outlaw the sale of solvents - that is, petrol, glue and paint - to minors and to ensure that young people were protected from themselves. In November 1998, I made another speech on that issue in which I said that something must be done, that the sale of these substances should be outlawed and that these attractive items should be displayed in retail outlets in such a way that they are hard to steal.

Mr Prince: A number of retailers have put glues sold in bubble packs behind the counter so that customers must request them.

Mr McGOWAN: Some retailers have done that voluntarily.

Mr Prince: I give full marks to them. They should be given publicity for being good retailers so that people will be encouraged to support them.

Mr McGOWAN: What has prompted today's article?

Mr Prince: These measures will be in the simple offences legislation, which relates to people who sell or supply an intoxicant - glue, petrol, paint or any other form of volatile solvent - to a child reasonably expecting that he will misuse it.

Mr McGOWAN: Why has the Government not done anything previously?

Mr Prince: The simple offences legislation has been coming for a while; it is part of the rewriting of the Police Act. We do not currently have provisions dealing with intoxication by means of solvents; we have only provisions dealing with intoxication by means of alcohol. We do not have provisions dealing with the supply of a legal substance for an inappropriate purpose. That is new law and it has taken some time to draft.

Mr McGOWAN: But it has been the Government's position for a long time.

Mr Prince: Yes, it has.

Mr McGOWAN: On 25 June and 11 November 1998 I asked that something be done to improve the situation.

Mr Prince: It is coming.

Mr McGOWAN: I also circulated a petition which I presented in mid 1998 and which stated -

> We the undersigned, wish to express our extreme concern at the availability of substances such as glue, paint and petrol to people under the age of 18 years.
>
> These substances are potentially extremely harmful and we believe that their sale to minors should be made unlawful.

The petition had 520 signatures. The member for Geraldton disagreed vehemently with me when I raised these issues. He said that if we were to make the sale of glue to minors illegal, we would make two million kids who would never sniff glue suffer because of the handful who do. He said that that was typical of my mentality.

Mr Bloffwitch: I stand by that.

Mr McGOWAN: Is the member saying that he disagrees with the Government's stance?

Mr Bloffwitch: I agree with the minister's point that if it looks as though they will use it, they will be charged. That is a reasonable response because kids buy glue for hobbies.

Mr McGOWAN: The sale of these goods to minors should be outlawed.

Mr Prince: That is difficult. Have you ever made a model aircraft or boat?

Mr McGOWAN: Yes.

Mr Prince: Those kits are aimed at the upper primary or lower secondary level and they include glue or the child must buy glue from the hobby shop. There is nothing wrong with that. However, if the substance is misused, a person can become intoxicated. The same thing goes for many other commonly available glues and solvents which are sold in supermarkets, hardware stores and toy shops. If we try to regulate the sale of those substances, we will be constantly updating the Act because new products will come along and we will be unreasonably limiting their sale. The misuse of those substances is the problem. The sale or supply when reasonably expecting it to be abused should be the offence.

Mr McGOWAN: How is a shopkeeper who is sitting behind his counter and who is not a social worker, a psychiatrist or a child care worker and untrained to recognise the symptoms of young people engaging in solvent abuse, supposed to identify a young person who comes into the shop?

Mr Prince: If he cannot reasonably be expected to do so, he has not committed an offence.

Mr McGOWAN: The minister should let me finish. How is a shopkeeper supposed to identify a young person in order to say, "You are an unacceptable risk. We cannot sell this material to you as you present a risk of engaging in solvent abuse."

Mr Bloffwitch: Have you ever seen kids who sniff glue?

Mr McGOWAN: Yes, I have.

Mr Bloffwitch: Are you saying you can't recognise that? I can.

Mr McGOWAN: I will get back to the point. A young man died about a year ago in the electorate of the member for Peel. He was a model student who attended Warnbro Community High School. Nobody identified his propensity to be involved in this type of activity.

Mr Riebeling: Was he a solvent abuser?

Mr McGOWAN: He died of solvent abuse. I am saying to the Parliament that too onerous a responsibility will be placed on shopkeepers and petrol station proprietors to require them to identify someone potentially at risk of abusing a solvent. Further, it would be extremely difficult to prove that a shopkeeper was selling such an item to someone who the shopkeeper knew was at risk of abuse by either sniffing or inhaling it. It is very difficult for the Crown to prove that.

I wrote to the former Minister for Police in May 1998 and received the following reply from him -

> With regard to the issue of prohibiting the sale and supply of glues and other volatile substances, this has been examined in some detail. While at first it may seem reasonable and consistent with other drug laws to ban the sale/supply of volatile substances, evidence suggests that such laws may create additional problems.

In July 1998 it was not the Government's intention to introduce laws to deal with this issue.

Mr Prince: It is now.

Mr McGOWAN: I am saying to the minister that we on this side of the House identified this issue for his predecessor 20 months ago in which time something could have been done about it. Young people have continued to be involved in

solvent abuse in the interim. I can identify for the minister a young person who died. As I indicated, a model student from the Warnbro area of Rockingham, who was never known to have been involved in this activity, somehow obtained - I suspect bought - illegal substances over the counter in a shop and in the interim period he died. I am saying to the minister that it is irresponsible of the former Minister for Police, and the Attorney General who had responsibility for this area, not to have taken action. It was pointed out to the minister, a petition was brought into this Parliament and I issued a press release, a copy of which I am sure the minister's media office would have received. I wrote to the minister and made three speeches in Parliament on the issue and it was on the front page of *The West Australian*, yet no action was taken. Now the minister has given a commitment that at some time in the future he will institute a law which will not outlaw the substance but will put a nebulous and hard-to-identify responsibility on a shopkeeper or petrol station proprietor -

Mr Bloffwitch: Would you ban them all?

Mr McGOWAN: Yes, I would. I would ban the sale of solvents to minors. We ban the sale of alcohol to minors and alcohol is not as dangerous as solvents. We ban the sale of tobacco to minors.

Mr Prince: Both of which are readily obtainable by juveniles.

Mr McGOWAN: I will ask the minister a question. Why do we ban them?

Mr Prince: Because they are bad for young people and so are these solvents.

Mr McGOWAN: That makes sense: We ban them because they are bad.

Mr Prince: I make the point to the member for Rockingham that these laws do not work in their entirety either.

Mr McGOWAN: I am sure they do not.

Mr Prince: We agree on the end we want to achieve; namely, that young people do not abuse themselves with these substances, whether legal or illegal, to the point where they cause harm to themselves. There is no doubt about the objective which you and I want to achieve. We differ only as to the way in which we will achieve it.

Mr McGOWAN: Can the minister not see an inconsistency between outlawing the sale of alcohol and tobacco which are far less harmful to young people, yet at the same time allowing the sale of glue, paint and solvents to them to abuse and in fact kill themselves doing so?

Mr Bloffwitch: Therefore, every young person who wants to build a model aeroplane cannot because you will ban it? Is that what you are saying?

Mr McGOWAN: I am saying - it is not an unreasonable point - that if young people want to build model aeroplanes, their parents should purchase them. It may be that I am old-fashioned, but there is a concept of parental responsibility and I hope the Government will take some action to ensure that mum or dad can take the minor step of driving to the toy shop to buy a model aeroplane. Obviously, members of the Government regard that as too onerous a responsibility to put on a parent; however, I do not believe it is an onerous responsibility. Likewise, I do not believe it is an onerous responsibility to expect parents to pick up their children from late night discos or ensure their kids arrive home safely from school. There is a range of areas in which we expect parental responsibility, yet it is too onerous, according to the Government, to expect parents to go to a shop and purchase a model aeroplane. That may affect the income of some toy shops but it might save some kids' lives. Saving some kids' lives is a more important task for the Government than ensuring the income of toy shop owners.

Since the letter from the previous Minister for Police was written, the Government has admitted that it has changed its view. The letter from the member for Darling Range continued for two pages rebutting everything I had to say. The Government has now changed its mind and I am trying to work out why. It has changed its mind in such a way so as not to cause any reduction in the sale of these products to young people. I think it has changed its mind in order to obtain front page coverage in *The West Australian*, which is what it succeeded in doing, as the changes it proposes will not result in any diminution in the numbers of young people who are suffering and dying from the abuse of these substances. This Bill is window dressing. It is a puff of air which will succeed in getting a good story on a news channel but will not result in any hard action.

Sometimes Governments must take responsibility when people will not. This is one of those issues for which we should take responsibility. I suppose I am saying that I support the Bill. Having heard the minister's explanation of the changes to the law, and the member for Geraldton's defence for the sale of glue to minors, I believe the Government is being very irresponsible about this issue.

MR RIEBELING (Burrup) [7.19 pm]: I would not hold my breath too long if I were the member for Rockingham in seeking to have this Government protect young people over the demands of commerce. In the early years of its term, we witnessed the appalling removal of legislation requiring isolation fences around swimming pools. That has resulted in the deaths of many small children in backyard pools, most of which occur when parents' supervision is interrupted for a very brief period.

The abuse of solvents, which is the use of solvents in a manner for which they are not designed, has been occurring for many years. This Protective Custody Bill goes some way towards identifying the children abusing solvents and gives authorised officers some ability to play a part in taking those children out of danger.

In, I think, 1997 when I was in the courts in Narrogin, a young girl from Narrogin Senior High School died from inhaling

some sort of starch substance used for ironing. That was apparently the substance to sniff in those days. Sniffing substances is not something that today's youth have suddenly discovered. Although solvent abuse may be occurring more often these days, it has been occurring for a number of years. Unfortunately, it has had a greater impact on Aboriginal communities in isolated areas than on metropolitan areas, with staggering results.

The member for Fremantle referred to the Royal Commission into Aboriginal Deaths in Custody, which referred to drunkenness and how the community should endeavour to keep people out of custody. An area which this Government and the previous Government have handled remarkably well is that of ensuring police lockups and holding cells are suicide proof, if that can ever be totally achieved. The number of deaths in police custody due to suicide has dropped dramatically owing to the efforts of the Police Department, police ministers and resources.

I hope the minister can tell us that the same focus on detail to avoid suicides will be applied to centres designed to receive intoxicated people throughout the State. The royal commission said basically that if people were forcibly put into a foreign environment while intoxicated and did not know where they were when they came out of that state, the suicide rate in those establishments may increase. Members may say that will not occur due to supervision. However, I do not think lack of supervision caused the high rate of deaths in custody prior to the royal commission. It was opportunity. People in a depressed state took any opportunity they could to end their life. For the most part, opportunities have been removed by the Police Department. I think it has done an outstanding job in that regard.

The drying out centre in Roebourne has worked well for the past couple of years. The Police Service and the people who run it are to be commended on the way predominantly Aboriginal people in the Roebourne area are no longer arrested but are taken to the drying out centre.

In the third last paragraph of his second reading speech the minister refers to volunteer patrols in regional areas. I presume he is referring to patrols that operate from Kalgoorlie, Broome, Roebourne, etc. His speech reads -

> The Bill will, for the first time, recognise this role and enable the local police to authorise these people -

The people working on those patrols.

> - to officially carry out this community service on a needs basis. I wish to make it clear that the purpose of this is to recognise those who provide a volunteer service, without payment or reward.

I am a little concerned that the minister has indicated those people will not be paid. I understand that the people on those patrols in Roebourne are paid and that a year ago the patrols ceased due to lack of funding through, I think, the Department of Aboriginal Affairs. If these people are appointed on the basis that they are volunteers, the minister's information may be wrong. I hope the minister may be able to correct that.

Mr Prince: They are volunteers in the sense that they volunteer. They are paid under the community development employment program plus a little bit.

Mr RIEBELING: That means the line in the second reading speech that says "volunteer service, without payment or reward" is wrong.

Mr Prince: That does not refer to all of them. Speaking from my days as Aboriginal Affairs minister, some were receiving CDEP and I think $10 a week more. It was a very modest amount.

Mr RIEBELING: If the minister's intention was to say that the people I am referring to are to be appointed as authorised unpaid officers, no-one in my area will become an authorised officer.

Mr Prince: I suppose I was trying to say that they are not full-time social workers or whatever the case may be; they are essentially volunteers who receive a small moiety for their work.

Mr RIEBELING: I hope that the patrols that operate in areas where drunkenness and solvent abuse is rampant will be expanded. To expand it efficiently will require some more financial commitment from the State to ensure the operation of these patrols can be protected and the authorised people receive some remuneration for doing what the police in Roebourne tell me has been an outstanding service to the community. They have eased the pressure on the Police Force by making decisions it does not wish to make and ensuring that the limited resources given to the Police Department in those areas are not impinged on through this sort of legislation.

Mr Prince: I expect not, in the sense that the major lockups under the core security legislation will be run by contracted organisations. That does not involve Roebourne. What Roebourne is being required to deal with at the moment by way of people who are picked up for being intoxicated will probably still be the case, but one would hope that particularly the youngsters will be able to be taken to a home or to some adult who will look after them, rather than anywhere else. Those who cannot be dealt with in that way will go to the sobering-up shelter, and it is the last resort that they wind up in the lockup. I think that is unlikely in Roebourne unless the sobering-up shelters are -

Mr RIEBELING: That brings me to another point. This legislation mentions that juveniles can be detained in police lockups. I understand that is different from the current situation with detention centres and the like, unless the law has slipped by without my noticing it.

Mr Prince: Have you been down to your lockup recently?

Mr RIEBELING: Not as a customer, no. I have not been in there for some considerable time.

Mr Shave: Some people get away with everything.

Mr Prince: I suggest it would be instructive for you to look from time to time.

Mr RIEBELING: Are detention centres included now? Is the minister saying that the provisions have been amended so that juveniles can -

Mr Prince: No, they have not been amended.

Mr RIEBELING: That was my point. My understanding of this legislation is that juveniles will be detained in lockups if no other place is available for them. My understanding of bail and the like is that detention is not possible in many places in the north of the State because no detention centre is available.

Mr Prince: This Bill does not refer to bail.

Mr RIEBELING: I understand that absolutely. However, we are talking about juveniles, and special arrangements are made for them to protect them from the wider community. Roebourne has facilities that would be suitable; however, I do not think that is the case in Tom Price. Tom Price and Paraburdoo now have large Aboriginal populations. It is of some comfort to me that Roebourne is well equipped to cater for this legislation. However, it is of concern to me that the movement of people from Onslow back to Karijini - essentially in the Pilbara region - has created problems that did not exist 10 years ago.

Mr Prince: It creates problems for Tom Price.

Mr RIEBELING: And for Paraburdoo. To the credit of the police officers in the Pilbara region, one police aide has been taken from the Wickham area and allocated to the Tom Price police station, and that made sense.

The minister may be able to tell me about a couple of other matters in the legislation and explain why it was decided to use certain wording. It must be borne in mind that the Opposition supports this legislation. However, some of it may need finetuning. I hope that the minister will be able to put my fears to rest when he responds. Of interest is clause 20 of the Bill, which deals with the declaration by a court as to the state of intoxication. Under that clause, in order to clear his name, a person who is apprehended by the authorised officer or police officer may apply to a court for a declaration that he was not in a state of intoxication. I suppose that is the purpose of that provision. Such an application is made to a Local Court and not to a Court of Petty Sessions. Why is that the case?

Mr Prince: That was my choice. The Court of Petty Sessions by and large deals with offences. This is not offence-based legislation. This deals with the care of people who cannot care for themselves. In the country, it is effectively the same magistrate anyway. Therefore, it was my decision that the Local Court would be a more appropriate venue in a symbolic sense, if one likes, more than anything else. That is the sole reason.

Mr RIEBELING: I refer to the impact of a declaration under clause 20 that a person was not intoxicated. As that application is to be in the Local Court, does that mean it is a damages claim against the State?

Mr Prince: No, it is a simple declaration. As a result of the amendments which the Dowding Government moved in 1989, Section 53L of the Police Act contains almost exactly the same provision, but it refers to a court of summary jurisdiction, being the Court of Petty Sessions. That has been rewritten and reformatted for this legislation, and it is now the Local Court rather than the Court of Petty Sessions. This provision has been in the law for 11 years and has never been used.

Mr RIEBELING: I wonder why a civil court would issue a determination that a person was not intoxicated but not provide for a remedy against the people who misused their judgment. I also wonder why the application is in the Local Court. I will say more about that clause during the consideration in detail stage.

Another matter concerns items which can be seized by an authorised officer.

Mr Prince: The member may be referring to part 4, clauses 8 and 9.

Mr RIEBELING: I understand that solvents and other items that can cause damage can be seized.

Mr Prince: Belts, laces and ties.

Mr RIEBELING: We are talking about damage to oneself, not weapons as such.

Mr Prince: It is about the health and safety of the person or any other person. Therefore, if a person has a knife on him, that will be taken from him, primarily because that person could injure himself.

Mr RIEBELING: However, would that not be an offence under another Act?

Mr Prince: It might be an offence under the Weapons Act. It would depend upon the circumstances.

Mr RIEBELING: When the person is sober, the equipment that has not been destroyed is given back to him. I understand that solvents and the like would probably be destroyed. The Bill says that other items that have not been destroyed must be handed back when the person is once again compos mentis.

Mr Prince: If the person has a flick knife or a butterfly knife, which is a category A weapon under the Weapons Act and which no-one is allowed to possess, that person is likely to be charged.

Mr RIEBELING: That brings me to the point that an authorised person may be Joe Bloggs who drives the truck in Roebourne which picks up people. At what point does he become the conveyor of the person to the police station?

Mr Prince: Under this legislation, he does not.

Mr RIEBELING: How does a knife come to the notice, so to speak, of the police?

Mr Prince: It comes under the obligation of a citizen to report to the police, in the sense that if someone came into your electorate office and waved a flick knife around to show you what it was - it had a 9-inch blade and so on - as a member of Parliament, you know that is illegal and that a person should not possess it. What you should do is report it to the police.

Mr RIEBELING: No doubt my electorate officers would grapple -

The SPEAKER: Order! Minister and member for Burrup, I have been observing this debate for some time. The member for Burrup is supposed to be giving a speech during the second reading debate. There have been interesting questions and answers, and it is like a little fireside chat. Perhaps the member for Burrup can talk to the minister after he has made his speech. I allow a bit of leeway because sometimes it is good for the debate and clarifies points. However, the stage is being reached at which members are chatting and a speech is not being made.

Mr RIEBELING: I just cannot believe how friendly the minister is, so I am taking every opportunity to have a nice chat with him.

Mr Prince: I am always friendly.

The SPEAKER: There is no need for the minister to cause the problem.

Mr RIEBELING: At the moment in certain towns the volunteer or funded patrols have success, and they are appreciated by not only the Police Force but also the community because they are seen to be independent of the police. One of the drawbacks of this legislation is that that independence will be somewhat diminished because of the role that the police will play in enforcing the serious side of the control of drunkenness. My major concern is that we are endeavouring to turn back the clock and reimpose the offence of drunkenness through another avenue. I realise that it will not be an offence, but the effect of this legislation will be to remove drunks and substance abusers from the streets and put them into a detention centre or lockup, which is the same as previously occurred with drunkenness. That had some horrific results with deaths in custody and the like. I hope that the minister will be able to tell us that my fears are ill-founded.

It appears, from reading this legislation, that a person may be detained for a period of only up to eight hours, and then the detention must be reviewed by a justice of the peace. The public's perception of the process we are putting in place is that it is the same type of system as appears in the criminal area of law enforcement, not in the civil area. For some reason, when people dispute the fact that they were intoxicated, the matter ends up in the civil court where an order is made. There is really only one reason that an order is made in a civil court, and that is to enforce an order. I know of no other orders in the civil jurisdiction where there is not a remedy to that order.

Mr Prince: It is merely a declaration.

