WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE ASSEMBLY

Thursday, 10 September 1998

Legislative Assembly

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

PARKWAY BUSHLAND, BIBRA LAKE

Petition

Mr Thomas presented the following petition bearing the signatures of 528 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned petitioners call for the retention of the Parkway Bushland at Bibra Lake, for conservation and recreation.
>
> This land is a people's asset. It should be retained in a natural state and as a barrier between our suburb and the Western Power switchyard.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 40.]

BIRCH, MR CLIVE

Response to a Statement by the Former Member for Gosnells, Mrs Henderson

MR BLOFFWITCH (Geraldton) [10.02 am]: On behalf of the Committee on Standing Orders and Procedure, I present a report under Standing Order No 165A in respect of a request by Mr Clive Birch for a response in relation to a statement made by the former member for Gosnells Mrs Henderson to be incorporated in *Hansard.* The committee has agreed with Mr Birch on a response and the report recommends that the response be incorporated into *Hansard*. I move -

> That the report be adopted.

Question put and passed.

[See paper No 157.]

[The following response was incorporated in *Hansard*, pursuant to Standing Order No 165A.]

> My name is Clive B. Birch formerly of Clive Birch Real Estate and I have been adversely affected by reason of an untrue statement made by Mrs Yvonne Henderson in a grievance statement in the Legislative Assembly on 11 November 1987, recorded in Hansard at pages 5647 and 5648.
>
> The statement made and repeated through Mrs Henderson's speech that "He took off to Britain with at least $800,000." is completely untrue, unfounded and unsubstantiated. Neither the investigating police officer or the auditors of my accounts was ever involved and furthermore, no authority has ever made any statement that any money was ever taken out of Australia, and that was never any part of the Crown's case against me.
>
> I did write to Mrs Henderson on 30 October 1993, at the suggestion of the Official Secretary of His Excellency the Governor, Mr Kevin Skipworth, and Mrs Henderson did respond on 16 May 1994, however in her response she did not answer the question concerning this mythical $800,000. I did write again on 25 May 1994 but did not receive any further correspondence from the Member.
>
> I do sincerely believe that this untrue, unfounded and unsubstantiated statement, made by Mrs Yvonne Henderson has seriously prejudiced me in all aspects of my life since that date.
>
> And had the circumstances been permitted I would have addressed all of her other statements.

MAWSON, MR JOHN VERNE

Response to a Report Tabled in 1996 by the Former Minister for Police

MR BLOFFWITCH (Geraldton) [10.03 am]: On behalf of the Committee on Standing Orders and Procedure, I present a report under Standing Order No 165A on a request from Mr John Mawson for a response in relation to a report tabled by

the Minister for Police in 1996 to be incorporated into *Hansard*. The committee has agreed with Mr Mawson on a response and the report recommends that the response be incorporated into *Hansard*. I move -

That the report be adopted.

Question put and passed.

[See paper No 158.]

[The following response was incorporated in *Hansard*, pursuant to Standing Order No 165A.]

My name is John Verne Mawson.

I was adversely referred to in respect of the Argyle Diamond Inquiry in the Australian Federal Police Report (the Report) tabled by the then Minister for Police on 5 September 1996.

In the report it was stated that I was to be counselled in respect of my failing to follow due process. Nothing could have been further from the truth. The report also made reference to me by way of offering immunity to witnesses, again this was totally incorrect, in fact, I counselled others strongly against doing that. I took the matter up with the Assistant Commissioner (Professional Standards) and following a further inquiry it was ascertained that there was no evidence to substantiate that adverse finding against me.

I received a letter from the Commissioner of Police advising me of this. Sometime later I wrote to the Minister for Police enclosing a copy of the Commissioner's letter and requesting that it be added as a corrigendum to the report and be tabled in Parliament as was the original report.

I received a letter back from the Minister a good deal of time later advising me that he could not accede to my request as he was not the owner of the report.

Copies of all relevant correspondence should be with the Minister under his reference 32445, and I can provide copies from my own files.

My only request is that the matter be put straight should at any time in the future the report tabled in Parliament originally be resurrected for whatever reason.

MENDEZ, MR TORRANCE

Response to a Statement made by the Deputy Premier

MR BLOFFWITCH (Geraldton) [10.04 am]: On behalf of the Committee on Standing Orders and Procedure, I present a report under Standing Order No 165A on a request by Mr Torrance Mendez for a response in relation to a statement by the Deputy Premier on 19 August 1998 be incorporated into *Hansard*. The committee has agreed with Mr Mendez on a response and the report recommends that the response be incorporated into *Hansard*. I move -

That the report be adopted.

Question put and passed.

[See paper No 159.]

[The following response was incorporated in *Hansard*, pursuant to Standing Order No 165A.]

I, Torrance Mendez, wish to respond to adverse statements made against me by the Member for Merredin and Deputy Premier, Hendy Cowan, relating to the sale of Westrail Freight.

His comments were aired in debate in the Legislative Assembly on Wednesday 19 August 1998 and can be found on pages 566-569 inclusive of Hansard.

The adverse comments by Mr Cowan were made without supporting evidence and were damaging to the point that they sought to lower my standing in the eyes of the public and my peers.

His words amounted to:

(a) That Torrance Mendez, journalist, was the unofficial press secretary of the Member for Armadale.

(b) That the Member for Armadale would use him to write another report containing the ALP line of argument.

(c) That he wrote rubbish in that capacity.

(d) That it was well known that he could be twisted around the little finger of the Member for Armadale.

Other remarks inferred that:

(e) Torrance Mendez might write reports for or on behalf of other people.

(f) That he was one of a number of people who meticulously and faithfully followed statements made by the Member for Armadale because they were controversial.

The facts are:

I wrote a report which appeared in *The West Australian* on Friday July 31 under the headline 'Full steam ahead for rail sell off'.

The report was compiled after I received a written press statement by the Minister for Transport, Murray Criddle, and a copy of a written message to staff by the Acting Commissioner for Westrail, Wayne James.

The published newspaper report was a fair and accurate reflection of the position spelt out by the Transport Minister and the Acting Commissioner in their respective statements.

My complaint is:

Mr Cowan's statements were grossly unjust in that they disparaged my professional capability in circumstances that were unwarranted.

It is unlikely that such comments would have been made in public outside protection of parliamentary privilege.

Mr Cowan's comments, while untrue and false, carry great weight through his capacity as Deputy Premier.

The harsh and abusive nature of his comments, and the high title held by Mr Cowan, might lead others to accept the words as fact.

If uncorrected, these comments lie on the public record and retain their capacity to harm my professional standing.

Finally, I don't know what more could have been done to give a fair representation of the Government case in the report of July 31.

GLENN, MR JOHN - ASTRONAUT

Statement by Premier

MR COURT (Nedlands - Premier) [10.05 am]: Thirty-six years ago the people of Perth spontaneously turned on their lights as astronaut John Glenn became the first American to orbit the earth. As pilot of the *Friendship 7* spacecraft, John Glenn completed his three-orbit mission around the earth and described how he could see the lights of Perth and expressed his appreciation to the residents of Western Australia as he spoke to technicians at the Muchea tracking station. It was an historic event which attracted the attention of the world as people from around the globe followed John Glenn's daring space mission.

Next month, at the age of 77, John Glenn will again create history when he takes on a second mission with NASA and joins the crew of the Space Shuttle *Discovery*. The flight will provide a unique opportunity for our State to again salute John Glenn and as such, a number of activities are being planned to coincide with the event.

Firstly, preparations are currently being made in conjunction with NASA for two science students and two science teachers from Western Australia to witness the launch of the *Discovery* scheduled for late October. The visit will be a once in a lifetime opportunity for the participants and will foster our State's relations with the United States and the world's leading space program. As part of the visit, we hope that the group will be able to meet Senator Glenn prior to the launch.

The Government appreciates the support of the United States Government and NASA in putting in place the arrangements for the visit. For the participants, it will be a unique opportunity to be part of cutting-edge space research and technology.

The Science Teachers Association has been asked to nominate candidates for the visit to NASA's launching facilities at Cape Canaveral and I expect to inform the House of its selections shortly.

The State Government is also exploring the possibility of repeating the gesture of Western Australian residents in 1962 which resulted in Perth being named the "City of Lights". The shuttle is scheduled to cross our coast close to Geraldton at an altitude of about 285 kilometres and Perth and centres as far away as Harvey to the south and Carnarvon in the north could be visible. During its orbit, larger regional centres such as Kalgoorlie are also expected to be within view. We are working closely with the United States Consul General and NASA officials to determine when would be the best time during the mission for Perth and other centres to once again turn on their lights for John Glenn.

I am certain the people of Western Australia will support the events planned to mark this historic occasion. This is a

wonderful opportunity for our State to salute John Glenn and once again attract the attention of people throughout the world to our region.

SELECT COMMITTEE ON PERTH'S AIR QUALITY REPORT - GOVERNMENT'S RESPONSE

Statement by Minister for the Environment

MRS EDWARDES (Kingsley - Minister for the Environment) [10.07 am]: Following my undertaking last month, I now present the Government's response to the Select Committee on Perth's Air Quality. In May this year the select committee tabled its report, which included 96 recommendations on how to improve air quality in the Perth region. Since the recommendations of the committee impact on the responsibilities of a number of ministers and government agencies, the Government is providing this consolidated report.

In general, the Government supports most of the committee's findings and recommendations. The report sets out the Government's response to each recommendation. Many of the actions identified in the report have been initiated or enhanced in response to the committee's deliberations and discussion papers. Key points in this response include -

> the development and implementation of an air quality management plan based on the strategies recommended by the select committee;
>
> the establishment of an air quality coordinating committee with representatives from government, industry, business and the community;
>
> the appointment of a health risk specialist to the Department of Environmental Protection's air quality management team;
>
> government support for an evaluation of various vehicle emission testing options with a view to adopting the most cost-effective;
>
> a review of regulations on emissions and fuel quality;
>
> the introduction of a new public health Bill which will include smoky domestic chimneys as a nuisance provision and give local government appropriate powers to resolve complaints of nuisance smoke from domestic wood fires and wood heaters; and
>
> a ban on burning vegetation from development sites.

The Government is already moving to introduce the Australian Standard 4013-1992 for wood burning heaters and placing restrictions on the moisture content of wood-fuel.

In respect of the select committee's well-publicised recommendation that the Government ban the further installation of wood fires and wood heaters in designated areas of the Perth metropolitan area with unacceptable local air quality, the Government has decided that this requires further investigation and will have it reviewed as part of the development of the air quality management plan for Perth. To ensure that the actions in this report are followed through, the Government will instruct the air quality coordinating committee to undertake an annual audit of the progress of implementation of the actions.

I thank the select committee for its valuable work and now table the Government's full response.

[See paper No 156.]

BILLS - INTRODUCTION AND FIRST READING

1. Soil and Land Conservation Amendment Bill.

2. Western Australian Meat Industry Authority Amendment Bill.

3. Carnarvon Banana Industry (Compensation Trust Fund) Repeal Bill.

Bills introduced, on motion by Mr Cowan (Deputy Premier), and read a first time.

TAXI AMENDMENT BILL

Second Reading

MR OMODEI (Warren-Blackwood - Minister for Local Government) [10.14 am]: I move -

> That this Bill be now read a second time.

I need hardly remind members of the considerable community and industry disquiet over unprovoked attacks on taxi drivers, many cases of which result from disputes over non-payment of fares. Taxi drivers provide a vital community service and

often operate under difficult and trying circumstances in which their safety and income is jeopardised by those in our community who are not law abiding citizens.

The taxi industry has been frustrated about the inability of the law to properly deal with fare evasion. Currently, the Taxi Act does not make fare evasion an offence and the Police Service is forced to rely on the general fraud provisions of the Criminal Code to secure a conviction. This requires the prosecution to establish "intent" to defraud in order to procure a conviction. This is invariably difficult to prove and has resulted in a number of unsuccessful prosecutions.

This Bill empowers the making of regulations which will provide for the control of fare evasion in the taxi industry and an effective deterrent to would-be offenders. It is the Government's intent that the regulations will require the hirer of a taxi, on termination of a journey and on demand of the driver, to pay the appropriate fare for the journey. The regulations will make failure to pay a taxi fare an offence and prescribe a penalty of not exceeding $1 000.

This Bill demonstrates this Government's commitment to protect taxi drivers from violent attacks and loss of income resulting from fare evasion. To ensure the effective application of fare evasion legislation, the Police Service has given an undertaking that it will investigate and where appropriate prosecute complaints from drivers of fare evasion. This Bill also addresses an anomaly in the provisions of the Taxi Act, which relates to the taxi industry development fund. This fund consists entirely of moneys paid by the taxi industry to fund promotional, research and development projects intended to benefit the taxi industry. This Bill will enable interest obtained from industry funds held in the taxi industry development fund, to be credited to the fund and will allow interest payment and the calculation of interest being applied retrospectively to the date of commencement of the fund. I commend the Bill to the House.

Debate adjourned, on motion by Mr Ripper (Deputy Leader of the Opposition).

POLICE AMENDMENT BILL

Third Reading

Bill read a third time, on motion by Mr Barnett (Leader of the House), and transmitted to the Council.

CURTIN UNIVERSITY OF TECHNOLOGY AMENDMENT BILL

Second Reading

Resumed from 20 August.

MR THOMAS (Cockburn) [10.18 am]: I am pleased to have the opportunity to speak on behalf of the Opposition and support the Government in this Bill. This Bill, as I recall from the minister's second reading speech and from my reading of it, will give Curtin University the capacity to create branches in places other than Western Australia. By way of explanation to those members who do not recall the minister's second reading speech, which was some time ago, the enabling legislation of Curtin University - or WAIT as it was when it was enacted in 1966 - gives it the capacity to create branches anywhere in Western Australia but not outside the State, specifically outside Australia. This Bill will give the university that capacity as it is seeking to build a branch campus in Sarawak in order to increase its role in international education. That is something we, as a Parliament, should applaud. As the Labor Party spokesman on higher education, I believe it is a tremendous and exciting move. Only this morning I spoke to the deputy vice-chancellor international, who is the director of the international program at Curtin University. I was told that this university will be the first in Western Australia to set up a branch overseas and only the second university in Australia to do so.

That is a contribution to Western Australia's presence in the region to which we as a State are able to relate more closely and readily than the other States of Australia. It is something which we should applaud and welcome. As a Parliament we should be prepared to facilitate the development of Curtin University in this direction and its role to provide education services to the markets of South East Asia.

This step comes as a very logical extension of the growth and evolution of Curtin University, which started as the Western Australian Institute of Technology. The legislation passed through this Parliament as I recall - not being the member at the time - in 1966 and the WA Institute of Technology as it was then, a college of advanced education, was established, and it had the capacity to set up branches. The late 1960s and early 1970s were exciting times in the development of tertiary education in Australia. The notion of advanced education as a stream in tertiary education was developed at that time. Credit must go to the people, at both the national level and the state level, who were involved in developing the notion of advanced education. As post-secondary education evolved in Australia over the years, we had universities, and then we had technical schools of various types that offered courses, some of which were almost equal to degree courses in academic status. It was felt that it should become a national system, somewhat similar to the universities, so commonality was agreed between States. The system of advanced education evolved. Some of the institutions already existed. The best known in Australia was probably RMIT, the Royal Melbourne Institute of Technology.

In Western Australia the WA Institute of Technology was established to become part of this system. We should give credit

to the officers and politicians who were involved at a national and state level in setting up this system of education, and more specifically setting up the system of funding in which the States would receive funds for institutions such as the Western Australian Institute of Technology, as it was then, the South Australian Institute of Technology, the Queensland Institute of Technology, and the New South Wales Institute of Technology.

The Minister for Education and Science who was responsible for setting that up at the time was John Gorton, who later went on to become Prime Minister. Most would agree he was not the most distinguished Prime Minister of Australia, but he set up a system of advanced education under which funding was established through the Commission on Advanced Education, as it was then, until it was amalgamated with the Universities Commission to become the Tertiary Education Commission. Later, the teachers' colleges were incorporated and became colleges of advanced education. In Western Australia those institutions, for the most part, amalgamated and they live on as the Edith Cowan University. The Western Australian Institute of Technology with its 1996 Act of this Parliament, set up branches and subsumed an area of education which might be described as the state institutes of education, and that is why it had branches.

In those days a number of educational institutions were operated by the State Government ancillary to various departments. The notion of taking over those occurred when the Western Australian Institute of Technology was authorised to have branches. The two branches that come readily to mind are ones that were set up under that provision of the legislation, one of which was the Kalgoorlie School of Mines. Prior to the WA Institute of Technology being established, the Western Australian School of Mines in Kalgoorlie was operated by the then Mines Department and it seems strange now to think that the then Mines Department, the Department of Minerals and Energy as it subsequently became, would operate an education institution, but it did. It operated the Kalgoorlie School of Mines, in which I have had some involvement in past roles. It is one of the most prestigious and best recognised mining schools in the world. It competes with the Colorado School of Mines for recognition as a fine mine school. Prior to the late 1960s, when WAIT was established, it was a branch of the Mines Department. Just outside Northam, in the electorate of the member for Avon, is the Muresk Agricultural College, which was operated by the Department of Agriculture. It also has a reputation of being a fine agricultural educational institution. It was thought not appropriate that institutions such as Muresk Agricultural College and the School of Mines in Kalgoorlie should be branches of departments such as the the department of Agriculture or the Mines Department and that they would be better incorporated in an educational institution. When WAIT was established - the legislation went through in 1966, it first began in 1967 - campuses were set up in James Street and St Georges Terrace, while Bentley was being established. WAIT took over and incorporated the School of Mines in Kalgoorlie and the Muresk Agricultural College just outside of Northam as branches of that institution.

Time has progressed and the notion of advanced education as a stream of tertiary education separate from the universities has passed. I worked at WAIT in the mid-1970s and I was very deeply involved in some of the negotiations at different times with the Commission on Advanced Education, the federal funding body. I was quite committed to the notion of advanced education as a separate but equal stream of tertiary education; which was essentially that the institutions would teach what were regarded as degree level courses, but would not undertake research. That was never something that sat comfortably with many of the staff. Many staff were quite capable of doing research and wanted to do research, and pressure was mounting during the period of the Labor Government, when Susan Ryan was Minister for Education, for all the tertiary educational institutions in Australia to be recognised as universities. When pressure was applied to reflect that in Western Australian legislation, a move was made by the then Minister for Education, Bob Pearce, to amend the Act to change the Western Australian Institute of Technology to Curtin University of Technology. I was opposed to that - I hope it is not giving away too many secrets of our Caucus - and it was carried by only one vote. Had I been a bit more successful as a lobbyist, Curtin University might have remained the WA Institute of Technology. In retrospect I am glad I was defeated because I think the wisdom of Caucus prevailed and the opportunity to have the Western Australian Institute of Technology change in name as well as in substance to a university is probably a good thing. Although I am very pleased that it bears the name "Curtin" after a great Labor Prime Minister, I do not think it was necessary to change the name of the WA Institute of Technology; it could have retained the name. Institutions such as the Massachusetts Institute of Technology, the California Institute of Technology and others are very prestigious universities and they bear that name "institute of technology" without having to be thought of as tech schools or some other pejorative that they try to avoid by changing the name.

Be that as it may, the then federal Minister for Education, Susan Ryan, made this option available at the federal level through funding arrangements. At that stage the Curtin University, or WAIT, had its second director, Don Watts - a very entrepreneurial education administrator. He grasped the opportunity presented by the Federal Government as soon as he was able and lobbied Bob Pearce, the Minister for Education, to change the legislation. It is interesting that Don Watts was so eager to have the institution renamed as a university that he thought he could sell it to the Labor Caucus using the name "Curtin".

Dr Hames: He was a very good lecturer. He wore holes in the floor because he paced up and down.

Mr THOMAS: Was the minister a student of Don Watts?

Dr Hames: Yes.

Mr THOMAS: He was also a very good education administrator. He thought he would have a better chance of getting the name change through the Labor Caucus if he used John Curtin's name. If the Liberal Party had been in power at the state level it probably would have been Hasluck University or Menzies University. In any event, he was successful. Perhaps the one deciding vote was gained by using that name. So eager and confident was he that he had the name "Curtin University" in the telephone directory before the legislation was passed, and we all know that entries must be lodged some time before the telephone directory is published.

The university has done more than simply use the name Curtin; it has adopted some of the spirit of John Curtin in seeking to establish an international presence. It has also taken the initiative of setting up the John Curtin Centre. The university's annual report sets out in some detail what is envisaged for the institute, which was formally opened this year. I suggest that members read the annual report and visit the institute, because it has a number of facets. One is an initiative upon which we should reflect and for which we should congratulate those involved. A prime ministerial library has been established along the lines of the presidential libraries in the United States of America. Members who have visited such libraries will know that it is a tradition in that country that on a President's retirement a library is established, very often on a university campus or some at a site associated with that person or their home State. All the papers of the presidency and records of that time are stored in the library and it becomes a resource centre for people doing research associated with that time.

Having adopted the name "Curtin" for the university, a number of people - including our parliamentary colleague, the member for South West Province, Hon John Cowdell - took the initiative of seeking to establish a prime ministerial library at Curtin University. With the cooperation of the commonwealth archive body, such a library has been established. It is the first such library in Australia. We should congratulate the university and the individuals involved in establishing it because we will have something that is uniquely Western Australian - with a Labor flavour - that will honour Australia's wartime Prime Minister. It will provide a facility for people researching matters related to Curtin's prime ministership, that period and some of the initiatives and themes developed while he was in office. That is a very commendable initiative and one that we should welcome.

The Director of the John Curtin International Institute, Professor Milton Smith, is responsible for not only the part of the university involving the prime ministerial library but also international programs such as the campus in Sarawak that will be authorised by this amendment to the legislation.

It is appropriate that the John Curtin International Institute is involved in establishing this campus overseas . In fact, it is the first Western Australian university to set up a campus in another country. It was John Curtin who internationalised Australia's role in the world. Prior to his prime ministership, Australia did not have an international presence. When Britain declared war on Germany after the invasion of Poland in September 1939, a question was asked in the Parliament of the then Prime Minister, Mr Menzies, whether Australia would go to war because Britain had. He replied that it went without saying that when Britain declared war, Australia was automatically at war. We were not asked; we were simply expected to fall into line. The perception at that time was reflected by the fact that there was no such thing as Australian citizenship - only British citizenship was able to be conferred by the Australian Government; we were British subjects. In every way we were considered very much a part of the British Commonwealth and that determined our international personality as part of Britain.

John Curtin changed that most markedly by adopting a different strategic position from Britain in the Second World War. Specifically he stated that notwithstanding the fact that Australia had very important ties to Britain, it looked to the United States for leadership during the Second World War and that changed Australia's international personality irrevocably. He set Australia on an independent international course in respect of the nations of the world to which it related. The fact that we were descended from the United Kingdom was not to be the sole or even the primary determinant of our foreign policy. It is therefore fitting that this university, named after such a man, is taking these major steps in this State's participation in international education.

It is worthwhile looking at Curtin University's astounding achievements in this area over such a short period. Only in the past 10 years has it been recognised that education services are a commodity able to be exported. Universities in Australia have sold their education services and competed with each other and universities of other countries in seeking to attract that student market, and it has become a very substantial market. It is worthwhile looking at the university's performance in this area because it is very creditable.

The number of full fee-paying students attending Curtin University from other countries has grown at a rate of 20 per cent a year over recent years. That rate has been sustained over a number of years and it is a most creditable performance. On the basis of student numbers it is the largest university in Western Australia. Approximately 20 000 students are enrolled at the university. Of that number, 20 per cent are full fee-paying students from countries outside Australia. That is attracting $52m income to the university, in addition to government funding for universities. It is an outstanding achievement. It is a very competitive market in which Australian universities compete with each other and, of course, there are other universities in the market; notably the United States and Canada are seeking students from these countries for their

universities. This market will change, and no doubt has changed over the years. I am referring to the annual report for 1997. It will be interesting to read the annual report for 1998 because, no doubt, changes will have occurred as a result of the Asian economic crisis. The currency downturn towards the end of last year may have made it difficult for students intending to study in Western Australia to do so. The subsequent collapse of the Australian currency may have made that easier. It is a market to which the universities must respond because it is very competitive.

The notion of setting up a campus in one of the countries in which services are to be delivered is a very good one because, presumably, the services will be more affordable and more easily attained by students who aspire to partake of them. It is interesting to note the countries of origin of the students attracted to Curtin University. The total number of students from Indonesia is 555; from Malaysia, 1 192; from Singapore, 1 717; from Hong Kong, 1 092; and from other places, presumably North America, Europe, and other Asian countries, 629 students. Only 12.1 per cent of all overseas students at Curtin come from countries other than Indonesia, Malaysia, Singapore, and Hong Kong.

On the international education market the greatest participation of students in Curtin University is from countries to Australia's immediate north. Curtin has a very creditable performance in this area. It is the second university in Australia and the first in Western Australia to set up a campus overseas. That will presumably place it in a position to compete more effectively in attracting students from those places. Why should Western Australia take this step? Obviously, it is selling a commodity. It is a trading item, and it is good for Australia, the balance of payments, and for universities because of the resources they attract by increasing their size. It creates career options for academic staff and increases the number employed at the institutions because, for example, Curtin University has 20 per cent more students than it would otherwise have had. Presumably, it employs 20 per cent more staff and that improves career options for the staff.

Consideration must also be given to the internationalisation of Australia, and particularly Western Australia. WA's future lies outside Australia. It exists primarily by selling commodities overseas. Increasingly Western Australia will export things other than unprocessed commodities. I hope it will sell elaborately transformed manufactured products and services, and contacts, networking and the like are often the determinant in a country's capacity to sell these products in other countries. It is obviously desirable for campuses to be set up in other countries, because that provides Australian academics with the opportunity to work in those places, establish networks, and arrange for twin-relationships between universities. This is an initiative for which Curtin University should be congratulated and supported by this Parliament.

Finally, I wish to pay credit to the administrators of Curtin University who have been responsible for taking these initiatives. I earlier mentioned Professor Milton Smith who is responsible for overseeing international programs in his capacity as Director of John Curtin International Institute, which includes the John Curtin Prime Ministerial Library. The Vice-Chancellor, Lance Twomey, is a long-serving staff member of Curtin University - if not from its beginning, at least from an early part of its history.

Mr Barnett: He is an excellent leader of the university.

Mr THOMAS: I agree. Curtin University has been very well served by him. Professor John Maloney, his predecessor, was, in the Don Watts' tradition, a very entrepreneurial education administrator. He is now a Deputy Vice-Chancellor of Monash University, and is responsible for the international programs. He was responsible for the decision to establish the John Curtin Centre, and that will be his lasting legacy at Curtin University. He has obviously played an important part in the internationalisation of that institution. Don Watts, who I mentioned earlier, is back in Western Australia, and he, again, was a very entrepreneurial education administrator. He was responsible for the change from the Western Australian Institute of Technology to Curtin University.

