WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1997

LEGISLATIVE ASSEMBLY

Wednesday, 26 November 1997

THE SPEAKER (Mr Strickland) took the Chair at 11.00 am, and read prayers.

PETITION - ROADS

Shepperton Road and Mint St, East Victoria Park - Traffic Signals

DR GALLOP (Victoria Park - Leader of the Opposition) [11.02 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We the undersigned petitioners call on the State Government to provide a right turn signal for traffic exiting Shepperton Road into Mint Street, East Victoria Park.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 221 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 124.]

PETITION - GLENCOE PRIMARY SCHOOL, HALLS HEAD

MR MARSHALL (Dawesville - Parliamentary Secretary) [11.03 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We, the undersigned, as parents hereby wish to express our concerns regarding the loss of 1.16 teacher time from the Glencoe Primary School, Halls Head, Mandurah commencing in 1998.
>
> We believe the loss will be detrimental to our children as students of this school and cannot understand how it will benefit other school systems.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 183 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 125.]

PETITION - NURSING HOME CARE

MS McHALE (Thornlie) [11.04 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.
>
> We, the undersigned believe that nursing home care should be equally available to all Australians on the basis of clinical need, irrespective of a person's capacity to pay for that care. Accordingly we call on the Federal Government to abolish the entry fee and the extra daily fees for those needing a nursing home bed.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 10 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 126.]

PETITION - GRADUATED DRIVER TRAINING SYSTEM

MR BAKER (Joondalup) [11.05 am]: I present the following petition -

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled.

We, the undersigned, hereby request that no regulatory changes relating to the proposed Graduated Driver Training System be made to the *Road Traffic Act* or the *Driving Instructors Act* without due and proper consultation with the community, industry representatives and this Parliament.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 42 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 127.]

STATEMENT - MINISTER FOR COMMERCE AND TRADE

Aboriginal Western Australia

MR COWAN (Merredin - Minister for Commerce and Trade) [11.06 am]: A financial assistance package has been offered to Aboriginal Western Australia, a business controlled by and operated for the benefit of Aboriginal people in Western Australia. A grant of $320 000 to Aboriginal Western Australia will go towards the cost of establishing an art and craft gallery, interpretive materials, an artist in residence facility, a retail outlet and a performing arts space at a site in Kings Park. This grant was awarded following the submission of a detailed funding proposal to the Office of Aboriginal Economic Development by the directors of Aboriginal Western Australia.

Aboriginal Western Australia is a proprietary limited company operating under a discretionary trust. The beneficiaries of that trust include Aboriginal artists who have had an involvement with the operation through either art sales or performances of dance and music, and associations or funds established for the benefit of Aboriginal people.

The directors of Aboriginal Western Australia are Ms Rebecca Kahn, Mr James Morrison and Mr David Collard. Ms Kahn is involved at a senior level in several Aboriginal organisations in the great southern region. Mr Morrison has been actively involved in Aboriginal education, training and employment for nearly 20 years and is a board member of both the metropolitan and state justice councils. He is currently the Administrator of Manguri Aboriginal Corporation. Mr Collard is the manager of Aboriginal sport and recreation, in the Ministry of Sport and Recreation.

The establishment grant will support the development of a business which will provide Aboriginal visual and performing artists with opportunities to practise their arts. This will in turn help alleviate the significant unemployment faced by Aboriginal people. The company's business plan predicts significant growth during the first two years of operation, with financial self-sufficiency being achieved in the third year of operation. It is a condition of the grant that, should the business fail, moneys can be recovered by the Government through the liquidation of assets.

Aboriginal Western Australia has also received $60 000 from the commonwealth Office of Tourism for the development of Aboriginal interpretive materials in Kings Park.

In a statement to Parliament on 28 March 1996, the then Minister for Aboriginal Affairs advised of the Government's decision to restructure the Aboriginal Enterprise Company. Key outcomes of the restructure were the establishment of the Office of Aboriginal Economic Development in the Department of Commerce and Trade, and the establishment of Aboriginal Western Australia as a commercial venture. Sited within Kings Park, one of the State's premier tourist destinations, Aboriginal Western Australia will provide an outstanding outlet for Aboriginal visual and performing arts and a welcome addition for visitors to the Park. I am pleased to report that the establishment of Aboriginal Western Australia has the full support and cooperation of the Kings Park Board.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Mr Shave (Minister for Fair Trading), and read a first time.

SCHOOL EDUCATION BILL

Introduction and First Reading

Bill introduced, on motion by Mr Barnett (Minister for Education), and read a first time.