Mr RIEBELING: The minister might say that it is a declaration, but for what purpose? People do not go to court to be told that, by the way, the court does not think that the person was full. A result usually flows from an action. It may well be that some ability needs to exist for people to seek damages when damage to reputation and the like may have flowed from the actions of people who misjudged or misread a situation.

The system has some flaws in it. In the consideration in detail stage we will try to make this legislation better rather than try to hold it up. This legislation is important, especially for country areas. It should have been introduced many years ago. It runs the risk of the communities that it is trying to protect being suspicious of the way in which it will be implemented. The minister in his second reading speech mentioned on numerous occasions that in country areas - in my area at least - this legislation is directed predominantly at the Aboriginal population. In the area that I represent, some of the impacts from the effect of solvents on youths and juveniles have been devastating. As a society we must try to avoid that and protect those who are most vulnerable.

There is a process by which an apprehended person can go to a justice of the peace. It appears that if a person is sober enough or with it enough to want to go before a justice of the peace, the authorised officer has probably made a mistake in saying that the person should not be released from the drying-out or sobering-up centre. It is of concern that weapons and the like should be seized by authorised officers. They are people from the community who have a level of trust in the community and look after the individual rather than detect law breakers. The whole system was set up to avoid the involvement of police.

Mr Prince: What do you think they are doing now?

Mr RIEBELING: They are picking people up in Roebourne and taking them to the drying-out centre.

Mr Prince: They are taking knives off people.

Mr RIEBELING: There may well be knives that do not get to the police.

Mr Prince: There is no change here.

Mr RIEBELING: I do not want to get into another fireside chat with the minister. I am hoping that during his response the minister may well spell that out plainly because the legislation does not. As I read it, the legislation has some flaws, especially with regard to local courts.

One of the other issues to which I hope the minister can respond is the restriction of applications to the local court being made within 30 days of the release of the person. I do not know why there is a 30-day restriction on that. Also, the times in which a person can be held in a police cell indicate that it maybe has to do with the operation of police powers. I am concerned that if a person is from a small community, the restriction in clause 7(4), which speaks of an apprehended person being detained in a police station or lockup, means that a police officer may decide not to release the person between the hours of midnight and 7.30 am, despite previous clauses which state that the person must be released earlier. The clause defies other clauses which indicate that a person can be held for only eight hours before being taken before a justice of the peace. If a person is locked up at 9.00 pm and a police officer thinks he will not look at the person until 7.30 am the next day, that clause will allow that to occur. As I have said, the police have had outstanding success in reducing the conflict due to drunkenness. I am sure that they do not want to be involved again in the business of locking people up for being drunk.

Mr Prince: It is the same as section 53J of the Police Act.

Mr RIEBELING: The minister will get his chance to speak on this issue. It might be the same, but we are not talking about arrests. We are talking about people who are detained for the purpose of sobering up. The legislation refers to eight hours being the maximum, but in clause 7(4) it is quite okay for police not to consider release for a period of 7.5 hours.

Mr Prince: These are the 1989 amendments to the Police Act by the Dowding Government. This is a re-write. The things you are complaining about are already there.

Mr RIEBELING: I do not understand the point the minister is trying to make in relation to that, and I hope he will explain it when we consider the Bill in detail. I hope this legislation will achieve what everyone expects it to achieve.

MS ANWYL (Kalgoorlie) [7.50 pm]: I shall make some comments about the specifics of the legislation and the difficult job that confronts police when dealing with persons who are intoxicated, whatever the drug might be. In my capacity as the opposition spokesperson on Youth, I shall also comment on the application of the law and how it will most probably affect young people.

My first comment is to confirm that the Opposition supports this legislation but, of course, it will seek to have a number of matters canvassed for the public record when the Bill is considered in detail. I certainly support the power of police to seize intoxicants from children, as provided for in part 2 of the Bill. It is a long overdue provision in the legislation and it will make things easier for police officers, who currently are in an invidious position when they see people using these solvents but do not legally have the power to remove them. Some of the most disturbing sights I have seen in my electorate are on the Aboriginal Wunngagatu patrol when I have seen young children, who appear to be as young as five or six years of age, sniffing paint from plastic bags at 10 o'clock in the evening. The incidence of that has not decreased, to my knowledge.

The number of problems relating to the consumption of all types of drugs other than alcohol has increased, particularly with the use of solvents in the metropolitan area. Previously solvent abuse was confined to regional and remote areas, particularly petrol sniffing which has been a problem in some, but not all, remote Aboriginal communities. Young people most often come to the attention of the police, and the protective custody provisions will be used more in relation to young people. That applies particularly to young Aborigines, as young male Aboriginals are 23 times more likely to come to the notice of police than are non-indigenous young males. Aboriginal people are always over represented in the justice system.

The Health Department today released some important statistics it has collated on admissions to hospital for self-harm, and the TVW Institute for Child Health Research has released statistics on suicide rates. It is not surprising that Aboriginal people tend to be over-represented in those figures, given their numbers in the total population. It is also very important to note that drugs are involved in a large number of admissions to hospital for self-harm.

In the goldfields region, a large number of admissions to hospital occur in the age groups 15 to 19 years and 20 to 24 years, and the under 25 year olds are over- represented in the statistics. It is a sad fact that the report on hospitalisation as a consequence of deliberate self-harm shows that in the goldfields for the period 1981 to 1998 there were 1 593 such hospital admissions, and of those 686 were males and 907 females. Drugs are the most common method of deliberate self-harm, and were used by 63 per cent of the males hospitalised and 88 per cent of the females. That gives an idea of the level of involvement of drugs in self-harm.

The police are often the first to arrive at the scene when somebody is openly in some distress or otherwise. One of the issues that concerns me is the provision in clause 6 which will require police to exercise their discretion. The police must decide whether someone is intoxicated, which can be a complex matter depending on the nature of the drug used - whether alcohol or a combination of alcohol and other drugs - and that will be a difficult task. Also they must make a subjective judgment about the need to protect the safety and health of that person or any other person in the community, or prevent that person causing serious damage to property. A very difficult discretionary judgment must be made by the police in those matters.

It is interesting to note that my experience when discussing issues with criminal lawyers in Western Australia indicates an ever-increasing use of the drug Rohypnol. It has received some publicity in the press recently because of its use to spike

the drinks of young ladies, but at the other end of the spectrum is the increasing number of serious offences committed by people who are under the influence of Rohypnol. It is a particularly difficult challenge, because generally people have no memory of what occurred during the hours they are under the influence of Rohypnol. Rohypnol can be difficult to detect in the early stages, but clearly there is a huge propensity for people to commit offences while under the influence of the drug. It is a specialised area in which police will be required to engage, and it will be an onerous duty.

Clause 11(1)(c) provides that police are to release children under the age of 18 years into the care of the person in charge of an appropriate facility. This causes me a great deal of concern because there are not enough appropriate facilities in the community. That applies to the metropolitan, rural and remote areas. That will create a real difficulty for police who have a statutory obligation to release these young people to an appropriate facility, because in many situations such a facility will not be available. It will be similar to the situation at the moment with youth accommodation services; that is, the existing services are full almost every night. I give the example of the Victoria Park Mission Australia facility which turns away about 90 per cent of the contacts from young people seeking assistance. Even more importantly, no facility caters for children and young people who are intoxicated. Some places are available if a young person has decided to stop their drug use, but that is not the situation for many young people who have not given that undertaking. There is a huge gap in the facilities and, although this does not fall within the portfolio of the Minister for Police, it will create practical difficulties for police in all areas of Western Australia because although they have a statutory obligation, the facilities will not always be available. That gap in drug treatment services has been well identified in a range of matters, including a report by the Select Committee into the Misuse of Drugs Act 1981 which was released in August 1998. It contained significant recommendations in this area.

I understand from an earlier interchange the minister had with the member for Fremantle, that the use of a lockup and detention of that nature will be measures of last resort, and some amendment will be made to the Bill at a later stage of the debate. That is a very important matter and it will allay some of the fears raised by various bodies, including the Aboriginal Legal Service. Again, this creates a problem for not just young people but also adults, because of the lack of sobering-up centres. As the member for Burrup said, not all remote areas have sobering-up centres, and it is most critical that the minister take a proactive stance on this in Cabinet to ensure that money continues to be available for sobering-up centres, and that Aboriginal community patrols are adequately funded. They can alleviate much of the pressure on police officers in enforcing provisions such as these. Treatment and accommodation services are both very important.

Before I return to discussion of the Select Committee on the Misuse of Drugs Act 1981, I will deal with the difficulties created in remote Aboriginal communities. Those communities do not have permanent police services; they rely on visits from police officers from regional centres. It is not a continuous schedule of visits, although back-to-back patrols do occur. It is almost a case of the Government's giving with one hand and taking away with the other. Amendments to the Sentencing Act have resulted in significant changes in the way that remote Aboriginal communities can deal with offenders who have problems with solvent abuse, most notably petrol sniffing - although paint sniffing is also a problem. Some extremely violent crimes have been committed.

Unfortunately, a number of people in the goldfields have permanent brain damage because of their continual use of solvents. The minister might recall the case of a young person known as the "ice-cream boy" because at one stage he was placed in custody for his own protection. He is now an adult and permanently in Graylands Hospital because there is no other option for him. I was practising in the law courts for part of the time he was appearing. It was a credit to the police officers that they brought him before the magistrate. They did so out of desperation to protect his health. Unfortunately he is now permanently brain damaged. In spite of the other agencies involved - the juvenile justice unit and Family and Children's Services - the police had to bring care and protection applications before the court. That is one example of police having to pick up those responsibilities. Other agencies do not necessarily do that.

Mr Prince: It is the agency of last resort.

Ms ANWYL: That is correct. I know from talking to police officers that some tension exists because of the child welfare role the Police Service is forced to assume. That is why I am urging the minister, particularly given that he is responsible for the Police Service and the drug strategy, to take action with his ministerial colleagues to close the gaps that exist in treatment and accommodation services for young people.

The very tragic case I referred to indicates that if we do not put these safety measures in place while these offenders are children, there is no hope. That man is effectively detained at the Governor's pleasure in Graylands. Of course, that is not economically good for the State and it is certainly not good for him. If we do not look at these issues and provide more resources, clearly the economic burden on the State will increase along with the pressure on police officers. I do not believe police officers should have to make care and protection order applications to the court. That is not their function and I do not criticise them for doing it, but I would like the Department for Family and Children's Services to live up to its statutory mandate in these situations.

Mr Prince: Hear! Hear!

Ms ANWYL: I have digressed to some extent, but I will refer again to the report of the Select Committee on the Misuse of Drugs Act 1981, which was tabled in August 1998. The member for Fremantle and I were members of the committee and we spent a great of time dealing with these issues.

One of the matters that clearly relates to this legislation is recommendation 8, which is that the Police Service should upgrade the seniority of its officer in charge of the alcohol and drug coordination unit to the level of inspector. The

committee felt it necessary that more emphasis be placed on this important area within the service. Recommendation 30 is that a youth-friendly sobering-up facility be established in Perth for intoxicated youth. I am not aware that that has occurred. Recommendation 31 refers to the inadequate nature of accommodation services for young people. As we have seen from the campaign by the Youth Affairs Council of Western Australia, nothing has changed since the report was handed down. There is a massive gap in services for young people, particularly for those with psychiatric and drug abuse problems. The problem is more pronounced for those young people who are not prepared to give up alcohol and drug use.

Mr Prince interjected.

Ms ANWYL: No, I am not. Unfortunately I am not sent documents like that. I must rely on friendly ministers such as the Minister for Police to provide them.

Mr Prince: It was advertised in the Press. If you want a copy, I will provide it.

Ms ANWYL: That would be terrific. Recommendation 32 refers to the need for additional residential rehabilitation programs targeted at young people. I do not want to suggest that no services exist, but they are limited and primarily metropolitan. There is the Esperance teen challenge program, but we need more programs of that type. Recommendation 33 relates to the need for an extension to the On-Track funding proposal. Some action has been taken in relation to that proposal. Recommendation 34 is that high priority be given to establishing two new youth-focused community drug teams. The restructuring of the Alcohol and Drug Authority into the now privatised community drug teams was under way when the report was written, so we were faced with a state of some flux. However, there is a still a need for youth-focused community drug service teams. The committee recommended that one be located in Perth and that the other be able to roam. Recommendation 35 refers to the needs of the Yirra program and its requirement for more funding. I mention these recommendations because these are not new matters.

The other issue raised by members relates to solvent abuse. The committee concentrated on the issue of how to control the sale and distribution of solvents. The minister's view on this has been quoted in the media. As I said, that is another issue. The report identified the need to be clear about what solvent use is occurring. We rely very much on anecdotal information and police officers probably have the best idea of the extent of the problem. We must address the lack of research in this area. The committee's report also identifies the need to deal with the sale of these products. I mention that because the United Kingdom legislation was specifically mentioned. I am not sure whether that is what the Government is looking at in relation to its proposal for further regulation.

It appears clear that other models are being implemented around Australia. Victoria now has an outstanding Government, but some important initiatives were implemented by the Kennett Government in the provision of services for young people using drugs. I will quote from an article entitled "Victoria's drug treatment service system: Responding to the needs of young people". I had the opportunity to examine some of these services in their infancy and I am looking forward to seeing how they are now operating. I receive good reports from Victoria, and specifically from Melbourne.

The article by Laurie Bebbington and Kelli Moran states -

> Inherent in the Victorian Government's current youth drug treatment service framework is the tenet that there are five types of service necessary to a comprehensive continuing of care for young people - outreach with flexible funding pools, counselling, withdrawal, supported accommodation and peer support.

That concept of outreach with flexible funding pools is most relevant in the context of this debate because what will happen when police officers release the young person; that is somebody under the age of 25 years? Police are acutely aware, I would suggest, that the young person may well go on to consume further substances which will invoke the whole cycle all over again. It is that cycle that we must break; we have to do it out of respect for our police officers and we certainly have to do it for a range of other reasons as well. That concept of outreach with flexible funding pools enables youth workers to actually have some autonomy in terms of solving the needs of young people. In the sense that we are discussing at the moment, the lack of crisis accommodation for young people, particularly those who are intoxicated, there is no provision for youth workers to fix the problem. They have to take the young person - the next stage being in business hours - if they can track them down, to the relevant authorities. One then has the referral merry-go-round system.

I was impressed with the system in Victoria that had been set up with geographic boundaries that covered all of the State, and which enabled youth workers to have access to funding to resolve the problem, whether that was to set the young person up in some form of supportive accommodation or normal accommodation. That is often one of the biggest problems to solve.

I continue to quote -

> Young people with problematic drug use can be referred to a range of youth - specific drug treatment service options in Victoria . . .

They include youth outreach services; youth counselling services; youth home-based withdrawal services - for detoxification and the like; youth residential withdrawal services - and that is something that we really lack in this State; and youth drug and alcohol support accommodation services.

In addition to that there is a specialist youth substance abuse service. If we are really serious about helping young people address their drug use, it is important that some resources be pumped into that end of the spectrum. The Government can continue to spend a fortune incarcerating people - in the case of juveniles about $150 000 a year for one young person

although the figure is a lot less for an adult who is incarcerated - but the point I am making is that, particularly in relation to the inner city, some money needs to be spent and that would actually save the Government money in the long term.

I want to return to the specific provisions of the Bill. I have already raised the issue of what happens pursuant to clause 11 when a child is released. There is also a general provision pursuant to clause 7 so that a person is released by the authorised officer when they are not intoxicated. I ask the minister what happens then? Clearly police will still be involved if there is further consumption and the whole thing is triggered again. Subclause (4) states -

> If an apprehended person is detained in a police station or lock-up . . . a police officer may decide not to release the person between the hours of midnight and 7.30 a.m . . .

Lockups vary in quality from place to place. I last visited Laverton lockup last year and there are some real problems, also in terms of health and safety to police officers. It is actually a very dangerous lockup, not only for those who are locked up but also for police officers who serve at that station.

Mr Prince: Have a look at the Police Act.

Ms ANWYL: In terms of what?

Mr Prince: Section 53J brought in by the Dowding Government in 1989. It is exactly the same thing.

Ms ANWYL: I do not know how two wrongs make a right.

Mr Prince: I am just pointing out that, in respect of the things you and other members have spoken about, they are rewrites of the Dowding Government's legislation which you lauded.

Ms ANWYL: I suppose we should be flattered that the minister thinks the Dowding legislation was so good that this Government has to reproduce it. The point I am making is more one of resources and logistics, of how lockups are going to cope, because when I got details from asking questions on notice about the lockup detentions rates I was surprised at how high they were, especially in my electorate of Kalgoorlie, which was the highest on a regional basis. It will create extra resourcing problems for police and the police cannot cope with the resources they have now.

Mr Prince: Yes and no. The lockup is a place of detention of last resort.

Ms ANWYL: Yes, and the minister will move an amendment -

Mr Prince: This is not just a policing exercise, it is also about other people who are authorised. People are taken home, they are taken to sobering-up shelters, and where appropriate, to hospitals, and when there is nowhere else , they are taken to the lockup. At the present that is what is happening and I do not see any change under the new legislation.

Ms ANWYL: Unfortunately, the issue does not stop there. The minister, wearing his other hat of being in charge of drug strategy, has to explain to the Parliament how the resourcing will impact. It will impact on hospitals. There simply are no beds available in a lot of hospitals at short notice for detoxification. There are implications. I acknowledge what the minister says about the Police Act but I do not think that is the end of the debate.

Mr Prince: I am making the point that it really is a duty of care exercise in not turfing people out between midnight and 7.30 in the morning.

Ms ANWYL: I acknowledge that. There are some interesting things that arise from that. I have mentioned the issue of dual diagnosis and that can be very complex for police officers to determine. People with head injuries who may have consumed some drugs are also a major issue.

The last death that occurred in custody in my electorate related, very sadly, to a man who had been in a hotel but had also fallen and hit his head. He was undergoing a form of cerebral haemorrhage for hours while in detention. Unfortunately that was not detected by the officers concerned and I do not know, at the end of the day, what the coroner's findings were. That is an example of the sorts of stresses and strains that are placed on police officers. In Kalgoorlie staffing is more than 10 per cent down in the number of serving police, and all of these things have very practical implications. I do not want to see anybody disadvantaged and I do not want to see a young police officer's career ruined, as I understand happened partly as a result of that tragic incident I just related. I think it had some strong ramifications for one of the young officers concerned.

Mr Prince: The one that happened in Albany has caused the same sorts of problems. A relatively senior officer tried to revive the man and it has resulted in significant psychological problems.

Ms ANWYL: The human cost is great, not just for those incarcerated, but also for police.

The other question I had related to clause 17, the operation of the review. In terms of the justice of the peace and the ability to ask for a review, will that be available to the person in detention forthwith?

Mr Prince: Yes.

Ms ANWYL: So we will get a justice of the peace out of bed in the evening?

Mr Prince: At any time.

Ms ANWYL: So if it is at quarter to three in the morning, that triggers immediately? That would cause problems in some remote places.

Mr Prince: It will be difficult to find a justice of the peace sometimes.

Ms ANWYL: Absolutely. This will not solve the problem for remote communities because they do not have lockups and they do not necessarily have justices of the peace who can attend, depending on the family relationships that may occur.

Mr Prince: If the community wardens at Warburton became authorised persons under this legislation with the power to apprehend and detain, that would enhance their ability to look after their people.

Ms ANWYL: I accept that as a positive thing but for the purposes of the debate we need to be cognisant of the situation that exists in some of those communities that do not have police services.

I had a query about clause 26 - approved places. I know that the minister will refer me again to the Police Act, but I have looked at the clause a number of times and I have difficulty in working out how it is to operate. I believe it is a positive move that clause 25 does not provide for an offence of escaping from lawful custody, because the person would not be deemed to be in lawful custody. That is in keeping with the provisions of the Bill not providing for penalties or any "sanction". That is also positive, given the intent of the legislation. I would like some idea of how the practical aspects will work, particularly the difficult discretionary matters with which police officers must deal. Although I know they already deal with them, these days they must deal with them more frequently subject to judicial review.