Haydn Williams, the first director of the Western Australian Institute of Technology, was responsible for transforming the institution from Perth Technical College, which is the major institution from which Curtin was descended, although I mentioned earlier the other branches of the School of Mines and Muresk College. When Haydn Williams took over in 1967 he inherited the St Georges Terrace and James Street campuses of Perth Technical College, and he oversaw the building of the Bentley campus which has become the largest educational institution in Western Australia. Haydn Williams was the director of WAIT when I was working there, and members who have known Dr Williams will be pleased to learn that he is in good health. I saw him recently at a hardware store buying some tools. He looks no different from the way he looked 20 years ago, despite being well into his eighties. He is in good health and seems to be prospering in his retirement.

The Opposition wishes Curtin University well. We congratulate Curtin on its initiative in setting up a branch overseas, particularly as it is only the second university in Australia and the first in Western Australia to do so. Curtin's initiatives in penetrating the international market are commendable and the Opposition is pleased to support the Bill.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [10.50 am]: I join my colleague the member for Cockburn in offering the support of the Opposition for this legislation. As the member for Cockburn has pointed out, the Bill will allow the Curtin University of Technology to establish a campus in Sarawak in partnership with Malaysian interests. I have had the pleasure of a briefing from Curtin University on its proposal to establish a campus and the need for an alteration to its governing legislation which is encompassed in this Bill. I indicated to the university that the Opposition would cooperate

in the passage of this legislation through the Parliament and would assist the Government to expedite the change in the legislation that is required for Curtin to embark on this venture.

Curtin University has been a leader in the provision of international education services in this country. This industry has grown rapidly in recent years. It is an important industry for Australia because of the export income it earns this country. It is also an important industry for the long-term interests of this country. If members of the technical and professional elite of our Asian neighbours have been in part educated in Australia one hopes that will have promoted some long-term affection and respect for this country among future decision makers. Of course, that will depend on the education having been a quality education and their experience in this country having been a positive one. In Curtin's case I have no doubt about those aspects.

One of the issues that has concerned me about this industry and its development is its long-term prospects. As other countries develop their economies and become more prosperous, presumably they will want to develop their own education systems and therefore the demand for education in Australia must in the long term start to tail off. The seemingly unstoppable forward momentum of Asian economies has proved to be quite stoppable in recent times, so perhaps optimism about the future development of Asia is more muted than it has been. However, I am sure the growth will resume in due course and at some stage there will be a lessening requirement for our Asian neighbours to be seeking education in Australia.

The move by Curtin can be seen as strategic and of some importance. There will be a new phase in the development of this industry. There will be a growing demand from the customers of this industry for education in their own countries. It is a good move by Curtin to seek to establish what is, effectively, a branch of the university in Malaysia. It will position Curtin very well as Malaysia becomes a more prosperous country and naturally wishes to have more of its students educated in its own country.

One interesting aspect of the development will be that Australian students will go to Malaysia to study. That is also beneficial to this country. It is important that in future our professional and technical elite and our decision-makers have a good understanding of the values, aspirations and conditions in neighbouring Asian countries. It will be very useful to have Australian students going to Sarawak to continue their studies at another branch of Curtin University.

The Asian financial crisis has no doubt caused some concern to those who are interested in marketing Western Australian education services. On the face of it the loss of wealth and the tightening financial conditions in Asia must surely be reducing the demand for international education services, and in my brief discussions with Curtin University officials I raised this issue. I was pleased to hear that Curtin University was still doing well in recruiting international students, despite the Asian financial crisis. Although there might be an assumption that the Asian financial crisis will reduce the demand for education services, maybe that assumption is not so true for institutions which are perceived to be of high quality and maybe that assumption is not so true for Australian institutions. Perhaps in regard to the competition from United Kingdom and United States institutions the Australian institutions have improved their competitive edge. Although all international education destinations have become more expensive, the Australian institutions have not become, relatively speaking, as expensive as the United Kingdom and the United States institutions. Any lessening of demand would have even less impact on an institution which has taken the initiative of establishing a domestic campus in an Asian country. It might be the case that a quality institution like Curtin, which competes with British and American institutions that have become even more expensive, and which will have a domestic campus overseas, will be able to survive quite well the impact of the Asian financial crisis on the demand for education services.

This positive development is not without risks. Curtin University will be establishing this campus in partnership with Malaysian interests. I suggest that to ensure the long-term viability of the venture, care needs to be taken to determine the financial substance of those Malaysian partners in an economy which is in some difficulty. I also suggest that care needs to be taken to ensure that any losses that might accrue to the Malaysian operation do not reflect on the provision of education in Western Australia.

In recent weeks, since the briefing from Curtin University, an additional set of risks emerged which we would describe as sovereign risks posed by restrictions on trading in the Malaysian currency. In short, once an investment is made in Malaysia it may be difficult to liquidate that investment and to extract the moneys which have been put into it should things go badly wrong. I expect though that an institution with the sophistication and experience of Curtin will make a proper assessment of the risks and take the necessary measures to minimise them. Nevertheless, we in this Parliament are asked to amend the legislation to allow Curtin University to undertake this venture. It is proper that we raise the prospect that there might be some risks involved. It might be interesting to hear whether the minister has discussed these matters with Curtin University, and his comments on the possibility of things not going right and the consequences of that.

I am surprised that we must deal with this legislation. I understand the legislation governing other tertiary institutions does not have the same restriction as the Curtin University legislation. I do not know whether that was intended. It was probably an accident of drafting. There is an additional argument for this legislation beyond the merits of the establishment of a campus in Malaysia: Curtin University should be treated with equity in comparison with other institutions.

I commend Curtin University and other tertiary institutions for their entrepreneurial efforts in establishing this international education industry. It has been a very welcome development. It has produced a surprising amount of export income. It is a development which is in the long-term interests of the nation and the State. Unfortunately, that entrepreneurial effort had to be conducted against the background of some financial pressure on tertiary education. I regret that tertiary institutions have been placed under that financial pressure. The Federal Government has cut funding to tertiary education by hundreds of millions of dollars. At this time this country should be investing more in education at all levels, particularly higher education. Those countries which invest in education at all levels will be the most prosperous in the future.

It is unfortunate that the Federal Government's much vaunted surplus is, in part, built on removing funds from tertiary education. That action is not in the long-term interests of this State or this country. Although the entrepreneurial efforts of Curtin University and other tertiary institutions are to be highly commended, they have been forced, to a certain extent, into that action by the squeeze that has been put on their base funding by the Federal Government. In future we will need more public investment in this education to provide the services that Australian students and the nation will require. Although building an international education industry is a very good thing to do, it cannot substitute for a proper level of public funding for tertiary education. Having made those comments, I am pleased to reiterate both the Opposition's support for this piece of legislation and its commendation for the initiative which Curtin University is taking in Sarawak.

MR BARNETT (Cottesloe - Minister for Education) [11.03 am]: I thank opposition members, especially the members for Cockburn and Belmont, for their support of this legislation which will clear the way for Curtin University of Technology to open a campus at Miri in Sarawak, that being East Malaysia. Before commenting on the proposal, I will make some general comments about the points raised relating to international education. Members opposite may be aware that I visited peninsula Malaysia, not East Malaysia, and Singapore with the five vice-chancellors earlier this year. That is the first time all five vice-chancellors, including the one from the University of Notre Dame Australia, had travelled with the Minister for Education collectively to promote tertiary education in Western Australia. One of the things which occurred - it might seem to be minor - is that a broad agreement was reached under which the universities will not unnecessarily compete with each other in the Malaysia-Singapore and the other Asian markets. That is not to say there should not be healthy choice between subjects, or there should be some sort of collusive behaviour; rather, they thought there was much to be gained by promoting our five universities in Asia as the universities of Perth, among which there is a whole variety of courses. The vice-chancellors have continued with that and I have had a subsequent meeting with them. That will be very positive for the development of international education for our universities.

The member for Belmont, in particular, commented about what the trends might be in international education. They are interesting comments and have some validity. The short-term monetary problems in so many of the Asian nations, including the South East Asian nations, which are important to us in education, have not been uniform. Indeed, this year the universities of Perth have tended to maintain enrolments, and in some cases some marginal increases have even been achieved, in spite of the dramatic fall in currencies. Indonesia suffered up to 80 per cent of the loss of value of its currency.

There might be a couple of reasons for that lack of uniformity. The first is the quality of the programs that have been offered from here and the fact that universities, particularly Curtin University but also the University of Western Australia and Murdoch University, have been very active in establishing longer term relationships and credentials in the area, including vice-chancellors commonly going into the area to attend graduation ceremonies in Malaysia and Singapore. Because of the long involvement of our universities, there is a very strong alumni within those regions. That goes back to the Colombo Plan days, but has been matched by continuing large numbers of students coming here. Indeed, several years ago, I spoke at an alumni dinner in Kuching, attended by former graduates of the University of Western Australia. It was very clear that among that alumni there were leaders of business and civil service, political figures and people in the professional areas, such as medicine and education. It gives us a great deal of credibility and history of involvement.

We have tended to do quite well during the current crisis. Universities on the east coast have tended to suffer more. To some extent the Hanson factor has been important there. The anecdotal impression I got while in Malaysia and Singapore, with which the vice-chancellors will agree, is that the damaging effect in Asia of the Hanson sentiment has been seen largely as an east coast factor and has not impacted on the way people have seen Western Australia, which is fortunate for us. It is a two-edged sword. While the financial problems and the loss in value of their currencies makes overseas education more expensive for students in Asian nations, we are relatively less expensive than the alternatives in North America and western Europe. There is a likelihood that there will be some substitution, that we will be seen to have the quality of a western-style education with English language, which is important, and we may well find that the very high cost of studying in North America and Europe may mean that we may maintain and continue to increase our student enrolments. The member for Belmont also referred to the fact that in the longer term many of these still developing nations will want to develop their own tertiary education and, therefore, we might see a decline in overseas student enrolments. I think he is right to the extent that they want to develop their own university sector - and so they should, and we should encourage them to do so.

The outcome - it came through very strongly in a meeting with the senior administration and the vice-chancellor - is that the University of Malaysia wants to build up undergraduate programs, but recognises that it does not have the expertise or the depth of faculty to provide the right quality research in postgraduate areas. We will see that the numbers will not fall, but

will continue to grow; however, we will see more growth in postgraduate study and less in undergraduate study. We will see the mix of the twinning arrangements, with students doing some study in their home countries and finishing off here. Equally there is an opportunity for Australian students to spend part of their time studying in Asia. In discussions with the University of Singapore we found out there is a quite advanced proposal for some of our engineering students to spend one semester in Singapore as part of the normal UWA or Curtin University course.

The collaborative arrangements are extremely good and will be to the betterment of education. International education not only provides full fee-paying students as financial resources for a university, therefore allowing the development of university infrastructure, but also greatly adds to the life and vitality of our campuses through its international students. In my student days I made good friends and it was interesting to have contact, in my case, with students from Malaysia, who are still quite good friends. I know of other members who have had similar experiences. This is part of the dynamism of our universities. It is good that our students have the opportunity to build friendships and relationships with our neighbouring countries to the north and that they also have the opportunity to study and travel throughout that area. I do not think there is a potential downside. It is certainly not seen as a substitute for the funding and development of our universities for Australian students.

In respect of the Bill before the House, I note that Curtin University has 6 800 international students, which is more than all of the other Western Australian universities combined. In this State we have a total of 9 500 overseas students, which represents 14 per cent of the total university enrolment. In that sense this State is ahead of the other States, as it has been over the years, and continues to be proportionately better in international education.

A number of twinning arrangements have already occurred between universities and colleges in Malaysia but this is a separate development. It is a significant step forward to establish a campus of Curtin University in Miri. When I was in Malaysia earlier this year it was announced that Monash University would be the first overseas university allowed to establish there. That was not seen as the opening of the floodgates. I met with the Malaysian Minister for Education who said that his Government saw this as a significant step forward, but he made it very clear that this opportunity would not be open to a wide range of universities, and that Monash was very well regarded in Malaysia, as indeed Curtin was. It is no coincidence that those two Australian universities have been given this right. It will be offered fairly selectively on a very limited basis. It is a great credit to Curtin University and a great boost for tertiary education in this State.

Mr Thomas: Did you know that Dr Mahathir used to be the Minister for Education?

Mr BARNETT: I was not aware of that.

Mr Ripper: Are you saying that Monash and Curtin are the only two universities to be allowed to establish in Malaysia?

Mr BARNETT: Monash was the first overseas university. There was a dramatic change in policy. It was made very clear that it was because of the long-term standing of Monash. Similarly Curtin has earned this right by performance. It will not be an open slather policy at all. I expect more universities will be given this right, but it will be very limited.

Members opposite pointed out that the Curtin University of Technology Act contains a section which effectively precluded Curtin from doing that. Section 21A of the Act reads -

> (1) Subject to subsection (2), the Council may establish and maintain branches of the University at such places in the State as the Council, with the approval of the Minister, thinks fit.

That was simply an oversight at the time the legislation was drafted and put in place which occurred long before people thought of the prospect of Curtin University establishing campuses offshore.

Mr Thomas: It was long before people thought of Curtin University.

Mr BARNETT: Yes, it was an oversight. As was pointed out by members, it was not a characteristic of the legislation that enacts the other universities. This Bill seeks simply to remove that restriction and allow the university to proceed.

Curtin University's proposal to establish a university at Miri in Sarawak is particularly important. It is an area of Malaysia which is very important for the petroleum industry. There is a strong link with Curtin in Western Australia where our oil and gas industry is located. In areas such as engineering, particularly petroleum engineering, great opportunities exist. It is no coincidence that Shell Australia Limited supports these arrangements and has an interest in both areas. The proposal has very strong support. Both the Malaysian federal deputy Minister for Education and the deputy chief for Sarawak have been involved in the proposal, so at both federal and state levels it has strong support. The Sarawak Economic Development Board supports the proposal. I cannot find anyone who does not support it, which is rare these days.

Curtin University will begin a foundation course in commerce and engineering in 1999, and in 2000 it will provide year one of the bachelor of engineering course. The students will then come to Curtin University in Western Australia to continue their bachelor of engineering course. It is also expected that a bachelor of commerce year one course and a diploma of commerce will be available next year. Again a great opportunity exists for students to start their tertiary education in their

home country. That is often a difficult year for students. They have the opportunity to gain that success and then proceed here to continue their studies. Obviously this will give great benefits to education in Sarawak and to Curtin University.

Again I join with members in congratulating Curtin University. I am sure all of us will watch this development with great interest. Curtin University has a long and outstanding record in international education. It is a great credit to the university that it has now been given this opportunity to develop a campus in Miri. I am sure it will be a great success. I thank members for their support.

In closing, Curtin University's administration was very keen that this Bill receive public bipartisan support. It was important for its standing in Malaysia. I thank members.

Question put and passed.

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

CHILD WELFARE AMENDMENT BILL

Second Reading

Resumed from 25 June.

MS ANWYL (Kalgoorlie) [11.16 am]: I welcome the opportunity to have the luxury of some time to address this matter today. This is certainly an extremely complex area of the law. However, before I move to deal with the legislation in some detail, which I propose to do towards the end of my speech, I must draw a number of matters to the attention of the House and the public. The first is the manner in which this legislation has come before the House. The minister second read the Bill on the last day of the sitting prior to the long July adjournment. I had the opportunity of a briefing, to which I will refer later, but that was some time ago. The matter has come on before. There is an expectation in the community that we will not have this debate today. The expectation, as a result of comments made by the minister and the Premier, is that we will not deal with this legislation this week. The public thinks we will not be dealing with the legislation this week because it is too complicated and contains matters which need to be looked at. However, here we are dealing with it.

Mrs Parker: The matter was to be debated yesterday. You wanted to go to a race in Kalgoorlie and not debate it until today. I gave you that leave. It was always intended that the Bill be debated. I said that I would have a look at the issues we discussed on Tuesday night.

Ms ANWYL: Has the minister looked at those issues?

Mrs Parker: I am looking at those issues.

Ms ANWYL: Why has the minister not come back to me?

Mrs Parker: You were in Kalgoorlie yesterday.

Ms ANWYL: I have been here all morning. The minister has sat over there for a good part of an hour while I have sat over here and she has not come near me.

Mrs Parker: I said from the beginning of this debate that this subject should be above party politics. You are being disgraceful.

Ms ANWYL: The minister is being disgraceful.

Mrs Parker: You went to a horse race.

Ms ANWYL: It is a shame that two members of Parliament should have a debate like this. The reality is that I sat with the minister on Tuesday evening to detail the reasons that the Opposition could not support the Bill in its present form.

Mrs Parker: You said the day before, as was recorded in the Tuesday evening edition of the newspaper, that the Opposition supported the Bill. You changed your mind at the last minute. You had all that time to consider the Bill. You had a briefing, not from me, but from people in the department.

Ms ANWYL: The minister does not even know who it was, does she?

Mrs Parker: I know who they are.

The ACTING SPEAKER (Mrs Holmes): Order! I remind members that we are dealing with the second reading debate of the Bill.

Ms ANWYL: I would like to know whether the minister will respond at the completion of the second reading debate.

Mr Barnett: It might be a good idea for you to make your speech, then we will know to what the minister can respond.

Ms ANWYL: The Leader of the House is now joining in on the act. I have been told that the minister is not in a position to advise today what the Government intends to do with this legislation. I sat down with the minister in an effort to improve this legislation. It is true that the Opposition agrees with the need for greater cooperation between agencies dealing with children who are abused in this State. I deliberately did not seek media attention on this issue and I therefore have not issued a media release to date. I sat down with the minister on Tuesday evening in an effort to work in a bipartisan fashion to remedy the severe defects within this legislation.

Will the minister be able to advise the House today what the Government will do with this legislation? Does she intend to amend it?

Mrs Parker: It depends what you raise as issues and whether there are issues to be raised.

Ms ANWYL: I sat down with the minister on Tuesday evening for quite some time and detailed the problem that the Opposition has with this legislation. She said she would -

Point of Order

Mr BARNETT: This is a second reading speech; the member for Kalgoorlie is the nominated lead speaker for the Opposition. She has 56 minutes in which to make a speech. This is not question time and I suggest she be required to address the legislation.

Mr Thomas: That is not a point of order; she can say what she likes.

The ACTING SPEAKER (Mrs Holmes): Order! Although I have no difficulty with the member relating to the minister when the Bill is being debated in the second reading stage, I would be grateful if she could address her remarks to the second reading speech. If she needs to speak to the minister about anything else she can do that privately afterwards.

Debate Resumed

Ms ANWYL: I am happy that the Leader of the House makes a point of order to obstruct me, as a member of Parliament and as the Labor spokesperson on Family and Children's Services, from finding out whether the Government will make any amendments to this legislation. To have members of Parliament on their feet debating legislation about which no indication has been given of the Government's position when it contains serious defects that have been brought to the minister's attention is not good enough.

Mr Cowan: The procedure is that you hear all of the second reading speech and then give the minister the right of reply.

Ms ANWYL: I am simply asking whether that right will be exercised today, and nobody is prepared to tell me.

Mr Barnett: Let us hear your speech to see whether you have a substantial point to make.

Ms ANWYL: Why can I not be advised whether the minister has a position? It may be that the matters I raise today have been thought about by her.

Mr Cowan: You are acting a bit precious.

Ms ANWYL: The Deputy Premier has accused me of being a bit precious when I have sat down in a bipartisan effort to remedy some defects in this legislation, but then find myself having to spend an hour of time in Parliament addressing issues without any idea of the Government's intention. It is now on the record so I shall move on.

I note again for the record that the minister is not prepared to advise whether she will be giving a complete second reading speech. The information I had was that she will not.

Mr Barnett: From where did you get that information?

Ms ANWYL: From a member on the minister's side.

I said at the outset that the handling of this Bill has been shocking. The public has an expectation that the Bill will not be dealt with in Parliament today. I put a clear position to the minister on Tuesday evening on this matter and I have not had any response from the Government about those concerns. As a legislator I do not believe that is the best way for legislation to be handled. However, if the front bench of the Government seems to think it is all right, so be it.

I indicated that the Opposition supports the stated intention of the Bill, which is to ensure greater cooperation between both government and non-government agencies in this State insofar as they deal with children who have been maltreated, are being maltreated, or are at risk of maltreatment. One of the principal difficulties with the legislation is the extremely wide class of people who will have access to information contained on the register simply as a result of poor drafting of the legislation.

Clause 4 which adds section 120A to the Act defines an approved person. That person will have responsibility for reporting matters of maltreatment to the register. The definition reads -

> "**approved person**", in relation to a reporting agency, means a person who holds an office or position in the reporting agency that is prescribed, or belongs to a class that is prescribed, for the purposes of this definition;

No further detail is available indicating when the regulations will be available, when those classes of person will be defined or when the reporting agencies will be described. The definition of reporting agency is extremely wide; it includes the department, the Police Force, any department of the Public Service, public or private hospital, agency, authority or instrumentality of the Crown in right of the State, or body whether corporate or unincorporate that provides medical, counselling, support or other services to the community under an arrangement with the State. That is prescribed. Presumably at some stage there will be some prescription.

From that definition, it is not clear what type of people will be covered under what is effectively a mandatory reporting provision contained in proposed section 120F. The approved person from the reporting agency - described in the very wide definition to which I just referred - under 120F "shall make a report to the manager containing the following information". It is a mandatory clause, so the existing arrangements have been considerably extended. At the very least, we are entitled to know who will be the reporting agencies and the approved persons and what will be their level within the agencies.

Information to be reported is the name, sex, date of birth and address of the child and details of the maltreatment, as we would expect. However, those details will exclude any identifying information that is "likely to identify a person as a person suspected of being responsible for the maltreatment or opposing the risk of maltreatment".

All of these approved persons and reporting agencies "shall make" - that means they must; it is mandatory - a report to the agency. A register has been in existence since, I believe, 1996. In her second reading speech the minister referred to approximately 1 900 names being already on the register. It is not as though this legislation will set up a new register. It is intended to prescribe what already occurs with the existing register which contains approximately 1 900 names.

My principal concern is who will have access to the register. This Bill should prescribe the type of people and the type of reporting agencies that will have access to the register. I raised this issue with the minister. One part of the reporting agency definition, which appears to be an extremely wide section, is paragraph (iv), which reads -

> body, whether corporate or unincorporate, that provides medical, counselling, support or other services to the community under an arrangement with the State, . . .

It could almost include every government funded agency in the State. However, the minister advised me that that was designed to deal with the Joondalup Health Campus. That may be the case. There is a great deal of public concern about this Bill. If that clause refers to the Joondalup Health Campus, it should state "Joondalup Health Campus". It should be clear by way of definition in the Bill, not in some regulations which we may or may not see during this session. That is one of the principal difficulties I have with the Bill.

As I have said, there are also concerns about who has access to the register. The consultations I have had with a range of people and groups on the sighting of the register relate to the mistrust currently surrounding their relationship with Family and Children's Services. It is vital that discussion takes place with the department. We must look into the history of what has happened under this minister. If the sighting of the register could come under the control of an independent commissioner for children or an office for children with an autonomous body handling the register, many of the concerns raised would not occur. I will return to the issue of an office for children; however, before I do, I must explore the difficulties that have surrounded the department recently.

Some time last year a leaked memorandum signed by the Midland staff of Family and Children's Services was made available to the Opposition. I have referred to that document many times in this House. That document stated that because of resourcing difficulties, the staff were unable to follow their own written guidelines and regulations to deal with matters in the order required. A high priority allegation of abuse must be dealt with within 24 hours or as soon as possible. The staff said that because of the impossibility of dealing with these concerns within the prescribed time, priority was not accorded to the allegations as they occurred. Therefore, there was no reporting on priority because the staff knew that they would be unable to meet the time lines and were not recording priorities because they were fearful of the consequences to their careers or jobs if they could meet those time lines.

I note the minister said this was an isolated matter relating only to Midland. However, despite what I have said, those who wrote the memorandum also said that some heavily prioritised allegations did receive priority but most of the significant and serious allegations made in relation to the abuse of children were not being investigated in some cases for many weeks. To my understanding, that issue of resourcing still remains a problem for the department. The Government, to its credit, called an inquiry of the matter.

A report was made available in November last year to the minister which was tabled when we resumed Parliament in March this year. One of the most significant findings in that report was recommendation 9, which recommended a further inquiry into the issue of resourcing in Family and Children's Services. The minister subsequently tabled a written response to the recommendations of the independent inquiry which stated that it was not necessary because there had been a restructuring

in the department and because of the restructuring there was no longer any difficulty with resourcing; and further that the Midland matter was something specific to that office and did not apply to offices generally.

The memorandum I was talking about stated that family support was provided to lower grade cases; that is, cases in which children are not seen to be at immediate risk. That support included family mediation and dealing with families and children with parental issues. In that document, the Midland staff said that they can forget about those cases; they will never get a guernsey for family support. They did not then deal with the most serious cases according to the regulations. When the minister said in the Parliament that the whole issue of resourcing was a dead issue due to restructuring, the restructure was effectively complete some time earlier prior to preparation of the report in November last year.

My concern is that resourcing continues to be a major issue. Only last week or the week before the president of the Civil Service Association-Community and Public Sector Union, which represents the bulk of workers at Family and Children's Services, released a copy of a letter which indicated that resourcing continued to be a significant issue. People from the department phone me and tell me about matters. They often ring to criticise me because they think I am having a go at them. However, as a result of our conversations, it is clear that under-resourcing continues to be a difficulty for the department.

I call on the minister to put this issue to bed. If indeed resourcing is not a problem, why can there not be an inquiry? Why can we not have this issue sorted out? Why can there not be an ongoing dialogue with the union and the professional body that represents the social workers in the department? Why can we not deal with this issue in a positive fashion? Having said that, some positive initiatives have occurred under the Court Government in the child protection area and I applaud the Government on those matters. The Government has finally established a child protection council; that is a positive thing. Although some calls have been made on the independence of that council, we must have a child protection council and it is good that the Government has acted on this in 1998. Members must also remember that in 1995 the Government abolished the council that was then in place. We have had a three-year gap without a child protection council. Nevertheless, I applaud the fact that we have a child protection council again.

Yesterday the minister launched an initiative on police working together with Family and Children's Services staff. Again, that is a very positive initiative and one that most of those working within the field would say is long overdue. However, to give due credit to the Government, there is movement in that area. The issue of resourcing, unfortunately and reprehensibly, is something also of significance to the Police Department because earlier this year there was another leaked document, a report from the child abuse unit of the Police Service. That document contains some fascinating revelations. It explains why I have so many calls from people who are unable to initiate any criminal investigation of the abuse that they allege has occurred or is occurring.

As a result of reading that report, we know that the police child abuse unit is under-resourced. We also know that child prostitution is never tackled by the unit because it does not have the time to do so. At the same time, we know it is a very real problem in the inner city.

After the recent arrest of a Western Australian man on Internet child pornography charges, we were told by international experts in this area, including overseas police, that Australia is possibly the second biggest purveyor of child pornography via the Internet. We know we have a problem.