Debate adjourned, on motion by Mr Tubby.

STATE SUPERANNUATION BILL 1999

Cognate Debate

On motion by Mr Kierath (Minister assisting the Treasurer), resolved -

> That leave be granted for the State Superannuation Bill 1999 and the State Superannuation (Transitional and Consequential Provisions) Bill 1999 to be considered cognately, and that the State Superannuation Bill 1999 be the principal Bill.

Second Reading

Resumed from 28 October 1999.

MR KOBELKE (Nollamara) [8.21 pm]: I will not be the lead speaker for the Opposition. The Deputy Leader of the Opposition will speak as lead speaker in a few minutes. These two Bills seek to provide a new framework for Western Australian government employees' superannuation. Given the changes that are occurring, the dynamic nature of superannuation and the regular changes in legislation from the Commonwealth, it is not appropriate to maintain the existing schemes under a structure of direct legislation. Presently, every time a minor change is required to be made to the superannuation scheme for government employees, legislation is required. That is not a very effective way of managing a superannuation fund.

This legislation will put in place a new framework to regulate, update and change those superannuation schemes. In his second reading speech the Premier, as minister responsible, said -

> The superannuation industry generally is developing in an environment which is comprised of choice, change and increasing member expectations. Amendment to the legislation governing the State's schemes is essential to maintain pace with this changing environment.

It is interesting that the second reading speech contains the word "choice". The minister handling the Bill, the Minister assisting the Treasurer, has made many statements in the past, particularly when he was Minister for Labour Relations, espousing choice in superannuation. The Federal Government has also espoused choice in superannuation for many years. However, it is notable that the Government has not provided choice for its own employees. There is little or no choice between superannuation funds for employees who are members of the various superannuation funds run by the Government Employees Superannuation Board. The word "choice" is thrown in, but I do not think the Government has bitten the bullet to ensure members will have a clear choice. I will refer to that later.

The Bill is to establish the Government Employees Superannuation Board. It provides for the functions of the board, its powers and its composition. It also provides for the establishment of the fund, which will enable maintenance and control of the various superannuation schemes. Those schemes are covered by some general guidelines that give the power for their establishment. However, the schemes will be established by regulation.

It also provides for government guarantees and, where necessary, appropriation from the consolidated fund. The controls will have guidelines, so that the Treasurer's approval will be required for certain activities. The Bill has two schedules; one laying down guidelines and rules for the GESB and the other giving the rules for the meetings and procedures of the board. We may have a chance later to examine some of those general details.

That is a general overview of the purpose of the legislation which provides some understanding that the legislation is just a framework.

The issues that directly interest people, such as the conditions of the fund, the employees and/or the Government's contribution, the likely rates of return, the conditions allowing for the benefits to pass on to other family members in the case of a death and the ability to commute the superannuation fund are nowhere to be found in the Bill. Those issues will be of fundamental importance to public sector employees who are members of a fund under the GESB.

They are matters on which we need assurance from the Government about the standards it will set. We need to move to a more flexible regime and this legislation does that. We need to be able to trust that the Government and the people who, through the Act, will have the powers to establish the various schemes, will monitor and control them and will take account of the members' interests.

The Bill provides for three government appointees to the board, three to be elected by members of the board and a chairman nominated by the Government. The Government will then have four of the seven members. Given that the Act already establishes a range of guidelines and controls that can be dictated by Treasury, the Government will be able to control many of the investment and financing ground rules. In addition, decisions will be made by a board with a membership of four government-controlled members, to put it crudely, and three members who directly represent the interests of the employees.

If the Government sought to take money from the pockets of employees and put it into general revenue, which could happen through shifting around funds, the employees would not have the numbers on the board to influence that. Clearly, if they understood what was occurring, and made that clear to members, political pressure may influence the Government. However, as the schemes are so complex, changes may take place the implications of which the employee representatives on the board may not fully understand. Employee board members must be vigilant about understanding the complexities and intricacies of the management of the funds because the employee members will be relying on them to safeguard their interests in superannuation.

When that level of trust is required of both board members and the Government, it is a matter of concern that the minister responsible for the Bill, the Minister assisting the Treasurer, has made statements on superannuation in this House that are not factual. The minister may not have meant to mislead the House. However, so many sets of books and valuations are prepared by the actuaries that it would not be difficult to misinterpret something. I would not chide the minister for getting a small detail wrong. However, he has not corrected what he said. Given that he made those statements in response to a Dorothy Dix question in question time and used the opportunity to attack the Opposition, it does not help to establish the trust required for these funds to work.

We also notice that the Government has recently appointed Mr Bill Hassell, the former Liberal Party Leader of the Opposition, to the Government Employees Superannuation Board. Again, while we respect the abilities of Mr Hassell - I was a member of Parliament when he was previously a member, and I appreciate that he is a man of considerable ability - I do not know that he has any expertise in superannuation. He is clearly seen as a political appointment to the Government Employees Superannuation Board. Therefore, those matters cause concern.

I will take a minute or two to take issue with the minister on his statement in question time on Tuesday, 2 May this year. The minister said -

> I am pleased to inform the House and to reassure all members of the Government Employees West State Superannuation Fund that it is now fully funded. As from the budget of 1998-99, allocations have been included in the budget to ensure no question marks exist over the ability of the Government to pay out its work force. Based on West State's 1999 annual report, the annual cost to stage agencies to contribute to West State is estimated to be $140m.

He then attacked the former Labor Government. When speaking in the Assembly on that date, the minister said further -

> Under this Government, as is clear in the budget papers, West State is 100 per cent funded.

I will deal with what is in the annual report and in the budget papers. First, I turn to the State of Western Australia consolidated financial statements for 1999, which were released only a couple of months ago. On page 6, under liabilities, employee entitlements are dealt with, and it states -

> Employee entitlements increased by $136 million, representing a $155 million increase in superannuation liabilities to $5,250 million offset by a $19 million decrease in annual and long service leave entitlements to $945 million.
>
> The Superannuation and Family Benefits Act Scheme ("pension scheme") and the Gold State Super Scheme ("lump sum") are both closed to new members. The pension scheme liability at 30 June 1999 has reduced by $29 million while the lump sum scheme liability has increased by $161 million.

The DEPUTY SPEAKER: I ask the people in the Speaker's gallery to stop talking because members are trying to listen to the debate, and one member in particular is having a great deal of trouble.

Mr KOBELKE: It continues -

> Over time, the unfunded liabilities in both schemes will gradually decline and eventually be extinguished.

I now come to the point that directly addresses the statement by the minister -

> The liabilities under the West State Super Scheme (being the Superannuation Guarantee Charge) increased by $9 million at 30 June 1999 to $565 million.

Therefore, although the minister said it is fully funded, there is actually a current liability of $565m, and it grew by $9m for the exact year that the minister said it was all covered. That is not to say that the Government has not put a large amount of money into superannuation. I acknowledge that it has done a good job in that respect. It has tried to cover a greater amount of the growing liability. I do not know whether it has eroded it - I think it has continued to grow - but it has made a substantial effort, and I congratulate it for doing that. However, the minister did not say that. He did not say that the Government had been doing a good job and had been putting in a lot more money. He said that the Government had it all covered. I suspect he meant to say that the payments that accrued from direct salaries in that year were covered. He did not say that, but I suspect that is what he meant because I know that is the Government's target and I am therefore assuming that it most probably achieved it. However, the minister did not say that. What he said was -

> Under this Government, as is clear in the budget papers, West State is 100 per cent funded.

It has a liability of $565m. I expect that most of it was from previous years. However, that is not what the minister said.

An issue also arises because Treasury uses a somewhat different form of actuarial accounting for these figures. I turn to the annual report for 1998-99 of the Government Employees Superannuation Board. That is not necessarily the annual report of which the minister spoke - there may be an internal annual report for that fund to which I do not have access - but clearly the figures would go into the annual report for the whole of the superannuation board. The notes appear on page 52, I think - it is not on the photocopy - and under unfunded liabilities in respect of completed membership, there is again for that West State superannuation scheme a growth in liabilities to $565m for the end of the financial year 1998-99. However, there is a note in the GESB annual report which says -

> The Treasury Department, for their own purposes, has determined the value of the unfunded liabilities of employers (ie. the Government) which have arisen in respect of membership of the Fund up to 30 June 1999, based on advice from the actuarial firm, Williamson Nance Pty Ltd. The Williamson Nance valuation of unfunded liabilities adopts a different discount rate to that adopted for funded liabilities. The discount rate adopted is a long-term Government guaranteed security rate.
>
> The Board's actuary considered it appropriate that these values be taken as the amount of the Fund's unfunded liabilities in respect of completed membership as these amounts will not be funded from the Fund's investments.

The figures that I have already quoted are then set out. I understand that there are different methods, and the minister may be looking at a different valuation. However, clearly, he did not get his words right. In his rush to use a dorothy dixer to attack the Labor Party when it was in government - I think it was a false attack but that is not new for the minister - he said something which is not true.

Mr Kierath: You should try reading the second reading speech, which explains it in plain English, even for somebody like you.

Mr KOBELKE: The minister made a statement in this House about West State, and I have just pointed out to him -

Mr Kierath: Have people like you actually read the second reading speech on this Bill?

Mr KOBELKE: I have. I am pointing out to the minister that his statement to the House was not correct.

Mr Kierath: It is. I assumed a level of understanding on your behalf. Obviously I was mistaken. If that is the case, I apologise.

Mr KOBELKE: The problem is that we have a minister who misleads and then tries to use tricky answers to not address the substance of the issue. When billions of dollars of government employees' money is on the line, those people want a minister who has substance and who can handle issues in an up-front way and address the substance of them. I have been straightforward in acknowledging the good work of the Government in this area. Therefore, to have a minister who simply wants to play word games because he has been caught out is a problem for the management of the superannuation funds under this arrangement, because the provisions of this Bill will leave a large amount of the management to the minister, to the Government and to the board.

Mr Kierath: My problem is that I presumed that somebody like you would actually read the second reading speech before you made any comments.

Mr KOBELKE: I am talking about the minister's statement in reply to a dorothy dixer here on Tuesday of last week.

Mr Kierath: The second reading speech states that -

> . . . this Government made a commitment to fund all future contributions to the open lump-sum scheme from 1 July 1998.

It does not say anything about past liabilities. Sure, they are carried forward, but it says that all future contributions -

Mr KOBELKE: I think the Premier should put the minister on a shorter rope again. The minister barks at the moon far too often. I am pointing out what the minister said in this Chamber in answer to a Dorothy Dix question on Tuesday, 2 May.

Mr Kierath: Yes, because I assumed you had read the second reading speech, and knowing that -

Mr KOBELKE: Not only is the minister a dog on a very short leash but also he has a strange way of trying to deal with the truth. He is saying that what he said in this House was wrong, but he expected everybody had read the right bit so it was all right. It was all right for the minister to say something that was false, incorrect and misleading, but he expected all of us to have read what was in the second reading speech, and on that basis he is to be excused. That is the standard of the minister in whom people must have trust. It is abysmal that we do not have a minister who can address the issues on their merits and put forward an argument. The Government basically has a good case to put in this area. It does not have to change the facts and mislead. However, I will move on.

The Government Employees Superannuation Board manages three schemes: The closed pension and provident fund scheme established under the Superannuation and Family Benefits Act 1938, which is called the pension scheme; the defined benefit lump sum scheme established under the Government Employees Superannuation Act 1987, which is called Gold State Super; and the accumulated lump sum scheme, which is open to new members and established under the 1987 Act, and which is called West State Super. I wish to comment on the West State Super scheme. It is covered by the Commonwealth Government's Superannuation Guarantee Act which currently requires 7 per cent of all employees' wages to be paid into a registered superannuation scheme. This is the scheme for government employees about which they have no choice. Their superannuation payments by the State Government must go into the West State Super scheme. They have no real portability to be able to move those payments to another scheme. I will say something about that later.

The scheme pays a return to the members of the consumer price index plus 2 per cent. Perhaps the minister will answer the technical question of whether it is put to their account on an annual basis or is calculated at the end of the period when the money becomes due and is then paid at 2 per cent each year plus the CPI over the period, because there will be a slight difference in the amount.

Mr Kierath: I am pretty sure it is notionally provided at CPI plus 2 per cent and that the amount is calculated when the final payout occurs, but I will check on that.

Mr KOBELKE: I thank the minister. That is not my assumption but I would like the minister to confirm that because there would be a small difference because of the accumulation of the interest on the interest if one method were used over the other. I am sure I will be corrected if I am wrong, but I will work on the assumption that there is a notional account for each member and that notionally a contribution is made to the account of that member on the basis of the CPI for that year plus 2 per cent. That being the case, given the way that things have been performing, members really have not had a very good return in recent years. I seek approval to incorporate in *Hansard* a table indicating the rate of return of the West State Super fund.

[The material in appendix A was incorporated by leave of the House.]

[See page 6695.]

Mr KOBELKE: The minister will correct me if I have something wrong. I have listed the fund's rate of return based on the annual reports and the inflation rate from June 1994 to June 1998. In 1994 the fund's rate of return was 12.5 per cent but inflation that year was only 1.7 per cent. In 1995 the rate of return fell to minus 7.2 per cent, there was a loss on the books of the fund, and inflation was 4.5 per cent. In 1996 the fund's rate of return was 13 per cent and inflation for that year was 3.1 per cent. In 1997 the rate of return was 21.9 per cent and the inflation rate was 0.4 per cent. In 1998 the fund's rate of return was 11.2 per cent and the inflation rate was 0.7 per cent. Members can see from those figures that the fund has been doing quite well over those years, which is excellent. We have had generally a low rate of inflation.

If one takes $1 000 in an accout of a member in 1993 and adds the 2 per cent on an annual basis so that it gets the full return over that period of five years and simply looks at the return on that $1 000 and takes no account of further contributions, the funds earned by West State Super will have increased that $1 000 to $1 599, which is an increase generally of 60 per cent. For the same period, the member's contributions would have gone from $1 000 to $1 221, an increase of only 22 per cent. In a situation of good rates of return and low inflation, the value of the member's contributions over that five-year period increased by 22 per cent, whereas the investments by the fund have increased by 60 per cent. It is a very good investment and good work by the fund but it is not reflecting a commensurate return for the members. We have a problem, because if the benefit is tied to what can be earned by the fund on the market, the fund will run the risk. There may be years when the stock market falls, there are falls in property values and so on and it is not possible for the fund to get a good rate of return. In such years, if the members' benefits were tied directly to market values, the members would be the losers. There is the issue of trading off the certainty of a fund which gives CPI plus 2 per cent against the fact that for many years it will give a low rate of return.

This leads one to the issue of portability. As portability is currently not available, members cannot transfer their funds to another fund to get a higher rate of return. It is not simply a matter of a higher rate of return. I understand that currently there are 170 000 members of the West State Super scheme. Clearly there are not currently 170 000 state government employees. It is a requirement under commonwealth law that all employers contribute 7 per cent of wages to an account in a superannuation fund. It may include people who do a one-off job or people who work once every four years for the Electoral Commission at the time of an election and get paid a few hundred dollars, a percentage of which goes to the superannuation fund. Many people who do part-time or casual work, such as relief teachers, who have small amounts going into the West State Super scheme, cannot access it. They may have full-time employment elsewhere and have superannuation funds. They would quite rightly want to be able to accumulate into one fund their various benefits in different funds, one of which might be the West State Super scheme. Those people currently have no ability to transfer those funds. I hope that is something which comes out of the new scheme.

That runs into such issues as the rate of the return that will be paid. If there is a low rate of return, as there is currently, there may be a major exodus, with everyone wanting to get out of the West State Super scheme simply because it is not competitive in the marketplace. My judgment is that currently the West State Super scheme is not competitive. Clearly the Government and the board must address that concern. If there is provision for portability, which I am sure we would all like to see, a major cost may come back directly on the Government because, as I have already mentioned, the current liability of West State is $565m. Even with the Government meeting all of the current payments, which I understand it is doing, if a lot of members want to transfer their funds to another fund, the Government must find the finances to enable them to do that, which may be very difficult.

Mr Trenorden: It is also impossible. What you are talking about is not practical and will not happen.

Mr KOBELKE: If we make it open slather for portability, I accept that.

Mr Trenorden: It can be made portable, only if the people are no longer employed. Those people who will be able to take their money out of the government scheme will be no longer employed.

Mr KOBELKE: That is what I am talking about: Such people as those who work for the Electoral Commission and part-time workers. Currently they cannot take their money and put it into another superannuation scheme.

Mr Trenorden: What you have just said is correct, but they will have balances of a few hundred dollars or maybe $1 000.

Mr KOBELKE: Not some of them, because there have been all these redundancies.

Mr Trenorden: The long-term employees with large sums of money in the superannuation scheme will be employees of the State, and by federal law will not be able to remove their funds from the superannuation scheme.

Mr KOBELKE: I accept that, but the member must face up to the fact that there are 170 000 members in the West State Super scheme. I am accepting what the member is saying because I understand he has a very good knowledge of this area - better than I. However, many people have complained to me who have taken redundancy or been pushed out of a government agency, who may have had a very senior position in the work force for many years and are now working as a consultant or have picked up another job and have another superannuation fund. One person in particular, who has been coming to me and another member on the other side of the House, has set up his own superannuation scheme. He wants to get hold of his few thousand dollars but he cannot currently. I hope that under this legislation he will be able to do that. That is what we are looking for. Because of the huge amount of money involved, we know there cannot be open slather and there must be rules about access to and transfer of those funds. The fine details must be worked out. The minister says that has been done, and I would like to know what it will mean.

The superannuation funds must be competitive and able to cope with the huge change driven by the commonwealth legislation, by market returns which can be gained from various investments and securities, by different demands in the workplace and by different forms of employment where people are often in part time and casual work. Those matters must be taken into account.

The old superannuation schemes were discriminatory against women and the benefits available to men were not available to women. Those issues must be addressed. This legislation provides a framework to deal with those matters. At the end of the day there must be security in the investment to give confidence to members of the fund. I feel that will be a problem if the minister cannot deal with the facts of the matter. The Government has a good story to tell, and it is not necessary for the minister to mislead people by getting it wrong and making a political attack. By doing that and not facing the substance of the issue, the minister undermines this important move to establish a new legislative framework for the Government Employees Superannuation Board and the schemes which will be established under its funds.

The long term need to reduce that liability was addressed by the Burke Government in the 1980s. The Court Government in the 1970s through to 1982 knew it was a problem, but swept it under the carpet and did nothing about it. The Burke Government took the first step to tackle the superannuation liability and started to turn the situation around. It still has a long way to go, but it is being addressed and this is a move in the right direction.

DR CONSTABLE (Churchlands) [8.52 pm]: Like the member for Nollamara, I am not the Opposition's lead speaker on this matter either, but I want to take up one issue referred to at the end of his speech; namely, one of the anomalies that existed for far too long which discriminated against a group of women in the superannuation scheme. I am delighted to support this Bill and I congratulate the Government on its content, particularly those provisions that address the anomaly about which I will speak tonight.

I refer to women who are members of the closed pension scheme. This legislation corrects a gross inequity which has existed for far too long and has caused a great deal of heartache to many women in Western Australia. It is a longstanding situation. On the death of a male member of the scheme his widow qualified immediately for pension benefits, but those same benefits did not apply to female members of the scheme and their spouses. The husband of a female member of the closed pension scheme did not qualify for any benefits on the death of his wife. This discrimination against retired female public servants has been grossly unfair.

Mr Shave: It sounds as though the males were discriminated against.

Mr McGowan: Who is it discriminating against?

Dr CONSTABLE: Both. The women paid their contributions to the scheme and their husbands did not receive benefits on their death, but the opposite did not apply. The members are correct in saying that both the women and their husbands were discriminated against. Over the past nine years while I have been a member of Parliament I have had a lot of contact with a number of women in my electorate who have been pushing for changes to this law. They have been worried about the future of their husbands if they pre-decease them, and have been extremely angry about the conditions of the scheme. For several years two women in particular have talked to me about this matter, and I have written many letters to the former Minister for Finance, Hon Max Evans, asked questions about this, followed the issue and tried to push it during that time. These women had contributed to the scheme for many years, and are very angry about the provisions of the scheme which are most unfair to them as former employees of the State Government and certainly most unfair to their spouses.

The essence of the scheme is that if a male member dies, his pension reverts to his widow or de facto partner. No means test applies and the pension continues even if the widow or de facto partner remarries. There is no age qualification. The surviving spouse receives her share of the pension for the rest of her life. However, if a female member of the scheme dies, the pension reverts to her widower or de facto partner only if he is financially dependent on her. In his bereavement after the death of his wife, the surviving spouse must make a case to receive any benefits. It is noteworthy that this qualification of financial dependence is quite recent in its introduction. This provision was illogical and grossly unfair to the women who are members of the pension scheme.

In a sense I have fought a war with the former Minister for Finance over this matter and tried to get him to see reason and change his mind about an archaic law which, on the face of it, is simply wrong in the 1990s. I shall read from a letter I received from the former minister in April 1997, because it sums up the attitude that prevailed three years ago. The minister wrote -

> The original distinction between male and female members of the Pension Scheme was made because married females could not continue employment in the Public Service -

Of course, that is a historic discrimination against women; they could not continue employment in the Public Service once they were married. The letter continues -

> - and therefore would not be in a position to benefit from reversionary pensions.

Because they had not been allowed to continue in the Public Service after they were married, even though they had been members of a pension scheme, their husbands could not qualify for benefits. The letter continues -

> Male members were (and still are) required to pay an additional component within their contributions to cover the cost of the Fund's share of reversionary pensions, but at the time the scheme was introduced it would have been illogical for female members to do so.

These women had no choice; they could not pay it because they were not allowed to continue to work. They were discriminated against from the beginning. The letter continues -

> The relative contribution rates between male and female members vary due to a number of demographic factors, however the fundamental point in respect of reversionary pensions is the fact that males pay for the benefit and females do not.

They did not have a chance to! The letter continues -

> All comparable government employees superannuation schemes in other States provide reversionary provisions to widowers.

In 1997 Western Australia was the only State that did not allow that to happen and continued to discriminate against women and widowers. In the penultimate paragraph the minister wrote -

> Although some minor amendments may be required from time to time, the Government has no intention of making substantial changes.

I am glad to say tonight that the minister, along with the Treasurer, had a change of heart last year. The former Minister for Finance, Hon Max Evans, does not have iced water in his veins and he saw the logic and sense of changing that law. For many years I was brushed off by the former minister when I made representations on this matter. Therefore, I feel pretty good tonight, knowing that those changes have been made after this long period. The minister said in a number of letters to me and in discussions with me that although he recognised the inequity in the situation, the Government could not afford to right the wrong. I tried to delve into that statement with questions and came up with some rather extraordinary information. In the answers to questions on notice I found that the estimates of the cost of providing reversionary benefits to the widowers varied wildly. In 1991, I was told it would cost $24.8m a year to provide these benefits; in 1994, that it would cost $38.1m; and, in 1986, that it would cost $14m. In answer to a question on notice in 1997, the former minister informed me that the annual cost of providing widower pensions in New South Wales was only $1.78m and that in Tasmania it was $182 000. One can assume from that that the cost of the scheme in Western Australia might fall somewhere between the cost in New South Wales and the cost in Tasmania. However, I was given these huge amounts in the actuarial estimates of what it would cost the State. In answer to another question in 1993 - the same question about what it would cost - the then Minister for Finance said that if half the 1 400 female pensioners with husbands predeceased their husbands, which is most unlikely, the additional cost would be about $8m. I do not think anyone ever knew what it would cost. I will be very interested when the minister responds if he can tell me the estimated cost to the State to right

this anomaly. The very introduction of this legislation and righting the wrong appears to indicate that the cost will not be prohibitive, otherwise it would not be happening. Western Australia is the only State left to right the wrong of the reversionary pensions scheme. Hopefully, in the next few weeks, those women who are members of that scheme will rest easy that the law has been changed in their favour.

It is worthy of note that in 1993 the coalition Government made a number of amendments to superannuation law that removed several discriminatory provisions. Those amendments included the recognition of de facto spouses. The Government was not prepared to recognise the widowers of women who were members of the scheme but it was prepared to recognise de facto spouses. Those changes also provided for the continuation of the pension entitlement on the remarriage of a widow regardless of her age and the payment of a member's full pension to a spouse for seven fortnights after the member's death to assist with bereavement costs. Many benefits were provided to the partners, wives and de facto spouses of men in the scheme, but there was no recognition of these women who had been asking for so long to be recognised. One can imagine how angry they were when they saw those amendments and found that they would not be dealt with fairly. I have always thought that the cost of providing the reversionary benefits would not be a major issue. I will continue to assume that until the minister provides an answer to the question about costs. Cost is a very poor excuse for this gross inequity in the scheme that has been allowed to go on for far too long.

I am delighted to support this long-overdue correction to the law. I would like to think that those tenacious women who came to see me so often and who have made representations to me during the past nine years have helped to change that law and that their pleas were listened to by the former Minister for Finance and the Premier. This is a very necessary change and at last these women and their spouses will receive equal treatment.

MR TRENORDEN (Avon) [9.04 pm]: I support this Bill. Like the previous speaker, I believe it is overdue, but I will not kick the minister for that. I have some concerns about the operation of the Government Employees Superannuation Board. Several reports from the Auditor General indicate an attitude on the part of the board. I will not speak at length about that, but I will watch with interest to see whether the board lifts its game.

Portability of benefits has been a pain for many years. Many Western Australian public servants have moved to other employment only to find that their funds are locked in the state scheme. They cannot move their money to another fund to obtain a greater growth rate or efficiency in charges. That is a very poor state of affairs. The fact that those people have not been able to remove their funds is inexcusable.

The provisions of this Bill are important and amendments will now be made by regulation. That means we will not be required to amend most of the rules in this House. As the Federal Government amends the legislation, we will be able to respond far more quickly.

The points made in the second reading speech regarding the $450 limit are important. The provision is in the federal legislation, but it is an important consideration. One of my children is a member of three funds and another is a member of five. That simply allows the managers and the Federal Government to chew away the small amounts in each fund. I feel sorry for the private individual who desperately tries to amalgamate his superannuation into one fund; it is not easy to do. I have had extensive experience in the industry and I know my way around, but I have some difficulty convincing fund managers that they should part with these small amounts.

This Bill is very important. It will make the necessary changes and address the equity issues for Western Australian employees and allow them to gain some of the benefits - perhaps also some of the disadvantages - that accrue as the legislation changes over the years.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [9.09 pm]: In a somewhat belated fashion I will make the principal speech for the Opposition on these Bills. The Labor Party will not oppose these Bills in this debate. Members will raise a number of issues with regard to the legislation and reserve the right to move certain amendments in the Legislative Council. The opposition spokesperson who has responsibility for this legislation is a member of that place.

Three superannuation schemes apply to public servants and are covered by these Bills. The first is the pension scheme and a provident fund, which is covered by the Superannuation and Family Benefits Act 1938 and which was closed in 1986. The second scheme is Gold State Super, which was established by the Government Employees Superannuation Act 1987. It is a defined benefits lump sum scheme which was closed to new members in 1995. The third scheme is an accumulation scheme which was established in 1993. Following the closure of Gold State Super in 1995, West State Super, the accumulation scheme, was the only scheme open to public servants.

It is worth looking at the costs of the various schemes. The scheme based on the Superannuation and Family Benefits Act 1938 cost government about 25 per cent of salary for each employee who was a member of the scheme. The 1987 defined benefits lump sum scheme cost government about 12 per cent of salary for each employee covered by the scheme. The scheme established in 1993, which from 1995 became the only scheme available to public servants, has had a variety of costs. The costs have escalated in accordance with the Commonwealth's superannuation guarantee legislation. I will tabulate them for the benefit of members. From 1 July 1995 until 30 June 1998, the cost was 6 per cent of salary for the State Government; from 1 July 1998 to 30 June this year, the cost is 7 per cent of salary; from 1 July this year until 30 June 2002, the cost will be 8 per cent of salary; and from 1 July 2002 onwards, the cost will be 9 per cent of salary. I was interested to read the opening couple of paragraphs of the second reading speech, and I will quote two or three sentences from those paragraphs. The first part of the speech says -

> At a broad level the proposed changes will provide more flexibility for members and access to industry standard superannuation and new products and services . . .

A little later the speech says -

> The superannuation industry generally is developing in an environment which is comprised of choice, change and increasing member expectations. Amendment to the legislation governing the State's schemes is essential to maintain pace with this changing environment.

Those sentiments in the second reading speech should be compared with the changes in the cost of superannuation to the employer - the State Government. This process of change, which is trumpeted as providing more flexibility for members and access to industry standard superannuation, has seen the cost of supernation per public servant who is a member of a superannuation scheme fall from 25 per cent of salary, first, to 12 per cent of salary and then to 6 per cent, with increases coming through to eventually take the cost to 9 per cent of salary from 1 July 2002. If we take just the value of superannuation to a public servant who is a member of the scheme, the value in straight financial terms calculated as a cost to the employer has substantially declined over the years. Superannuation used to be something that was worth one-quarter of a person's salary for each year that he or she worked. It reached a low of 6 per cent, and it will finally climb to around 9 per cent.

Mr Trenorden: You know darned well that it got to 25 per cent by accident. It was not meant to be that in 1938. If you want to do your history, it was not 25 per cent in 1938 when we established the Bill; it was because of a range of circumstances that happened over those years.

Mr RIPPER: I am sure that when the scheme was first established in 1938, it did not cost 25 per cent of salary. I have not checked that, but I expect that would have been the case and that there were amendments to the scheme and improvements in benefits, and gradually the cost to the scheme increased. In 1987 I think we had reached the stage at which the unfunded superannuation liabilities of the State were growing at an uncontrolled and frightening rate and the scheme was becoming too expensive.

Mr Trenorden: You can aggrieve yourself because you signed the report that said that.

Mr RIPPER: There were rationales for the change that occurred in 1987. The first rationale was the growing liability to the State, the rate of that growth and the cost of the scheme to the State's taxpayers. The second rationale was that the old scheme was suitable for a particular career pattern, which a proportion of public servants experienced, but was not really suitable for the career patterns of many public servants. It was not suitable for those people who wanted to shift from the public sector to the private sector. It was not suitable for those people who wanted to work part time. It was not suitable for women who broke their careers for child rearing purposes and then returned to the public sector. The old superannuation scheme established under the Superannuation and Family Benefits Act 1938 needed changes. From the point of view of employees, there was an ultimate vindication of the changes that were introduced by the Labor Government of that time. A set of transition arrangements was established. There was substantial support from employees for the transition arrangements. A large number of employees shifted from the old pension scheme to the new defined benefits lump sum scheme, now known as Gold State Super. There were no equivalent gains in flexibility which justified the cut in superannuation benefits from 12 per cent of salary per employee to 6, 7, 8 or 9 per cent of salary per employee when West State Super was established.

Mr Trenorden: That was imposed by the federal Labor Government.

Mr RIPPER: West State Super was purely a cost cutting exercise which reduced the benefits that were payable to public servants. Under that set of arrangements the Government no longer was a model employer in superannuation arrangements. The Government's commitment to the payment of superannuation was restricted to the legal minimum prescribed by the Commonwealth Government. There have been a few interjections from members opposite to the effect that all of this was required by the Commonwealth Government. The Commonwealth Government required that every employee be covered by superannuation. The Commonwealth Government required that certain minimum standards of superannuation provision be made. However, the Commonwealth Government did not require the State Government to close Gold State Super in 1995. The commonwealth requirements were met by legislation which made everyone who was not a member of the pension scheme or Gold State Super or who was a public servant or a public sector employee a member of the scheme that was known as the 1993 scheme. West State Super in effect covered everyone who was not a member of Gold State Super or the pension scheme, and that satisfied the requirements of the commonwealth legislation. There was not a commonwealth requirement to, in addition, close Gold State Super and deny public sector employees access to that level of superannuation which was a benefit equivalent to 12 per cent of salary per year in terms of the cost to the employer. As I recall, the benefit that was paid out at the end was a lump sum equivalent to 20 per cent of final average salary for each year of employment.

Mr Trenorden: How many benefit promise funds are out there now?

Mr RIPPER: The member for Avon asks how many defined benefit funds there are. He has drawn attention to something that has happened in superannuation. Basically, superannuation has moved from defined benefit funds to accumulation funds; from pension schemes to lump sum payments.

Mr Trenorden: You just argued against yourself.

Mr RIPPER: What has happened generally in the superannuation field does not necessarily have to be replicated exactly and precisely for public servants. Even West State Super is not exactly the same type of scheme that is available in the private sector. West State Super is an accumulation fund that pays a benefit based on a rate of return of the consumer price index plus 2 per cent. In the private sector, accumulation benefits are linked to the actual performance of the fund, and no reference is made to CPI plus a certain amount. Even this Government's West State Super scheme is not quite the type of scheme that applies in the private sector. I do not think I have argued against myself by acknowledging that out in the wider commercial world and in the private sector superannuation arrangements are still different from the superannuation arrangements that apply in the public sector.

Under the Government's current superannuation arrangements, the government commitment is restricted to the legal minimum. The Government will pay no more than the meanest employer in the most disreputable industry is legally required to pay. The public sector used to be a model employer; it showed a bit of leadership in employment matters, and offered, in particular, retirement benefits which were an advantage over those offered in the private sector. Under this state government arrangement we are reduced to offering public sector employees only the legal minimum. They are offered no more than any other employer is required to pay legally.

Mr Trenorden: What are you going to do?

Mr RIPPER: I am drawing attention to the difference between the reality in the provision, and the sort of sentiments we heard in the second reading speech which make it sound as though it is all positive and beautiful and the Government is all about providing better superannuation arrangements for public sector employees, when the Government has reduced its commitment to the bare minimum required of any employer. No matter how the Government dresses it up, this is the reality. It may even be worse than I have indicated in my remarks to date. The cost estimates for West State Super do not take account of the returns on investment which are being achieved by the Government Employees Superannuation Board. The West State Super scheme is described as a capital guaranteed scheme. The rate of earnings credited to members is set at the consumer price index plus 2 per cent, irrespective of the actual return earned. The fact is that the rate of return has been much higher in recent years. The annual report of the Government Employees Superannuation Board for the financial year 1998-99 shows in the outcomes, outputs and performance information section at appendix 8 a rolling three-year rate of return in 1997-98 of 15.3 per cent and in 1998-99, 15 per cent. Members opposite might say that must be offset against the inflation rate. That is also done in this appendix, in which the board gives the rolling three-year real rate of return. For 1997-98, that rate was 13.9 per cent, and for 1998-99 it was 14.3 per cent. Members are getting a real rate of return of 2 per cent; they are getting CPI plus 2 per cent.

Mr Trenorden: They are getting a guarantee.

Mr RIPPER: Yes, they are getting a guaranteed rate of return of 2 per cent real, whereas the fund earned in 1997-98, 13.9 per cent real and in 1998-99, 14.3 per cent real. Those earnings are naturally improving the financial status of the West State Super scheme. A note on the same annual report about the West State Super scheme states that the actuary advised that the funded portion of the scheme showed a long term actuarial surplus of $117.405m. The surplus primarily represents the value on the actuarial assumptions of expected future investment earnings over credited earnings. The report states that the actuary further advised the scheme was in a sound financial state at the valuation date with a market value of assets in excess of value of member accounts by $30.956m. That analysis shows that public servants who are members of the West State Super scheme have been missing out on benefits which they could have been receiving.

The member for Avon says it is a guaranteed rate of return and, presumably, he will argue that guaranteed rates of return are normally lower than what one would receive if one were exposed to the risks of the market.

Mr Trenorden: Who do you think that money belongs to?

Mr RIPPER: In essence it belongs to taxpayers. How will members of the scheme get that money, when all they can get is CPI plus 2 per cent? The money will presumably stay in reserve, and if we have a series of really bad years when, perhaps, the fund loses money, the members will still get their CPI plus 2 per cent and that is how they will finally get access to this long-term actuarial surplus of $117.405m. The rate of return might have been set too low and the fund is performing over the long term in a manner which would allow a better payment to public servants who are members of this scheme even on a capital guaranteed base. It has been put to the Opposition that a rate of CPI plus 4 per cent might be appropriate. The Government would need actuarial advice before it could adopt that position. However, there is another alternative: It might be possible to offer members an alternative benefit which is based on a rate consistent with the actual performance of the Government Employees Superannuation Board with regard to investments. In other words, members could be offered a choice between a guaranteed rate of return or a rate of return based on the actual investment of the Government Employees Superannuation Board. The West State super scheme could contain two sub-schemes. At the moment, the investment performance of the board is not reflected in what is credited to members' accounts. The State guarantees a return of the consumer price index plus 2 per cent. It could not make a similar guarantee for a market-linked rate of return. Members opting for that particular sub-scheme would have to take the rough with the smooth. The Government needs to consider that. The figures I have referred to show that not only has employer commitment to superannuation declined significantly, but also that members are not receiving the full benefits of the return of the employer commitment, inadequate though it is.

This legislation changes the pattern of superannuation reform. In the past, the reform process has closed superannuation schemes to new members and established new schemes accessible to new employees and existing employees who wish to

transfer out of the closed schemes, with defined conditions attached. The pattern of reform has also involved the introduction of new legislation into the House. Two different things are happening in the latest round of superannuation reform: First, changes will be made to existing schemes, which has not occurred with superannuation reform in the past. Second, the exact nature of the changes is unknown because they will be achieved by regulation. The legislation will remove the schemes from a legislative framework and put them into a regulation framework. Changes to the existing schemes will then be made by regulation. This has some benefits: First, changes to superannuation schemes will be easier and quicker to achieve than they have been in the past. The legal and taxation environment surrounding superannuation has been subject to massive change over the years. Administering the schemes by regulation will provide greater capacity and flexibility to respond to changes. Second, the Government Employees Superannuation Board may be able to develop and make new products available to public servants. This could be easier to accommodate if the legal framework is based on regulation rather than an Act of Parliament. Third, the process of changing regulations means that discriminatory aspects of the existing pension scheme will be capable of amendment. The principal inequity, which was highlighted in the second reading speech and the member for Churchlands' comments, is the differential treatment of reversionary pensions for widows and widowers. When a male contributor dies, a pension is available to his widow; however, no reversionary pension is available for the widower when a female contributor dies. That is clearly discriminatory. The argument was that because the male contributor's contributions were based on the possibility of a reversionary pension, they were higher than the female contributor's contributions. However, while that argument might have a superficial plausibility, it falls away when one considers the degree to which benefits in the pension scheme are funded by member contributions. The Government Employees Superannuation Board's annual report contains an interesting table on page 52, headed "Liability for Accrued Benefits". It shows that at 1999, the gross accrued benefits in the pension scheme were $2.768b, the unfunded liabilities were $2.65b and the funded liability only $118.8m. Clearly, almost all the benefits paid under this scheme came from the employer's contribution and are attributable to the unfunded liability. The members' contributions fund only a tiny proportion of the benefits. In view of that, denying reversionary pensions to widowers on the basis of differential contributions by female members seems an injustice. It is good that the Government has indicated that it will change the legislation and use the regulation-making power to alter that injustice.