The child abuse unit wanted to buy a computer to set up an undercover website to achieve criminal convictions and to stop child pornography on the Internet in this State. However, it could not access enough funds to buy the computer. All the documents about that are available. Thank goodness that report was leaked, because without it we would never have known about this. While I am sure that all members are extremely pleased that people have been charged in relation to child pornography on the Internet, we have so far to go in addressing it that it is not funny. Recommendations were made in the report about the police child abuse unit, but we have yet to hear from the Government about what will happen in response.

I realise that these are not matters within the minister's portfolio, but they are all so linked that it is vital if we are effectively to protect children in this State that we properly resource the Police Service and the Department of Family and Children's Services.

Members have heard of Operation Paradox - a phone service for people to report those who have abused children. That service operated last in 1996. One of the reasons no service was provided last year may well be that the 1996 complaints still have not been investigated despite having been made so long ago. These matters are set out in the leaked report from the child abuse unit. Interestingly that report was a response to the Wood royal commission's findings in respect of this State.

My concern is that we seem to have a mentality in this State that we do not need to worry about issues such as child abuse; somehow we are insulated; we do not have the same problems as New South Wales. Commissioner Wood spent a long time on the issue and made many recommendations. I acknowledge that we have different ways of dealing with these issues and that the different agencies deal with different issues; not everything is the same. However, clearly child abuse occurs in this State and children must be protected. Police Service resources are a vital matter and they must be addressed.

Another matter which must be addressed and which was recently debated in the Parliament is the question of what occurs

with abuse. I mentioned the Wood royal commission. The Queensland Government has recently announced a multi-million dollar inquiry into child abuse. In part that is a response to the Wood royal commission and the alleged institutional abuse not only of child migrants - which came to the fore again as a result of the House of Commons report - but also of others in various Queensland institutions. Again I make the point that some matters raised probably do not have a parallel in this State.

What did this Parliament do in response? The Opposition moved a motion that we reconvene the Barnett Select Committee on Child Migration, which was established in 1996 and which presented an interim report the same year. Of course, that motion was defeated by the Government. I also moved within that motion that we address the issue not only of child migrants and institutional abuse, but of all Western Australians in those institutions at the time the abuse occurred.

The reality is that this issue will not go away and it will not be moved off the agenda because some people in the community are still suffering as a result of their experiences as young children. Many people in the community live with the knowledge that some of those who abused them are still walking free. This relates very much to the issue of Police Service resources. It must be noted for the record that these people cannot access justice; they have no access to the criminal justice system. They were told unilaterally by the Director of Public Prosecutions in 1994 or 1995 that there would be no prosecutions in relation to this matter. Notwithstanding that, I have made contact with one man currently involved in a prosecution dealing with the numerous counts of alleged rape he suffered as a young boy. This issue will not disappear because some people in our community carry this burden every day. They approach me frequently and I have no doubt that they approach other members of Parliament and, indeed, the minister.

Some of the minister's public comments are naive at best. She has stated that these people could have access to some justice. Clearly they cannot because the DPP has ruled that there will be no prosecutions and these people have no access to criminal injuries compensation because -

Mr Pendal: It is like his ruling on the abortion case. The analogy escapes you on every occasion it is brought to your attention. The DPP makes those decisions and that why this Parliament conferred independent powers on him.

Ms ANWYL: I am not criticising the DPP.

Mr Pendal: I was here when you people did your best -

Ms ANWYL: The member does not want to hear what I am saying. I am stating for the record that the DPP has said that there will be no prosecutions in relation to this matter. That is factual. I am not seeking to canvass the DPP's opinion; I am merely reinforcing the fact that a ruling has been made on the issue. It is important that we as a Parliament work out some way of dealing with the rights of these people to access justice.

As I said, many members would have been approached about this issue. Probably the most upsetting approach I had was when a 59-year-old man came to my office in tears recently. He spent some time explaining that he had found out only in his mid 40s that he was not an orphan. By that time, his mother and father were both dead and he had also lost a brother. He found he had two sisters living - one in Queensland and one in South Australia. However, he had no financial means of visiting them because he was unemployed. It was very difficult to assist this man to obtain the funds to visit them, contrary to what he had been told. At the end of day all he wanted was to spend Christmas with one or both of his sisters. This issue will not go away, because some people are still living with it.

I started to talk about where the register will be situated. A new position will be created and advertised to be known as the manager of the register. I have some real concerns about accountability. Already in some people's minds is a degree of mistrust about the department, and that is where the issue of an office of children is so relevant. The Government is missing a golden opportunity to create an office of children. There have been calls to create an office of children or a commission for children for many years in this State by many different people, including Mr Chris Sidoti, the Human Rights Commissioner. The Wood royal commission into the New South Wales Police Service recommended it, and most other States have this office.

The Minister dealt with this issue in her second reading speech by saying that the proposed roles of the office of children or children's commission vary depending on the source of the advice received. I agree; people do have different views about how it should be constituted. The Minister stated -

> Some see it as a mechanism to ensure necessary coordination of service delivery to children who have been abused -

That is quite right -

> - while others see it as a policy coordination unit within government.

For the most part that is right. However, what the Government is again doing - although it is not set out in the Bill, it is a key part of the package - is setting up yet another policy unit within Family and Children's Services. That unit is supposed

to take on a role that so many commentators have seen as being best filled by a commissioner for children. Supposedly this register will achieve coordination of service delivery, and at the same time set up a Family and Children's Services policy office as a dedicated policy coordination unit responsible for the development and coordination of a whole-of-government family and children's policy.

In relation to interagency cooperation I said at the outset that the Opposition supports the need for some mechanism that will ensure greater cooperation between agencies. Only this morning I was speaking to a constituent who is a substance abuse officer assisting Aboriginal people - that is, mainly sniffing of petrol, paint or whatever solvent is available, and alcohol. He said the trouble is that each agency has its little patch of turf and when the child does not fit within one of these neat little boxes he falls straight through the gap. The officer put that in succinct fashion, and I believe that to be the case. I have seen the demarcation disputes that can arise over the welfare of children. I have seen the arguments that surfaced between the juvenile justice unit, which is now offender management, and Family and Children's Services over the welfare, housing, and placement of children in care when families were not able to support those children.

As a solicitor it is a pretty scary experience to stand in a court of law and watch this ongoing demarcation dispute about who might take responsibility for a child. For the life of me I cannot understand why those agencies do not work together. Maybe they do now; it has been a while since I have been in a court. It is a scary experience to see agencies argue about who should pick up responsibility for the welfare of the child. We know that this is an extremely vexed and complex area. We know there are no simple solutions. It is difficult for most members to understand how a child could be unwanted. However, the reality is that there are children in our society who are not wanted by their families and who must rely on the state to care for their welfare.

I have mentioned that many people have recommended that an office of children be set up. To say that the functions of that office can be picked up by a dedicated policy coordination unit is at best naive and at worst a form of empire building. It is naive to suggest that we do not need an office of children in this State, when almost every other State has decided that it does, and when national commentators are calling for a federal equivalent to this.

Mr Bloffwitch: All we need is for the feds to get involved.

Ms ANWYL: I did not say that was my call, member for Geraldton; I said that commentators were calling for that. The Minister was present at the launch of child protection week which was run by the National Association for the Prevention of Child Abuse and Neglect at which the call for an office of children in this State was again made. One does not have to go far to hear those calls. In the other place Hon Barbara Scott moved a motion in August 1997 which called for the establishment of a commission for children. It was not until the second reading speech on this Bill was delivered on 25 June 1998 - nearly one year after the motion was moved in the other place by a member of the coalition Government - that we received the response that we do not need it. The Minister should discuss with Hon Barbara Scott why she believes it is necessary to have such an office, because I know that her motion has been renewed subsequent to the prorogation of Parliament.

The coordination role is vital, and one way to deal with that is to have an office of children. That role is vital because it is not occurring well or, in some cases, at all. The concept of providing coordination via the register has a great deal of merit. However, the problem is the holes in the legislation that I referred to earlier. My main problem is who should have access to this register. I encourage members to read this legislation; it is only short and it will not take them long. The definitions are extremely wide and they can be further refined by way of regulation at a later time. To expect that the register alone will provide this interagency coordination is not realistic.

If the Government is hellbent on not having a commission for children, one way to deal with the matter would be for one of the government departments that is not so involved in the child protection area - for example, the Ministry of the Premier and Cabinet - to have a unit with responsibility to ensure that service delivery is coordinated. The cynics are saying that this is a nonsense. Family and Children's Services is coming under fire in any event and now the Government seeks to create another policy unit inside it, which will somehow be independent and have an objective analysis of what needs to be done. The siting of that unit within that department is unfortunate because the unit would be better situated in another department which does not have such a huge stake in the issue. There are somewhere between six and eight key government departments in this area and it is unrealistic to expect that the register on its own will pick up all of this.

We know that the register has been in existence for a couple of years and that there are some 1 900 notifications. I mentioned before that clause 120F requires an approved person to report maltreatment. That is a specific requirement; a form of mandatory reporting. I noted the distinction the minister made in her second reading speech, that it is not a mandatory reporting of allegations of abuse, therefore it is not mandatory reporting. It is a mandatory section and a compulsory reporting must be made. We must recognise that when that compulsory report is made, the name, personal details and address of that child will be contained in the central register. There are already 1 900 names.

Another difficulty I have with the legislation is that there is no discretion in removing that name. I referred my concern to the minister. Young people who are independent of family and school, know from the age of 12 that there is a provision

for the child to obtain details from the register. The parent or guardian has that detail earlier on. There is a great deal of maturity in some teenagers and yet those teenagers have no way of having their name removed from that register until they are 18 years of age.

As parliamentarians, we sometimes overlook the fact that people are concerned if their names are contained in government files; there is no doubt about that. In the interests of justice and equity, there must be some provision to allow a young person that access. The minister raised the issue of duress with me. This is a difficult area because the young person may be suffering duress from a third party to take these steps to have his name removed. A great deal of concern exists in the community about these matters. Although we have a provision for convicted offenders to have their names removed if the offence occurred when they were under 18 years of age, we do not have a parallel provision for young people to have their names removed and that is a major defect. There are limited provisions for offenders and not for children.

Clause 120G contains a provision for the manager to defer notification for such periods as the manager considers appropriate. Presumably, that is because there is some risk to the child; that is not clear. Can the minister define those conditions?

The next section refers to the concept of sufficient maturity of a child over the age of 12 years to know whether he or she is able to access information and so forth. Again, the Government must clarify what it means by that. The Opposition totally supports the aspect of the register, which relates to the recording of names of convicted offenders; there is no question about that. In fact, those provisions should be retrospective. Instead of the register containing convicted offenders' names from 1996 onwards, the Police Service should go through its records and provide us with details of all offenders going back to the year dot. I spoke earlier about some adults who, in later years, are aware of people who are still alive who abused them at an earlier stage. That leads me to the vexing question of whether there should be any recording of the names of those who perpetrated the abuse that is substantiated for the purposes of the register. The member for Mandurah will deal with this.

Mr Nicholls: The alleged perpetrators who are not convicted.

Ms ANWYL: I have explained the mandatory provision in which the agency or the approved person in the agency knows of substantiated abuse and must report it to the register and must give the name and address of the child. The Act is very clear about ensuring that there cannot be any identifying information of the person who committed the alleged abuse which has been substantiated. A government or non-government worker has decided for the purposes of this Act that there has been abuse and that is substantiated, but we do not have any identifying information about the person who has committed the abuse.

Questions are being asked in the community about how we are so careful about the natural justice and the rights that are applied to the person who has committed the abuse, but the same rules do not apply to the children. How can we have these different rules in place? Can the minister address that issue and the issue of retrospective listing of convicted offenders in the register?

The question of who advocates for children is significant in this debate because one of the purposes of an office for children, which was not referred to by the minister in her second reading speech, is to provide independent advocacy for the rights of children. It is most important that someone advocate for children. The Select Committee on the Human Reproductive Technology Act 1991, of which I am a member, has received a massive number of submissions and representations made on behalf of the medical profession, the would-be parents and the existing parents. However, it is rare that we focus on the rights of the children. It is difficult. I hope I am not breaching privilege, but the committee thought about having someone speak to us about the rights of children; someone who would specifically come to the committee and talk about the needs of children who were conceived artificially or from donor sperm or eggs. We have seen some evidence about the problems that that can create for children. The need for an office for children is related to that need for advocacy for children.

It is difficult to see how that will result from the new policy coordination unit that will be set up in the department. One of the successes of an office for children is that people can make contact with that office and the children's rights will be paramount. We have many laws based on the best interests of children. We have a Family Court system which is designed around the best interests of children. Will the minister advise the House whether that aspect has been considered and from where the input on the perspective of the rights of children came? Although the Opposition supports the concept of having a register of convicted offenders, at some stage the Opposition may support going further than that and recording the names of people against whom allegations have been substantiated. However, that is not contained in this Bill. It is important to note that we are erring on the side of caution in protecting adults who have mistreated children, but we are not erring on the side of caution in protecting the rights of children. I do not see how we can reconcile those two matters. That relates specifically to the wide definitions of "reporting agency" and "approved person"; it relates to the possibility of information being obtained improperly; it relates to natural justice for children; and it relates to very real concerns in the community about who may be able to access the information on the computer.

I appreciate that the computer will be a stand-alone facility, but there are real concerns in the community that other parties may be able to access the information on the computer. I do not have a great deal of technological expertise about

computers, and although I understand that the information can be encrypted, I do not know in this technological age whether we can ever be 100 per cent sure that the information will be protected.

The degree of sophistication of the people who prey on children is evident from the Wood royal commission, and from the recent Internet bust that occurred where people were storing on computers images of up to 2 000 young children, some of whom were as young as two. I understand from the media that a club was in place and that its members received brownie points, and that if they abused their own children or allowed other people to abuse their own children, their status within that society was elevated.

We must recognise that child abuse is a real problem in our community, and we need to resource the fight against it. This relates to the whole issue in today's modern age of whether we can ever be sure that information is secure. I acknowledge that this information already exists on government files and computers, but I am not surprised that there is a real concern in the community about access to that information. Is it essential that that information include addresses, given that other identifying information, such as dates of birth, will be provided; and would it be possible to remove the addresses from that information? If I could be given the reason for the need to include the addresses, I would be obliged.

In summary, the Opposition cannot support the legislation in its present form. I asked at the outset whether I could receive a response from the minister on this issue today. The public perception, as a result of comments made by the minister and the Premier in the media, is that this legislation will not even be debated today. I also ask the minister to advise when this legislation will go to the committee stage, and whether it is intended to make any amendments to the legislation.

MS McHALE (Thornlie) [12.13 pm]: I acknowledge the member for Kalgoorlie for setting out very eloquently the Opposition's position with regard to the Child Welfare Amendment Bill. The Opposition has indicated unequivocal support for a measure which will enhance better inter government agency cooperation. However, we have significant problems with the Bill as it is currently drafted, as the member for Kalgoorlie has outlined. We have concerns about the wide ranging provisions with regard to the register that is proposed to be formalised and about who will be able to access that information. We also have serious concerns about a register of children who are maltreated or seriously at risk with regard to the rights of the children and whether their names will be listed, and the protections for alleged offenders. That imbalance that we see is not acceptable.

We also have great disagreement with the Government with regard to its proposal that the register be located within Family and Children's Services, and with its rejection of the idea of setting up a children's commission or an independent office of children's interests. That is a publicly stated position of the Opposition and one that we believe is in the best interests of children who are at risk, and their families, and also of the perpetrators and alleged offenders in the area of child sexual abuse. There is no doubt that in a caring community, the issue of child sexual abuse is horrendous, and agencies and Governments have not sufficiently addressed the problem and have not significantly improved inter government agency cooperation.

Like many of the problems and issues that we talk about in this Chamber, child sexual abuse is nothing new. Over the past 15 years, numerous task forces, investigations and inquiries have been held into child sexual abuse. The previous Labor Government held a task force on child sexual abuse, of which I was the executive officer, so I had some involvement in the 1980s. That was at a time when in policy terms we were moving away from the notion that abuse of children was done by strangers, to the very frank realisation that the majority of offences against children were committed by people who were well known to the child and were either within the family or within the context of the family relationships, or were committed by people who were in positions of authority, such as in church groups and sporting groups.

From a policy perspective, Governments have been grappling with and letting down the victims of child sexual abuse because we have not been able to stem the increase in child sexual abuse. We certainly support the need to deal with the issue of inter government agency cooperation.

It is well recognised that the victims of abuse, particularly child sexual abuse, suffer the trauma well into adulthood and for the rest of their lives. The effect of that suffering is a severe social, emotional and economic cost to our community. Therefore, it is a social issue in which we need to invest government resources, because it is very clear that if we do not do that, the cost to the community will be much greater. The Government is surely justified in investing adequate resources in policies and service delivery in this area.

I now refer to the effect of child sexual abuse in the context of community cost. It is important to take stock of the personal trauma experienced through familial abuse. Some of the features identified and espoused in the Wood royal commission's report include a betrayal of trust; abuse occurring over a long time; and abuse occurring in secrecy and silence. Children feel confused when abused by somebody who, for instance, is a parent or in a position of authority or love. Confusion is created because the children think that perhaps this behaviour is right as it is perpetrated by somebody who is supposed to love them. That confusion creates enormous conflict and pain for the child.

Also, children are fearful of the consequences of prosecution of somebody in the family with the possible disintegration of

the family and the loss of support. Children who are abused must suffer the abuse as well as the fear of possible effects on the non-offending parent if the abuse is disclosed.

Unquestionably, the Opposition believes that child sexual abuse must be addressed through adequate policies and resources. However, it does not believe that the Bill in its current form deals adequately with the real concerns raised by victims of abuse and their families. The Bill, as outlined in the second reading speech, intends to regulate the operation of child protection services. In part, this is a response to the principles outlined by the Wood royal commission into paedophilia in its findings. The Bill is a recognition of the Wood royal commission's findings, but rejects the significant recommendation for the establishment of a children's commission.

The Government is insistent that any child protection register, and its management, should reside in Family and Children's Services. Curiously, the second reading speech asserts that setting up a register in Family and Children's Services will fulfil the royal commission's recommended coordinating function. The Opposition flatly rejects that assertion and believes that in order to effectively, and in the best interests of all involved, fulfil the intention of the Wood royal commission's recommendations regarding the management of any register, an independent children's commission is required. It cannot be done in any other way. That recommendation was made for good reason.

The second reading speech also outlines that an informal register is already in existence containing over 1 900 names. It is interesting to consider who supplied the names to that register. The second reading speech informs us that 90 per cent of registrations came from Family and Children's Services, with the remaining 10 per cent from police and hospitals. That immediately raises concern about the effectiveness of supposed intergovernmental coordination. For instance, nothing was provided from Education and people involved in sport and recreation.

Mr Prince: You would expect that where disclosure is made to the school teacher, it is immediately passed on to Family and Children's Services, which will provide the information to the register.

Ms McHALE: That may be the case.

Mr Prince: That is my experience in these areas.

Ms McHALE: I will be interested to hear from the minister whether that is the case. In a truly effective intergovernmental coordinating mechanism greater input would be expected from Education, Sport and Recreation and other agencies with a connection with children.

As far back as 1987 - 11 years ago - the Education Department released guidelines for the identification and notification of child sexual abuse. The department recognised the important role schools play in identifying child neglect. It identified that role for three main reasons: First, the fact that victims of abuse cannot benefit from educational experiences provided by schools, and therefore fail to meet their full potential. In other words, schools are institutions which can monitor indicators of some dysfunction, whether it be physical, sexual or emotional abuse. They play a critical role in picking up these indicators.

Second, significant or serious abuse and neglect can create social and learning problems for victims. Third, apart from the effect on the victims themselves, behaviour problems which manifest as a result of the abuse and neglect often hinder the development of other students in the class.

The 1987 guidelines indicate clearly that children spend a significant part of their lives in the classroom, which puts teachers in a unique position to observe signs of abuse or neglect. Therefore, it is curious that no direct mention is made of the Education Department in identifying children who are significantly at risk. In other words, for a mechanism to work effectively, input is required from a range of agencies. Better mechanisms may need to be explored to ensure that interagency coordination and cooperation occurs. This is achieved not only by having a register of children suspected to be suffering from neglect.

I turn now to the location of any register. Before I do I refer to the notion of mandatory reporting versus the requirement to register maltreatment. I would appreciate the minister's elaboration in her reply to this debate on the reference in the second reading speech to the point that a register of maltreatment should not be confused with mandatory reporting. I understand the point the minister makes; that is, that mandatory reporting is reporting prior to substantiation of an offence. The distinction is made. However, that is a very thin line which could be seen as mandatory reports by any other name.

We reject the suggestion that a register be located within Family and Children's Services. The most appropriate course is to set up an independent children's commission. Perhaps it could be called an office of children's interests. It is interesting to note that the Wood royal commission indicated that no one department or agency can adequately discharge the State's obligation to provide children with reasonable protection from abuse. One might ask how a children's commission could do that. A children's commission would not be directly involved in the delivery of service to children and it would not have alternative objectives. People with a history of paedophilia have been appointed to departments such as Family and Children's Services, and we strongly assert that the best way to deal with that problem is to have an independent agency.

After canvassing a range of options, the Wood royal commission rightly believed that a children's commission was appropriate.

It is important to understand why the royal commission supported the notion that a commission should be established. The royal commission said that a children's commission would need adequate resources, which goes without saying, but it believed that a children's commission could achieve greater accountability and transparency across the range of child protection services, that it could provide a centre of excellence for professional advice and practice, and that it could provide and facilitate a confidential and professional checking service to aid pre-employment vetting. That must be strengthened in agencies that are engaged in the care and supervision of children. Let us face it: The range of activities is enormous. It ranges from typical matters such as adoption and foster care to brownies, guides, surf lifesaving and many other sporting and social activities to which, for many reasons, the perpetrators of child sexual abuse gravitate. It is important to vet people who are engaged in child care and children's supervision. The royal commission said that a children's commission could issue certificates to those who are considered to constitute an unacceptable risk to children, whether that be in paid or voluntary employment.

A children's commission could secure effective coordination of effort by agencies and departments involved in child protection so that the monitoring and coordinating agency would be separate from the service deliverer. That is perhaps the critical feature of setting up a children's commission. We would remove the role of providing vetting advice from those who are potentially caught up in the issue. A commission could act as an independent advocate for children's interests. There are strong cogent reasons for rejecting the Government's position on setting up a register within Family and Children's Services. It is imperative to address the issue of an independent agency.

Although we support elements of the Bill relating to the registering of offenders, we have grave problems with the drafting of the Bill in relation to any register of children and the protection of their identity. We require protection not only of the child victim but also of family members who try to support the victim of child sexual abuse. We do not accept the Bill as it is currently drafted. In her speech today and in discussions with the minister, the opposition spokesperson for children has identified our concerns. We hope that in discussions between now and the committee stage, opposition members' concerns and community concerns will be addressed. Action must be taken to stem the problem of child sexual abuse. It is a matter of the adequate resourcing of current facilities and of ensuring that the system we set up protects the rights of all parties involved, particularly those who have already suffered trauma and emotional dysfunction by having been exposed to and suffered child sexual abuse.

MR BROWN (Bassendean) [12.37 pm]: I shall start where my colleague the member for Thornlie left off in relation to the Government's decision against establishing a children's commission. A children's commission is not talked about as though it had a nice flavour to it or as though it should be set up for aesthetic purposes. It is talked about because those who advocate it - I am certainly one - want an independent office to be established. I refer to an office that is removed from service providers, that can be fearless and that does not have to worry that certain matters in a report might have resource implications for it.

Why do we establish independent offices in government? It is to examine government, government decisions and whether the mechanisms and machinery provided by government are effectively operating. We do that as a cross-check to establish agencies that can raise issues in such a way that it does not appear that they are self-serving or that they are seeking more resources for themselves. Let us consider the independent agencies that examine whether government is performing. At the state level, the Parliamentary Commissioner for Administrative Investigations - the Ombudsman - examines the operation of government departments and agencies. That office is separate and it reports to Parliament fearlessly and unequivocally. It does not worry about making reports about itself. It can examine issues and report independently.

Administrative appeal mechanisms through the Commonwealth Administrative Appeals Tribunal allow for examination of government decision making and the way the system is providing appropriate services. A range of mechanisms are available at the state and the federal level for examination of the areas to which the Government is providing appropriate services, the integrity of those services and so on. The difficulty arises if one creates a position in a department that is also the service provider. One then requires individuals in that department to be of very strong character, and to stand up and report faithfully their own views on issues that may clash with the views of the minister or Government of the day. We have seen what happens to senior bureaucrats in this State who speak up; for example, the Solomon-White affair and the senior officers of the Health Department who spoke out about their concerns and were hounded out of the service. We are aware also of other examples. We will not have any confidence in the system unless a separate, independent office is created that is divorced from the resourcing agency and from the service deliverer. It is not good enough for the Government to say that it is establishing in this Bill an office with certain responsibilities. Proposed subsection 120B(1) states -

> The Minister shall, in writing, designate an officer of the Department as the manager of the register.

Although "department" is not defined in this Bill, members will find in the Act that it means Family and Children's Services. The Bill does not state that the minister shall, in writing, appoint a manager of the register. If it said that, that person could be appointed from anywhere.

What does proposed subsection 120B(1) mean? It means that that person will have two responsibilities: Firstly, the responsibility to do the things that are set out in proposed subsection 120B(2); and, secondly, because that officer is also an officer of Family and Children's Services, he will have an obligation to operate within the terms of the Public Sector Management Act, and the codes of practice and codes of ethics under that Act relating to Family and Children's Services. He is not independent and cannot act independently. He will have certain statutory duties, but he will have other statutory and management duties which will bind him to the resourcing agency. That is simply not good enough. It does not provide a level of independence which is necessary for an office of the type we have discussed. The only way that impartial, factual but difficult policy decisions will come to the attention of this Parliament and the public is if an independent office is created for this purpose; that is, a children's commission.

I do not believe as the minister indicates in her second reading speech that this proposal overcomes and obviates the need for a children's commission. I agree with the minister's colleague in the other House, Hon Barbara Scott, that a children's commission is necessary. I also agree with National Association for the Prevention of Child Abuse and Neglect - an organisation which devotes itself to the protection of children in Australia - in its continual advocation for the establishment of a children's commission.

Along with some colleagues from this House, the minister, and my colleague from the other House, Hon Cheryl Davenport, I attended on Monday of this week the NAPCAN annual breakfast for child protection week. I have attended that breakfast for some years because of my former responsibilities as opposition community service spokesperson. That organisation, through its various spokespersons, advocates a children's commission on a regular basis. This is not some fly-by-night organisation. Nor is it an organisation that does not know. This is a voluntary organisation through which people come together in the interests of looking after and seeking to protect the interests of children. I have the greatest respect for the people who are involved in that organisation. They say publicly, clearly, consistently and repeatedly that a children's commission is appropriate. That seems to be pretty good advice.