Those are some of the positives of changing the framework from a system based on legislation to one based on regulation. The Government has claimed there is another positive to this change. It has indicated that it will be able to use the regulation-making power to provide salary-packaging arrangements for members of the pension scheme. However, it is a dubious advantage. The days of salary packaging are numbered. It is a device that deprives the Commonwealth Government of revenue it would otherwise gain from income tax. I believe that the Commonwealth's next tax reform will attack salary packaging. The days of salary packaging are numbered and State Governments will not be able to take advantage of schemes which are detrimental to the Commonwealth's income tax revenue base.

I have dealt with some of the positives and with one of the claimed positives of the shift from legislation to regulation. I now refer to one of the negatives. With the arrangements contemplated in this legislation, Parliament does not know what it is voting for. We do not know what changes will be made to superannuation as a result of voting for this legislation.

Mr Bloffwitch interjected.

Mr RIPPER: Yes; we know what the Government says it might do, but we do not know what else it could do, beyond what it said it might do. We have not seen proof that the Government will do what it says it will do. We are handing over a significant set of powers to the Government to change superannuation schemes. Yes, the regulations will be subject to disallowance, but we all know that no proper provision exists in this House for bringing on disallowance motions. These matters will be principally dealt with in the upper House, which has a better set of standing orders when it comes to consideration of regulations. We all know that regulations get much less parliamentary scrutiny than legislation.

Another aspect of the process deserving of criticism is that the Community and Public Sector Union has told the Opposition that the Government has failed to consult properly with employee representatives on the provisions in this legislation. When Labor presided over a big change in superannuation arrangements, they were accomplished after considerable consultation with employee representatives and after a great effort to achieve consensus. That is the way this Government should have approached this legislation. It is disappointing to hear from the public sector union that in its view inadequate consultation occurred.

Clause 13(1) reads -

> A person aggrieved by a decision of the Board may apply to the Board to have the decision reviewed and the board is to review the decision.

Subclause (3) reads -

> A person aggrieved by a decision of the Board on a review under subsection (1) may, if the regulations permit -
>
> (a) appeal to a Judge; or
>
> (b) refer the matter to a prescribed person or body for review.

I am concerned by the qualification in the clause that says "if the regulations permit". It seems this is yet another example of our not knowing what we are voting for. We do not know what rights of review the regulations will permit. That situation compares with the 1938 legislation, which provides that a person aggrieved by a decision of the board may in accordance with the regulations appeal to a judge. Again, the 1987 legislation was better. It states in section 54(3) that a

decision of the board on a review under subsection (1) may be referred for independent review in accordance with the regulations.

The Opposition will listen to what the minister has to say about this clause. However, we are foreshadowing that in the Legislative Council we may move for deletion of that qualification in clause 13(3) which states that the person aggrieved may appeal to a judge if the regulations permit. That seems to put at risk the whole right of appeal.

I refer also to clause 24 which deals with borrowing. It reads -

> The Board cannot borrow money unless -
>
> (a) the borrowing is -
>
> (i) for the purpose of overcoming a cashflow problem in the payment of benefits; or
>
> (ii) for a purpose approved by the Treasurer.

I am not certain what the Government intends with regard to subparagraph (ii). For what other purpose might the Government Employees Superannuation Board be borrowing money? Is it possible that the board may borrow to pay for part or all of the unfunded superannuation liability incurred by the Western Australian Government to date?

Mr Kierath: You are spot on.

Mr RIPPER: The minister has confirmed that the GESB may borrow to cover some of that unfunded superannuation liability. That is a matter of some concern. It may be that this will disadvantage members of the West State Superannuation Scheme. The cost of this borrowing would have to be met by the board. Presumably those costs would reduce the effective rates of return that the board would achieve on its investment. The actuarial surplus to which I referred earlier in the West State Superannuation Scheme may not exist in future due to those borrowing costs. That could have two consequences. The reserve is not there to pay the guaranteed rate of return should there be a marked deterioration in the board's investment returns. That matter should be taken care of by the government guarantee.

More important, the option of providing members of West State Superannuation with a decent market-linked rate of return option would disappear because the funds that might otherwise be available for that would be taken up by the borrowing charges to deal with the Government's unfunded superannuation liability. I will listen with interest to the minister's explanation of what might occur there and what might be the impact on public servants who are members of the West State Superannuation Scheme. Obviously we will have more opportunity to debate this during the consideration in detail stage.

I refer to the regulation-making power in clause 38 of the Bill. In subclause (2) extensive powers are given to the Government. It reads -

> Without limiting the generality of subsection (1) regulations may be made under subsection (1) in relation to -
>
> (a) establishing schemes;
>
> (b) membership and Employer participation in the schemes;
>
> (c) contributions to be made to the Fund and other funding of the Fund;
>
> (d) benefits and how they are paid or dealt with;

I will not read all the powers, but they are extensive. They raise in people's minds the possibility that members who have certain expectations or accrued benefits might find that the regulations alter those accrued benefits or their expectations. The regulation-making power is qualified in subclause (3), which reads -

> (3) Regulations cannot be made under subsection (1) if they reduce the amount of a benefit that -
>
> (a) accrued or became payable before the regulations came into operation; or
>
> (b) is, or may become, payable in relation to a period before the regulations came into operation.

At first glance that seems to provide sufficient protection for members of the three public sector superannuation schemes. If they have an accrued benefit or they will have an accrued benefit payable for a period before the regulations came into operation, they will be protected. However, some members of the pension scheme expected that they would be able to keep contributing to the pension scheme for the next five years. They expected that they would achieve benefits based partly on those contributions over the next five years. They may find that option is chopped off by a regulation made two weeks after this legislation goes through the Parliament. Some members of Gold State Super, who expected to make contributions at a rate of 5 per cent of their salary and to receive a benefit of 20 per cent of their final average salary for each year of employment in the public sector, and expected that they would have another five years of employment to which that 20 per cent payment would be made, might find that it does not happen. Perhaps those members of the Gold State Super scheme with those expectations might find that a regulation is introduced on Christmas Eve this year, following the passage of this legislation, and that those expectations are denied to them.

There is a way of dealing with this. We will listen to the minister's response in this House. This is another matter on which our shadow minister in the Legislative Council might move an amendment. A suggested amendment is to insert a new paragraph (c) in clause 38(4), to provide an additional protection for benefits a member was entitled to accrue before the

regulations came into operation. Such an amendment might provide members of the pension and Gold State Super schemes with a circumstance in which they cannot have their future service benefits removed or changed by regulation. The Opposition will be very interested in the minister's comments on that matter.

I want to deal with what was mentioned in the second reading speech but is not provided for in the legislation. Presumably this is another matter which might be dealt with by regulation. The minister said -

> Efficiencies and savings will also be gained from the introduction of the Commonwealth's $450 rule and the flexibility to rollover small accounts to an eligible rollover fund. The $450 rule introduces a minimum monthly salary limit of $450, which must apply before persons become entitled to a compulsory employer contribution in the current lump sum scheme. The application of this rule is consistent with the Commonwealth's superannuation guarantee legislation, and will reduce the proliferation of small accounts in the scheme. These accounts are of little or no value to the member, and result in administrative inefficiencies for the board.

Importantly, he went on to say -

> The estimated savings from the introduction of the $450 rule are projected to be around $2.8 million in the first year.

I regard this proposed change as outrageous. People who work on a casual basis will find that they do not get the superannuation contribution that every other employee gets. Why should those people, who are presumably on some of the lowest incomes of people with access to public sector employment, miss out as well on the employer's superannuation payment? Some people may do an odd day's relief teaching from time to time. Perhaps they have taught in the past and are at home raising children. Why should those people miss out on the normal remuneration that an employee gets for that sort of work? Why should a person who does a day's work as a part-time or full-time employee get a superannuation payment from the employer, whereas a person who does a casual day's work here or there, and who is presumably on a much lower income, will not get that payment?

The Government is taking $2.8m from people who are on low incomes and calling it savings. The second reading speech refers to savings of $2.8m; in fact, the Government is taking $2.8m from casual employees who currently receive this superannuation payment. I do not think that in the current superannuation environment when we are trying to extend superannuation to as many people as possible to develop national savings and to encourage people to provide for their retirement, we should be denying any group of employees, particularly people on low incomes, access to the employer's superannuation payment. This is a mean-spirited action by the Government, which we will oppose if and when the Government introduces a regulation to implement it. I do not mind making provision for small accounts to be rolled over and amalgamated in rollover funds. It is sensible for the administrative convenience of the funds and no doubt for the administrative convenience of the employees concerned. However, I object to people who are relief teachers or other casual employees missing out on this superannuation payment.

It is apparent from my remarks that Labor has many criticisms of the Government's approach to superannuation. Nevertheless, we will not be opposing these Bills in the Legislative Assembly. I have foreshadowed a number of areas in which we have considered amendments in the Legislative Council. Whether we proceed with them will depend to a certain extent on the responses of the Government in the consideration in detail debate.

MR PENDAL (South Perth) [9.58 pm]: I will be brief. First, I wanted to congratulate the Government for having brought forward the legislation in the form it has. I have two particular interests that I want to canvass very briefly tonight. I introduced a private members Bill in June of last year, which is now reflected in one of the important provisions in the Government's Bill. This has an effect on the pension rights of some of my constituents, one of whom I identified in the debate on 23 June of last year as Mrs Fairview. In fact that person is Mrs Audrey Murphy of Fairview Gardens in Waterford. She came to me some time ago expressing her concern over a deficiency in the Acts which led to my introducing the private members Bill, which has resulted in the Government picking up that provision in its Bill.

I will briefly quote from my own remarks recorded at page 9465 of that year's *Hansard*, because it describes in a brief way the problem being confronted by Mrs Murphy. I am referring to my Bill wanting to bring about the end to some double-edged discrimination that should have been removed a long time before. It states -

> That discrimination was brought to my notice by a constituent whom I shall call Mrs Fairview, a nom de plume. Mrs Fairview was born outside the State in 1928, arrived here in 1964, and joined the Western Australian civil service superannuation scheme in the mid-1970s. She had by that time been employed as a nurse at Royal Perth Hospital for three or four years. She worked productively through the following years, retiring some 13 years ago aged 58 years.

This of course was in 1999 -

> To this day, Mrs Fairview -

I am talking about Mrs Murphy.

> \- receives an annual pension of currently about $10 500.

This is where the nub of the problem came in -

> Her only problem, if we husbands can ever be seen as such, was that she married in 1955 aged 27 years. Her

husband is now 73 years old, and, fortunately, is in good health. However, were she to die tomorrow, under the provisions of the Superannuation and Family Benefits Act 1938, none of her pension benefits would revert to him.

Although over the past 15 years we have been used to dealing with gender discrimination and its adverse impact on females in our society, this was an example in which gender discrimination had an adverse effect on a male spouse. I referred to it as a double-edged problem because, if one looks at it with the benefit of hindsight and history, one sees it was a discrimination against both the male and the female in this case. In this particular configuration they were being treated differently from the way in which the civil servants or the beneficiary had been treated in past years had that person been a male. That is being addressed by the Government in its Bill. I am very grateful for that; so, too, is Mrs Murphy and a small and, admittedly, diminishing number of civil servants.

The second reason I am taking an interest in the Bill is that it also affects another constituent and, in turn, a small group of Western Australians who are members of the current scheme. As I recall, the present Bill will repeal all of the provisions of the 1938 legislation. By repealing the 1938 legislation, some current members who opted to stay in the old scheme feel that the level of legislative protection for their position will be diminished. For example, until now this small group of people - it is different from the first category which I have outlined - have had the full protection of an Act of Parliament; in this case the 1938 Act of Parliament. Under the actions that we are taking tonight, that legislation will be repealed and the protection for those people will be placed into regulations.

The constituent who raised the issue with me is a reputable, senior and long-serving civil servant who I imagine over the years has had extensive experience with regulations. His concern is that it will be a lot easier for a rapacious Government in the future to make changes to the regulations as they affect him than would have been the case were the amendments to be made by changing the principal Act.

Mr Trenorden: That is a two-edged sword. The member for Churchlands said that you are right but, on the other hand, we will not be able to incorporate the changes made by the Federal Government by regulation.

Mr PENDAL: That is a fair point and I know the member has extensive knowledge in the field. To a large extent, and the member will acknowledge this, the regulations cut out much of the scrutinising process. I am aware of the mechanisms we now have in place, and they are better than those in place a decade ago. However, when one sees the legislation by regulation that goes on in this place by the truck load one can understand why my constituent and others like him become concerned or even suspicious that their rights are in some way diminished because the changes can be made that much more silently. I share that concern. While I acknowledge what the member said, there is still a concern.

That then led to a series of discussions with the senior staff of the Government Employees Superannuation Board. I am grateful for the time that they took, along with the minister, to find a way in which we could get onto the parliamentary record a statement that would reassure my constituent - Mr Mike Taylor - and other people in a similar position. During the consideration in detail stage I would like to ask some specific questions that will give me a certain level of reassurance. I understand the minister might then be in a position to go on record giving a special assurance that there is no hidden agenda.

All of this will be brought to a head by attrition within a few years, because the people it affects will leave the service in a short time and eventually, like the rest of us, will pass beyond the need for superannuation. In the meantime, those people want certain reassurances and I understand the Government will be in a position to give them. For those reasons, I am happy to support the legislation. It removes the last vestiges of the gender bias and we will be provided with some reassurance during the consideration in detail stage. I support the Bills.

MR BROWN (Bassendean) [10.04 pm]: We have before us legislation that changes three schemes: The Superannuation and Family Benefits Act 1938, known as the pension scheme; the contributory superannuation scheme that came into being in 1987; and the non-contributory scheme that followed the Labor Government's passing of its universal superannuation provisions.

It is important in the context of this debate to put a number of facts on the record about the history of superannuation not only in this State but also in Australia generally. The defined benefit scheme was in operation for many years in this State and provided a significant benefit for career public servants - that is, those who worked in the Public Service all their lives - who at the end of their career were receiving a medium to high salary. The pension scheme as it was - a defined benefit scheme - provided little in the way of incentives and benefits for lower income earners and government wages employees who did not have permanent tenure, who were unlikely to complete a long period in the public sector and who were likely to leave prior to reaching the retirement age of 55 years. My recollection is that those who did not reach the age of 55 years on leaving the public sector were entitled to the return of their contributions plus 3.75 per cent interest. In those days, the defined benefits scheme was a cross-subsidy arrangement. Those people who stayed until retirement received a very significant benefit and those who did not got very little indeed. Even in the private sector we saw arrangements in which people believed they were contributing 3 per cent or 4 per cent and the employer was putting in either an equal amount, one and a half times or twice the amount of the employee in a defined benefit scheme, when in reality that contribution was not being made and would not be made until the employee completed 20 years' service. We also saw a range of rorts in superannuation schemes that, fortunately, by legislation were not allowed in the government scheme. For example, there were rorts in a range of private sector schemes in which the trustees of the scheme decided to invest in their own companies when they were going broke, and consequently they lost the employees' money. In effect, as trustees they had breached their fiduciary duties by investing their employees' money in a company that was going downhill at 400 miles an hour with no chance of surviving.

Mr Trenorden: There were even more famous cases in which employees were sacked, and the last remaining person in the fund got paid the whole benefit.

Mr BROWN: There was a lot of corruption in a direct sense, and in an indirect sense. Many employees were misled about the benefits they were entitled to receive, and there was considerable deception with superannuation arrangements. It was not until the 1980s that the campaign for universal superannuation started. Prior to 1983-84 there was no universal superannuation in Australia. There was superannuation in the public sector for those people who generally stayed for long periods until retirement, but there were few benefits for anybody else. Even then one needed to be a middle to high income earner to achieve any benefit. The chances of a woman or a blue collar worker being entitled to or receiving superannuation were remote. If one happened to be a part-time worker it was almost fictitious, as one would never receive it. Prior to the campaign for the application of universal superannuation from 1983 to 1986, leading finally to federal legislation in the late 1980s, there was little superannuation for many people in the work force. It became clear to the federal Labor Government during that time that unless provision was made for superannuation for all employees, future taxpayers would be unable to afford the burden of future pension requirements. It was therefore essential to implement universal superannuation arrangements to ensure that every employee was entitled to superannuation, irrespective of their gender, whether they were salaried or on wages, or whether they were full time or part time and irrespective of their level of income. Members will recall that hard-fought issue when many doomsday predictions were made about how bad it would be and why it was wrong to pursue that course of action.

Mr Trenorden: That is not much different from fuel revenue which was guaranteed revenue for the Federal Government. The money the Federal Government makes from superannuation is incredible.

Mr BROWN: Back in those days superannuation benefits were taxed at a very low rate of 5 per cent of the end contribution.

Mr Trenorden: However, the changes you are talking about introduced 15 per cent up-front contributions with taxes on management and a 30 per cent tax on exit.

Mr BROWN: The taxes were changed.

Mr Trenorden: It was a great revenue stream for the Federal Government.

Mr BROWN: Absolutely. I invite the member for Avon to look at past election campaigns. Back in 1990 or 1993, the coalition proposed a range of promises on the basis that it would tax up-front rather than at the back end of superannuation in order to fund its range of election promises. That caused the Australian Labor Party, when the coalition was not re-elected, to consider and then adopt that coalition policy. I agree with the member for Avon that those taxes have changed. There was a clamour from many lower income earners, particularly from social service groups such as the Australian Council of Social Service and the Western Australian Council of Social Service, to compare marginal rates of tax for people who could invest discretionary money in superannuation funds and receive high earnings with the rates of tax for people who could not. There was a significant marginal tax advantage for heavy investments in superannuation funds and that remains the case today.

Mr Trenorden: No, it doesn't.

Mr BROWN: I tell the member for Avon that it remains the case today absolutely for a group of taxpayers who pay the highest marginal rate of tax. People who earn more than $60 000 a year, even when the GST tax changes are made, will still pay 48¢ in the dollar plus the Medicare levy. The top marginal rate of tax with the high income surcharge is 45¢ in the dollar. Therefore, preferential treatment will still be given to people with investments in superannuation compared with earning that amount of money. I do not agree with all the changes implemented by my former federal colleagues or those made more recently by the Howard Government. However, leaving all those changes aside, what was the great change? The fundamental and great change - something Australia should always be appreciative of - was that universal superannuation was introduced by a federal Labor Government. It was never introduced by a coalition Government which ran away from it and opposed it at every opportunity. When it was sought to be introduced back in the 1970s, it was one of the factors which led to the defeat of the then Labor Government. Despite all the shouting and screaming and dire predictions made at the time, it is interesting to note that the superannuation guarantee legislation and the ramping up of superannuation contributions provided by that legislation still exist. The reason they still exist, as we all know, is because the taxpayers of tomorrow will be unable to afford the level of pensions for a significant proportion of the work force who will now be catered for in full or in part by superannuation.

Mr Trenorden: In part.

Mr BROWN: In full or in part. Even if it is in part, it will remove a significant burden from future taxpayers. I am therefore pleased that it was achieved at that time. Even now, compared with other countries that people say we should be doing more to emulate, we still have a very low compulsory superannuation contribution. I compare Australia particularly with Singapore where the superannuation contribution is significantly higher than it is in Australia.

Mr Trenorden: That is a totally different scheme though. The money is used by the State in Singapore for a different range of purposes.

Mr BROWN: That is right but it guarantees an income at the point of retirement and the surpluses in that fund are not so bad. They have managed to do things like support an airline. Singapore Airlines is not a bad airline. It is doing reasonably

well and is still one of the best airlines in the world. They have not seen the necessity to flog it off and are still running it. They have a reasonable training scheme and reasonable investments in a range of property ventures. They have not blown the money. They still have significant surpluses from the superannuation fund, which is government-controlled, and which has certainly assisted employees, members of the general community, the State and the private sector.

Mr Cowan: So you know a bit about how superannuation funds can be blown, do you?

Mr BROWN: I know a bit about it. I am just saying it has not occurred. I do not know how many superannuation funds have been blown. I am pleased and proud of the fact that when I wore another hat, I established with another gentleman with the same surname as I, Bill Brown, who was then the Executive Director of the then Confederation of Western Australian Industry, now the Chamber of Commerce and Industry of Western Australia, a scheme call Westscheme, of which I am still a member. I think it has in the order of $500m under management. It is extremely well run, and two years ago it provided for people who are conservative investors - I am one of those - in its conservative investment stream a return of 17 per cent. I do not know about blowing superannuation funds.

Mr Cowan: That is a much better record than the state superannuation fund.

Mr BROWN: It may be. I am telling members what my background is.

Mr Cowan interjected.

Mr BROWN: Some people will say if the shop on the corner changes management that they will never go back there again because the person who has taken it over is no good. I do not happen to take that view. I happen to look at people individually, and I stand up for my record on superannuation as strongly as anyone else.

Mr Cowan: And pretend the other never existed?

Mr BROWN: If we want to go back into history, we can talk about the cheese factory that some of the Deputy Premier's mates supported.

Mr Cowan: The what?

Mr BROWN: The cheese factory in Bunbury in the 1970s that the former Court Government supported and pumped money into.

Mr Cowan: A cheese factory? I think you are making a mistake.

Mr BROWN: Whatever it was. It was a real rort. We can talk about a lot of things, including the legacy in 1983 when members opposite left the incoming Labor Government with double-digit unemployment and double-digit inflation. We can go back to all those things if the Deputy Premier wants to go back to them. I am happy to recall them all. Get out the *Hansard* and we will go back through all the economic data.

Mr Cowan: We could remind you of your 10 years' performance.

Mr Trenorden: Laurie was your mate.

Mr BROWN: He was not my mate.

The DEPUTY SPEAKER (Mr Bloffwitch): I remind members that we are discussing the State Superannuation Bill.

Mr BROWN: I am proud of the decision we made to provide universal superannuation and what has been done for employees as a result. The 1987 scheme was a good scheme. For the first time a superannuation scheme provided something for the lower paid blue-collar workers in this State. It had not been considered before. The State employed blue-collar workers in those days. Now, it would not matter if that scheme was cut out because not many blue-collar workers are left in the public sector. However, blue-collar workers were looked after very well by the 1987 changes. For the first time, a tangible benefit was provided for employees on lower incomes in the state public sector. Many of those people took the opportunity to transfer - without pressure - from the pension scheme into the contributory superannuation scheme that was established in 1987. It was less expensive than the pension scheme. At the time, we looked at the actuarial reports and the spread of benefits to see what could be provided. The changes meant a better spread of benefit at a lower cost. It was a much better scheme for lower income workers and allowed those who wished to remain in the pension scheme to do so.

Of course, there is a third tier of state government employees. It includes those who are not members of the pension scheme - of whom few are left - or the contributory superannuation scheme, but those who are paid simply on the basis of the commonwealth superannuation guarantee legislation. Prior to the closure of the contributory scheme, employees had a choice between joining the contribution scheme or receiving the employer contributions under the commonwealth superannuation guarantee arrangements. In the way the Government deals with public sector employees and the animosity it has for them -

Mr Trenorden: You just spent 10 minutes telling us how great the commonwealth scheme is and now you're kicking the Government for taking it on.

Mr BROWN: I will explain this in simple terms so even the member for Avon can understand: The State Government's arrangements meant that employees had a choice between joining the contributory scheme, in which they could contribute up to 5 per cent of their earnings and receive one-fifth of an annual wage for each year of service, or they could receive,

without making contributions, the commonwealth superannuation guarantee provision. There was a choice. The Court Government removed that choice and said that new employees were no longer entitled to join the contributory scheme. The member for Avon should not run away from that; it was his decision. The Government decided to remove that benefit for state government employees. I put on the record that the Court Government made that decision about its future employees. No doubt it can be proud of that decision, along with some of its others. The Government has been very careful about the way it has reduced the wages and conditions of its own employees.

I would like the minister to respond to a couple of matters. The first is that in an earlier industrial relations debate, the minister proposed that employees in Western Australia should have the choice of superannuation schemes. The employer would contribute to a scheme nominated by the employee. I read some information from employer organisations which thought that was a bit of a dog's breakfast. They did not particularly like it. However, that provision is not reflected in this Bill. I do not see in the Bill the provision for state government employees to have the same choice that the Government vehemently insisted upon for employees elsewhere. Employees other than government employees have a choice. The philosophical arguments raised by the minister in the other debate -

Mr Kierath: Are you supporting us now?

Mr BROWN: No, I am asking if the minister is being consistent. This is his legislation. Obviously he is not being consistent. If this is of such fundamental importance, as was said during debate on the other legislation, why is it not reflected here? It was philosophically so important that it had to be in that other Bill to provide better industrial legislation in this State, yet it is not there when it is the Government's turn to come up to the mark.

Mr Trenorden: Do you want to privatise the Government?

Mr BROWN: I do not know what the member for Avon wants to do. I will explain it to him again. Members on the same side as the member for Avon have said it is a matter of choice.

Mr Trenorden interjected.

Mr BROWN: He has said it. Does he want me to get the *Hansard* and show him? I cannot believe his memory is so bad that he cannot recall the debate. I cannot believe he can somehow imply that was not his Government's position. It was his position. Can he not remember that?

Mr Trenorden interjected.

Mr BROWN: Some people are just unbelievably thick. Members opposite cannot face up to the facts. I am telling them what are the facts, but of course people do not want to admit to them; they make other remarks to try to deflect the debate. I do not know why people do not have the courage to say that was their position. Why are people so gutless? Why do they not just say that was their position, but that they are putting another position today? I am amazed at their shallowness in not doing that. Somehow they must try to create words that would not fool a five year old.

The first point I make is that the Government said elsewhere that it was important to have choice. If it is so important to have choice, where is it in this Bill? I cannot see it. My second point, which I think has been raised by other speakers, is what happens with former employees who want to leave their money in the scheme or invest it elsewhere when they leave their employment with the Government? Given the Government's rhetoric about choice, that does not seem to me to be an unreasonable option. With those few comments I look forward to debating in the consideration in detail stage the range of issues raised by other speakers.

Debate adjourned, on motion by Mr Kierath (Minister assisting the Treasurer).

House adjourned at 10.35 pm

APPENDIX A

WESTSTATE SUPER

Return from 1997 on: $1,000

Year to June	Fund Rate of Return	Inflation Rate	Annual Benefit to Members (CPI +2%)		Fund Earns	Member Receives
1998	11.2%	0.7%	2.7%		$1,112	$1,027
1997	21.9%	0.4%	2.4%		$1,356	$1,052
1996	13.0%	3.1%	5.1%		$1,532	$1,105
1995	-7.2%	4.5%	6.5%		$1,421	$1,177
1994	12.5%	1.7%	3.7%		$1,599	$1,221
Cumulative Benefits					60%	22%

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEGAL ADVICE

1637. Mr KOBELKE to the Minister representing the Minister for Transport:

For each individual agency or department for which the Minister is responsible, what was for 1997-98, and 1998-99 -

(a) the total amount spent on legal advice;
(b) the name of each provider of that legal advice;
(c) the amount paid to each provider of legal advice; and
(d) the service for which the payments were made?

Mr COWAN replied:

The Hon Minister for Transport has provided the following response:

Department of Transport

	1997/98	1998/99
(a)	$990 343	$913 959

(b)-(c)

1997/98		1998/99	
Ministry of Justice	$ 7 177	Ministry of Justice	$ 10 088
L Jackson QC	$ 6 000	Freehill Hollingdale & Page	$ 64 460
Freehill Hollingdale& Page	$ 35 487	Property Solve	$ 2 435
Corrs Chambers Westgarth	$ 83 857	Jackson McDonald	$ 124
Skea Nelson & Hager	$356 855	Bayly & O'Brien	$ 500
Minter Ellison	$ 20 965	Government Property Office	$ 1 640
Arthur Andersen	$ 15 080	Dunn & Bradstreet	$ 246
Cocks MacNish	$ 13 974	Silks Technology	$ 660
Edwards Thompson	$ 5 639	Skea Nelson & Hager	$711 341
Law Society of WA	$ 555	Corrs Chambers Westgarth	$ 42 377
P & O Ports	$ 588	Wray & Associates	$ 3 258
Phillips Fox	$ 500	Minter Ellison	$ 7 872
Mallesons Stephen Jaques	$ 5 461	Arthur Andersen	$ 5 400

The Department is unable to separate costs between providers or to identify the services provided to its Maritime Facilities Division. Its annual costs are included at (a). The Department is unable to separate costs between the 1997/98 and 1998/99 financial years for its Maritime Policy Division. The following services cover BOTH periods and are NOT included in (a):

Phillips Fox	$14 554
Mallesons Stephen Jaques	$48 572
Freehill Hollingdale & Page	$10 915
Total for 1997/98 and 1998/99	$74 041

(d) 1997/98 and 1998/99: Legal advice, preparation of documentation and/or representation with respect to contracts, conveyancing, civil litigation, industrial matters and coronial inquiries and advice on matters relating to the ownership, lease and management of the Transperth bus fleet.

Fremantle Port Authority

		1997/98	1998/99
(a)-(c)	Clayton Utz	$105 824	$155 129
	Freehill Hollingdale & Page	$ 34 974	$ 16 166
	Ilbery Barblett	$139 461	$134 172
	Michael Buss QC	$ 2 100	$ 2 100
	Tom Percy QC	$ 2 200	$ 11 100
	John Gilmore QC	$ 1 400	$ 800
	Wayne Martin QC	$ 1 880	$ 1 040

(d) Contract services in respect of General, Maritime and Environment Law matters and contract preparation, Industrial Law matters, conveyancing, Property Law and Lease documents.

Bunbury Port Authority

	1997/1998	1998/99
(a)	$30 529	$41 713

		1997/98	1998/99
(b)-(c)	Freehill Hollingdale & Page	$12 384	$ 429
	Young & Young Solicitors	$ 2 924	$ 849
	Phillips Fox	$15 221	$18 164
	Mallesons Stephen Jacques	Nil	$22 271

(d) Legal advice on Labour Relations, Lease agreements, Award simplification and Drafting of tender and licence documents.

Dampier Port Authority

	1997/1998	1998/99
(a)	$119 854	$34 694

		1997/98	1998/99
(b)-(c)	Chilvers Marshall	$ 90	
	Chan Galic	$ 285	
	Freehill Hollingdale and Page (Parker & Parker)	$ 119 479	$34 694

(d) Advice on Human Resource issues, Commercial Lease Preparation, and Matters relating to the leasing of the Dampier Public Wharf.

MetroBus
1997/98
(a) $10 977.

(b)-(c)	Michell Sillar and McPhee	$2 712
	Freehill Hollingdale & Page	$4 957
	Parker and Parker	$ 125
	Wray and Associates	$ 440
	Phillip Fox	$ 100
	Corrs Chambers	$ 60
	John D Gregory and Associates	$ 413
	Hunt and Humphry	$2 170

(d) Advice on Vehicle accidents, Employee fraud, Tender evaluations, Patents, Audit enquiry, Caveat withdrawal, Leases, and Business Information Processing Agencies Consortium Contracts.

1998/99
(a) $41 857.

(b)-(c)	Michell Sillar and McPhee	$10 213
	Freehill Hollingdale & Page	$30 715
	Bowen Buchbinder	$ 633
	Nicholson Solicitors	$ 296

(d) Advice on Industrial Relations, Debtor Summons, and Vehicle accidents.

Main Roads WA
1997-98
(a) $561 649

(b)-(c)	Crown Solicitor's Office (Legal Services)	$322 363
	Blake Dawson Waldron	$158 852
	Corser & Corser	$ 119
	Freehill, Hollingdale & Page	$ 1 353
	Hollingdales	$ 48 994
	Michael, Whyte & Co	$ 9 153
	Minter Ellison Lawyers	$ 12 418
	Mony De Kerloy Barristers	$ 7 975
	Michell Sillar McPhee	$ 422

(d) Advice on Contract Law, Conveyancing, Commercial Litigation, Employment, Finance, Freedom of Information, General Legal Service, Industrial, Personal Injuries, Real Property, Recoveries, and Statutory Interpretation.

1998/99
(a) $1 383 970

(b)-(c)	Crown Solicitor's Office (Legal Services)	$ 260 657
	Barker Gosling Lawyers	$ 34 963
	Blake Dawson Waldron	$ 568 222
	Freehill, Hollingdale & Page	$ 6 313
	Hollingdales	$ 419 321
	Mallesons Stephen Jaques	$ 1 122
	Minter Ellison Lawyers	$ 85 465
	Narelle Johnson Barristers	$ 3 157
	Mony De Kerloy Barristers	$ 4 750

(d) Advice on Contract Law, Conveyancing, Commercial Litigation, Employment, Finance, Freedom of Information, General Legal Service, Industrial, Leasing, Personal Injuries, Real Property, Recoveries, and Statutory Interpretation.

Esperance Port Authority
1997/1998
(a) $18 766

(b)-(c)	Mallesons Stephen Jaques	$ 5 666
	Freehill Hollingdale & Page	$ 8 140
	Clair Medhurst	$ 2 244
	Phillips Fox	$ 2 716

(d) Advice on Restructuring - Review New Legislation, Commercial Agreements, and Award Simplification.

1998/1999
(a) $8 281

(b)-(c) Phillips Fox $ 5 037
Freehill Hollingdale & Page $ 1 389
Clair Medhurst $ 1 855

(d) Advice on Award Simplification, Review New Legislation, Industrial Relations, and Commercial Agreements.

Geraldton Port Authority
1997/1998
(a) $18 071.69
(b) Freehill Hollingdale & Page
(c) $18 071.69
(d) Various port operational matters and new Act proclamation issues.

1998/1999
(a) $68 598.41
(b) Freehill Hollingdale & Page
(c) $68 598.41
(d) Various port operational matters and new Act proclamation issues.

Albany Port Authority
1997/98
(a) $34 450.58

(b)-(c) Parker & Parker $10 697.15
Freehill, Hollingdale & Page $11 265.37
$ 3 068.99
Minter Ellison $ 745.75
Phillip Fox $ 3 944.70
Crown Solicitor $ 408 00
Port Hedland Port Authority $ 4 095.62
Moss Bradley $ 225 00

(d) Advice on Contracts, Industrial Relations, Restructuring, Risk Management, Lease Agreements, and Maritime Advice.

1998/99
(a) $40 940.88

(b)-(c) Freehill, Hollingdale & Page $ 178 00
$ 4 308.95
$19 936.25
$ 1 276 00
Minter Ellison $ 9 651.00
Phillip Fox $ 5 037.93
Mallesons Stephen Jaques $ 552.75

(d) Advice on Contracts, Industrial Relations, Restructuring, Cold Store EOI, Bad Debts, and Trade Practices Manual.

Port Hedland Port Authority
1997/98
(a) $56 807.17
(b)-(c) Freehill, Hollingdale & Page $56 807.17
(d) Advice on Maritime Legislation, Contractual, Industrial, Debt Recovery, and Damages Claim.

1998-99
(a) $68 338.85

(b)-(c) Ministry of Justice $ 7 128.00
Freehill, Hollingdale & Page $34 734.56
KJ Martin QC $ 1 462.50
Malleson Stephen Jaques $22 977.66
Hunt & Humphry $ 2 036.13

(d) Advice on Damages Claim, Industrial Relations, Bad Debt Recovery, Stevedoring Licence, Lease Preparation, and Litigation.

Westrail
The information provided in response to parts (a), (b) and (c) of this question relates to legal advice received by Westrail, legal costs, and work undertaken by the legal profession for Westrail.

(a) 1997/1998 financial year: $972 493
1998/1999 financial year: $773 882

(b)-(c) 1997/1998 financial year $
Blake Dawson Waldron 78 192
Cannon Bowden & Co 650
Cole & Co Lawyers & Consultants 56 339
Corboy M 54 420

Max Crispe	2 000
Deacons Graham & James	61 657
Freehill Hollingdale & Page	314 908
Haydn Robinson	3 094
Hollingdales	79 700
Hunt & Humphry	424
Jackson McDonald	7 476
Loveday M	900
Mallesons Stephen Jaques	123 667
W S Martin	44 695
Michael Harmer & Associates	7 952
Minter Ellison Northmore Hale	62 589
Parker & Parker	34 132
Skea Nelson & Hager	39 698

1998/1999 financial year	$
Blake Dawson Waldron	30 260
Michael J Buss	8 400
Cole & Co Lawyers & Consultants	28 583
Corboy M	41 700
Crown Solicitor's Office	2 400
Deacons Graham & James	55 600
Freehill Hollingdale & Page	220 183
Gibson & Gibson	6 025
Godfrey Virtue & Co	10 256
Haydn Robinson	11 821
Hollingdales	14 391
Mallesons Stephen Jaques	218 166
Marks Healy Sands	700
W S Martin	19 565
Minter Ellison Northmore Hale	91 923
Momber P	5 211
McLeod & Co	1 453
Parker & Parker	778
Phillips Fox	5 471
Silks Tech and Commercial Lawyers	996

(d) To provide details of services for which payments were made would require considerable research which would divert staff away from their normal duties. I am not prepared to allocate the State's resources for this purpose; however, if the member has a specific inquiry about any of the payments made by Westrail I will endeavour to provide a reply.

Eastern Goldfields Transport Board
(a)-(d) Nil.

REGIONAL TOURISM ASSOCIATIONS, FUNDING

1740. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

(1) What was the total Government funding to each of the State's Regional Tourism Associations (RTA) in the years-

(a) 1995-96;
(b) 1996-97;
(c) 1997-98;
(d) 1998-99; and
(e) 1999-2000?

(2) What was the total Government funding to each of the State Tourism Bureaus in the years-

(a) 1995-96;
(b) 1996-97;
(c) 1997-98;
(d) 1998-99; and
(e) 1999-2000?

(3) What distribution of RTA funding did each of the State Tourism Bureaus receive in the years-

(a) 1995-96;
(b) 1996-97;
(c) 1997-98;
(d) 1998-99; and
(e) 1999-2000?

Mr BRADSHAW replied:

(1) (a) 1995/96

Kimberley	$45,100
Pilbara	$115,908
Gascoyne	$43,585
Midwest	$25,800
Midlands	$8,058
Central South	$15,361

		Goldfields	$45,000
		Southern	$13,471
		South West	$31,804
	(b)	1996/97	
		Kimberley	*$174,575
		Pilbara	*$195,878
		Gascoyne	*$117,449
		Midwest	*$120,845
		Midlands	$3,464
		Central South	$17,164
		Goldfields	$45,400
		Southern	$138,380
		South West	*$45,300

** Operating under provisions of new funding policy.*

(c) Note: Heartlands region is combined Midlands and Central South regions.