There is a position of "advocate" in Family and Children's Services. That person will take on cases involving people who have different views from those expressed by the department. Generally speaking, that works reasonably well. However, always at the back of the minds of people who have a complaint is that that advocate is an officer of the department, no matter how dispassionately and with how much integrity the advocate takes up complaints. At the end of the day, that person's influence and the pressure he can bring to bear in dealing with the complaints are limited. It is important for an independent office to be established for all of those reasons.

I will comment briefly on a couple of other matters because I am aware of the time limitations. The minister in her second reading speech referred to the establishment of the WA child protection council in April 1998 to promote coordination between the relevant government and non-government agencies and to give advice to government on how to further improve that coordination. I am pleased that council has been established because when the council was disbanded by the minister's predecessor in 1993-94, the Opposition opposed it. The former minister is nodding. We opposed it vehemently and we are pleased that the new minister has picked up our views. It has taken a few years to get it achieved, but the wheel always turns! As the person who took up the matter in this place, banged the table and said it was the wrong decision, asked who made the decision and heard repeatedly that it was the best decision the Government ever made, I am very pleased the new minister has said the former minister and the Government were wrong to disband it. I congratulate the minister, she has done well in picking up the Opposition's views which were expressed very forcefully on that occasion. I look forward to further reversals from the Government.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on page 1228.]

WORKPLACE AGREEMENTS ACT

Statement by Member for Bassendean

MR BROWN (Bassendean) [12.50 pm]: I wish to report on the operation of the Workplace Agreements Act, which the Government claims provides a terrific advantage for Western Australian workers. Recently a service station attendant came to my office. He is employed on the award wage, earning $12.75 an hour. He is a shift worker and receives 15 per cent shift loading, plus paid annual leave and sick leave. The licensing arrangements for his employer came to an end and a new person will take over the service station. It is not a transfer of business, because one business will end and another will commence. The employee concerned has been offered a new contract of employment, with a wage of $13 an hour. It may sound great that his hourly rate will increase from $12.75 to $13. However, under the new contract of employment he will be classified as a casual employee and will receive no paid holiday or sick leave. In addition, under the new contract of employment he will receive no shift loading. Therefore, his hourly rate will decrease. This is just one of a continual stream of examples coming to my office that indicate that more and more ordinary Western Australians are being disadvantaged by the Workplace Agreements Act.

DISABILITY SERVICES - EAST PILBARA

Statement by Member for Willagee

MR CARPENTER (Willagee) [12.52 pm]: During the two-week parliamentary break, I went to the East Pilbara at the invitation of the very hard-working local member for Burrup, Mr Riebeling. Among other things, I met people involved in the provision of disability services. An issue in the Pilbara needs to be brought to the attention of the minister and the House, and I take this opportunity to do so. I refer to the general lack of facilities and resources in that area for a person with a disability. There are two local area coordinators in the Pilbara region, one in Karratha and one in Port Hedland, dealing with more than a hundred cases. The average caseload for local area coordinators in the metropolitan area is 50. As members will appreciate, an area as vast as the Pilbara involves far more travelling time and resources than does the metropolitan area. The local area coordinators in the Pilbara have difficulty putting people in contact with service providers. There are very few non-government service providers in the Pilbara, and the funds available to employ service providers are extremely limited. The Government authorises a payment of $12 an hour for service providers in Karratha and it is not enough to attract people to do the work. There are few trained carers in the area, there is no financial incentive for people to go there and, as a consequence, the Pilbara, particularly the East Pilbara, is left without the services required for people with disabilities.

GRAFFITI WEEK OF ACTION

Statement by Member for Joondalup

MR BAKER (Joondalup) [12.54 pm]: I take this brief opportunity to inform members that next week is the Keep Australia Beautiful Council's "Graffiti Week of Action". The object is to bring the community together for a week of practical graffiti removal and to take direct action to ensure Western Australia remains largely graffiti free and beautiful. A wide range of practical options are being supported by the Western Australia Police Service, local government authorities and Taubmans Pty Ltd to ensure that these objectives are attained. One of the options that is very appropriate is the simple removal of graffiti from streets, blocks and suburbs. There are many other options such as the removal of graffiti from businesses; planting green vines near fences so it is very difficult to graffiti the fence concerned; or simply notifying the local government authority of graffiti damage to properties in the area.

It is all very well to talk about the need for legislation to prevent or detect graffiti vandals; however, let us take a proactive, hands-on approach. Let us get actively involved and do something about it. Taubmans Pty Ltd is offering a 20 per cent discount for quantities of fewer than 10 litres of paint to be used for removing graffiti. The Keep Australia Beautiful Council has also produced a very informative pack on the removal of graffiti, containing helpful tips on various forms of graffiti removal techniques and those that work best on certain surfaces. I urge all members of Parliament to get a little paint on their hands in the next week or so.

PARK HOMES

Statement by Member for Vasse

MR MASTERS (Vasse) [12.56 pm]: Australia is an ageing nation and our seniors, not unreasonably, require security in their twilight years. Over recent months I have been approached by seniors living in park homes at a caravan park site in Busselton who have only just realised they have no security of residency.

Section 64 of the Residential Tenancies Act gives the owner of a caravan park a virtually unconstrained ability to evict park home owners. This insecurity creates a serious impediment to the enjoyment by seniors of their retirement years. Section 64 allows notice of termination to be given without specifying any ground for that notice. This may be a fair and reasonable provision for people living in rented accommodation, but it is totally unacceptable for people who have invested their life savings in an $80 000 park home which they believe will be their final home prior to death, residency in a nursing home or similar.

The Act is also deficient in that it does not require a formal agreement to be entered into between a park home owner and the caravan park owner, even if the park home owner is keen for an agreement to be negotiated.

I advise the Government that, as our society ages, this lack of reasonable security for park home-owning retirees will prove to be a serious and growing problem, affecting the quality of life for seniors at the very time in their lives when security and stability are absolutely essential requirements for their residential situations.

KALGOORLIE-BOULDER RACE ROUND

Statement by the Member for Kalgoorlie

MS ANWYL (Kalgoorlie) [12.57 pm]: I applaud all those involved in the Kalgoorlie-Boulder Race Round. The Goldfields Mining Expo Hannans Handicap was held yesterday. I have copped some criticism in Parliament today for having attended the races in my electorate yesterday. The Hannans Handicap, which is held once a year, is held on a half-day public holiday

in Kalgoorlie-Boulder, and there were probably in excess of 10 000 people at the races yesterday. It is a fantastic testament to the Kalgoorlie-Boulder Racing Club that we have such a successful race round. It is by far and away the most successful country racing club. That is because of a lot of hard work done by many in the community, particularly the committee under the chairmanship of Dr Dick Austin.

I am pleased to say that I backed the winner in the Hannans Handicap which was held late yesterday afternoon - "Go the Grey", a very popular winner because it is a local horse, owned by local residents Julie and Rob Scarvaci, and trained by John Lugg, also a local resident. John and his wife, Irene, are very well known in the Kalgoorlie community, having managed various hotels and held bar licences over the years. The race round was a great success.

I am also very pleased to advise the House that the racing club has attracted funding and raised money to renovate the heritage buildings on the racecourse. In years to come, I hope all members will be able to come to Kalgoorlie to attend the races.

AMANDA YOUNG FOUNDATION

Statement by the Member for Southern River

MRS HOLMES (Southern River) [12.59 pm]: It was a great disappointment to me that, through illness, I was unable to attend the launch of the Amanda Young Foundation, which was held on 20 June at the Penrhos regatta at Canning Bridge. This function came about through the tragic death of Amanda Young, whose family live in the electorate of Southern River. Amanda died tragically last year after she contracted meningococcal septicaemia at a national intervarsity rowing event in Sydney. Amanda leaves behind her a loving family and many friends who will never forget her zest for life and her enthusiasm to grasp every opportunity as well as the wonderful achievements she attained in her 18 years of life.

To honour her, as she was a shining example of modern youth, the Amanda Young Foundation was commenced. Its aims are to encourage young members of the community to consider leadership, environment and public health issues through various programs. The foundation has my total support. Its members also hope to engage support from the community, which I am sure it will receive, in promoting its future fundraising events. I urge everyone to participate in the activities of the foundation to help it to further its goals and to make the tragic death of Amanda Young have some meaning to future youth in Western Australia.

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

CHILD WELFARE AMENDMENT BILL

Second Reading

Resumed from an earlier stage of the sitting.

MR BROWN (Bassendean) [2.44 pm]: I wish to raise some other matters in relation to this Bill. In the second reading speech the minister said -

> The requirement to report the maltreatment of children is not to be confused with mandatory reporting.

I will deal with that issue in another way. In the first instance I will deal with what the minister said elsewhere in the second reading speech about mandatory reporting and why it should not be introduced. I am aware of a variety of opinions about mandatory reporting. When I was looking after this area for the Opposition, I raised some questions with the former minister about whether the Government was considering the introduction of changes in mandatory reporting. At that stage I was advised by the minister that other States and Territories in Australia that had mandatory reporting were reviewing the operation of those arrangements with a view potentially to removing them or changing them in some way.

Following that advice, I wrote to various ministers in other state jurisdictions to ascertain what consideration was being given to that matter at a state level and what changes were proposed. The advice I received from a number of jurisdictions - I did not receive a reply from all jurisdictions - indicated that as far as they were concerned, mandatory reporting arrangements had worked well and they had no intention whatsoever of removing them.

I pose the following questions to the minister in the hope that she will respond in her reply to the second reading debate: What States currently have mandatory reporting requirements? Are any of those States giving consideration to the removal of the mandatory reporting requirements? Do any of the States that have mandatory reporting and are not considering removing that requirement, agree with the comments of the minister, as set out in her second reading speech, about why mandatory reporting should not be introduced? This is an important issue in the context of this debate.

The other matter I raise concerns the minister's second reading speech and the contents of the Bill. The minister said -

> Mandatory reporting requires, by law, that nominated persons must notify the appropriate authority of any allegation of child maltreatment prior to substantiation.

The minister makes a distinction between the requirement to report allegations and the requirement to report suspected maltreatment. It is a fairly fine distinction. It is important that this matter be clear. Proposed new section 120D under the heading of "Content of register" refers to the nature of the information the register is to contain. Proposed subsection (1) states -

> The register is to contain -
>
> (a) any relevant information, as determined by the manager, held in the Department immediately before the commencement of the Child Welfare Amendment Act 1998 concerning -
>
> (i) the maltreatment or suspected maltreatment of a child, . . .

I ask the minister in her reply to explain the distinction between an allegation, which the minister said is not required to be reported, and a suspected maltreatment. How does one arrive at the distinction between those two? On the surface, an allegation can simply be a claim, without any evidence to back up the claim, that a child has been mistreated in some way. However, I am not sure how one clearly distinguishes between that and a suspected maltreatment of a child. In the context of those words, it seems one is looking not at an objective test of whether a child has been maltreated, but rather a suspicion that a child may have been maltreated. What is the distinction? What tests are applied to the allegation, on the one hand, and the suspicion, on the other hand, that a child has been maltreated? That is not covered in the minister's second reading speech. Given the fact that this is an important point, it is appropriate that the matter be clarified in *Hansard*.

The other question I raise is that if there is a legislative intent to stop allegations being recorded but to provide for suspicions to be recorded, where presumably there is some objective test, is that putting in place a gatekeeping arrangement? Person A believes something to be the case. If person A is not within a category of organisations or individuals described in the definitions in the Bill, he is not compelled to refer the information to the manager. To be referred to the manager, it must go to individual B - it may be an organisation - named within the definition. That person can then make a determination whether the child has been, or is suspected to have been, maltreated. If that is the intent, the Bill establishes a gatekeeping arrangement; that is, there is no immediate way onto the register. There is a gatekeeping provision. If there is a gatekeeping provision, and that is the intent - the former Minister is nodding his head to signify that is the intent; of course, one can argue that there are substantial reasons for that, such as to avoid malicious allegations - that adds weight to the argument for creating a children's commission which can independently record these things. We must remove the assessor providing the information from the recorder of the information.

Mr Nicholls: To whom would the commissioner be responsible?

Mr BROWN: In my view the commissioner would have statutory obligations and, therefore, be responsible to the Minister, the same as are other persons with those obligations.

Mr Nicholls: You object to having somebody who may be part of the department managing that. You want an individual person or someone not part of the department managing the database.

Mr BROWN: It is appropriate to have a children's commissioner.

Mr Nicholls: Irrespective of what the office is called, you are saying that you do not mind the person reporting to the Minister, you just do not want that person attached to an existing department.

Mr BROWN: The person must be independent, separate. The legislation says specifically that it is an officer of the department. Although the person will have certain statutory responsibilities, once this Bill or any modification of it goes through, this officer must carry out those responsibilities and will also be caught with other responsibilities in terms of being an officer of the department.

Mr Nicholls: You are saying that you don't want them to be accountable to the Minister.

Mr BROWN: I do not want this office to be part of the departmental process; I want it to be outside of it. That is extremely important in these processes. The Ombudsman does not report to any department. He looks down and makes a decision. If he does not like, for example, the way the Police Department has locked up somebody or treated a person, the Ombudsman makes that clear. Whether or not the Police Department likes it, is bad luck; it is caught with this view. It is the same here, particularly as this office being created under this Bill is required to have a broad mandate; that is, not simply to look at one agency.

Mr Nicholls: A whole-of-government mandate.

Mr BROWN: Yes. Why create a whole-of-government mandate in a person who is an officer of a single department? It is possible, through the Financial Administration and Audit Act, to join areas for financial purposes, but without having a

person who is an officer of the department. I do not understand all the technicalities; however, it is possible to do that. I understand Governments of all persuasions do not want tiny departments with five or 10 people in them for administrative reasons; that is, annual reports and all those types of things. We should look at the nuts and bolts questions of administration second, and the objects of the office first. We should get the office operating first and then try to tidy up the other pieces. That administration should be a secondary consideration. That is not to say that financial matters and others like that are secondary. Why go down the path of setting up an office because it is neat administratively, but does not achieve the job? I raise that matter for the response of the Minister.

I am also interested in the observation in the Minister's speech that this Bill formalises the obligation to provide information and will lead to increased compliance by government agencies. I am interested to know what compliance by what government agencies, who has not been complying, who has been obstructing, and why. I am further interested to know whether it is now proposed that some of the performance objectives of departments and agencies which will participate in this arrangement will be rewritten to reflect that they now have this responsibility. As I see it, when we talk about government agencies working collaboratively, these days the Auditor General not only looks at the way in which money is spent in balancing the books, but also whether it has been spent in accordance with the objects of the organisation. If an object is for an agency not to work with other organisations to achieve certain outcomes, that agency does not get measured according to that object. Strategic plans and all the other administrative and managerial arrangements within that organisation are not geared to achieving that object because it is not there.

When one looks for the objective of the department or agency it simply does not exist. Therefore, the department or agency is not measured against that objective. In the minister's response I would like her to inform the House of the degree of examination, if any, being conducted of the other agencies which will participate in this arrangement to ascertain which performance objectives of those and other agencies need to be rewritten.

In closing, I make the observation that this is a complex and difficult area. I am sure every member of this House agrees that the objective of providing the best possible protection for children must be achieved. This is an important step in doing so and we need to get it right. That is, the Bill must be set up correctly and properly, because if the legislation is faulty, everything which comes from it will be faulty. Accordingly, I hope that from this process we will come out with a decent piece of legislation and that this Bill is properly amended.

MR NICHOLLS (Mandurah) [3.01 pm]: Before I comment specifically on the amendment, I say publicly that I understand the difficult position in which some of my observations have placed the minister. Given that this Bill was introduced into the Parliament on the last day of sitting of the autumn session, if my memory serves me right, it was not until last week that I read specifically through the amendments because I had listened to the description of the legislation and interpreted those words to represent the legislation, or the type of changes to the legislation, I imagined would be introduced. Therefore, I share some of the responsibility for this situation where a Bill is before the House in a form that could have been altered to further and better accommodate the need to protect children. However, despite the fact that my concerns have been raised so late in the day, as it were, and that they may cause some difficulty for the minister, they are valid concerns. I believe that the child maltreatment register is such an important part of an overall process to protect children from harm that it is necessary to raise these issues in the House now.

My comments will deal with the background of the child maltreatment register and the general principles behind it. If I have enough time, I will refer to some of the specifics in the Bill. The child maltreatment register did not come from a reflection of the Wood report. It came about at a time of change in the way Family and Children's Services responded to allegations made to it by people about children who may be harmed. We used to call these allegations "child abuse allegations". Regularly we saw in the media and heard in the community comments about how child abuse was out of control and how allegations were escalating and, therefore, child abuse was continuing to worsen.

What was really happening was that we were promoting awareness of child maltreatment. We were encouraging people to report evidence, or their suspicions, of children who might be harmed or at risk. People in turn responded to that and more reports and allegations were made. However, it was obvious that we needed to analyse these allegations and sort the allegations about harm to a child, or where a child was at risk of harm, from the allegations about parenting, that the parenting being provided was less than acceptable. When we assessed the data held in Family and Children's Services and previously the Department of Community Services and Community Development we found that approximately half of the allegations received in a year related to harm to a child. The other half related to parenting or inappropriate parenting.

We made reforms in this State which I believe were positive. I still believe those were the right changes. However, they meant that the resources of Family and Children's Services were directed to investigating and protecting those children involved in allegations of harm. Where allegations were made about parenting style, instead of the normal situation of two child protection investigators visiting and possibly traumatising a family, where possible we referred those people to parenting services or tried to provide support to parents so they could deal with their parenting style. Those changes and reforms have been recognised by the Prime Minister, and this Government should feel proud. I am proud of the changes. However, they meant that there was a chance that an incorrect assessment could be made of an allegation. There is also a

chance that a parent or guardian may take a child who has been harmed or injured to a number of different agencies so that no agency ever gets a total picture of the circumstances in which the child is at risk.

These circumstances relate closely to what is known as the Daniel Valerio case in Victoria in 1992. There, a young child was taken to a large number of agencies - it was either 17 or 20 - and no agency ever received the total picture of the risk to the child or was made aware of the other agencies' dealings with the child. It was not until the investigation after the child's death that it become evident that a whole range of agencies knew about his being in need of some protection, but at no time was there a holistic view across government. That is the major reason and fundamental motivation for developing the concept of the child maltreatment register. We had implemented reforms in Western Australia but still there was a risk that a child could be visiting a range of government agencies without each agency knowing the entire situation. There was a risk of a child simply falling through the cracks.

The other issue was the inherent turf wars and parochialism about the department's boundaries, responsibilities and accountability. As a former Minister for Family and Children's Services, I believe that the department regularly becomes the butt-end of excuses for a number of other agencies whenever something goes wrong. I know that when a child dies - and my predecessor as minister, the present Deputy Leader of the Opposition would, I hope, agree - the investigations can be extremely traumatic. What usually happens is the caseworker or caseworkers are put under the microscope. We should have a safety net mechanism that ensures people do not overlook the holistic view, that children at risk are followed up and that appropriate action is taken.

The register's concept was to provide a number of key issues: First, it was to provide a whole-of-government approach so all government agencies are required to report within 24 or 48 hours not only the fact that they have received an allegation but also what action they have taken. Secondly, the register must be totally confidential. It cannot work if people have access to it and can screen through it and pull off information. Thirdly, it must contain details including the alleged victim's name and date of birth, the alleged perpetrator and names of people convicted of maltreatment.

I understand that there is a question of natural justice relating to holding a database containing such names. However, the register would not contain information that was not contained somewhere else in the files of a government agency. Therefore, if people were concerned about what was held on the register, they could be informed about which agency had provided the information and that they had the right to seek that information from the agency and to follow up appropriately if the information was incorrect.

All agencies should be bound to provide the information to the register. It will not work if agencies can choose whether they provide the information to the register. Only sustained allegations should be contained on the register, but when allegations are made and not sustained, they should still be reported to the register so that the custodian or manager of the register can search the database to see whether the child's name and date of birth match the records of a child's name and date of birth or whether the alleged offender's name matches an offender's name where a similar allegation appears. The custodian would not get a print out of all the details about the child or individual. The custodian would simply get a report stating the name of the person in an agency who had dealt with the child or the alleged offender. The person who reported the allegation would be referred to that department and to that person, so that he could discuss the details of any previous or ongoing investigation.

The penalties for illegally accessing information contained on the register should be substantial. I suggest that at least a $50 000 fine or 10 years' imprisonment should be the maximum penalty for accessing information. The idea is that the information should be held on a register in an encrypted form so that it cannot be downloaded. The only person who should be able to input data and get a report from the register should be the custodian who should be provided with the authority by this Parliament to compile that report. No other person, whether he be the Chief Justice, the Premier, the minister or anybody else, should be able to access or extract information from the register. If the register operated in that way, I believe it would be a very powerful and effective safety net for children at risk in this State. However, I do not believe that this Bill does that; in fact, I believe it falls way short of that.

Allegations reported under this Bill are reported to the register if they can be sustained by the agency receiving the report or making the allegation. The simple fact is that if the agency cannot find enough evidence to sustain that allegation, it simply dismisses it and does not report it. That means that the agency that is investigating or responding to an allegation has no idea of any of the other contacts or concerns that any other agencies might have. It has no way of knowing a whole-of-government approach. It simply makes a decision. That is no better than our present situation. My real concern is that it will create an impression that we have a fail-safe safety net when in fact one does not exist. That is worse than having nothing at all. If we do not put in place a properly designed register which functions properly, we will create a bigger risk than that which we have at the moment.

I reinforce my disappointment that I put the minister in a difficult position with my concerns. However, I am sure she would agree that if the legislation is deficient, we should amend it so that it can operate to its best potential. We need to do this in a bipartisan way and not on the basis of conflict or acting along political lines. I hope that if we are able to work through the concept of the register and get the intent of the register right, the rest will flow reasonably easily. For that to happen we

need to support a child maltreatment register that contains the name of the victim or alleged victim and the name of convicted child maltreatment offenders and alleged offenders. The name of every person convicted of child maltreatment should be contained on the register. We need a requirement in the Act that would compel all government agencies to provide a report to the register within 24 or 48 hours stating that they have received a report, what action they believe is necessary, what action they have taken and, if they feel it appropriate, what action they feel that other departments should take or whether to refer the matter to another department.

We should also require absolute confidentiality with the register. The register cannot function in a credible way if everyone has open access to it. We should ensure that the custodian or manager who is responsible for the register is not merely a member of a department; I do not care whether it be Family and Children's Services or any other department. The register should be the responsibility of the Minister for Family and Children's Services. I agree with the comments that have been made today that if it is to work properly, the custodian or manager should not be a member of the department who is seeking to further his or her career. The person who is appointed should be independent and responsible, and I believe senior enough to be able to manage the responsibility. We should also include the authority for that manager or custodian to require agencies, irrespective of which - I do not care whether it be the Police, Health Department, Family and Children's Services or whatever - to hold a case conference on a child who is deemed to be at risk of harm. Action should be taken to eliminate any ability for the custodian or manager to remove or alter information on the register at his or her own initiative.

The Bill contains a provision for the custodian or manager to delete information about a minor, who may have been found guilty of child maltreatment when that minor reaches the age of 18 years. I understand why the department and the minister have put forward that provision. However, I argue, based on the information that I have read, that there is enough evidence to show, particularly with sexual maltreatment, that a lot of sexual offenders start offending when they are juveniles and continue to offend when they are adults. I do not support the notion therefore that juveniles who are convicted of maltreatment of a child should have their names removed simply because they reach the age of 18 years. However, I support the provisions that have been put in the Bill which put aside the ability to have a person's name taken off the register through the provisions of the Spent Convictions Act or the Young Offenders Act, because we should make sure that the information is held on the register and that it is as comprehensive as possible.

A number of comments have been made about a children's commissioner. I do not wish to comment on that apart from saying that I do not believe it will solve the problem.

I wish to respond to a number of comments that have been made about mandatory reporting. There is some misunderstanding about what is mandatory reporting and what is meant by requiring government agencies to report allegations that have been made to them. Mandatory reporting in its truest form requires nearly everyone, and certainly the majority of professionals in our community, to report any evidence that may suggest that a child is being harmed or any allegation or disclosures made to them about a child being harmed.

Mandatory reporting is aimed at trying to catch people out who do not report. It will result in a huge number of reports being made that are not based on a premise that a child is at risk. It will encourage people to make reports because they do not want to leave themselves open to prosecution. Many of those people are outside of government, usually in private practice or holding some other professional position in the community.

Mandatory reporting will overload the reporting system, stretch resources to the limit and cause every allegation of child abuse to be investigated. In turn it will increase the risk of resources being diluted to the point where they are not effective. The child maltreatment register will not require mandatory reporting, but it will require government agencies to notify the register if an allegation is made or they have evidence that a child is being harmed. However, it will not require someone else to investigate it. At the same time as the report is made, information will need to go on the register about what action had been taken to either reduce the risk, ascertain that the child is not at risk of further harm or prevent further harm to the child.

That requires no more work than will be done without the register. Theoretically, if an allegation is made to a government department or officer, the officer should either refer it to someone with the expertise to take action or take the necessary action to work out whether the child is at risk. However, we are saying that rather than agencies or individuals keeping that information to themselves and entering it into an internal report, it should be recorded in the register that an allegation has been made or that evidence exists that the child has been harmed or is at risk of harm, and what action has been taken to ascertain whether the allegation can be sustained. The officer should also indicate whether follow-up action should be taken. That is not mandatory reporting. However, it is a compulsory requirement for government agencies to provide the information from their files to a central register.

This will ensure accountability first by the agency responding to the allegation. Secondly, it will ensure accountability from a whole-of-government perspective because if other allegations are on the register regarding the same child they will show up and the custodian or manager of the register can put that agency in touch with the other agency that has dealt with or is dealing with the child. Thirdly, it will allow a quick and effective way of identifying alleged or potential offenders who it may be believed are harming children but where there is not sufficient evidence to convict in a court of law. If their names

are recorded on the register on a number of occasions that should be enough to ring the alarm bells. This is very important because when we analyse information about child maltreatment, the facts are different from those which the majority of the community believe to be the case. Most members of the community believe that the majority of child maltreatment cases involve sexual maltreatment of young adolescent girls. That is simply not true. According to figures prior to 1996, the greatest amount of maltreatment occurs to children under the age of five years. It is not sexual maltreatment; it is neglect.

The potential for a child to die from neglect is far greater than from the effects of any other maltreatment, apart from physical abuse.

Mr Pendal: What percentages are you talking about?

Mr NICHOLLS: I cannot recall but the percentage of under five year olds affected is close to 30 or 40 per cent.

Ms Anwyl: In her second reading speech the minister gave details of the 1 900 or so names of children recorded. Of those, 80 per cent were under 12, and one-third involved physical abuse, one-third sexual abuse and the rest neglect or emotional abuse.

Mr NICHOLLS: The under five year olds do not have the capacity to say they are being harmed. They know only the environment in which they are growing up. They must rely on their parents or guardian to protect them. If the guardians are harming the children we need a mechanism that will show that they have been to a number of agencies for bruising, broken arms or other injuries, and that concerns have been expressed by neighbours or family members. We need a whole-of-government approach.