		1997/98	
		Kimberley	$162,549
		Pilbara	$201,160
		Gascoyne	$122,272
		Midwest	$130,363
		Heartlands	$124,207
		Goldfields	$122,932
		South East	$67,203
		Southern	$140,555
		South West	$228,035
		Peel	$75,426
	(d)	1998/99	
		Kimberley	$177,616
		Pilbara	$159,825
		Gascoyne	$127,244
		Midwest	$139,600
		Heartlands	$132,329
		Goldfields	$130,823
		South East	$118,155
		Southern	$151,649
		South West	$254,948
		Peel	$127,862
	(e)	1999/00	
		Kimberley	$170,966
		Pilbara	$116,175
		Gascoyne	$123,394
		Midwest	$132,950
		Heartlands	$125,679
		Goldfields	$124,173
		South East	$111,505
		Southern	$144,999
		South West	$248,298
		Peel	$121,212
(2)	(a)	1995/96	
		Albany	$20,436
		Armadale	$4,261
		Augusta Margaret River	$2,500
		Beverley	$3,090
		Boyup Brook	$6,769
		Bridgetown	$12,346
		Brookton	$1,150
		Broome	$19,545
		Bunbury	$21,826
		Cape Naturaliste	$20,436
		Carnarvon	$7,436
		Central West Coast	$1,245
		Chittering	$8,588
		Collie	$19,083
		Coolgardie	$13,639
		Denmark	$20,436
		Derby	$16,795
		Dongara Denison	$2,411
		Donnybrook Balingup	$9,245
		Dwellingup	$11,000
		Esperance	$20,436
		Exmouth	$20,436
		Geraldton	$20,436
		Halls Creek	$4,635
		Harvey	$17,290
		Hyden	$7,000
		Kalbarri	$20,436
		Kalgoorlie	$20,436

Kambalda	$2,373
Karratha	$17,241
Kojonup	$4,971
Kununurra	$22,155
Mandurah	$20,436
Manjimup	$14,136
Merredin	$8,308
Mount Barker	$18,456
Murray	$11,574
Nannup	$1,452
Newman	$9,654
Norseman	$17,120
Northam	$18,500
Northampton	$4,321
Northcliffe	$4,960
Pemberton	$17,302
Port Hedland	$14,925
Ravensthorpe	$6,363
Rockingham	$18,500
Roebourne	$13,000
Shark Bay	$16,500
Swan Valley	$13,000
Tom Price	$13,000
Toodyay	$12,248
Wagin	$596
Walpole	$5,432
York	$13,256

(b) Those Bureaux which indicate "New Policy" were reliant on the determination of the RTA with respect to the allocation of funds. The amounts listed were paid direct by the WATC.

Albany	New Policy
Armadale	$5,262
Beverley	$6,492
Boyup Brook	$7,961
Bridgetown	$16,335
Brookton	$1,731
Broome	New Policy
Bunbury	$20,436
Cape Naturaliste	$20,436
Carnarvon	New Policy
Central West Coast	$1,291
Chittering	$11,925
Collie	$15,368
Coolgardie	$13,126
Cue	$1,089
Denmark	New Policy
Derby	New Policy
Donnybrook Balingup	$9,006
Dwellingup	$13,000
Esperance	$20,436
Exmouth	New Policy
Geraldton	$20,359
Halls Creek	New Policy
Harvey	$18,500
Hyden	$7,825
Kalbarri	$18,376
Kalgoorlie	$20,436
Kambalda	$4,000
Karratha	New Policy
Kojonup	New Policy
Kununurra	New Policy
Mandurah	$20,425
Manjimup	$9,427
Merredin	$7,757
Mount Barker	New Policy
Murray	$14,767
Nannup	$2,178
Newman	New Policy
Norseman	$18,436
Northam	$18,500
Northampton	$4,179
Northcliffe	$6,207
Pemberton	$20,436
Port Hedland	New Policy
Ravensthorpe	$6,516
Rockingham	$18,500
Roebourne	New Policy
Serpentine Jarrahdale	$1,180
Shark Bay	New Policy
Swan Valley	$13,000
Tom Price	New Policy

Toodyay	$16,082
Victoria Plains	$2,310
Wagin	$313
Walpole	$4,008
Wyndham	New Policy
York	$12,081

(c) 1997/98 was the first full year operating with the new funding direction. As such, no funding was paid directly to Tourist Bureaux.

(d)-(e) As indicated in (c), because of the new funding direction, no funding was allocated to Tourist Bureaux by the State Government.

(3) (a) In 1995/96 Tourist Bureaux were funded by the WATC so there was no distribution of funding by RTAs.

(b) For those regions operating under the conditions of the old funding policy, the funding was provided by the WATC. For those regions operating under the new funding conditions, the amounts paid to Tourist Bureaux were at the determination of each individual RTA.

(c)-(e) This was the first full year where all regions were operating under the terms of the new funding direction and as such the amounts paid to each Tourist Bureaux were determined by each individual RTA.

TOURIST BUREAUS, FUNDING

1805. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Further to question on notice No. 316 of 1999, is it true that -

(a) the cost revenue model established by Ernest and Young has yet to be proved;
(b) that of the $58,440 anticipated to be returned to Regional Tourism Associations, there is no guarantee that any of these funds will be onwardly distributed to tourist bureaus; and
(c) part of the income derived by PowerTour's proposed E-commerce connection results in a loss of income to tourist bureaus; being income earned through accommodation booking fees?

(2) Will the Government ensure that income lost to tourist bureaus through PowerTour's proposed E-commerce connection will be distributed to tourist bureaus?

(3) If not, why not?

(4) Is it true that the Western Australian Tourism Commission is not promoting Western Australia tourism through PowerTour, but rather it is only promoting those who pay to participate?

(5) If not, why not?

(6) Will the Government consider offering a truly comprehensive tourism promotion of Western Australia to the world by providing limited space free of cost to every tourism operator in Western Australia?

(7) If not, why not?

(8) Does the Minister accept that a comprehensive site would attract more visits and hence make it an attractive place for larger and more glamorous cost effective advertising?

(9) If not, why not?

Mr BRADSHAW replied:

(1) (a) Yes.

(b) The $58,440 revenue gained by Regional Tourism Associations (RTAs) is separate from any moneys to be provided to Tourist Bureaux. However, the model has been structured so that both parties benefit, financially and non-financially, from electronic business arrangements. Additional to this revenue stream, RTAs receive some financial support from the WATC to market regional tourism. Some RTAs have elected to use some of these funds to financially support Tourist Bureaux but this is done entirely at each RTA's discretion. This system has been in place for almost three years and is designed to support community based decision making that is fostered in a creative, autonomous environment.

(c) The Western Australian Tourism Commission (WATC) web site will be incorporating an E-Booking facility whereby customers will have the opportunity to make a direct booking via an on-line booking agent chosen by the respective operator. In many cases it is envisaged that Tourist Bureaux will become those agents and gain financially from each transaction in a global marketplace. Tourist Bureaux will also be in a position to benefit from the planned WA Tourism Network and Virtual Call Centre where booking inquiries from around Australia will be linked directly with the relevant local expert at a Tourist Bureau using Voice Recognition Technology.

(2) As indicated above, it is believed that the introduction of electronic business options will increase Tourist Bureaux income.

(3) Not applicable.

(4) The WATC " westernaustralia.net" web site offers global promotion of Western Australia tourism information and product utilising the data and information recorded in PowerTOUR. PowerTOUR is a database application that contains information on all tourism operators and attractions in Western Australia. This is an information service WATC currently offers to every operator free of charge. This service will also be available to all Tourist Bureaux participating in the WA Tourism Network. Under strategies formulated within Partnership 21, each tourism operator will now also be given a presence on the product section of the web site, targeted at tourism consumers, for no cost. Those operators who choose to pay for greater space and recognition on the web site itself will incur a cost.

(5) Not applicable.

(6) I refer the member to my answer to (4) above.

(7) Not applicable.

(8) It is accepted that the more tourism product available to customers on a web site, the greater the appeal of a particular destination. Enhanced electronic business initiatives undertaken by the WATC are seen as a fundamental requirement to ensuring the web site remains as comprehensive as possible and at the forefront of e-business development.

(9) Not applicable.

TOURISM, VISITOR SERVICING

1808. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Further to question on notice No. 318 of 1999, what does the 'appropriate level of visitor servicing' mean?

(2) Has the Western Australian Tourism Commission or anybody established criteria for determining the 'appropriate level of visitor servicing'?

(3) If so, what is that model or criteria?

(4) If not, how does the Western Australian Tourism Commission or anyone else determine what is an appropriate level of visitor servicing?

Mr BRADSHAW replied:

(1) An 'Appropriate Level of Visitor Servicing' means that quality and/or quantity of physical servicing available to each visitor who has travelled to or is potentially travelling to a town, area or region and that that service meets their varied needs with respect to individual information requirements.

(2) Each Regional Tourism Association (RTA) is currently required to have in place a set of criteria, as agreed by it and their respective tourist bureau, in regard to a minimum standard of Visitor Servicing. The WATC has developed a set of criteria, in conjunction with RTAs, as a draft for each RTA to use if so required.

(3) I will table a copy of this criteria for the member. [See paper No 873.]

(4) Not applicable.

MINISTER FOR TOURISM, TRAVELLING ARRANGEMENTS

1940. Mr McGOWAN to the Parliamentary Secretary to the Minister for Tourism:

I refer to the Minister for Tourism's ministerial and electorate offices travel arrangements and ask-

(a) who has organised the bookings and arrangements for the Minister's travel for each of the past 7 years;

(b) which agency has organised, arranged and booked the Minister's staff travel for each of the last 7 years;

(c) what was the name of any travel agents used in this process;

(d) what amounts were paid to them in this process; and

(e) what trips and on what dates have been organised for the Minister and Ministerial staff for each of the last 7 years?

Mr BRADSHAW replied:

(a) Ministerial staff and Electorate Office staff.

(b) Ministerial office.

(c) BTI and Globetrotter.

(d) Both organisations are part of the Government contract.

(e) The member would be aware that the Minister's portfolio responsibilities require a degree of travel and therefore a number of trips have been organised over the past seven years. Extensive research would be required to extract this information and the Minister is not prepared to commit the time and resources this would demand.

TOURISM, KALGOORLIE

1948. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) What amount has been allocated and/or spent by the Western Australian Tourism Commission/State Government to promote tourism in the Kalgoorlie area in –

(a) 1997/98;
(b) 1998/99; and
(c) 1999/2000 financial years?

(2) Has the Government given any consideration to a major injection of funds to promote tourism in and around the area?

(3) What specific strategies has the Government-

(a) implemented; and/or
(b) planned,

for the Kalgoorlie/Esperance area to increase tourism?

(4) Do any of those specific strategies include capitalising on the self-drive market?

(5) In what way will the strategies improve on the self-drive market?

Mr BRADSHAW replied:

(1) In most instances the WATC does not allocate funds specifically for the promotion of individual regions. Marketing activities are undertaken to promote the State overall or a number of regions at the one time. Consequently it is difficult to identify specific funds that have been allocated to the promotion of tourism in the Kalgoorlie area (Goldfields). Details of WATC funding for marketing activities that have included promotion of the Kalgoorlie area (Goldfields region) as well as the Esperance region are shown below:

1997/98
Winter Breaks 1998 - (WATC cost $61,220; Industry cost $193,455; Total cost $254,675). Accommodation operators in 6 regions, including the Goldfields, promoted in a brochure distributed throughout the State.

Our WA Television Program - (WATC cost $65,000; Industry cost $44,000; Total cost $109,000). A series of around 20 programs produced and screened on Channel 7 promoting regional product and destinations. A number of stories were filmed in the Goldfields.

Goldfields Autumn Campaign – (WATC cost $15,000; Industry cost $5,000; Total cost $20,000). A radio campaign conducted in Perth promoting the Goldfields Holiday Planner and Goldfields tourism product.

Funding provided to the Goldfields Tourism Association and the Esperance Region Tourism Association to assist with the marketing of their respective regions as follows:

Goldfields $122,932
Esperance $67,203

1998/99
Winter Breaks 1999 – (WATC cost $0; Industry cost $256,030; Total cost $256,030). A campaign promoting short break holidays to 6 regions, including the Goldfields, throughout the State. Production and distribution of the Winter Breaks brochure funded through operator participation fees.

Our WA Television Program - (WATC cost $65,000; Industry cost $48,400; Total cost $113,400). A series of around 20 programs produced and aired on Channel 7 promoting regional product and destinations. A number of stories promoted the Goldfields.

Crossing the Nullarbor Campaign – (WATC cost $20,000; Industry cost $0; Total cost $20,000). Advertisements placed in automobile association magazines in SA & Victoria promoting a brochure on the Nullarbor Plain which included information on Kalgoorlie-Boulder and the Goldfields.

Brand WA Commercial – (WATC cost $350,000; Industry cost $0; Total cost $350,000). A 30 second television commercial featuring Elle Macpherson in the Goldfields was produced for use in the intrastate, interstate and international markets as follows:

Intrastate (Feb 1999) – (WATC cost $130,000; Industry cost $67,000; Total campaign cost $197,000)
Interstate (Mar 1999) – (WATC cost $300,000; Industry cost $80,000; Total campaign cost $380,000)
International (Mar 1999) – (WATC cost $435,000 ; Industry cost $590,000; Total campaign cost $1,025,000)

Funding provided to the Goldfields Tourism Association and the Esperance Region Tourism Association to assist with the marketing of their respective regions as follows:

Goldfields $130,823
Esperance $118,155

1999/2000
Winter Breaks 2000 – (Total cost - $260,580; WATC cost $0; Industry cost $260,580). A campaign promoting short break holidays to 6 regions, including the Goldfields, throughout the State. Production and distribution of the Winter Breaks brochure funded through operator participation fees.

Our WA Television Program - (Total cost - $70,000; WATC cost $15,000; Industry cost $55,000). A series of around 20 programs produced and aired on Channel 7 and GWN promoting regional product and destinations. A number of stories promoted the Goldfields.

Crossing the Nullarbor Campaign – (Total cost $7,000; WATC cost $7,000; Industry cost $0). Advertisements to be placed in automobile association magazines in SA & Victoria promoting a brochure on the Nullarbor Plain which included information on Kalgoorlie-Boulder and the Goldfields.

Funding provided to the Goldfields Tourism Association and the Esperance Region Tourism Association to assist with the marketing of their respective regions as follows:

Goldfields	$124,173
Esperance	$111,505

(2) As can be seen from (1) the Government has already committed a large amount of funding to the Goldfields and Esperance regions. Furthermore, the funding provided by the WATC to the Goldfields and Esperance Tourism Associations for marketing purposes and the decentralisation of associated decision making has enabled the local tourism industry to determine which marketing activities are most appropriate for their respective target markets.

(3) (a)-(b) The Government, through the WATC, featured the Goldfields in Brand WA television advertising produced in 1998. Also, in 1998 the WATC contributed financially and co-ordinated a radio campaign in Perth promoting the Goldfields Holiday Planner and Goldfields tourism product. Goldfields operators are invited each year to participate in the Winter Breaks campaign and promote their product to consumers throughout Western Australia. The Goldfields and Esperance regions were featured in a brochure advertised in 1999 in a print campaign in South Australia and Victoria, which promotes the Nullarbor Plain as an interesting and enjoyable route into Western Australia. It is planned that the campaign will be repeated in 2000. Increased funding has been provided over the last three financial years to the Goldfields Tourism Association and the Esperance Region Tourism Association to assist with their marketing activities.

(4) The Winter Breaks and Nullarbor campaigns target the intrastate and interstate self-drive markets, respectively.

(5) The campaigns are designed to increase awareness of the Goldfields and Esperance regions as holiday destinations by providing information to the self-drive market about local attractions and tourism product. The Winter Breaks campaign, in particular, provides opportunities for accommodation operators to promote their businesses and offer value-added incentives to encourage visitation and generate additional business.

QUESTIONS WITHOUT NOTICE

NORTHBRIDGE TUNNEL, PUMPING SYSTEM

771. Ms MacTIERNAN to the minister representing the Minister for Transport:

(1) Can the minister confirm that Main Roads WA recently commissioned former Main Roads senior engineer Geoff Watson to prepare a report into the performance of the pumping system installed under the Northbridge tunnel?

(2) Can the minister confirm that this report dealt with concerns that the data collection points to monitor the performance of the pumps were not sufficient to identify the impact of the pumping on nearby homes?

(3) Will the minister now table the brief for that report and the report itself?

Mr COWAN replied:

The Minister for transport has provided the following response:

(1) No. Main Roads WA has not commissioned any report into the performance of the pumping system installed under the Northbridge tunnel.

(2)-(3) Not applicable.

VANADIUM MINE, WINDIMURRA

772. Mr MASTERS to the Minister for Resources Development:

I refer to Precious Metals Australia Ltd which officially opened its vanadium mine and production plant at Windimurra yesterday. Can the minister please advise what proportion of world vanadium production will come out of the Windimurra operation and how the provision of natural gas has improved the project's economic viability?

Mr BARNETT replied:

I thank the member for Vasse for the question. It no doubt comes from his professional background in the mining industry. The project at Windimurra, which is a joint project between Precious Metals Australia Ltd and Xstrata AG, which is a spin-off of Glencore International AG, is Australia's first vanadium mine. It will produces about 12 per cent of world vanadium production when in full capacity. Currently it is operating at about half capacity as it is going through the commissioning process. Vanadium is used principally as an alloy in steel making and it also gives strength to titanium. It is used in various lightweight materials in the automotive industry, and increasingly in the aeronautics and aerospace industry. In the future it will be used in vanadium batteries. It is a slightly more exotic material for which demand will increase. It is not one of the larger projects in the State - it cost about $120m for the mine and the processing plant and about $48m for the gas pipeline that was constructed by AGL Pipelines Ltd and Western Power. It also incurred $20m in power station costs. It is a good example of high value adding. The mining operation is very simple: It involves essentially a front-end loader and a truck. The project takes ore from a huge ore deposit, with perhaps a 100-year life, and produces on-site, a value-added product that comes in drums. Four drums weigh about 1 tonne, and 1 tonne is worth about $8 000. It is a very clever bit of technology and mining operation. It was made clear at the opening, which I was honoured to be able to perform yesterday, that the economics of the project would not have stacked up had it not been for the decision by the State Government to support Western Power to enter a joint venture with AGL Pipelines Ltd to construct a 370 kilometre pipeline to the project. That pipeline and gas supply will improve the economics of existing, and bring forward, future projects. I expect some of the major gold producers, given the higher oil prices now, to swap over from diesel to natural gas. I expect to see a satisfactory conclusion in the next few weeks to a power procurement process which will see gas used for power supply for townships in the area which will provide modern, cleaner and more reliable power supplies. I think it is a very good example of a good project and a very appropriate relationship between government and business.

SKEA, NELSON AND HAGER

773. Ms McHALE to the Treasurer:

(1) Will the Treasurer advise the House how much the law firm Skea, Nelson and Hager has been paid by the Government since 1996?

(2) What projects did that legal firm advise on, and how much was it paid for each project?

(3) Were any of these arrangements with Skea, Nelson and Hager awarded as a result of normal tendering processes?

Mr COURT replied:

(1)-(3) The details of instances where Skea, Nelson and Hager has been engaged to provide legal advice to agencies are included in consultants reports tabled by this Government since 1994. The firm appears in all reports since 1996.

Ms MacTiernan: Half the time you leave them out.

Mr COURT: The member asked the question and I am giving an answer. The member wants us to give her the consultants reports and then read them for her.

I cannot comment on all individual agencies but Treasury, which has used this firm, it has always gone through all the proper tendering processes.

CURRAMBINE COMMUNITY CENTRE

774. Mr BAKER to the Minister for Family and Children’s Services:

Will the minister provide this House with a brief report on the construction of the much needed Currambine community centre?

Mrs van de KLASHORST replied:

Last week I advised the House that the Government has spent $3.6m over the past four years on the construction of nine community centres around the State. Through Family and Children's Services, the State Government has advised the City of Joondalup that funding of $500 000 is available for the proposed Currambine community centre. I understand the City of Joondalup is investigating various locations to determine the most suitable site for this, and once advice is received from the City of Joondalup about its preferred location the project can proceed. The State Government is very keen to invest this $500 000 in important community infrastructure in Currambine for the benefit of the member's community.

DEPARTMENT OF CONTRACT AND MANAGEMENT SERVICES, DOMESTIC OR INTERNATIONAL TRAVEL ARRANGEMENTS

775. Mr McGOWAN to the Minister for Works:

(1) Have any consultants or advisers been engaged by the Department of Contract and Management Services since 1995 to advise the Government on the procurement of domestic or international travel arrangements?

(2) If yes, who are they and where are they based?

(3) How much were they paid, including air fares and accommodation?

(4) Were public tenders called?

(5) Were local businesses asked to bid; and if not, why not?

Mr JOHNSON replied:

I thank the member for some notice of this question.

(1) Yes, on three occasions.

(2) Travelfix (Queensland) was contracted in September 1996, September 1999 and again in February 2000.

(3) For the September 1996 contract Travelfix was paid $127 367; for the September 1999 contract it was paid $2 400; and under the February 2000 contract it has been paid $2 400 to date.

(4)-(5) With regard to the September 1996 contract, unfortunately I am not able to respond in this time frame because there is a glitch in the computer system at CAMS as a result of a virus problem, which it is trying to fix at the moment. I will give an answer as soon as it comes to hand, and I hope that will be later this afternoon.

For the September 1999 and the February 2000 contracts public tenders were not required.

BALLAJURA ELECTORATE, SCHOOLS

776. Mrs PARKER to the Minister for Education:

I refer to the Government's strong commitment in recent years to the schools in my electorate. Will the minister please provide an update on how much the Government has invested in school infrastructure in the electorate of Ballajura since 1993?

Mr BARNETT replied:.

I thank the member for Ballajura for some notice of this question. This Government has spent on average a further 8 per cent every year in the past five years on the government school system. As one of the rapidly growing regions within the metropolitan area, Ballajura has received a significant part of that expenditure. I also compliment the member for the way she has worked with some of the developments in that area, particularly a range of issues to do with Ballajura Community College. In answer to the question, since 1993 the State Government has spent $42.528m in the electorate. It is an extraordinarily large amount of money. Of that, $29.5m has been spent so far at Ballajura Community College. A further $5m has already been committed for a new performing arts centre, a second gymnasium, an information technology block, a learning area and an upgrade of the science and technology area; $4.571m was spent on the construction of the South Ballajura Primary School; $2.081m was spent on early childhood facilities at Ballajura, Camboon, Hampton Park, Illawarra, Morley, Noranda, North Morley and South Ballajura primary schools; and $1.422m was spent on a variety of projects including roof replacements, traffic management programs, a covered assembly area to Hampton Park Primary School and administrative upgrades at Illawarra, Hampton and Morley.

Mr Riebeling interjected.

Mr BARNETT: If the member opposite is so keen to see improvements in his electorate, I suggest he wait until Thursday.

DAMPIER TO BUNBURY NATURAL GAS PIPELINE, SALE DOCUMENTS

777. Mr RIPPER to the Minister for Energy:

This is not the question of which I gave notice.

(1) Will the minister give a commitment that independently of any actions taken by the Gas Access Regulator, he will release all documents, contracts and correspondence related to the sale of Dampier to Bunbury natural gas pipeline?

(2) If so, when will he release this information?

(3) If not, why not?

(4) Does the minister acknowledge that he has the power to direct the release of this information?

Mr BARNETT replied:

(1)-(4) The fact that the Labor Party would ask a question like that displays its absolute ignorance of what is necessary in this State to achieve major projects or conduct major transactions. This relates to a question about schedule No 39, which was a submission made as part of the sale tender process by Epic Energy.

Dr Gallop: Put it on the table.

Mr BARNETT: The Leader of the Opposition can look up schedule 39 on the web site of the Office of the Gas Regulator. It has been there for several weeks. That site also contains submissions to the regulator from the Government, Epic Energy and AlintaGas. That was the question the Deputy Leader of the Opposition was originally going to ask. In terms of the sales documentation -

Mr Ripper: The asset sales?

Mr BARNETT: Yes. If the Deputy Leader of the Opposition asks specific questions, I will answer them to the best of my ability. However, if he is asking whether I will table all sorts of confidential information -

Dr Gallop: What is confidential about it?

Mr BARNETT: It is corporate information about the bids. The process went on for six weeks.

Dr Gallop: Touchy, touchy.

Mr BARNETT: No. Teams of up to 30 people from individual bidders worked within document rooms, analysing every contract, every asset, and divulging information to the steering committee. That information is not mine to release. If the Opposition wants to focus on that project, the member for Belmont should ask me specific questions, and I will answer them; as is proper. However, he cannot expect me to bring a truckload of documents into this Parliament and compromise the reputation of this State, which members opposite tarnished almost beyond repair in the 1980s. It has taken this Government to return some respect to commercial activities of government. What really gets up the Opposition's nose in this is that we sold the pipeline for $2 407m without a hint of scandal or conflict.

HEALTH FACILITIES, NORTHERN SUBURBS

778. Mr BAKER to the Minister for Health:

Can the minister inform the House of any new government initiatives concerning health facilities in the northern suburbs?

Mr DAY replied:

I could spend a long time answering this question, but I know the time is somewhat limited. Therefore, I will confine my comments to some particular projects. A great deal has been done in the term of this Government to expand the health services which provide for the rapidly growing population in the northern part of the metropolitan area. The most notable example is the still relatively new Joondalup Health Campus. About $50m will be provided out of the Health portfolio this year for a wide range of health services for people in the northern suburbs. Recently, a new child and adolescent mental health unit commenced operations in Clarkson, which has a very significant need given the large number of young families and the rapid urban growth that has occurred in the area. It is very pleasing that that unit has now commenced operations.

During the recent parliamentary break, the Premier opened the new St John Ambulance centre at Joondalup. This is another very important new facility for the northern suburbs that will house six ambulances, patient transport vehicles and their crews. It also has two first-aid training rooms and an office for the Wanneroo division of the St John volunteers. The building has cost $1.1m, of which $350 000 was contributed by the Government. Another St John Ambulance centre is to be constructed in Landsdale to cater for the growth occurring in that area, and it is expected to open in 2001.

I had the pleasure of opening the new population health unit based in Joondalup to provide public health services. That is a very important part of our system that many people do not appreciate. It addresses issues such as alcohol and other drug abuse, nutrition, breast and cervical cancer screening, diabetes prevention programs and early detection programs as well as smoking prevention and cessation programs. As I have indicated, a great deal has been done and is being done by this Government for people in the northern metropolitan area.

ALINTAGAS, WORKER CONDITIONS

779. Mr RIPPER to the Minister for Energy:

(1) Has the Government reached final agreement with the AlintaGas work force and its unions on conditions for transfer from the public sector to private employment? If so, what are the conditions?

(2) When is the Independent Gas Access Regulator expected to make his decision on tariffs to apply on the Dampier to Bunbury natural gas pipeline - a decision that will have a significant impact on the value of AlintaGas?

(3) Is the Government proposing to finalise the privatisation of AlintaGas even if matters relating to the transfer of employees and transmission tariffs have not been concluded?

Mr BARNETT replied:

I thank the member for the question.

(1) Any privatisation is a complex process. It can sometimes be mistakenly assumed that privatisations are simple. They require issues to be thought through and clear policy decisions to be made. The execution of the privatisation is itself a complex legal and commercial process. A number of AlintaGas employees are employed under workplace agreements and are non-union members. Therefore, most of their terms and conditions are agreed to. Some other issues remain to be resolved and I expect continuing discussions to be held involving individual situations relating to individual employees right up to the final sale process. However, no major disagreements exist that would stop the process.

(2)-(3) Clearly, AlintaGas is a major user of the Dampier to Bunbury pipeline. Prior to the sale of the pipeline, the transport charge was about $1.20 per gigajoule. As part of the sale process, the Government - in association with

the successful bidder Epic Energy - implemented a schedule that saw the price of transport fall from $1.20 to $1.10 to $1.00 per gigajoule. Thereafter, it will be determined by the regulator. I have extended regulations that enshrine the price at $1.00 per gigajoule and that price will remain in place until such time as the regulator makes his final determination. Obviously it is important to have certainty in that regard. I cannot foreshadow what price the regulator will decide upon; he may set it at 95¢ or $1.05 per gigajoule. That is the process he must go through. That will be a critical issue for the sale at some stage. We will have to make a judgment about what that decision will be or, alternatively, AlintaGas and Epic Energy might reach a commercial agreement about what the transport charge will be for a period which will give certainty during the sale process. However, that will be a commercial arrangement and will allow the process to proceed.

ALINTAGAS, WORKER CONDITIONS

780. Mr RIPPER to the Minister for Energy:

I have a supplementary question. Is not one option to delay the privatisation of AlintaGas until the Independent Gas Access Regulator makes a decision?

Mr BARNETT replied:

Clearly, timing in privatisation is almost everything; however, there will always be issues. We have a draft determination for the access charges and the regime for the distribution system. That is not yet the final determination as there will be submissions and no doubt changes will occur. We may receive a draft determination on the Dampier to Bunbury gas pipeline in the next two to three months, but there may not be a final determination on that until next year; I do not know. There may be some other changes. Changes to company tax and depreciation have occurred. Who knows what the federal Treasurer will do to taxation rules tonight? There will always be an element of uncertainty.

The point is that the Government, on the advice of the sales steering committee, will make a decision. My view at this stage is that none of those issues is a show stopper to the privatisation. However, they are issues and, if the Government forms the view that the risk is too high, it may decide to delay it. However, that is a highly unlikely scenario as all of the advice so far and all the analyses done suggest -

Several members interjected.

Mr BARNETT: The Leader of the Opposition should not look up at the members of the press gallery; they are listening.

Dr Gallop: I am just worried about the Treasurer.

Mr BARNETT: All of the advice is that the sale process will go through. As I said at the beginning of my answer, sales and privatisations are complex processes. One must ride the sale-making decisions every step of the way and we are not yet at a final sale. We have already received from the cornerstone investors non-binding indicative bids which are being assessed now. They will then go to binding bids and, all going well, we will proceed to a public float around August-September; and about 100 000 Western Australians will buy shares and own AlintaGas directly.

PEEL CAMPUS, FORMAT

781. Mr MARSHALL to the Minister for Education:

The Peel Campus being built in Mandurah to accommodate the education of all year 11 and 12 students from Coodanup and Mandurah Senior High Schools next year has produced great expectations among both parents and students.

(1) Has this format been trialled before?

(2) What advantage will be gained by the students?

Mr BARNETT replied:

(1)-(2) The member for Dawesville and the member for Mandurah were closely involved in the local area planning process in the region which has seen what might well be a first for Australia; that is, the total reorganisation of secondary education in the Mandurah-Peel area. That reorganisation comes with significant public investment in the new senior college to be built alongside the technical and further education college and university facilities, and the construction of a new school at Halls Head. As part of that reorganisation, as the member said in his question, existing schools become middle schools catering for year 8, 9 and 10 students. Middle schooling was initially developed in the government school system at Ballajura, which has a very large school with two campuses, which, although on one site, are physically separated by playing fields. It was also applied in the amalgamation that took place in Geraldton. We have learnt from the Geraldton experience that any reorganisation of a school or group of schools requires significant new investment in facilities. That did not happen to any significant extent in Geraldton and we must address that issue in future.

The new Sevenoaks school being built in the member for Belmont's area will be a superb upper secondary school and the old Cannington facility will become a middle school. An interesting example is Maddington Senior High School, which was turned into a middle school, and about $1m was spent in what is now Yule Brook. I suggest that members inspect the Yule Brook facility, which has become a very effective middle school. Kinross and City Beach will have senior middle school structures. Groups of three to four teachers work with 70 to 80 students in middle schooling, which allows a more easy transition from primary to upper secondary school.

Students tend to do home classroom work in teams with teachers. All the educational advice indicates that middle schooling is more effective for young people in those adolescent years. It is effective in delivering the new outcomes-based curriculum for many young people, particularly boys, who lose their way in schooling or perhaps in life, which is more likely to occur in adolescent years.

Middle schooling is an effective educational medium. The people of Mandurah participated in those decisions and I think they were strongly supportive. It will assist educational opportunities in the Mandurah-Peel area and, I hope, the retention rate in upper secondary school will significantly improve.

DAMPIER TO BUNBURY NATURAL GAS PIPELINE, ANSWERS TO QUESTIONS ON NOTICE

782. Mr RIPPER to the Minister for Energy:

Notice of this question was given at 10.00 am today.

(1) When did the minister's office receive draft answers to questions on notice Nos 2101, 2102 and 2103 asked on 4 April and 2135 asked on 5 April regarding efforts to keep secret matters related to the sale of the Dampier to Bunbury natural gas pipeline?

(2) Why has the minister not answered these questions?

(3) When does he propose to answer them?

Mr BARNETT replied:

What an extraordinary question!

Mr Ripper: It has been a month.

Mr BARNETT: The Deputy Leader of the Opposition knows the rules of this House. We are allowed 90 days to answer questions on notice.

Mr Ripper: Do you have the draft answers?

Mr BARNETT: The draft answers may not necessarily be my answers. Unlike what might have occurred in the era of the Labor Government, departments provide advice, I look at it and add my own input.

Mr Ripper: Some questions are seeking simple factual advice.

Mr BARNETT: Yes; and they will be answered. I think they relate to schedule 39, which is public information. All the questions are looked at in my office and I look at them myself because I handled many of the aspects to do with the sale of the pipeline. I may have something to add to the answers that some of the officers may not have considered.

Mr Kobelke: Why did you give misleading answers about the amount spent on advertising AlintaGas and Western Power?

Mr BARNETT: I do not give misleading answers.

THIRD PARTY INSURANCE, PREMIUMS

783. Mr TUBBY to the minister assisting the Treasurer:

Can the minister inform the House of any decisions made regarding third party insurance fund premiums?

Mr KIERATH replied:

I am pleased to report to the House that Western Australia is the only jurisdiction that has had a downward trend in third party insurance claims. It would be easy to look through Labor-coloured glasses and hope that will not change. However, logic demands that sometimes these trends bottom out and reverse, especially when every other State in the country is experiencing upward trends. When looking at inherent risk, we must be cautious. Despite the downward trend in claims per 1 000 vehicles, claim amounts have increased by 7 per cent; therefore we have been financially responsible and increased the premiums by 7.5 per cent, of which 3.64 per cent offsets the net effect of the goods and services tax and 3.86 per cent is to support the claims history and records and to maintain the 115 per cent insolvency target. This is responsible financial management, unlike the irresponsible financial management of which the Leader of the Opposition was part when he was in government.

In October 1992, the then Chairman of the State Government Insurance Commission wrote to the minister assisting the Treasurer at the time, none other than the present Leader of the Opposition. Rather than allowing premiums to increase, the commission ran at an operating loss of about $10m. Did the Government increase the premiums? No; it refused to do so. I contrast that with the style of this Government. I received a letter seeking an increase in premiums by 3.86 per cent on claims history and 3.64 per cent because of GST. What did this Government do? Although it is facing its final year of office before an election, it did the responsible thing by the people of this State and increased premiums, unlike the Leader of the Opposition who, when faced with doing what was right for this State or the Australian Labor Party, chose what was right for the ALP regardless of the consequences for the State.

I wonder whether the Leader of the Opposition has the ticker for government. I do not think he does.

Mr McGinty: That is a lie and you know it; it is simply not true.

Withdrawal of Remark

The SPEAKER: Order! The member for Fremantle will withdraw.

Mr McGINTY: I withdraw.

Questions without Notice Resumed

Mr McGinty: Tell the truth!

Mr KIERATH: Just for the record, I have a letter from the then Premier, Dr Carmen Lawrence, to Mr R. Cohen, Chairman of the State Government Insurance Commission, which states -

> In reference to your memorandum to the Hon Dr Geoff Gallop MLA, I wish to acknowledge your concern with respect to media speculation of an increase in the CTP premiums due to the write down of the SGIC property portfolio.

Mr Carpenter interjected.

Mr KIERATH: Wait for it! It then states -

> I wish to indicate that the recommendation of the Board of Commissioners of a twelve per cent increase is unacceptable to the State Government.

Mr Carpenter interjected.

The SPEAKER: Order! The member for Willagee is interjecting in a way that is unacceptable.

Mr Carpenter: Why is it unacceptable?

The SPEAKER: Because the member is imputing things and is interjecting on matters that have nothing to do with the question; and if he continues to do that, I will take strong action against him. It is as simple as that. Perhaps the minister will finish his answer.

Mr KIERATH: The letter continues -

> Consequently I would ask that any increase in the CTP premium be no more than the current Consumer Price Index (CPI) level.

That puts on the record what members opposite did in government, and the difference between members opposite and government members.

BUDGET BRIEFING

784. Dr GALLOP to the Premier:

Which individuals and organisations, other than media, are provided with a budget briefing prior to the handing down of the state budget on Thursday, and why? Will the Premier follow the lead of the Federal Government and other States by agreeing to provide the Opposition with a budget briefing on Thursday prior to its release in Parliament; and, if not, why not?

Mr COURT replied:

There is a media lockup for the full budget papers. A presentation is given to some different interest groups, representatives of the business community and representatives of the welfare organisations -

Ms Anwyl: Which ones?

Mr COURT: Does the member want the full list?

Ms Anwyl: Yes, I do.

Mr COURT: Okay, I will provide it to the member.

Ms MacTiernan: That is what you always say, and you never do.

Mr COURT: They are given that briefing. Having spent 10 years in opposition, I cannot recall ever receiving a briefing on the budget by the Labor Government.

PETROTEAM PTY LTD, AQUACULTURE LICENCE

785. Mr BAKER to the Minister for Fisheries:

I refer to the recent application for an aquaculture licence by Petroteam Pty Ltd. Can the minister briefly outline the features of this application and its impact upon the local economy in the Joondalup region?

Mr HOUSE replied:

I thank the member for some notice of the question. As the member for Joondalup and other members of this House are well aware, aquaculture has grown quite quickly in this State over the past few years and is now a significant employer of people and a significant producer of product that is being well accepted not only in this State but also around the world.

Mr Graham: Port Hedland has its licence now after seven and a half years. Thank you.

Mr HOUSE: I am pleased to hear that, and probably now that they have an Independent member of Parliament they will get better service.

Mr Ripper: We could run that line in a few National Party seats!

Mr HOUSE: Members opposite probably could.

Ms MacTiernan: Are you suggesting that you make your decisions on the basis of who the local member is?

Mr HOUSE: The trouble with the member for Armadale is that she never asks any questions that make sense. She just asked the Deputy Premier a question and got flattened, and she has been quiet ever since. She should just sit down and wait for the end of question time. The member got on her feet the other night and lasted two and half minutes on the clock before she sat down, because she was proved to be wrong. The member should just take it quietly and she will get another chance a bit later.

Aquaculture is very important to this State. The feature of this particular venture is submerged cages. In a number of places, people have objected to aquaculture when the visual pollution that is created by marker buoys has been of some problem to them. The submerged cages that are being used in this venture will overcome that problem. Andrew Kikeros, who is one of the people involved in this project, is well known to me, and I am sure that, with his expertise and the expertise of the other people involved in this venture, it will prove to be very successful.

INTERIM FOREST INDUSTRY ADVISORY COMMITTEE, ANSWERS TO QUESTIONS ON NOTICE

786. Dr EDWARDS to the Minister for the Environment:

I refer to the minister's answer to my question without notice last week and ask -

(1) Will the minister now admit that her answers to questions on notice 579 and 607 were wrong when she said that the interim forest industry advisory committee had not "been involved in any way in discussions with any party on any aspect of the future" of either the Nannup or Whittakers Ltd mills?

(2) Will the minister now take the opportunity to correct the record?

(3) To what extent was Ron Adams of Bunnings Forest Products Pty Ltd involved in the committee's deliberations on the Nannup mill, to which the Government has assigned 20 000 cubic metres of jarrah sawlogs to assist with the sale of the mill?

Mrs EDWARDES replied:

(1)-(3) The third part of the question is obviously more relevant to the Minister for Forest Products. I no longer have any involvement with the Nannup mill. If the member wishes, I can provide her with the answer through that minister. The answer is no to the first part of the question, because any discussion on the proposal was not specific but of a generic nature.