I refer again to the Daniel Valerio case. A child in Victoria went to more than 17 agencies, if my memory serves me right, all of which believed they were doing the right thing by delivering a service to that child. None of the agencies felt it was important enough to take action to protect the child, not because they did not want to but because they did not know the other facts. They did not have the big picture.

Unless we have a register that collects information across government about the alleged victim and the alleged offender, we will not have a mechanism to provide a safety net. I acknowledge the arguments about natural justice and having people's names on a register who may be innocent. However, if it is confidential, the register will contain information only on a government file in a government agency. People have nothing to fear if they are innocent and are never again accused of harming a child.

I am aware of malicious allegations and vexatious people who pursue allegations against people to harm them. However, the only allegations that would remain on the register would be those that had been sustained. Those that had not been sustained would not remain on the register. Before it is determined that no action should be taken, the information about the child and the alleged offender should be put through the register to see whether any sustained allegations match either the child's name and birth date or the offender's name.

It is possible that two children will have the same name and same birth date, but that is very rare. It is more likely that an alleged offender will have the same name as somebody else, but those names will not be handed out to anyone. The only information that will come back from the register will be the name of the agency and the officer who was involved in the investigation previously regarding either the child or the alleged offender.

I would prefer to have my name falsely put on the register than have no alleged offenders' names on the register. A person could be alleged to have committed offences against children in this State but may never have his name on the register because we are saying we cannot put the names of innocent people on the register. The register should not be able to be accessed to download names of children or alleged offenders.

It should be possible only to extract a report from the register that determines the agency that previously dealt with the child or the alleged offender and the officer's name. The current Bill does not do that. I believe strongly that it is important to have the register operate properly or not at all. I cannot support the legislation in its current form if we simply pass it because it is too difficult to amend it.

I urge the minister, as I urge my government colleagues, to seriously reflect on why the register was first developed and to have the faith in our being able to make it work. We must have the commitment to protect children who are at risk of harm, have the strength to say that this Bill does not deliver that and be prepared to put together a Bill that delivers it.

The minister will come under pressure from some of her cabinet colleagues. The Health Department and the Police Department will put extreme pressure on their ministers. However, I urge the Minister for Family and Children's Services to have the strength to focus on the safety net for children and to have the strength to pursue what is right even if it means pressure from those departments. I also urge this House to support changes to the Bill that will provide a register to truly provide a safety net. That means putting aside some of the political differences, putting aside some of the point scoring that may present as an opportunity, and putting aside some of the personalities so that the legislation is truly for children in this State who cannot defend themselves.

I cannot impress on the House strongly enough that if we do not do this, all we will do is create a safety net that has a perimeter cord with no net in the middle. We will call it a safety net and the general community will think we have something to protect children when all that will happen is that children will fall right through the middle. I do not think we should wait until we have a Daniel Valerio situation in Western Australia, followed by a coronial inquest to point out that we did not get the legislation right. I hope the minister has the capacity to make the alterations so that this register can be effective.

MRS PARKER (Ballajura - Minister for Family and Children's Services) [3.31 pm]: I thank the members for their contribution. A number of issues have been raised.

[Leave granted for speech to be continued.]

Debate thus adjourned.

On motion by Mr Barnett (Leader of the House), resolved -

That the Bill be no longer subject to an allocation of time.

SURVEILLANCE DEVICES BILL

Committee

Resumed from 24 June. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Prince (Minister for Police) in charge of the Bill.

Clause 1: Short title -

Mrs ROBERTS: As pointed out, this Bill is in a slightly different form from the Bill that was before the Chamber last year. The minister has given no explanation for the changes to the Bill before us. I understand it is the same in many respects but with an addition of a new section and some other minor changes. Why were these changes made and what are the differences between this Bill and the Bill that was formerly before us?

Mr PRINCE: There are a number of minor amendments. One amendment is on page 13, line 7. Clause 7(2)(d) of the Bill before us refers to the attachment, installation, use or maintenance of tracking devices. Paragraph (d) has been amended to deal with the protection of personal property as to the installation of those devices so that the circumstances have to be regulated. That is a relatively minor amendment. The major change that has been made to the Bill now compared with the original Bill can be found at page 37, clause 24, the concept and definition of public interest. The definition of public interest as stated there is a fairly commonly held one about national security, public safety, economic wellbeing, protection of public health, morals and so on. This clause bring the use of surveillance devices into the question of public interest which otherwise was not there in the first cut of the Bill before the House and is now there, assuming the House passes the legislation.

Mrs Roberts: Is it the addition of that whole section?

Mr PRINCE: It is the addition of the concept of public interest which was not in the original Bill. I was not handling the Bill then, so this is all new to me also.

Mr McGowan: I think you will find it was our suggestion.

Mr PRINCE: I think that is highly unlikely.

Mr McGowan: I will point it out in *Hansard*, if you want to go to that degree.

Mr PRINCE: It came from a solicitor by the name of Groves and various media representatives.

Mrs ROBERTS: I raised concerns previously when we looked at the Bill. I do not think there is any similar legislation within Australia currently that covers all of these surveillance devices. I understand that Victoria has been looking at this legislation and is planning to do something similar. Perhaps it might have been expeditious to introduce better listening devices legislation so the police could get on with using those provisions. I highlight the concern that it is all-encompassing and that, with new technology, we may find that circumstances not envisaged will be covered by it.

Mr PRINCE: The member makes a reasonable point of principle. When the listening devices legislation was introduced in 1978 we would have had technology for eavesdropping on telephone conversations and picking up sounds in spaces by means of microphones connected by wires rather than by means of summary broadcast media, although that technology was being developed. That was the area in which we sought to have some control and regulation, and reasonably so. Since then, particularly with the development of the micro camera used in so many areas - for example, in laparoscopic surgery, without which it could not be done -

Mrs Roberts: They are used in drains.

Mr PRINCE: Yes, and to look behind skirting boards for infestations of cockroaches and so on. We have moved a long way from simply listening to sounds to wanting and having the ability not only to listen to sounds by means of microphones connected by wires or broadcast across a telephone line, but also to using fibre optics. That works in a completely different way using pulses of light. The equipment exists to pick up sound from a pane of glass and to observe in ways not previously available. That technology did not exist 20 or 25 years ago in a common sense - it might have been used by some defence agencies around the world.

This Bill was drafted in an endeavour to cover surveillance as such, howsoever it is able to be carried out. I have no doubt that technology, and the way it is gathering steam, will find other methods of doing this in the future. When that happens, subject to what should be the proper public policy, one would expect to see amendments to this legislation.

Other States are watching what we are doing because in that sense we are leading the way. That is why careful and sober contemplation of this legislation is worthwhile. It has been the subject of an enormous amount of critical examination over the past few years since it was first mooted. Queensland has legislation, New South Wales has a discussion and most other jurisdictions have some form of legislation like our Listening Devices Act. We are the first State to attempt to cover the whole question of surveillance. We should do this and it has been acknowledged across Australia that we have done valuable work. This Bill has been scrutinised and determined by people across Australia as the way to go. They are waiting to see what comes out of the legislative process. I expect it to become a template for legislation in other States and Territories.

Mrs Roberts: Why did the minister choose not to draft this as enabling legislation but as a set of prohibitions followed by exceptions?

Mr PRINCE: That probably goes to the nature of how we can construct legislation. We either provide that people can do nothing but that which they are permitted to do or everything except that which they are not permitted to do. It appears to be more appropriate to say that people can do "everything except the following". We are dealing with the balance between the right to privacy or confidentiality of an individual or a group of people as against the right to know. The right to know, as I understand it in general terms, manifests itself in two areas. One is from the police perspective - the detection of crime point of view - whereby one would argue that the right to know is overwhelming of the private right to privacy. In that case we are dealing with criminal behaviour which, by definition, is outside the law and is inimical to ordered society and the peace of the ordinary people in society. Then we have the public's "right to know", usually through the various forms of news media, whether they be electronic - television or radio - or written in the sense of newsprint - magazines - and in more recent times the Internet, which is a mixture of them all. I see that as having a much reduced ability to override the private right to privacy.
We are not dealing with any criminal conduct but with, as it were, the public's wishing to know about things through those news organisations as against the private person not wishing to have his or her private or business life made public. There is a balance in that. For people like the member and me, the balance tips very much against us. For a person who is perhaps a less public figure in our society, the balance should tip the other way significantly. That is a fair statement of the way in which these things should be judged in society at present. Therefore, the correct way to do this is to say that people can do this but not that; in other words, the way in which the Bill is written.

Mr McGOWAN: When this Bill was introduced by the former Minister for Police, we went through a number of concerns about the way it might operate to limit reasonable debate and examination of certain issues in this State. The former minister was at sea over much of that. However, he indicated that he would not change the Bill, which, of course, has happened. What prompted this change of heart? Who has the minister consulted about the changes? Has he consulted people with interests in this area?

Mr PRINCE: I have had consultations with no-one but the officers seated at the Table with me. I do not intend to have consultations with anyone else because the Bill in its revised form was ready to be debated in Parliament when the ministry was reshuffled. Here it is. I do not know with whom the previous minister had consultations, and I do not think it is particularly relevant.

Mr McGOWAN: Is it correct to say that the minister has not had any consultations about this with the journalists' association?

Mr Prince: No, I have not.

Mr McGOWAN: What about the Council for Civil Liberties?

Mr Prince: I have not. Whether my predecessor did, I do not know.

Mr McGOWAN: Does he know why the changes were made to the Bill?

Mr Prince: My information is that it seemed to be appropriate to include the public interest clause.

Mr McGOWAN: From whom did the minister get that information?

Mr Prince: From the officers seated here, who have had the conduct of the matter for some time in the drafting sense.

Mr McGOWAN: So the minister has not had a great deal of involvement with this Bill.

Mr Prince: Other than as a member of Cabinet, no.

Mr McGOWAN: Does he not think he should have, given that this is template legislation? Supposedly, this legislation will have an impact across the country on the way the media and security industries behave, and even on how we should behave. Does the minister not think that he should have had some involvement or discussions with the interest groups involved?

Mr Prince: No, I do not. This legislation first came out years ago when the member for Wagin was the Minister for Police. There were a number of cabinet discussions, and extensive consultation. I know that because Mr Wiesse carried this issue with the media and other groups. I took a part in debate as a member of Cabinet and as a person with some interest in it. I did not have carriage of the Bill. It was not for me to become deeply immersed in it; I was far more interested in my portfolio responsibilities. Now it is my job to look after this Bill, and I shall.

Mr McGOWAN: Surely this Bill should not have been brought on so quickly if you as the new minister have not had any involvement in the drafting or discussions with any of the affected groups, and have not examined the legislation without the assistance of departmental officers, particularly when this is an important change in the law of Australia that will be followed by the other States?

Point of Order

Mr BAKER: Which clause is the member talking to?

The CHAIRMAN: It is clause 1. There is no point of order.

Committee Resumed

Mr McGOWAN: If I were the minister the member for Albany would be asking me why I had not looked at this issue.

Mr Prince: No, I would not.

Mr McGOWAN: Does the minister not find it at all unusual that he does not even know who has been consulted on this Bill?

Mr PRINCE: I know this legislation has been around since 1994, when the member for Wagin first brought it to Cabinet. Debate has been going on for years. I did not immerse myself in the detail, because I did not have the carriage of it. I now do. I know there has been extensive consultation. I know that the Bill has been carefully written and redrafted many times because the member for Wagin and I used to sit together and talk about bits and pieces of it as it went through. I have absolutely no doubt at all in the integrity of the officers sitting at the Table with me and in the many other people who have been involved in the drafting of this Bill. If the member for Rockingham is suggesting that I have some greater wisdom than the collective wisdom in this area, he is sadly mistaken.

Mr McGOWAN: I thought ministers were elected to govern and to reflect the will of the people.

The CHAIRMAN: We are discussing the title of the Bill. The competency of the minister is not relevant to the title of the Bill and I ask the member to direct himself to the title of the Bill.

Mr McGOWAN: When we debated this issue in November 1997 the former Minister for Police, the member for Darling Range, said that he had not had any consultation with any of those groups that I mentioned earlier.

Mr Prince: Yes.

Mr McGOWAN: Is the current Minister for Police saying that he and the former minister had no consultation with the major interest groups involved in this Bill? Does the minister not think that he should have consulted with those groups before he brought the Bill into this place?

Mr PRINCE: No, I do not, because this Bill in a substantive form has been here for years and there has been extensive consultation and, indeed, a few amendments as a result of more recent consultation.

If the member for Rockingham, and a limited number of his side, occupy the time of this place to keep the maximum number of our side in here while his people are out canvassing for the ALP's federal leader who will lose his seat, they are simply wasting time.

Point of Order

Mr BAKER: The member for Rockingham has been speaking for quite a while and he is not relating his comments to clause 1 of the Bill.

The CHAIRMAN: We are dealing with the short title of the Bill, and general comment is expected. However, as I have said, whether the minister is qualified and what he should be doing is not relevant to the title of the Bill. I ask the member to get back to clause 1.

Committee Resumed

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation -

Mr KOBELKE: An "authorized person" is the Commissioner of Police or other officers in the force, and members of the Anti-Corruption Commission and the National Crime Authority who are authorised for the purpose. Under paragraph (b) the authorised person is the chairman of the Anti-Corruption Commission or "2 members". The intent is clear; however, I ask the minister, as a lawyer, whether the construction of paragraph (b)(ii) is clear? Should it refer to two people in unison?

Mr PRINCE: The person who is authorised can only be authorised either by the Chairman of the Anti-Corruption Commission or by two members of the Anti-Corruption Commission.

Mr Kobelke: Two members acting in unison or two members authorised by the chairperson?

Mr PRINCE: The authorised persons in the case of the police are the commissioner, the deputy commissioner and assistant commissioners. A total of seven people can at any time be the person who is the authorised person. For example, if the Commissioner of Police were out of the State, out of that seven somebody would always be available. The Anti-Corruption Commission should always have somebody who is available. If the chairman is not available two members acting together can appoint an authorised person.

Mr Kobelke: I have no problem with the intent. However, when it says "2 members", is it two members acting in unison or one of two designated members?

Mr PRINCE: It is two members acting in unison.

Mr Kobelke: It does not say that.

Mr PRINCE: It does not need to.

Mr Kobelke: The interpretation based on precedent and other statutes.

Mr PRINCE: It is either the chairman or two members acting together.

Mr Kobelke: Would those two members be any two officers of the commission?

Mr PRINCE: No; any two members of the commission, as opposed to officers. In the case of the Anti-Corruption Commission, specified in paragraph (b),it is an Anti-Corruption Commission officer authorised for the purpose by either the chairman or two members of the commission acting together.

Mr KOBELKE: It is important for the good functioning of the legislation that that be placed on the record. I move now to the definition of "law enforcement officer", being stated as a member of the Police Force of the State or of another State or a Territory; an Anti-Corruption Commission officer; a member of the staff of the National Crime Authority; and finally a person who is a member of such other class of persons as is prescribed, being persons who are officers or employees of a department, authority or agency of the State or of another State or a Territory. Again, I seek clarification on two matters relating to paragraph (d). One is whether in any way paragraph (d) could be interpreted or construed such that an officer may be a contract officer and not an official public servant or a sworn officer of a department or agency.

We now see contracting out of a range of services. Let us take, for example, a standard security service which picks up work that goes beyond what we currently expect security officers to do. We might look at the guards on the metropolitan passenger rail service who are employed by a private company and contracted to provide security services. Does the current wording allow for officers of that type to be prescribed for the purposes of being considered a law enforcement officer?

Mr PRINCE: This is a fair question. Thanks to my advisers, the best definition I can come up with is that it is a person who performs some form of investigative function for a government department. Whether that person is a permanent public servant or a contract employee makes no difference. I will give some examples. The security officers employed by Westrail is one example. Most are on contract and are bound by law and are empowered to do their jobs only by reason of the law that covers them under their contract of service. It may include a fisheries officer or people who are employed by the Department of Conservation and Land Management and who operate under the parks and wildlife legislation, or people who work with customs. There are a number of them.

Mr Kobelke: I accept the standard ones which would be the natural interpretation of what is before us. I am trying to get a clearer view of the boundaries.

Mr PRINCE: Anybody who has an investigative function is covered. I suppose that could extend to someone who is employed specifically. The member is thinking about Main Roads Western Australia, I take it.

Mr Kobelke: I am thinking about the problems that have transpired in Fair Trading recently and have been brought to the attention of the Chamber. It is my understanding that at certain times, that agency has contracted a person who is not a full time public servant to perform investigative duties. Would a person in that category be someone who can be prescribed as a law enforcement officer?

Mr PRINCE: It could be, either in Fair Trading, or in occupational health and safety, which is another that comes to mind. I envisage an occupational health and safety matter in which some people may be employed specifically for a certain task in a certain industry or in an employer or employee group, whatever the case may be. For the period of that employment those people may well be appropriately empowered under this legislation. That is one example. Another is where we may be working with some form of electronics and contract a person with particular skills. We want to give that person this power as well so that this person can perform the job as well as the person possibly can. Obviously police and the traditional - for want of a better word - law enforcement agencies are the principal focus. Certainly it can extend wider than that. It will depend on the nature of the inquiry that is being undertaken.

I suppose it will affect agencies like Fair Trading if it has information of a particular scam that may be going on and the way to get information may be to employ someone who is particularly good at dealing with computers, who then is also empowered under this legislation. However, I suspect it will be more likely to be a joint task force of some description involving the police. It is possible.

Mr KOBELKE: I sound a gentle word of warning, and I do not think we can address this by amending the Bill. As I read the words here literally, a law enforcement officer under paragraph (d) would have to be an officer or an employee of the department, authority or agency. An officer of an agency is fairly well defined, but the levels of accountability and reporting through responsible tiers of the agency would be fairly clearly established. In the past, employees similarly would have been well defined which led to appropriate levels of accountability.

In terms of the comments the minister has just made, the definition of employee is moving, as we see a much greater degree of contracting out. We find in many levels of government with that contracting out, with the changed nature of employment and the legal definitions of employees and contractors, accountability is becoming a major issue, particularly in an area such as this in which confidentiality and the proper conduct of affairs by the officers will be of the utmost importance. In the future, it may be necessary to visit that area again, particularly in relation to this Bill, so that people who are not accountable or responsible to the system will not be given powers under what will become the Act which are not intended at present. I want to make that clear because of the changes we see in the community at large with respect to employees and the potential problems that may arise.

Mr PRINCE: My adviser has just brought to my attention some information that may give the member a little comfort. Clause 15 deals with applications for warrants to use a surveillance device. Such applications can be made only by police officers and the Anti-Corruption Commission officer or a member of staff of the National Crime Authority. Although the definition of law enforcement officer can extend to a person who is contracted to do a particular job on whatever terms and conditions that may be, that person does not have a right to apply for a warrant. If that person wants a warrant, clause 15(2) applies, which states that an application may be made to obtain a warrant on behalf of another law enforcement officer. It must be by a police officer, an Anti-Corruption Commission officer or a member of the National Crime Authority. In that sense, I hope what the member is talking about is covered by the fact that the person who is contracted does not have the right to apply for a warrant. Someone else must do it for that person.

Mr KOBELKE: The term "law enforcement officer" crops up in other parts of the Bill; for instance in clause 5(3)(a). The extent of influence of a designated law enforcement officer goes to other parts of the legislation. I have that point on the record to my satisfaction. I now proceed to another point which also relates to paragraph (d) of the definition of "law enforcement officer". It refers to "such other class of persons as is prescribed", and it goes on. I seek clarification of where the prescription is. If it is in a clause, I could not find it.

Mr Prince: It is prescribed by regulation.

Mr KOBELKE: It is to come under the powers of regulation. The regulatory powers contain no specific reference to making regulations about who may or may not be a law enforcement officer. I appreciate that may not be necessary and may be caught by an intermediary step in the legislation. I mean by that that where a person is designated as a law enforcement officer and, in that capacity, seeks a warrant or other powers under the legislation, those other powers are picked up by clause 44 with the power to make regulations. In making regulations in respect of warrants and proceedings, one could under that subclause designate the provisions for prescribing a law enforcement officer under clause 3(d). As we have already seen, the designation of a law enforcement officer crops up in a number of places. My concern is that by the use of the intermediary mechanism of the regulation prescribing, for instance, what is needed with regard to warrants - when one makes a warrant part of it relates to a law enforcement officer and so one can define it - there may be cases in which a law

enforcement officer does not relate to those activities covered by the regulation and, therefore, there may be a hole in the regulation making powers. I want to make sure that the minister clarifies that. If there is a minor deficiency, it may be appropriate to add an extra power of regulation making. I am happy to accept that this legislation is reasonably complex and the powers currently in clause 44 may be adequate. However, on the surface there does not seem to be a direct power to enable regulations to be made for a law enforcement officer to be prescribed under paragraph (d) of the definition of "law enforcement officer" in clause 3.

Mr PRINCE: I think I understand the point being made by the member for Nollamara. I have been mulling through in my mind the way in which this will work. Fisheries officers are not per se listed as law enforcement officers. Some of them may well be people whom Fisheries WA will want to have as persons of such other class as prescribed. Fisheries through the minister will ask the Governor to pass regulations that will make certain categories of officers prescribed. When the Governor does that it means that they are law enforcement officers within the meaning of this Bill when it becomes an Act and are empowered as the Act says. It does not mean that they will get a warrant because under clause 15 they still cannot apply for a warrant; that has to be done on their behalf by a police officer, an Anti-Corruption Commission officer or a National Crime Authority officer. I grant they would have other independent powers but they cannot get a warrant.

Mr Kobelke: The Bill, although being able effectively and efficiently to grant powers, does not relate to the warrant.

Mr PRINCE: I understand the member. The regulation power is very wide. I do not expect there to be a problem. Anybody who wants to challenge it under the doctrine of ultra vires will need to show that a regulation is actually ultra vires the proposed Act. I believe that regulation making power is broad enough to make it difficult to put up an argument. If it related to the prescription of a member of a class of persons as prescribed becoming a law enforcement officer, that person must be an officer or an employee of a department. If the person was not an officer or employee of a department, the regulation would fail; if the person was, the regulation would stand.

Mr Kobelke: Would the minister place this on the record to my satisfaction: We have been looking at clause 44. Is it the minister's clear intention that subclause (1), which is the introduction, allows the Governor to make regulations prescribing all matters necessary or convenient? If that power goes beyond the subclause underneath, there is clearly a head of power requirement.

Mr PRINCE: Clause 44(1) contains a general enabling power. The clause then particularises six matters. Those six matters are not the exclusive regulation making power; there is a general regulation making power of which those six are examples.

Mrs ROBERTS: Paragraph (d) of the definition of "law enforcement officer" in clause 3 refers to a person who is a member of such other class of persons as is prescribed, being persons who are officers or employees of a department, authority or agency of the State or of another State or Territory. I understand that can include Fisheries officers and the like but I note that it does not refer to commonwealth employees. Paragraph (c) refers to a member of the staff of the National Crime Authority who is a member of the Australian Federal Police or of the Police Force of a State or Territory. Are members of the Australian Federal Police who are not on the staff of the NCA excluded under this definition; and, if they are excluded, what is the reason?

Mr PRINCE: An Australian Federal Police officer is only applicable if he or she is a member of the NCA. That is the effect of paragraph (c) under the heading of "law enforcement officer". Clause 4(2) on page 8 under the heading "Application" states that this Act does not apply to the activities and operations of a prescribed commonwealth agency, instrumentality or body. The Federal Police did not want to be covered by the Bill; they wanted to be exempt.

Mrs Roberts: Is there a provision which makes them exempt?

Mr PRINCE: Yes, it is clause 4(2) which applies to a prescribed commonwealth agency, which obviously includes the commonwealth police.

Mrs Roberts: That means they can use their own powers unless they are working in the NCA?

Mr PRINCE: Yes.

Mr Kobelke: I understand that the exclusion of some commonwealth agencies would possibly be for only an interim period. Is that the case; and, if so, is this the mechanism that will be used?

Mr PRINCE: The Australian Federal Police have said that they do not want to be bound by this Bill and that they want to operate under the commonwealth law. That is up to them. The State will have the ability by prescription to say that they are not bound by this law.

Mrs Roberts: I referred earlier to Customs officers at the airport. Is it the case that those officers do not want to be caught out by this legislation?

Mr PRINCE: I do not know that it is a question of being caught out; it is a question of what powers they already have as opposed to what powers they might have under this legislation. Bluntly, from the point of view of the sovereignty of the

State of Western Australia, we can make powers to cover those people over whom we have some control. The federal Constitution states that we cannot make laws in respect of commonwealth officers covered by commonwealth law. The best example I can give the member is that the Australian Defence Force may possess any firearm it pleases without a licence being issued by the Western Australia Police Force. Notwithstanding that, the police tried to prosecute the 10th Light Horse Regiment some years ago for travelling down the highway with 0.50 calibre machine guns showing without a firearms licence.

Mrs Roberts: It seems anomalous that Fisheries officers and the like can be described as law enforcement officers for the Act, but Australian Federal Police or federal Customs officers cannot unless they are on the staff of the National Crime Authority.

Mr PRINCE: The NCA was the only commonwealth authority which sought to be included. The other commonwealth law enforcement agencies sought to be excluded. In a sense, they have the right to be included. If we passed a law to enable this law to apply to the Australian Federal Police it would not work because the commonwealth law that empowers the Australian Federal Police to act, overrides the state law. We are simply acknowledging that that is the legal situation in this federation. If they want to be included they can be by regulation. If they do not, they are excluded.

Mr KOBELKE: The minister's contribution has confused me a little, not because he did not make a clear statement of the situation, but rather because the second reading speech states -

> Members of the Australian Federal Police, the Australian Security Intelligence Organisation and the Australian Customs Service have not been included within the scope of the Bill. In fact, a clause has been inserted to exclude these agencies so that, as a temporary measure, the status quo is maintained; that is, the commonwealth agencies will be afforded no powers under the Bill and will not be liable for any actions that constitute offences under it. The repeal of this clause will be considered after 12 months during which time it is anticipated that the Commonwealth Government will create legislation that complements the Bill.

There are perhaps different categories of commonwealth agencies, some of which I understand are picked up in clause 4(2). Commonwealth instrumentalities are also covered in another clause which I have not been able to locate.

Mr PRINCE: My adviser has pointed out a number of exclusions that appear in the body of the Bill. Clauses 5, 6 and 7 have forms of exclusion covering the installation, use or maintenance of a device in accordance with the law of the Commonwealth. I am not sure why that statement was made in the second reading speech. It seems that it seeks to work within the system. As I explained, federal law overrides state law. If we attempted to regulate the activities of federal law enforcement agencies it would not work unless they chose to be so regulated. The NCA has but the other agencies have not. Perhaps they will see that this is an appropriate way to go and is better, fairer, more equitable or more practical than the way they operate. If they could agree to that after 12 months that would be fine. It would give the Commonwealth a chance to get its legislation in place. The commonwealth legislation is a little old, but it is being reviewed now, although it is difficult to say how long it will take. In that sense it may take advantage of those exclusions. I think, in a sense, it is saying those commonwealth agencies can come on board if they want to, but we cannot make them.

Mr KOBELKE: I thank the Minister for his attempt to clarify that. I accept his statement about cooperating with the Commonwealth and being able to utilise this legislation in the future.

Mr Prince: They would have to ask.

Mr KOBELKE: I accept that and what he says makes sense. The point of my question relates to the mechanics of the Bill to ensure that the flexibility and level of control is efficiently and appropriately contained within it. We are dealing with the definition of a law enforcement officer under clause 3 and that certain commonwealth or other people might be described as law enforcement officers. That embraces a range of matters. I am not taking issue with the fact that it does not refer to certain areas for which there are exemptions relating to commonwealth departments. I want to know the specific mechanism or clauses in the Bill that provide the regulatory power for these commonwealth agencies, instrumentalities or bodies to be included or excluded from the legislation. Is it all covered in clause 4(2)? Will it be a workable arrangement on which we will not have to come back with further minor amendments to allow entry or exclusion of government agencies?

Mr PRINCE: I understand what the member is saying. I am strongly of the opinion that clause 4(2) will be more than sufficient to meet that end by prescription of a commonwealth agency; for example, the Australian Federal Police. That would cover that entirely. The same would go for any other commonwealth law enforcement agency that should be excluded.

Mrs ROBERTS: I refer to the definition of "maintain". No doubt in some circumstances listening or surveillance devices may fail and it may be necessary to replace a listening or surveillance device. I am not sure that replacing it with a new device would not be repositioning, servicing, repairing or adjusting it. Is the definition of "maintain" broad enough?

Mr PRINCE: The warrant to use a surveillance device extends obviously to maintain as defined. For example, a device that

is battery powered will have to be serviced by replacement of batteries if it cannot be wired into a power circuit somewhere. The warrant also enables the authorised body to be able to use however many surveillance devices are deemed appropriate, not just one.

Mrs Roberts: With portable listening devices I understand the most common problem will be for the battery to go flat. With other devices that are more complex presumably something can go wrong. Maintenance people will not necessarily want to go out to where it is positioned to repair it. The simplest solution would be to replace it and take away the faulty device.

Mr PRINCE: That can be done under this definition because the concept of "maintain" covers taking away the device and replacing it with a new one or taking away and replacing part of it. "Maintain" has its ordinary meaning in language, as do almost all words contained in a statute - and it covers that. However, in this instance it includes "adjust, repair, reposition and service". That is not the total definition of the word "maintain". It has its normal use, including these examples. It is well and truly covered in the example the member put forward.

Mrs ROBERTS: The next definition I query is that of "optical surveillance device". It means "any instrument, apparatus, equipment, or other device capable of being used to record visually or observe a private activity". It then has the disclaimer "does not include spectacles, contact lenses or a similar device used by a person with impaired sight to overcome that impairment". I recently bought my daughter a pair of binoculars. Her sight is not impaired and she uses the binoculars. She climbs up a tree in our backyard and may be looking over the fence to anywhere in the neighbourhood that she can see with her binoculars. Binoculars, and perhaps some other technology, enables someone who has no sight impairment to observe a private activity. Where does that stand? Are binoculars included and will someone using much higher-powered binoculars than my daughter from a treetop or balcony be caught within this definition?

Mr PRINCE: Binoculars are commonly used in surveillance.

Mrs Roberts: They are used by Fisheries officers.

Mr PRINCE: Yes, they are used by police officers and all sorts of people. In that sense, binoculars are an optical surveillance device. However, this Bill seeks to control the use of devices when they are used for the purpose of deliberate surveillance. A child who is up a tree using a pair of binoculars to gaze around the suburbs is unintentionally involved in some form of surveillance.

Mrs Roberts: She does it quite deliberately, actually.

Mr PRINCE: In the sense to which we are referring, it is an unintentional surveillance and is covered by clause 6(2)(e) which states -

> the use of an optical surveillance device resulting in the unintentional recording or observation of a private activity.

Mrs Roberts: What if you have a sticky-beak neighbour who is basically prying with binoculars?

Mr PRINCE: The member should try to restrain her daughter.

Mrs Roberts: Do you think that will work?

Mr PRINCE: It would be a jolly good argument.

Mr KOBELKE: I will tease out some meanings in the definition of "private conversation". The clause notes which the minister has made available to the Opposition state that the definitions of "private activity" and "private conversation" are pivotal to an understanding of the Bill. I agree with that because many issues that flow through the structure of the legislation rest heavily on private activity and private conversation. The interpretation of "private conversation" - perhaps other arguments could be made about private activity - is a matter that must be developed through legal precedence and the courts. Obviously, a set of circumstances will fall very clearly into private conversation and a set of circumstances will fall easily into what is not private conversation. However, there is a grey area in between on which the courts will adjudicate from time to time and build up a body of case law. Another connection I make, from discussing the intent of the definition of "private conversation", is that the Bill contains no statutory review requirements. Am I correct that there is no requirement for a statutory review?

Mr Prince: Yes, you are correct.

Mr KOBELKE: Perhaps the minister will comment on why not. Given that this has been suggested as ground-breaking legislation, it could run into difficulties and it would be prudent to require that a statutory review be carried out after two or three years of operation to see how it is going.

Returning to the definition of "private conversation", it opens up one example of why it is necessary to review the legislation after it has been in operation for a short period. I will give an example of two people holding a conversation in what is clearly designated as a public place. They might be in a mall or a park area in the middle of the city. For most purposes

they would not be engaged in a private conversation. They may be discussing matters which they consider personal and private and want to keep secret. However, my judgment is that if they are in that area and people are around them, the legislation would not interpret that as a private conversation.

Mr Prince: I disagree.

Mr KOBELKE: I will come to another scenario which seems remarkably the same. Again, two people are in a mall or a private park in the city and wish to carry out a personal and confidential conversation. They place themselves in a situation and take due caution to ensure that their conversation is private. They distance themselves sufficiently from other people passing by, they look around to make sure no-one has singled them out and they engage in a conversation which they believe should be private and confidential. However, unbeknown to them, they are under surveillance from someone using an electronic device which is able to pick up conversations undetected from a considerable distance. In that situation, we would want the law to be on the side of the people who are trying to hold the confidential and private conversation.

Mr Prince: It depends.

Mr KOBELKE: In terms of not being pried upon without the due process of the Act?

Mr Prince: Yes.

Mr KOBELKE: We come to the definition contained here. The last part of the definition of a private conversation states -

> . . . does not include a conversation carried on in any circumstances in which the parties to the conversation ought reasonably to expect that the conversation may be overheard;

I return to the two different cases in the park of people holding a conversation. In one case the people may not expect the conversation to be private; they expect that people around them may overhear it, even though they wish it to be kept confidential. Almost identically, the other case involves two people who have taken precautions to ensure their conversation was held in confidence but who are under surveillance which is not in accordance with the provisions of the Act.

Mr PRINCE: I understand the example the member has raised. There is no provision in the Bill for statutory review. It was probably not thought to be appropriate to have a statutory review; some Acts yes, some no. For example, the Criminal Code is not subject to statutory review after a period; it is constantly amended as the law evolves and as cases arise. In many respects, the remarks that the member made about case law and so on will drive changes to this over time. If it is seen to have some fundamental flaws, the Government of the day will cause a review to be carried out. One would want that to happen, particularly when dealing with criminal activity and the protection of private citizens.

I do not think a statutory review at that time will help. The example of Forrest Place was a good one. If there are a few people around Forrest Place and two people look around and position themselves so that they cannot be overheard, they should be able to be overheard only if the process is in place because they are suspected of engaging in some form of criminal activity, perhaps concerning drugs. That is a classic scenario. However, if the member for Nollamara and I were seated next to each other in the outer section of the Subiaco football ground when the Springboks were playing the Wallabies and the place was absolutely jam-packed, it would have been very difficult for us to have a private conversation without shouting. That relates to the second part of the definition. We should reasonably expect that the conversation would be overheard if someone chose to listen rather than watch the game.

However, having got out of our seats and gone to the back of the grandstand to try to find some quiet place, we have acted in such a way as to position ourselves so that we desired to be listened to only by us. Those are the obvious examples. It will depend upon each set of circumstances.

If we get into a lift and we are the only two there, we can have a private conversation. If we get into a lift and my advisers and someone else are there and we determine to have a conversation, there is no way we can think that will be private; and so on. One can come up with as many examples as one can find human activity.

Mr KOBELKE: The hypothetical situation that I presented was the best way I could think of to raise a boundary issue which the courts might have to decide and where precedents could be set. I raised that as an example that the interpretation of such a pivotal part of the legislation - pivotal in the words of the clause notes - could change through the application of the law and its interpretation through the courts. That is one very good reason to ensure that some review or follow-up occurs after a reasonably short time.

Mr Prince: I will give consideration to that. Clearly, we will not finish debating this today. Although I am not minded to do it, we will think about it between now and next week.

Mr KOBELKE: I raise two more brief points on why I think a form of review is important after a set period. As the minister has already indicted, this legislation in some respects is ground breaking. It is not a copy in large part of other legislation that has been implemented and under trial in other States.

My last point relates to the form of review if the minister considers placing it in the legislation. I can understand a possible reason that there is not a statutory review: There are some very sensitive areas with respect to law enforcement agencies. We may not wish to embark upon a general review which could lead to some unwarranted prying into the operation of those agencies. However, there are two different streams in this proposed legislation - the need to ensure that law enforcement agencies have access to a whole range of surveillance devices, and that they can effectively utilise those devices in order to apprehend criminals and look after the public interest.

The other main theme in the legislation is the protection of the rights of individual citizens. It is absolutely necessary for public review in that area. It is difficult to put together a proposal to review the legislation and give emphasis to the protection of individual rights and community concerns and at the same time allow law enforcement agencies not to be opened up publicly to review. I surmise that that may be why there was not much interest in having a statutory review. If I am right, it may be possible to produce a proposal which is not simply the standard form of review clause or that the legislation be reviewed in totality, but there may be a review after three years with some provisos or guidelines which emphasise the interests of the public and individuals in securing their privacy. The effectiveness of the legislation to law enforcement agencies could be taken up in a slightly different or limited way from a full review.

Mr PRINCE: The tabling of annual reports is a form of continuing review. I understand the point made by the member for Nollamara. The case law that might develop out of this will arise out of either a civil or criminal case, more likely criminal. There will be some form of charge, prosecution or process and then a challenge, presumably to the admissibility of evidence. That will then lead to a testing of this law. The sort of thing I envisage would take two or three years to go through an appeal process to the High Court, particularly when people want to delay it. For that reason, if there is to be a statutory review within a certain time, I am inclined to look at five years rather than fewer. For the purposes of review, I would consider a confidential review by someone like a judge, rather than a much more open review as we are used to, for the reasons which the member for Nollamara put so well. It might otherwise prejudice law enforcement.

Mr Kobelke: I understand that that aspect, which might lead to unintended or greater changes due to judicial findings, will take some time. However, because it is in some respects ground breaking legislation, it needs review earlier; also to take into account that technology changes and advances so quickly that five years is perhaps too far out on the time horizon.

Mr PRINCE: Except that a review looks at the whole thing from clause 1, or whatever it is, all the way through, and the way in which the totality of the legislation is operating. Then recommendations or changes may be made, whatever the case may be. As case law develops in a particular section, the anomalies thrown up are addressed by the cases that occur in the courts. That has occurred recently in the Criminal Code, for example, in restraining orders and forensic sampling. I have no problem with that occurring all the time. Cases will be responded to as they occur to ensure that the law remains current and works in the way that, in a general sense, we intended it to.

If there is to be a review, it will be a review of the whole exercise. I would be disinclined to have a review before five years because of the nature of the legislation and the time it takes for such cases to run when challenged. I would be inclined to give consideration to a review conducted by a judge in a confidential way. I cannot think of anyone else who would have the knowledge to be able to deal with it in such a way that there would be no room for attack on the integrity of the review process and at the same time maintain the necessary confidentiality.

Mrs ROBERTS: With reference to optical surveillance devices, I did not receive as clear an answer as I wanted. The definition states -

> . . . any instrument, apparatus, equipment, or other device capable of being used to record visually or observe a private activity, . . .

It does not mention binoculars and telescopes. Are they covered under that clause? They are not listed as exclusions as are spectacles and devices used by people with impaired sight and so on. The minister said in his previous response that binoculars are used regularly by police and other people for surveillance. However, I want a clear answer from the minister whether it means binoculars. Is that included in the definition of instrument, apparatus or equipment being used to record or observe?

Mr Prince: Yes, it can be.

Mrs ROBERTS: Therefore, binoculars are an optical surveillance device according to this definition?

Mr Prince: Yes. However, the use of them will not necessarily be a use prescribed by this statute because it depends on the intention and purpose.

Mrs ROBERTS: Can the minister explain why in the second reading speech the previous minister said that it is not intended to prevent law enforcement officers from using binoculars, telescopes and similar devices to observe suspected illegal covert activity in field situations?

Mr PRINCE: It depends upon what they are observing. Simply using binoculars to observe someone from a distance going

about activities in the street and so on is not a problem because that is not a private activity. As soon as the person indulges in a private activity, whether or not it is in a private place or a public place, this legislation swings into place. The classic example is the police observing people going to and from a house. They may well want to do so from a distance, and therefore will want to use some form of optical magnification. That is not a private activity.

Mrs ROBERTS: I will use the example of Fisheries Department officers and a couple of people poaching marron. They might be indulging in the private activity of taking marron out of season or taking undersized marron. They have gone there in the dark of night especially not to be observed. They are involved in the private activity of stealing marron.

Mr PRINCE: That would fall within the definition of "private activity", because an activity carried out in circumstances that may reasonably be taken to indicate that any of the parties to that activity desires it to be observed only by themselves -

Mrs Roberts: They would want that. They are breaking the law and they do not want to be observed. They would take every reasonable precaution not to be observed. If the fisheries officers are using a night telescope, they must have a warrant.

Mr PRINCE: Yes. In those circumstances they would be using a night scope - an instrument that magnifies and enhances from starlight - or an infrared instrument. In that circumstance, the two people are in a particular place, are behaving in a certain way and want their activity to be totally private. If the fisheries officers were clever, they would have them under observation with a night vision device. That is optical surveillance of a private activity and hence a warrant is required.

Mrs Roberts: They may not be after those two people in particular. They may be generally looking for people breaking fisheries regulations.

Mr PRINCE: In which case they have nothing to fear. If earlier in the day, the fisheries officers observed these people going to a bait and tackle shop to buy a new trap, and they did that by parking down the road and using binoculars, that is not a private activity and it is not a problem. However, if they are sneaking around the back of the river at Walpole, they will need a warrant.

Mrs ROBERTS: I would like clarification of the definition of a tracking device. Some devices are specifically designed for tracking, but others could be used for tracking. There does not appear to be any differentiation between those two kinds of devices.

Mr Prince: I do not understand. A small radio transmitter stuck under a car sends out a signal. With two detectors, the car can be tracked using triangulation. Devices to do that have been around for decades.

Mrs ROBERTS: The clause refers to any other device capable of being used to determine the geographical location of a person or object. I do not believe that the principal function of a mobile phone is as a tracking device. However, it may be possible to determine a person's location because he is somewhere geographically using his mobile phone.

Mr Prince: Yes.

Mrs ROBERTS: Is that the appropriate definition? Further reference is made in the Bill to tracking devices and the need to support warrants and so forth.

Mr PRINCE: The example the member has presented is good. Clearly, a tracking device is something one puts on a person or vehicle to track him, because it sends out a signal that can be triangulated. If the technology exists to triangulate that mobile phone signal, that is a tracking device. However, the tracking device is not the mobile phone.

Mrs Roberts: The technology exists.

Mr PRINCE: Yes; it is not very precise, but it exists. The tracking device is not the mobile phone, but the technology that will track it.

Mrs ROBERTS: The police might be hunting a felon and that person might be using a mobile phone. If the police roughly locate that person, for example, near Perth airport, and they want to apprehend him before he gets on a plane, do they need a warrant to use a tracking device?

Mr PRINCE: This is referred to in clause 7. If it is generally known, and it probably is, that instruments such as mobile telephones can be tracked, one could argue that a person who has a mobile phone has given implied consent.

Mrs Roberts: You have illustrated the problem by not knowing that yourself.

Mr PRINCE: I know they can be tracked but not the degree of accuracy.

Mrs Roberts: The average person would not be aware that he could be traced via his mobile phone.

Mr PRINCE: Let us leave it that way - most people do not read *Hansard*. Clause 7(3) refers to the device not being attached or installed and that covers this circumstance. The ubiquitous mobile phone is the only instrument that comes to mind; I

cannot think of anything else that could be used without putting something on the person, the vehicle, his baggage or whatever.

Mr KOBELKE: The definition of a tracking device does not require that some part or element be attached to a person. From the Minister's comments the tracking devices currently available require some form of attachment.

Mr PRINCE: Not necessarily. The device may be difficult to place on one's person, so it is placed in one's luggage or vehicle and it emits a signal which is able to be traced, triangulated and tracked; or it may be habitually carried around but is not a device placed on one by an agency. The mobile telephone is the only device that I can think of which will be able to be tracked by technology, and the accuracy with which one can be tracked is debatable. A tracking device can be not only a device put on a person or his property; it can also be other instruments used to track a person because of what that person chooses, knowingly, to carry.

Mr Kobelke: All those examples indicate that there must be some apparatus attached to or going with the individual?

Mr PRINCE: That is right. As yet we do not install computer chips into the nape of one's neck at birth to track one with low earth orbit globally positioned satellites. There are an awful lot of examples of that if one reads science fiction.

Mr Kobelke: When I was considering this clause I did not think of science fiction options. It may be possible for a person who does not have any piece of apparatus or material object attached to him to be tracked by some new technique. I was not sure whether the definition is meant to catch that.

Mr PRINCE: It does. However, it depends on what one is using to track people with. It is well known that the United States has satellites that are capable of, not quite counting the hairs on one's head, but certainly taking a very good photograph from outside the sovereign airspace of Australia and they are capable of reading number plates. That is a tracking device not covered by this legislation because we cannot do that. That is not something that operates from any apparatus on one's person, other than the fact that one exists. Forward-looking infrared radar, and a few other things like that, are capable of tracking by one's body heat. That is a bit difficult when one is in a crowd. However, if one is in a forest, one can be tracked. That is not because one has any technological equipment attached to one's person, but simply because one lives there. That is the only other example I can think of where tracking is possible. Maybe some other form of technology will come along that will enable people to be tracked in crowded areas. If science produces that, it will result no doubt in a change in the law.

Mrs ROBERTS: I refer to the definition of private activity. In the past day or so there has been a report in *The West Australian* of recording activities in the workplace, including visual and audio recording. I sought some clarification from your advisers, and I fully understand that if signs in the workplace advise employees that they may be subject to surveillance, if they work in a bank or a shop where surveillance is necessary and if mention is made of it in their employment contracts or conditions of employment, they would not have any recourse under this legislation. The Minister's adviser also pointed out that if one worked in an open workplace area where other people could see and hear what one was doing, there would be no offence under this legislation.

Mr Prince: That is correct.

Mrs ROBERTS: Perhaps if people are working in a private office - be they a lawyer, insurance agent, typist, whoever - with blinds drawn and the door closed they would not reasonably expect to be under surveillance. It seems, based on the information reported in *The West Australian,* that the surveillance of people in the workplace is much more widespread than I had anticipated. Would those people who are in a private office have recourse to this legislation should they be under surveillance either in the audio or visual sense?

Mr Prince: If they are suspected of committing a criminal act, no. It prevents that occurring because they are under surveillance because of their suspected criminal activity.

Mrs ROBERTS: Surely, a warrant would be necessary?

Mr Prince: Yes. Even in the circumstance in which an employer had informed the employee that he may be subject to surveillance at any time or place in the work site with the possible exception of the bathroom - maybe even in there - surveillance of a person who has a totally private office in which nobody else can see or listen would be illegal under this legislation.

Mrs ROBERTS: What about people in the open workplace?

Mr Prince: The answer is no.

Mrs ROBERTS: I refer to a telephone conversation in which I might be some distance from other people, and although I can see them, they are not within hearing distance. If I talk quietly into my telephone and hold a private conversation which I could not reasonably expect to be overheard by other people around me, does the employer have a right under this legislation to record those conversations or would the employer be in breach of this legislation?

Mr PRINCE: The employer cannot record the telephone conversation without being in breach of the Commonwealth's telecommunications Act. However, if it is a totally internal system - in other words, it is not plugged into Telstra's line - he can. If the employer chooses to do that without first giving a general warning to employees, he could be in breach of this Act. An employer may say, "I do not approve of your using my telephone, for which I am paying, for your private conversations. This is a workplace, and the telephone is to be used only in the course of your employment, unless it is an emergency." In that sense, there may be some form of surveillance of people to see whether they are using the telephone for private purposes. The warning was given, and that is it. The employer can get a printout from Telstra of the numbers which have been telephoned by each instrument, and when. It is not too difficult to work out whether a person is using the telephone inappropriately. Some employers do that, and other employers do not bother. It depends on the circumstances of the employment.

The area where this is perhaps more important than anywhere else is the computer, the modem and the Internet. We know from a number of reports recently that employees, whether in the public or the private sector, are running up for their employers - the taxpayer or a private employer - phenomenal bills for plugging into Internet sites overseas and so on, and not in connection with their employment. It would not be unreasonable for an employer in those circumstances to say, "I do not approve of your doing this. If you want to do this, do it on your own computer at home and on your own phone bill, not mine." It is not unreasonable in that case to have some form of optical surveillance of the computer monitors to see what the employees are doing.

Mrs Roberts: What would be the situation if the employer did not warn his employees by way of the contract that they had signed that they might come under surveillance in some way?

Mr PRINCE: The argument would then be between the employer and the employee as to whether it was an express or implied term of the contract of employment that the employee would not use the employer's telephone line to look at a porno chat site in America.

Mrs Roberts: I am not referring to the telephone. What would be the situation if everyone else had gone out to lunch and employee A and employee B were having a private conversation, and the employer was routinely recording everything that was happening in that workplace?.

Mr PRINCE: Under the telecommunications Act, the employer could not legally plug into the telephone lines, but if he was recording with a camera, or something of that nature, perhaps with the aid of an audio pickup, and if that was not generally known and had never been disclosed to the employee, I suggest he would have a problem.

Mrs Roberts: That would be subject to this Act?

Mr PRINCE: Yes. All the employer would need to do, whether in the public or the private sector, is say, "There are cameras up there. They are there for your protection, so that if someone does something wrong, we can see who is the culprit." The vast majority of people do the right thing.

Mr KOBELKE: The Bill contains a definition of "private activity" and "private conversation". Private conversation is picked up by audio surveillance devices - listening devices - and private activity is picked up by optical surveillance devices. There is a clear distinction between picking up conversations - audio messages - and picking up optical messages or images of an actual activity, but is there not a problem in the grey area in between?

Mr Prince: Lip reading?

Mr KOBELKE: I had not thought of that one, but clearly it is of that nature. I was thinking more of the convergence of the technologies, where a conversation could be held on the Internet, but there was no audio signal. How would conversations that were not audible be handled? Two people who are deaf would converse by using sign language. That fits clearly into the area of optical messages.

Mr PRINCE: That is a fair point, and it is covered in clause 13(10), which deals with a composite warrant.

Clause put and passed.

Clause 4 put and passed.

Clause 5: Regulation of use, installation and maintenance of listening devices -

Mr KOBELKE The intention of this clause is fairly clear and straightforward, but the way it is constructed makes it a little difficult to understand. I want to understand how clause 5 will work, and make sure that a certain class of incidents will not be adversely affected by this clause. That class of incidents is where employees use tape recorders to get evidence in a workplace about events that are taking place that are not in their interests. I understand that the Bill would allow that, but I want that to be made clear, because that is a reasonably common occurrence, and we would not want the prohibitions that are contained in this clause to prejudice the opportunity for people to uphold their rights.

Clause 5 states that a person shall not install, use, or maintain, or cause to be installed, used, or maintained, a listening device. It then outlines two different categories. The first is that a person cannot use a listening device to record, monitor, or listen to a private conversation to which that person is not a party. Subclause (2) outlines the exemptions, which relate basically to law enforcement agencies of various types, which can, through proper process, legally listen to and monitor private conversations between two people.

The second category is that a person cannot use a listening device to record a private conversation to which the person involved in the recording is a party. The word "party" is defined in clause 3. However, subclause (3) states that subsection (1)(b) does not apply to the installation, use, or maintenance of a listening device by a person who is a party to a private conversation if that person falls into one of four categories.

The first category is if that installation, use or maintenance is carried out by a law enforcement officer. That relates to the discussion we had earlier about who may be a law enforcement officer, so I will not go back into that. However, it is worth noting that if the definition of law enforcement officer were extended too widely, people who were security officers at a much lower level might be authorised to listen in on a conversation, without having to go through a process of checks and balances.

The second category where this private conversation can be recorded by one of the people involved in it is if that person is instructed or authorised to do so by a law enforcement officer in the course of an investigation into a suspected criminal offence. The third category is if each of the principal parties to the private conversation consents expressly or impliedly to the recording. It is worth looking at what is meant by expressly or impliedly, but I will pass over that at this stage.

The fourth category is where the principal party to the private conversation consents expressly or impliedly to that installation, use, or maintenance, and the installation, use, or maintenance is reasonably necessary for the protection of the lawful interests of that principal party. I take a specific example in the workplace in which a person feels victimised and wants to obtain some objective evidence to uphold his or her rights by using an audio recording.

Mr PRINCE: I am very interested to hear the example.

Mr KOBELKE: I appreciate the minister's assistance. Without going through the full detail, a Mr Fox worked on a mine in the mid-west of Western Australia where he found that his contractual rights of employment were waived by the employer. It took a lengthy legal battle to uphold that right. He was on a workplace agreement and took the matter through the Federal Court and won. He used a tape recorder at an advanced stage of his attempt to negotiate his rights with his employer. When the employer abused him and told him the grounds on which he was to be sacked - which were not legal grounds for sacking - he recorded the conversation. I did not see the full transcript of the conversation, but the press reports used some of the more colourful language used by the employer in dismissing Mr Fox. The court judged it to be a clear-cut matter because the level of penalty imposed on the employer was near the maximum and well above that which applies in normal circumstances.

Mr Fox and many others in such employment in Western Australia have difficulty upholding rights in the workplace. The Opposition wants to ensure that a person in that situation, and for whom proposed section 5(3)(c) would not apply because the employer cannot be informed of the recording, needs to be able to carry a recording device into a situation of possible conflict. I refer to people who feel their rights might be infringed and wish to gather evidence to protect themselves. As I understand it, under this Bill, these people will be a principal party to the private conservation. Therefore, by giving their consent, they meet the first requirement and are legally able to use a concealed tape recorder.

Also, the device can be used as is reasonably necessary for the protection of the lawful interest of the principal party - namely, the person making the recording - as a party to the discussion. My understanding, for which I seek confirmation, is that a person who reasonably believes that his or her rights are in jeopardy can carry a tape recorder. Once the recording is made, it can be used in a court of law as evidence to support the case.

I move to another scenario on which the minister may wish to comment. It is necessary to divide my first example from a conversation between two parties in private in which one party seeks to gain some advantage over the other party. When Mr A wishes to secretly tape a conservation, knowing that the information recorded will not protect his lawful interest but will enable him to take advantage of the other party, that would not be legal. Nevertheless, people in the past have attempted - it will happen in the future - to set someone up in that way. Some famous cases have been discussed in this Chamber. We wish to exclude that possibility. However, some boundary issue may arise between the interpretation of someone trying to protect his interests - Mr Fox's case fell into that area - and cases in which the motivation is to gain some advantage over the other party.

Mr PRINCE: The member for Nollamara is correct in his interpretation of clause 5(3)(d). However, it is an objective test to determine whether the recording is reasonably necessary - reasonableness is the objective view. If Mr Fox's intention was to protect his lawful interests, and he used a dictaphone in his pocket, and he did not disclose this use to an abusive employer, he was protecting his lawful interest.

His situation is also possibly covered in clause 26, which covers the use of listening devices in the public interest. It may be tenuous in an employer-employee contractual area, and it is debatable whether it is a public interest. However, it may apply to the example of someone trying to take advantage of another person. It may or may not be in the public interest for that person to do so - it will depend on the circumstances.

In the argument of someone recording without the other party's knowledge in order to take advantage of that party, it will be an offence. However, I concede that it is theoretically possible that it be done in the public interest. I cannot think of an example. The little case authority we have - namely, a couple of decisions out of South Australia - would not tend to support that view. Hypothetically, it is possible.

Mr KOBELKE: The minister alluded to clause 26 and the public interest. If a person entered into a conversation with his employer and recorded that conversation to protect not his own lawful interest, but that of a work mate being sacked or victimised, would that fall under public interest through clause 26? Clause 5 would not permit a person to record in that way. If one had clear evidence in a workplace of people being treated improperly and unlawfully, and one sought to gain evidence secretly by taping a conversation between oneself and the employer, but the interest of others is attacked and threatened, not one's own, would that be excluded by clause 5(3)(d), yet picked up in the public interest test clause 26?

Mr PRINCE: I give an example of the situation the member expounds: The Deputy Leader of the Opposition is a particularly nasty employer who has confided in me that he intends to sack the member for Nollamara for what would be unconscionable reasons. The member's interpretation is that my recording of the conversation would be proscribed under the legislation. I think that his interpretation is incorrect. Clause 5(3) states -

> Subsection (1)(b) does not apply to the installation, use, or maintenance of a listening device by or on behalf of a person who is a party to a private conversation if . . .

Paragraph (d) states that it -

> is reasonably necessary for the protection of the lawful interests of that principal party.

I can record the plot to get rid of the member, because that is in his lawful interest.

Mr Kobelke: But I am not a principal party.

Mr PRINCE: But it is in the member's interest that it is being done. He is probably covered there.

Mr Kobelke: First, one must be a principal party who consents. Secondly, it must be in the lawful interests of the principal party. In the hypothetical case that the minister has constructed around the member for Belmont, I am not a principal party.

Mr PRINCE: I am unintentionally confusing the member. He is the principal party; he asked me to do that; I do it. The public interest clause covers it, but only if one is the principal party. There is certainly some difficulty in what the member is talking about. I would argue that I can record it because it is in the public interest that I do so. The employer undoubtedly would argue the opposite, because he is a particularly obnoxious employer.

Mr Kobelke: I am not convinced.

Mr PRINCE: The only answer that I can give is one that is based on public interest, and it is debatable.

Mr Kobelke: May we clarify clause 5? I take it that the minister is saying that in the hypothetical case that he has constructed, in which I am not a principal party, he could still legally record that conversation. On my interpretation of clause 5(3)(d), he cannot do so.

Mr PRINCE: No. I have unintentionally misled the member for Nollamara. No, the member cannot do so.

Mr Kobelke: The only option is whether there is the potential to argue that one can do it legally under clause 26.

Mr PRINCE: That is right. I am sorry if I misled or confused the member for Nollamara, but the matter is confusing.

Mr Marlborough: I know the difficulty you have. The Bill was put together by another minister and you are trying to catch up. You should have brought it in just after Christmas and you would have caught up, saved yourself some embarrassment and saved us a bit of time.

Mr PRINCE: Where has the member for Peel been for the past two weeks - out canvassing?

Mr McGOWAN: I have a few questions on clause 5, which sets out a range of penalties for an infringement in relation to listening devices. Who would pursue those charges? Would it be a matter for the police or the Director of Public Prosecutions?

Mr Prince: It is a matter for complaint and it is for the police to enforce it.

Mr McGOWAN: Would it be brought in the Court of Petty Sessions?

Mr Prince: Yes. We are talking about a prosecution for an offence. Overwhelmingly, most of those are brought by the police upon complaint from a private individual. However, a private citizen can always bring a private prosecution.

Mr McGOWAN: In relation to a civil liability, someone might record something, and under the legislation it is subsequently determined that it might not be in the public interest. It does not come under the exemptions contained within -

Mr Prince: In other words, it is something that they should not have done.

Mr McGOWAN: It is something that they should not have done under the legislation.

Mr Prince: In which case one could probably bring a civil suit for damage. One would have to prove that there was damage as a result.

Mr McGOWAN: Is the minister saying that it not only brings criminal liability but also has the potential to bring civil liability?

Mr Prince: I would have thought so, if trespass or damage follows.

Mr McGOWAN: I am not sure about trespass. I will give the minister a scenario: Let us say that I am wandering along with my dictaphone.

Mr Marlborough: In your ear?

Mr McGOWAN: In my ear, yes, and the dictaphone is not working. Let us say that I am wandering along past the minister's office and he is in there plotting with the Minister for Fair Trading about who will knock off the Deputy Leader of the Liberal Party. The ministers are discussing the scenario in hushed tones, naturally thinking that no-one is listening. I wander past with my dictaphone, wondering why it will not work. Suddenly, I hear the ministers plotting, and my dictaphone suddenly starts to work and I record the conversation which I subsequently reveal to *The West Australian*, naturally at the urging of the Deputy Leader of the Opposition.

Mr Prince: I am sorry, I do not accept that the member would do that. The member for Peel would do that, but I do not accept that the member for Rockingham would do it.

Mr McGOWAN: Wait. Subsequently, the Deputy Leader of the Opposition urges me to reveal the conversation to *The West Australian*. The newspaper runs that conversation, which might infringe the legislation, and the minister subsequently misses out on becoming the Deputy Leader of the Liberal Party and loses a substantial sum of money and the undoubted accoutrements that go with the position, and he may even lose his preselection - he will probably do that anyway. Is the minister saying that on the basis of that he could bring a civil action to sue me for his resultant loss of income?

Mr PRINCE: That is highly unlikely. One must find a tort - a civil wrong. The example given does not create a civil wrong. That is why I mentioned trespass. If someone puts a listening device in the member's property and that is unlawfully done, there is a trespass to property. That gives rise to a civil action, not just a prosecution for a criminal offence. We must find a tort somewhere - possibly in defamation, I do not know. I think that it is highly unlikely.

Mr McGowan: In the minister's own words?

Mr PRINCE: The member is talking about a civil claim, not a prosecution.

Mr McGOWAN: I am not talking about the prosecution which might be brought under clause 5(1).

Mr Prince: No, the member is talking about a civil action for damages.

Mr McGOWAN: I am talking about a civil action on the basis of someone infringing the Bill and someone suffering a loss as a result.

Mr PRINCE: The Bill does not create a right under civil law for an offence. An offence is created if someone breaches the provisions. There is no civil wrong created under the legislation. There could conceivably be a civil wrong, but it would depend on the circumstances of the case, and trespass is the only one that I can think of.

Mr McGOWAN: In effect, the victim of an infringement of the Bill has no recourse against the perpetrator of a wrong under the Bill.

Mr Prince: Yes, he does.

Mr McGOWAN: What is the recourse?

Mr PRINCE: Complaint to prosecution by the police or private prosecution if he wishes. Somebody actually had a go at Channel Nine in an unreported Supreme Court decision in Sydney in 1988. I am sure that the member knows that case better than I do. There is, of course, the power under our criminal law for restitution and so forth to be ordered, fines to be paid

to the victim and so on. There is also criminal injuries compensation. The person can be compensated in some form or other; it will depend on the circumstances of the case.

Mr McGOWAN: There is not much compensation. Fines are very rarely paid to the affected individual. Some provision is allowed under the Sentencing Act for that.

Mr PRINCE: This may be an entirely appropriate place for that to happen, particularly if a relatively wealthy individual organisation has breached the law; it may be that the fine will be a relatively substantial sum of money. The court could say that this will be paid to the innocent party who has been wronged. I do not think anything is wrong with that.

Mr McGOWAN: In that very plausible example that I mentioned a moment ago, it could happen.

Mr PRINCE: No, not at all.

Mr McGOWAN: Is the minister saying that he may receive some money from *The West Australian* if it was fined for printing such a thing?

Mr PRINCE: I think it unlikely.

Mr McGOWAN: Let us say I make that recording and, at the urging of the Deputy Leader of the Opposition, I pass that on to the media. Under this provision, I am obviously a guilty party for having made that recording and therefore infringing the provisions of this Act. What about the media being a party to the offence by publishing it? Can Channel Nine, *The West Australian*, the *Sunday Times* or whoever takes this up be prosecuted? Could the Deputy Leader of the Opposition also be prosecuted under this provision?

Mr PRINCE: They need a court order to publish. It could possibly come under public interest, and it may be necessary to get a court order to publish.

Mr Ripper: It certainly is a matter of public interest.

Mr PRINCE: It is very unlikely. Is the member able to think of something that is more likely to happen? I am blowed if I can think of one, other than trespass.

Mr McGOWAN: Let us get into the realms of something more possible: The case of Bill Skate in New Guinea and the video recording that was made of him; or even something closer to home, such as the example suggested by the member for Nollamara about an employee recording the comments of an employer in relation to something that might happen. The employee might pass that on and come to me as their local member of Parliament asking what he should do. The best way of getting this thing sorted out is to take it to the media.

Mr Prince: Bad advice; it should be brought in here and privilege be used, as the member for Peel does.

Mr McGOWAN: Let us look at that situation. I am then a party to it, and Channel Nine or *The West Australian* is a party to it. Is the minister saying that not only the person who made the recording, but also the media outlet and anyone who advised that person could be prosecuted?

Mr PRINCE: It is difficult. If the public interest covers that third party recording, there is no problem. Otherwise clause 9 must be looked at which deals with publication or communication. The possibilities are outlined in clause 9(2)(a)(v) or (vi).

Mr McGOWAN: Is the minister saying that possibilities exist for other people to be prosecuted?

Mr PRINCE: No, I refer to the possibility for others not to be prosecuted. It depends on whether it is covered by public interest.

Mr McGOWAN: Under the new Bill, is the minister saying that people must obtain a court order before they can publish something which they obtained via one of these devices?

Mr PRINCE: If they do not have the consent of the two parties, they get a court order, and if they do, they are in the clear.

Mr McGOWAN: Let us say it is an ordinary individual who is not particularly aware of the law - not a media outlet with expensive lawyers. He makes the assessment that nothing is wrong with this and he releases the information to some other party. Is it not a bit draconian to be charging someone who may have done something in good faith and then subsequently charging other people?

Mr PRINCE: No, because it is not done in good faith and they are ignoring the law. Does the member think he has chewed up enough time now?

Mr McGOWAN: No; come on! The minister has a job to do and I have a job to do. The minister has not done his very well; he has not consulted. He is being a little testy.

Mr PRINCE: The member had to pop out and telephone Bill Groves to find out what to ask next.

Mr McGOWAN: The former minister said that as well.

Mr PRINCE: It is surprising that we both came to the same conclusion.

Mr McGOWAN: I know Bill Groves but I have not spoken to him about this. Is the minister saying that a range of people could be conceivably prosecuted on the basis of one act?

Mr PRINCE: It will depend entirely on the circumstances of any case. The employment example raised by the member for Nollamara is quite conceivable and one that undoubtedly occurs from time to time. I do not have any problem with reasoning that one through. We are now getting into the area where the hypothetical is so hypothetical that in a sense it is becoming farcical. It is a bit difficult to try to work it through properly to come up with something sensible. We are getting beyond the stage of "what if".

Mr KOBELKE: I would like the minister to consider the penalties contained in clause 5. I do not ask the minister to consider them from the point of view of individuals, because I think we will see this law being applied to cases when some form of contest or problems exist between two people and one person feels that he wants to use a listening device, and he does so in a way which is illegal. If he persists in that, or if it is a particularly clear contravention of the law, then quite rightly he will be found guilty and this penalty will apply, or whichever part of it is applied by the court or magistrate at that time. That could mean a penalty of $5 000 or imprisonment for 12 months for an individual. This law also will cover corporations, with bodies corporate being liable to a maximum penalty of $50 000. In some cases $50 000 would be inadequate for a company that is involved in some form of private detective agency work. If it is a big company, that may not be a large amount if it gets caught only very occasionally. That is even more the case in the area of industrial espionage in which people may turn a blind eye to the law because the amounts of money involved could run into hundreds of thousands of dollars or even millions of dollars. They could say, "The most we can get fined is $50 000, and perhaps one of our operatives may have to face a term of imprisonment if we are convicted". That does not seem to be adequate.

I appreciate that we have a difficulty with penalties. While I do not understand sentencing and penalties in our law, and I do not profess to, we do not appear to differentiate between what is the means of the person who may be convicted. In a case such as this, it is not only a matter of means but also of one organisation having far more to gain by disregarding or breaching the law. As it may be a key tool in plying its trade, it may not comply with the law as it is expected to and might carry on its activities outside the law knowing the penalty is minor.

I do not know whether we can address that matter in this Bill, but we should, simply because of the whole range of penalties in our legal structure. We must come up with a formula that provides penalties that are commensurate with the gain of the parties. There is always the potential for the confiscation of the proceeds of the crime. However, that may be too remote in a case such as this, because there may not be a clear return to the people involved. They may have cleaned up in a case 12 months previously and sold intellectual property illegally for $100 000. They may have their gain but the case for which they were convicted may have been minor and they may have obtained no clear gain. Nonetheless, that company may have been involved in some form of industrial espionage and be totally flouting the laws that we are putting in place. In that case a penalty of $50 000 would be inadequate. I draw that to the minister's attention. I do not know how we can address it. It is an issue well beyond the legislation before the Committee at the moment.

Mr PRINCE: The member is correct; it does go beyond this legislation. It might be instructive to look at the Trade Practices Act, which has enormous penalties against corporations, particularly those engaged in price fixing. Some companies have been fined hundreds of thousands of dollars in recent times.

The member makes a fair point. However, the private investigator might be a one-person enterprise trading as a proprietary company, in which case a $50 000 fine is likely to be horrendous. On the other hand, it might be a much larger company, to whom $50 000 does not mean much.

If one can prove the theft of the intellectual property, it is stealing, which is covered by the Criminal Code. The penalties in the code are much higher and one can wind up with more than one charge arising out of breaches of different laws, and the cumulative effect can be much higher.

I accept the difficulty with dealing with corporations that behave unlawfully. Perhaps we should give some more consideration to it in a broader sense. It might be a ripe subject for a select committee in the future.

Clause put and passed.

Clause 6: Regulation of use, installation and maintenance of optical surveillance devices -

Mrs ROBERTS: In dealing with clause 3 I discussed what would constitute an optical surveillance device and I referred to binoculars and telescopes of various kinds. Obviously a camera would also fall under this definition. Many cameras have significant telescopic powers.

Mr Prince: You can see them at the football or cricket.

Mrs ROBERTS: I refer the minister to a scenario involving a tall building or a high-rise block of units. With one of those cameras or any one of a number of other devices, one could photograph people in a neighbouring backyard. Should someone sunbathing in the nude in their backyard 200 metres from a person in the high-rise unit expect that they could be photographed?

Mr PRINCE: It comes back to the definition of private activity and whether they could be reasonably expected to be observed. If a person is on the balcony of a block of flats and there is another block on the other side of the road, and a person can be seen on a balcony opposite and vice versa, one could probably argue that an activity on the balcony is not a private activity.

Mrs Roberts: What about the scenario in which the person being photographed is in his or her backyard?

Mr PRINCE: I refer the member to the definition of a "private activity". It does not include an activity carried on in circumstances in which the parties ought reasonably to expect the activity may be observed. It is a reasonable expectation. If the member's backyard is the only backyard in an area that has many high-rise developments and she can be clearly seen -

Mrs Roberts: St David's nursing home at Mt Lawley is very tall. From the top of that building, with a decent lens on a camera, a person could probably focus on people in any one of at least 50 different backyards.

Mr PRINCE: It will depend on each factual circumstance. People in the classic small house surrounded by high-rise developments cannot reasonably expect to carry out any private activity in their backyard because they are clearly overlooked by everyone. If it is a row of single level houses, then of course they should be able to carry out a private activity without being overlooked. The geography and topography of the area is the dictator.

Mrs Roberts: What about someone doing a private activity in their backyard and someone in the back lane sticks a camera over the fence?

Mr PRINCE: That is a private activity and sticking a camera over the fence is prohibited.

Mrs Roberts: They may not stick it over the fence; they may stand on a rubbish bin in the back lane several metres away.

Mr PRINCE: In my view that is prohibited. Given the topography and geography, it might be different.

Progress reported.

House adjourned at 5.58 pm

QUESTIONS ON NOTICE

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

PEARL FARMING, DAMPIER ARCHIPELAGO

106. Mr RIEBELING to the Minister for Fisheries:

(1) Is the Minister aware that Dampier Pearls is now owned by Cossack Pearls?

(2) If the Minister is aware then what assurances can he give that the Archipelago won't end up like the Monte Bello with just one user and no area left for safe public access?

(3) If pearl leases are safe to access by recreational fishers then under duty of care, who is responsible for the safety of boaters crossing these leases?

(4) As Cossack Pearls have been operating in Flying Foam Passage for a considerable time now (and suffered disease problems) have any studies been done to monitor any effect that pearl farming may have had on the area, as was requested previously by local residents?

(5) Is the museum about to study the Dampier Archipelago marine environment because as stated in a radio interview it is the most valuable diverse ecological system on the Western Australian coast?

(6) Will the results of this study be evaluated before any more projects are committed to, and the Government has to buy back more businesses it should not have allowed to start?

(7) Who is responsible for keeping environmental checks on pearl leases?

(8) Is the dumping of plastic in the ocean illegal?

(9) Has Dampier Pearls been prosecuted for dumping of plastic in the ocean?

(10) If not, why not?

(11) As Rec-Fish-West was set up to lobby Government in the interest of recreational fishermen, why is pressure being applied by the Minister's Office and the Fisheries Department to respond against the wishes of recreational users in the Dampier Archipelago and the advice of the Pilbara RRFAC?

(12) As Enderby Island is a class A reserve, why hasn't Dampier Pearls been prosecuted for the rubbish (floats, ties, rope etc) that have been washed up from its operation (evidenced by their having to already carry out a massive clean up of the area)?

Mr HOUSE replied:

(1)-(2) No. Fisheries WA has not received an application for transfer of the pearling licence and associated leases held by Dampier Pearling Co Pty Ltd to Cossack Pearls Pty Ltd. As at 25 August 1998, company searches indicate that Cossack Pearls Pty Ltd has no equity interest in Dampier Pearling Co Pty Ltd.

(3) Pearling and aquaculture operators in the Dampier Archipelago have been requested to mark their sites in accordance with requirements agreed to between the Department of Transport and Fisheries WA. This will become a legal requirement when the appropriate legislation is introduced. Boat operators are responsible for safety of the vessels under their control.

(4) I am not aware that Cossack Pearls has experienced any disease problem. My understanding is that a major part of the mortalities suffered by Cossack Pearls were associated with natural environmental events. All lease applications are referred to the Department of Environmental Protection for environmental assessment.

(5) I understand that the WA Museum will be undertaking a study of the Dampier Archipelago marine environment and it is my understanding that this study will be funded by private industry.

(6) The new consultation and assessment process set down in Ministerial Policy Guideline No.8 "Assessment of applications for authorisations for Aquaculture and Pearling in coastal waters of Western Australia" provides an opportunity for all interests to be taken into account in the consideration of lease and licence applications for pearling and aquaculture.

(7) Fisheries WA in conjunction with the Department of Environmental Protection.

(8) Under the Litter Act (1979) it is illegal to dump rubbish in the ocean.

(9),(10),(12)
I am not aware of any action being taken against Dampier Pearls in this regard. If anybody or company is found to be deliberately dumping rubbish in the ocean appropriate action will be initiated.

(11) RECFISHWEST represents the interests of the recreational fishing sector. It does not represent the views of Government or Fisheries WA.

SECURITY PATROLS, FUNDING

304. Mr McGOWAN to the Minister for Local Government:

(1) In relation to the $4 million that the Premier has indicated will be committed to supporting security patrols provided by local councils over the next four years, will this money be available to municipalities to establish security patrols?

(2) Will this money be available to municipalities to fund or partially fund security patrols which are already operating on behalf of the municipality?

(3) Are the grants intended to be one payment or will the municipality be awarded a fixed amount each year?

(4) What safe guards in terms of funding guidelines will be put in place in order to ensure that the security patrols fulfil a "patrol and report suspicious activity to police" role rather than the role of police officers?

(5) What provision has been made, or will be made, in terms of providing the necessary back up support for these security patrols in terms of extra police officers who can act on the information provided to them by the security patrols?

Mr OMODEI replied:

(1)-(2) Up to $10,000 is available to each local government for community security audits, plans and strategies in the current financial year. These funds will also be available to local governments that have already completed audits and plans. In the remaining three years of the program the Government will partly fund local government security patrols that are operating during that time.

(3) It is likely that a separate amount will be awarded each year.

(4) The WA Police Service has developed guidelines for the establishment of local government security patrols. These set out the duties of patrol officers including a duty to immediately report any suspicious incidents and to comply with State and local laws. Local governments that provide security patrols will be expected to ensure compliance.

(5) This question should be directed to the Minister for Police.

FREMANTLE WATERFRONT REDEVELOPMENT

National and International Trips

561. Mr RIPPER to the Premier:

(1) What was the cost of the overseas tour undertaken by the Chief Executive of the Government Property Office and the Project Manager for the Fremantle Waterfront redevelopment?

(2) Has a report of their findings been prepared?

(3) If yes, where can the public access such a report?

(4) What other national and international visits have taken place or are being planned in relation to this development?

(5) Who is participating in these visits?

(6) Where are they visiting?

(7) What is the purpose of these visits?

(8) What is the estimated cost?

(9) Who appointed the Project Manager?

(10) Why was he selected for this particular role?

(11) What is he being paid for his work on the project?

Mr COURT replied:

(1) $30 000.

(2) Yes.

(3) The report is not a public document. It is being used in the development of the Master Plan for the Fremantle Waterfront project, and the brief for the Maritime Museum.

(4) Visits made to Melbourne, Sydney, Auckland and Wellington.

(5) Participants were Chief Executive, Government Property Office; Development Director for the Fremantle Waterfront project; the Architect/Urban Planner for the Fremantle Waterfront and Maritime Museum; the WA Museum Re-development Manager; and the Fremantle Waterfront Project Manager.

(6) Melbourne, Sydney, Auckland and Wellington.

(7) To inspect and discuss with relevant museum staff, architects and project managers the development of the National Maritime Museums in Sydney and Auckland respectively, the Museum of New Zealand (Te Papa) in Wellington, the Museum of Victoria in Melbourne and the Eureka Museum in Ballarat. Discussions were also held with a number of officials relating to the Waterfront 2000 development in Auckland and the Lambton Harbour project in Wellington.

(8) $20 000 - $25 000.

(9) The Chief Executive, Government Property Office.

(10) He was considered to be eminently suitable for this particular role. He was Chairman of the interim Board of the WA Maritime Museum and has over 20 years' experience in waterfront and Fremantle property development. He is also a past President of the Fremantle Chamber of Commerce and a long term resident of Fremantle.

(11) $125.00 an hour, with a limit of $100 000 per annum.

MARITIME MUSEUM, GERALDTON

595. Mr PENDAL to the Premier:

I refer to the Government's commitment to the new Maritime Museum in Geraldton and ask -

(a) what is the total cost of the project;

(b) is it correct that a total of $6.5 million has so far been allocated;

(c) is it correct that there is a $1.3 million shortfall in the project;

(d) if so, what has caused the shortfall; and

(e) will the Government give a commitment to make up any shortfall?

Mr COURT replied:

(a) Total cost of the project is between $7.29 and $7.81 million dependent on level of project exhibition fit out.

(b) The allocation of $6.61 million will meet the capital costs.

(c) Exhibition fit out is estimated at between $780,000 and $1.3 million dependent upon level of fit out.

(d) As the final cost of the exhibition fit out is yet to be determined, that cost is yet to be allocated against the project. This is not a cost shortfall. Rather, the full cost of the project will be allocated when negotiations with the WA Museum, Mid-West Development Commission and community organisations involved with the Geraldton Museum Redevelopment have been completed.

(e) The Government does not believe that a shortfall exists. As indicated, the full capital cost of the building has been made and the cost of exhibition fit out will be provided when the cost of that program is determined.

CARAVAN PARKS AND CAMPING GROUNDS ACT

638. Mr RIEBELING to the Minister for Local Government:

I refer to the changes made to the Caravan Parks and Camping Grounds Act 1995 -

(a) who sat on the Board that made these changes;

(b) what are their affiliations; and

(c) how many members of the Campers and Caravanners Club were on this Board?

Mr OMODEI replied:

(a)-(c) No changes have been made to the Caravan Parks and Camping Grounds Act 1995 or Regulations since they came into operation on 1 July 1997. However, the Caravan Parks and Camping Grounds Advisory Committee recently made recommendations for amendments to the Act and Regulations. I have accepted those recommendations and amendments are currently being prepared. The members of the Committee and the organisations they represent are:

Mr Steve Cole (Chair)	Department of Local Government
Mr Darryl Schorer	Department of Local Government
Mr David Holland	Caravan Industry Association
Mr Bill Kell	Caravan Industry Association
Mr Owen Ashby	Health Department
Cr Beryl Morgan	Western Australian Municipal Association
Mr Ross Wells	Western Australian Municipal Association
Mr Don Watson	WA Association of Caravan Clubs Inc.
Ms Sarah Arthur	Ministry of Planning
Ms Lyn Miller	Caravan park tenant

MINISTRY OF PREMIER AND CABINET

Employment of Mr Brendan Cooper

649. Mr RIEBELING to the Premier:

(1) Did Mr Brendan Cooper take up a position in the Office of the Premier following the 1996 State election?

(2) What are Mr Cooper's duties?

(3) What is Mr Cooper's remuneration?

(4) During Mr Cooper's previous employment with the Federal Government's Members' Secretariat, did he visit or attend any offices of the Premier or his Ministers?

(5) If so, when and why?

(6) What facilities, office accommodation, desk space or other resources were provided to Mr Cooper during these visits?

(7) Has Mr Cooper travelled by air interstate or intrastate since his appointment to the Office of the Premier?

(8) If yes to (7) -

(a) for what purposes has he travelled;

(b) where has he travelled; and

(c) what was the cost of each trip?

Mr COURT replied:

(1)-(3) Mr Brendan Cooper was employed as a Principal Policy Officer in the Premier’s Office from 6 October 1997 to 19 May 1998. He received a salary of $55,425 per annum and was allocated a government vehicle for commuting purposes.

(4)-(6) If Mr Cooper visited the Premier’s Office or any other Minister’s Office prior to his employment with the Premier’s Office, he did so outside of any administrative arrangements being provided by the Ministry of the Premier and Cabinet, or in his own time.

(7)-(8) Mr Cooper accompanied the Premier for a regional Cabinet meeting to Broome and Kununurra on Sunday 26 October, returning on Monday 27 October 1997. He went on a charter flight and the costs were $135 for accommodation plus meals.

QUESTIONS WITHOUT NOTICE

ONE NATION PREFERENCES

123. Dr GALLOP to the Premier and leader of the Parliamentary Liberal Party:

In view of the fact that some Liberal candidates are engaging in discussions about preferences with One Nation, will the Premier now show some leadership and publicly commit to putting One Nation last in all Western Australian seats in the forthcoming federal election?

Mr COURT replied:

The position I have taken has not changed. Nominations have closed, and I understand that at lunchtime tomorrow, we will be told who are the candidates. The Liberal Party state executive will meet tomorrow night and will make a decision -

Mr Ripper: What advice will you give it?

Mr COURT: I have said consistently that it is very unlikely that One Nation will get support from the Liberal Party.

Mr Ripper: What about like minor parties?

Mr COURT: That is the position, and I cannot foresee anything different from that. With regard to other parties, we will have similar dilemmas to the Labor Party in a number of seats.

Dr Gallop: We have solved ours.

Mr COURT: That is not correct. The issue of preferences in this election is probably politically the most interesting that I have experienced in all of the federal elections with which I have been associated. I do not see any reason that One Nation will not be put last.

AUSTRALIND DISABILITY FACILITIES

124. Mr BRADSHAW to the minister representing the Minister for Transport:

(1) Does Westrail have any plans to provide facilities to enable people with disabilities to board the *Australind* train at stations between Perth and Bunbury?

(2) If yes, when it is expected that those changes will be put in place?

Mr OMODEI replied:

I am also the Minister for Disability Services, and I am quite proud of the system that we have put in place in the metropolitan area, whereby all of our Central Area Transport System buses are disabled-accessible, and whereby, in our plans to replace buses across the State over the next 20 years, all of the new buses will be disabled-accessible. The Minister for Transport has provided the following response -

(1)-(2) Westrail has engaged a consultant to advise on the provision of facilities required to provide access to the *Australind* train service by people with disabilities. A decision will be made on the provision of such facilities when the consultant's recommendations have been received and considered.

INTERNATIONAL INVESTIGATIONS AGENCY

125. Ms MacTIERNAN to the Premier:

I refer to the $52 750 claimed by International Investigations Agency and disputed by Main Roads Western Australia and ask -

(1) For what services or expenses was this sum claimed?

(2) For what reasons did Main Roads reject the claim?

(3) When was the claim made, and when was it rejected?

(4) Are the terms of the contract subject to a formal agreement other than the letters of offer and acceptance exchanged on 8 and 9 January this year?

Mr COURT replied:

I thank the member for some notice of this question..

(1) Legal and other costs with regard to the police charges against Mr Kuriakose and various other services not clearly itemised in the claim.

(2) Main Roads believes it has paid all outstanding amounts for services provided.

(3) Received by Main Roads on 31 August 1998. The claim was rejected on 7 September 1998.

(4) Yes. A formal contract formed part of the letters of offer and acceptance. This formal document was prepared by Main Roads in conjunction with the Crown Solicitor's Office.

Ms MacTiernan: When was it signed?

Mr COURT: I do not know, but I can find out.

UNEMPLOYMENT FIGURES

126. Mr JOHNSON to the Minister for Employment and Training:

One of the major areas of concern among my constituents is the level of unemployment, because that affects so many people in the community. Can the minister inform the House about the latest unemployment figures?

Mr KIERATH replied:

I thank the member for some notice of this question. I am pleased to inform the House that the latest figures released today show that Western Australia has maintained its position as the State with the lowest unemployment level of any State in the country. This is a long term continuing trend, and it is most important for our young people.

The overall unemployment figure fell from 7.4 per cent to 7 per cent - a beautiful set of numbers - and the unemployment figure for young people fell another 2.2 per cent to 20 per cent, compared with the Australian average of 27.6 per cent. Western Australia is doing 7.6 per cent better than the Australian average. It is creaming the country in youth unemployment, and it is leading the country in overall unemployment.

Several members interjected.

Mr KIERATH: A member opposite yelled out a ridiculous comment. I have a graph which shows the long-term trend for employment growth in Western Australia. Members will see that the long-term trend is an increase. In the month of August, nearly 6 000 jobs were created in Western Australia. We went to the last election promising more jobs and better management; and on the job front, this Government is delivering. I remind members opposite that one of the key reasons that we keep delivering such good performance on the job front is the labour relations reforms that we have implemented in this State. Those waves of labour reforms have been a key factor in achieving this beautiful set of unemployment figures.

For the benefit of members opposite, I also have a graph that compares their past performance with our performance. I have highlighted the State of Western Australia in comparison with the other States of Australia. The two lines on this graph were parallel when the Labor Party was in power. The area of the graph that is marked in green indicates where the two lines have diverged, which has been since the election of the coalition, and shows clearly that Western Australia has done better than any other State in this country. These graphs are for teenagers who are looking for work.

This State Government has an outstanding performance in job creation. We are helping people right across the spectrum, but we are particularly helping the young people of this State to find work.

Point of Order

Mrs ROBERTS: Mr Speaker -

Several members interjected.

The SPEAKER: Order!

Mr Carpenter interjected.

The SPEAKER: Order! I formally call the member for Willagee to order for the first time. I called order, and he totally ignored me.

Mrs ROBERTS: Will the minister table those graphs?

Mr KIERATH: I am more than happy to do that!

[See paper No 160.]

Questions without Notice Resumed

MAIN ROADS WESTERN AUSTRALIA INVESTIGATION

127. Ms MacTIERNAN to the Premier:

(1) Now that the Premier has been dragged screaming to acknowledge that the Main Roads' private eye investigation is riddled with breaches of policy and standards, why has he decided to place the probe into the scandal into the hands of an officer of his department rather than appoint an independent investigator, such as the Commission for Public Sector Standards, the Auditor General or the State Supply Commission?

(2) Is it not the case that the Premier is keeping this inquiry in-house because he cannot control a report prepared by an independent agency?

Mr COURT replied:

(1)-(2) I do not want to disappoint the member, but I have not been dragged screaming into anything. The Minister for Transport earlier this week requested that the Ministry of the Premier and Cabinet carry out an investigation into the processes of the matter. The matter is being handled by Mr Mal Wauchope, the head of the Ministry of the Premier and Cabinet, who is one of our most professional public servants. Also, assistance will be provided by senior people from the Supply Commission.

Ms MacTiernan: Who will control them at the end of day?

Mr COURT: A senior public servant of the calibre of Mal Wauchope is capable of carrying out such an investigation.

ASIAN ECONOMIC DOWNTURN

128. Mr BLOFFWITCH to the Treasurer:

Much has been said about the possible effects of the Asian economic downturn on Western Australia. Can the Treasurer inform the House how the problems of our northern neighbours have impacted upon our economy, particularly in the crucial area of business investment?

Mr COURT replied:

The Minister for Employment and Training did the warm up on the unemployment figures. We now have figures from the Australian Bureau of Statistics on the Western Australian domestic economy, which grew by a record 9.6 per cent in 1997-98. The "domestic economy" is everything net of exports. The figures indicate that our projection of a 6.5 per cent growth rate in the last financial year - which was ridiculed by some members opposite - will probably be exceeded. Those figures will be made available shortly. That result far outstripped the growth in any other state economy.

Business investment grew by 29.5 per cent in 1997-98, which was also the strongest growth on record, and the strongest growth rate of any State. Business investment in the June quarter for 1998 was 30 per cent higher than the same quarter for the preceding year. Business investment in Western Australia was valued at $9.7b in 1997-98, which was $2.2b higher than business investment in 1996-97. New South Wales was the only State in which the real dollar increase in investment was higher than Western Australia's; however, this was largely as a result of its Olympics-related projects. Business investment in Queensland and Victoria fell over the year.

Encouragingly, private consumption expenditure, which accounts for over 50 per cent of the domestic economy, grew by 4.1 per cent - up 1.4 per cent on the preceding year. As mentioned by the Minister for Employment and Training, employment in the three months to August 1998 was 3.4 per cent higher than that in the three months to August 1997. This equates to the creation of 29 500 new jobs in the past year, more than half of which were full-time jobs.

The State has been able to ride out the first year of the Asian financial difficulties extremely well. Our economy has far outperformed those of the other States, which is something of which we can all be proud.

Mr Brown: It is a different economy.

Mr COURT: Yes, it is. This is Western Australia's economy. It is also a different Government from that which previously ran this place!

Undoubtedly, the difficulties in Asia will have a further effect on the Western Australian economy, and some of our major customers have either negative or very low growth figures. Fortunately, we have still been able to perform strongly in trade with those countries which have had negative and low growth figures.

Mr Thomas: Are you going to make a statement on this matter as the basis on which the Budget was constructed no longer stands?

Mr COURT: That is right. Our Budget predicted 6.5 percent growth for the past year, and it looks as though we will come in ahead of that estimate.

The coalition's taxation reform package will be a major incentive for export industries. Our export industries will have a $4.5b incentive, which will be another major boost for the Western Australian economy. I must ask the question: Why have members opposite been so silent on what their taxation package will do for the State?

Several members interjected.

Mr Grill: What is your prognosis for employment growth in this State over the next two years?

Mr COURT: I do not have the budget papers in front of me, but the projection was for our unemployment rates to move down slowly to about 6.5 per cent.

Mr Grill: Do you personally agree with that?

Mr COURT: Well, it is a forecast from Treasury, which have tended to be on the conservative side.

Mr Kobelke: Not on employment growth. The forecasts were well over for employment in the last three years.

Mr COURT: The member would not want a debate on employment growth in this State.

Members opposite have been silent on what the Labor's tax package will do for Western Australia. I have a Treasury analysis of the ALP tax package from which I will quote selectively; I will quote the reference to its impact on the Western Australian economy. The analysis reads -

> The ALP's document contains no estimates of the impact of the package on economic growth, exports, costs or prices. It is therefore difficult to make a detailed assessment of the impact on the Western Australian economy.

Dr Gallop: Is this based on information you provided?

Mr COURT: It is the Labor package.

Dr Gallop: Which you selectively presented.

Mr COURT: If it is information selectively presented, it is that in the examined document of members opposite. The analysis continues -

> Nonetheless, based on the information presented, the ALP's package appears to offer no particular benefits for the Western Australian economy.

Ms MacTiernan: Will you table that, Premier?

Mr COURT: I was about to ask members opposite whether they want me to table it. I willingly table it.

[See paper No 161.]

Mr COURT: In summary, the Western Australian economy has been performing remarkably well. We should all be proud of the fact, whatever side of the House we are on, that we have outperformed the other States. We have managed to come through the first year of the Asian financial difficulties in good shape.

People now have a choice at the federal level whether to support a coalition package, which will further help our export industries, or a package from the Labor Party which does nothing for the Western Australian economy.

MAIN ROADS WESTERN AUSTRALIA, BREACHES OF SUPPLY POLICY

129. Ms MacTIERNAN to the Minister for Works:

(1) Is the minister aware that under section 7 of the State Supply Commission Act he has power to direct the State Supply Commission to order an investigation into the Main Roads' failure to comply with supply policy?

(2) Given the overwhelming evidence of breaches by Main Roads of Supply Commission policy in awarding and administering the contract with International Investigations Agency, why is the minister not using that power to ensure that the matter is independently and properly investigated?

Mr BOARD replied:

(1)-(2) I thank the member for her question. I am well aware that I have the power to direct the commission.

Ms MacTiernan: You said the opposite yesterday.

Mr BOARD: No. I indicated clearly yesterday that I had no intention of directing the commission. I still do not, because I do not particularly need to.

The reason is that the Minister for Transport has already indicated in the other place that he was sufficiently concerned to ask the Premier to launch an investigation into the issue.

Several members interjected.

Mr BOARD: Do opposition members have faith in Mr Wauchope? I do. He is a totally creditable public servant and I can assure members of his independence.

Ms MacTiernan: What is the point of having that power if you are not prepared to use it in a case in which there are flagrant breaches? What is the point of the power?

Mr BOARD: Under the Act I am able also to seek advice from the State Supply Commission. This morning, I wrote to the chairman of the State Supply Commission seeking his support in relation to the Premier's inquiry. Also, I have asked the commission to allocate a senior officer to the investigation. I make a commitment to the House that if in the course of that investigation there are any clear and substantial breaches of State Supply Commission policy, I will expect the State Supply Commission to follow through.

MAIN ROADS WESTERN AUSTRALIA, BREACHES OF SUPPLY POLICY

130. Ms MacTIERNAN to the Minister for Works:

As a supplementary question, in the letter to the State Supply Commission, did the minister instruct it or suggest to it that it should not have its own inquiry but should simply provide some assistance to the Premier's inquiry?

Mr BOARD replied:

As the Minister for Transport has already sought the assistance of the Ministry of the Premier and Cabinet, an independent investigation will take place, and I am prepared to put as many resources as necessary from the State Supply Commission into that inquiry. I suspect that it will allocate a full-time senior officer to that investigation. If opposition members will listen to me, I will make it clear again that if there are clear and substantial breaches of State Supply Commission policy, we will expect the commission to follow through.

HOME BURGLARIES

131. Dr CONSTABLE to the Minister for Police:

I refer to the minister's answer yesterday to question on notice 779 and ask -

(1) Is he aware that the statistics that he provided reveal that in the past four years the reported home burglary figures for Western Australia show an 81 per cent increase in the number of burglaries occurring while the residents are at home?

(2) Is he aware also that that 81 per cent increase occurred when the overall rate of increase in home burglaries was only 13 per cent?

(3) Given that the minister's own figures reveal that almost 14 000 burglaries now occur each year while residents are at home, what extra steps will he and the Government order to combat the crisis in home invasions in Western Australia?

Mr PRINCE replied:

(1)-(3) I thank the member for the question and, of course, rely on her for the analysis of the percentages. Of course the Government and I are aware of the significant increase in home burglaries in recent years and the increase in burglaries when people are at home that we know about.

Dr Constable: What are you going to do about it?

Mr PRINCE: Several things need to be done about it. Forgive me if I take just a little time. There are three areas in which we need to move to address crime: First, the causes, which largely relate to poor parenting at an early age; secondly, the environment in which crime is committed; and, thirdly, the detection and punishment of the offender. The three issues must be addressed at the same time. If one dealt with only one, one would not have a total overall effect.

Mr Grill: Where do you place drugs in that scenario?

Mr PRINCE: Drugs come into all three areas to some extent. I am not saying that there are fixed bounds between the three. We must deal with crime as a whole-of-life issue, both from the point of view of children, where it starts in many respects, the environment in which it is actually performed, and as criminal behaviour. We must be able to catch, apprehend and take offenders to the courts, get convictions and punish appropriately. It is all three. For the first time in the history of this State there is a subcommittee of the Cabinet which deals with -

Dr Constable: It is a talkfest. What are you going to do?

Mr PRINCE: Come off it - a talkfest! It has been in existence for two weeks. The member for Churchlands does not sit on the subcommittee; she does not know what is going on. She makes sensational, headline-grabbing statements, but she does not know the situation. That subcommittee has police, justice and local government representatives. Family and Children's Services and all other agencies can be called in. It has met frequently and it is moving on a series of fronts in respect of legislation that we intend to introduce to change the Bail Act, for example, and some of the punishments available under the Criminal Code to deal with burglary and other offences. It is moving also in respect of environmental factors that contribute to crime. The immobiliser scheme is but one example that comes immediately to mind. It is trying to deal with some of the causes of crime. Education and Family and Children's Services are to be involved.

Yesterday, the Minister for Family and Children's Services and I launched the first scheme in which two agencies will cooperate in respect of child abuse. Many people who resort to crime are victims of child abuse. For the first time, two agencies will cooperate - something that should have happened at least 15 years ago but did not. The member for Churchlands knows not what she is talking about. The Government is moving coherently across the full range of areas where it should act to deal with the problem.

LNG SALES TO KOREA

132. Mr OSBORNE to the Minister for Resources Development:

Given the economic problems being experienced by several Asian nations, including Korea, will the minister inform the House of the prospects for future liquefied natural gas sales to Korea following his visit to that country this week?

Mr BARNETT replied:

I thank the member for Bunbury for that question. As all members are aware, South Korea is one country that is affected by the Asian economic problems and is currently, in effect, under an administrative arrangement with the International Monetary Fund. The impact of the changes there has been dramatic. This year, the IMF forecast that South Korea would experience a growth rate of about minus 2 per cent. Most people in government and industry now expect it to be about minus 5 to minus 6 per cent. However, there is also the view that the South Korean economy has probably bottomed out and that positive growth will return next year. That, of course, has affected energy consumption and, therefore, the importation of liquefied natural gas. Korea is an important market; after Japan it is the second largest importer of LNG.

Last year, South Korea imported 11.4 tonnes of LNG. It was estimated that it would import 13m tonnes this year. The reality is that, this year, it will import only 10.7m tonnes. It is expected, however, that the figure of 13m tonnes will be realised in 2001 - in other words, two to three years of growth in LNG exports has been lost. However, thereafter there is an excellent prospect for Korea to become a significant market for Australian LNG. It was made very clear that South Korea regards Australia as a preferred supplier for the future. Perhaps that will not be realised until about 2004 or 2005.

Mr Marlborough: After your time.

Mr BARNETT: I am confident that we will be here, particularly with the Gorgon project. There is a good opportunity to see it realised, bearing in mind that the construction lead-up is three years. In spite of the economic downturn, Korea is continuing to expand its pipeline infrastructure. It currently has about 1 300 km of main trunkline transmission. By 2002 another 1 000 km will have been added to it. Indeed, Korea has deliberately and consciously decided to go down the gas route for environmental and other reasons.

Mr Grill: When will it be supplied from Siberia?

Mr BARNETT: I will come back to that. Korea has a strong commitment to natural gas. A nuclear program is unlikely to proceed to any great extent in countries such as Korea or Japan. In the period 2003-06 Japan and Korea will again import substantial amounts of LNG.

The pipeline from Korea was discussed at the conference at which I spoke. Proposals are being put forward. The view of Koreans in senior positions was that it was unlikely to eventuate before 2010, and there were certainly extreme political risks attached to it. Another view that was put to me was that even if a pipeline were ultimately built, Korea's policy would be 3:1 in favour of LNG over pipeline gas for security reasons.

WORKSAFE WA

133. Mr KOBELKE to the Minister for Labour Relations:

I refer to the finding by the Commissioner for Public Sector Standards that the six month policy implemented by WorkSafe in June last year in relation to safety complaints by unions was in breach of the Public Sector Management Act and Code of Ethics, as well as work WorkSafe's own code of conduct. Who directed WorkSafe to implement that policy?

Mrs EDWARDES replied:

The Commissioner for WorkSafe, Mr Bartholomaeus.

"YOU'RE WELCOME"

134. Mr McNEE to the Premier:

Is the Premier aware that a painting by Mike Brown entitled "You're Welcome" is on public display at the Art Gallery of Western Australia? Is the Premier aware that the painting contains the words ". . . the bloody Pope" and "Kill God"? I am sure the Premier agrees that it is not appropriate for a painting containing these words to be on display in the Art Gallery of Western Australia. As such, will the Premier take steps to have the painting removed from the display forthwith?

Mr COURT replied:

I thank the member for some notice of this question.

I say at the outset that I am far from an art expert. I have not seen the painting. However, I do not support the use of offensive language and having offensive language on public display. It is something that I do not condone. I am told that the exhibit has been on display in the Art Gallery since November last year as part of the regular program of display and changeovers. In total, eight complaints have been received by the Art Gallery with the majority forwarded subsequent to an article in the *Sunday Times*. I am advised that the Art Gallery board at its forthcoming meeting will consider the written complaints received.

I appreciate the concern expressed by the member and I hope, although I am not in the business of directing what art will be on show, that art with offensive language is not put on public display.

BARTHOLOMAEUS, MR NEIL

135. Mr KOBELKE to the Premier:

Yesterday the government leader in the Legislative Council said during an answer to a question on Neil Bartholomaeus -

> We do not want him any more than Opposition members do.

(1) Given that the government leader was answering a question on the Premier's behalf at the time, was his statement a reflection of the Premier's desire to get rid of Mr Bartholomaeus?

(2) Given that there is now clear evidence of a breach of discipline under section 80 of the Public Sector Management Act, will the Premier initiate the procedures required under part 5 of the Act.

Mr COURT replied:

(1) No. Whatever words the member just mentioned, they do not come from me. Mr Bartholomaeus was given a new contract by this Government. We consider him to be a very professional public servant and I believe he has been working since 1987.

(2) I said in the ministerial statement yesterday that I have written to the Public Sector Standards Commissioner who has given me additional information. When I get further legal advice on that I will decide -

Dr Gallop: More legal advice.

Mr COURT: Yes, I am going through the processes included in the legislation. If a decision is made under section 81 to commence a process of formally contacting Mr Bartholomaeus, I will contact him first and ensure the member knows second.

FIRE AND RESCUE SERVICE FUNDING

136. Mrs van de KLASHORST to the Minister for Emergency Services:

I refer to a media announcement stating that all households in Western Australia will be levied $75 to ensure an equitable funding scheme for the Fire and Rescue Service. As almost all of the Swan Hills electorate is serviced by volunteer bushfire fire brigades and has no fire and rescue service, why will households in that electorate be required to pay the $75?

Mr PRINCE replied:

The funding -

Dr GALLOP: You are becoming known as the minister for the nanny state, do you know that?

Mr PRINCE: Whoopee. If only we could lift the standard of debate in this place above slogan shouting, it really would help.

Dr Gallop: In your case, you were shifted out of Health because all you had were slogans and you delivered longer waiting lists.

Mr Johnson interjected.

Mr PRINCE: The permanent fire service has for 100 years been funded for three-quarters of its income by a levy on insurance premiums. Obviously those who are fully insured have paid a significant amount towards that. Those who are either underinsured or not insured have paid less than that which one would otherwise equitably say they should pay or paid none at all. Many of the large office buildings, particularly in the CBD, are insured overseas and consequently pay nothing. Yet they obviously require a good deal of capital to be invested in fire fighting equipment for large buildings and so on. If anybody wants to tour the fire station, I will be pleased to arrange it. We have been trying to shift the funding more equitably onto all property holders. The way to do that is to impose a levy based on the gross rental value, which is best collected by local authorities because they already have the database. That is how they collect their municipal rates. After a long time of negotiation with local authorities, it has been agreed with all, bar one at the moment. It is intended, subject to legislative change, that this change in which income is raised will come into play from 1 July next year. It is a more equitable system and it should result -

Ms MacTiernan: It is not a flat rate. Is it based on gross rental values?

Mr PRINCE: Yes. How much a person pays will depend on the value of the property. It will be very much like municipal rates. The result will be a more equitable spread of the funding for the permanent fire service. Part of the electorate of the member for Swan Hills is within a fire district, and part of it is not. The municipal rates are the method for collecting the levy. The way in which this is collected must follow the fire district boundary and not, for example, the postcode boundaries which may cross over each other. Those who are not covered by a permanent fire service should not pay this. I will ensure that only those who are within a permanent fire district boundary will pay. The result should be a much more equitable funding proposal for all people, providing for the proper level of funding to the fire service. It is almost a completely hypothecated exercise.

GOODS AND SERVICES TAX IMPACT ON HOMESWEST RENTS

137. Mr MARLBOROUGH to the Minister for Housing:

Now that the Minister for Housing has had plenty of time to analyse the coalition's goods and services tax package and its impact on his portfolio of housing, can the minister advise WA's 14 000 Homeswest tenants how much additional rent, in particular pensioners and others, will be required to be paid under a GST.

Dr HAMES replied:

I welcome back the member. I have had this piece of paper for two days waiting for him to ask that question. I assumed he was assisting his leader to get re-elected.

Several member interjected.

Dr HAMES: I am putting One Nation last - provided of course the party room makes that decision. I have already made that statement publicly.

Several members interjected.

Dr HAMES: I have advised that is the position I would like One Nation placed in my electorate.

I have looked at two components of the goods and services tax in relation to housing. One, of course, addresses the cost of housing, both for first and second home buyers. Although that is not part of the question, I will address that first. There has been some dispute between the coalition, the Master Builders Association and the Housing Industry Association about the percentage increase, and discussions and debates have been held on this. According to the HIA, the agreed increase for first home buyers is 6.7 per cent, which does not take into account some figures. Generally that equates on the average house to approximately $7 000. Of course, as part of the subsidy for first home buyers that will be refunded.

The suggestion has been made that second home buyers will suffer a significant penalty because they will receive no rebate. That is not the case. A second home buyer is obviously selling his first house, and inevitably there will be an increase in the value of that house. Second home buyers will also benefit because the $250 for stamp duty on mortgages will no longer be required. Most importantly, bearing in mind that Keystart or first home buyers must have an income of approximately $36 000 a year, most second home buyers can be expected to have incomes of $38 000 or more a year. Under the coalition package, the tax paid by people with incomes between $38 000 and $50 000 will be 13 per cent less, and those earning more

than $50 000 will pay 7 per cent less tax. That small increase in borrowings required to purchase a new house, if not already covered by the sale of the existing house, will easily be covered by the reduced taxation rate. That does not take into account the fact that businesses will no longer need to pay provisional tax and will have GST credits for the tax they pay.

With regard to pensioners, which is the specific issue raised, normally, as part of the commonwealth-state housing agreement, 25 per cent of the income of tenants in public housing is paid on rent. Therefore, under normal circumstances there would be an automatic increase of 1 per cent in their rent as part of the 4 per cent extra they receive. The federal coalition informs me that it was taken into account when it calculated the 4 per cent requirement for increased pensions, knowing that 1 per cent of that would normally cover the cost of public housing. However, having discussed this with the federal minister and some other state ministers, because this is a special one-off increase, it has been decided that further discussions will be held on the possibility of making that exempt in this case.