Second Reading

MR BARNETT (Cottesloe - Minister for Education) [11.13 am]: I move -

That the Bill be now read a second time.

The presentation of the School Education Bill represents a significant and historic point for school education in Western Australia. Over 100 years ago the Elementary Education Act of 1871 was passed, and this still provides the foundation on which our existing legislation is based.

The Bill provides a completely new legislative and administrative framework by which the operations of government schools, non-government schools and home education can be effectively managed. It reflects a significant amount of development work and consultation with the people of Western Australia. I am privileged to be able to describe its importance and main features.

From about 1980, various attempts have been made to replace or upgrade the 1928 Education Act. Part of the difficulty lay in trying to amend the existing Act rather than developing a completely new Statute. In 1994, Hon Norman Moore, MLC, the then Minister for Education, initiated a review of the Education Act and associated regulations. A reference group for the project comprised representatives from the Education Department, the Catholic Education Commission and the Association of Independent Schools of Western Australia, as well as teachers, school administrators, parents, the legal profession and the community. My colleague the Parliamentary Secretary to the Minister for Education and member for Roleystone, Mr Fred Tubby, was appointed to chair the review. He brought considerable experience and skill to bear in this work, not only from his role as the Parliamentary Secretary to the Minister for Education, but also as a former school principal.

The significant interest in this Bill reflects the fact that there are few people in Western Australia without experience in, involvement with, or support for our schools, whether as students, parents, employers or community members.

In June of this year, I tabled a draft of the School Education Bill 1997 in the form of a Green Bill for a period of 12 weeks of public consideration and feedback. Six thousand copies of the Bill were distributed widely to schools and parent groups, as well as to organisations and individuals with an interest in education. In addition, a plain English summary of the Bill was prepared and 14 000 copies were distributed.

At 16 locations around Western Australia, 31 meetings were held with members of the public and with principals and teachers. The total attendance for these meetings was just under 1 200 people. Two interactive video conferences were provided for people in country areas who could not attend the public meetings, and the consultation materials were published on an Internet site which received over 700 visitors during the consultation period.

Written submissions on the content and structure of the Bill were invited. By the end of the consultation period, 322 submissions were received. The submissions were examined and considered in relation to the proposals in the draft Bill. On October 23, I tabled a report in this House on the public consultation and the major issues raised.

The importance of this process of public consultation cannot be overstated. It provides us with reliable information about the major issues of interest to the community and, thereby, serves to inform our debate. Most importantly, major revisions of the Bill have occurred in the light of feedback received. I am confident the Bill deserves and will receive the support of both Houses of Parliament, since it reflects the results of a healthy and open process of development and consultation.

The Bill cannot satisfy all the demands that were made for inclusion or deletion of various provisions during the consultation period. I believe it provides an appropriate balance between flexibility, which is necessary for the future so that the new legislation does not require frequent change, and an appropriate legislative structure to manage the diverse educational environment which exists in our community today.

This Bill marks the culmination of a defining year in education in Western Australia. In August, the Curriculum Council was established with the task of developing a curriculum framework which will, for the first time, set out what all school students in Western Australia should know, value and be able to do as a result of programs built around the framework.

The current realignment of the Education Department's central and district offices will more closely focus and strengthen services to schools and students at a local level. The introduction this year of local area education planning provides a more responsive and flexible planning process for education. It focuses education planning on groups of schools in an area rather than on individual schools.

The Government initiated major reform in the area of early childhood education. The positive effects of the early childhood education program will continue into the next century with the expansion of pre-primary and kindergarten programs and the change to the school entry age.

The introduction of this Bill, together with the implementation of these significant reforms in education in Western Australia, are undoubtedly some of the most important initiatives of this Government. Although government

exercises a serious responsibility towards the children of Western Australia beyond the bounds of this legislation - for example, in the areas of health, welfare and justice - I would argue that education is the biggest responsibility that we have toward the development of our children. Schools are the institutions by which societies have engaged special people to carry out the transmission of our knowledge and culture. The task of schools is to provide the most up-to-date curriculum in an environment in which children can develop intellectually, socially and physically, preparing them to exercise a productive and fulfilling role in society as adults.

When the School Education Act comes into effect, it will be only the fourth piece of public education legislation in our State. The Elementary Education Act 1871 was firmly based on an English Statute with a similar name. The Education Act 1928 provided a consolidation of both the 1871 Act and its successor, the Public Education Act 1899. The present Education Act has been subject to over 50 amendments, which means that very little of its original 1928 version remains. The legislation now lacks organisation, and is in parts outdated and cumbersome or in conflict with policy positions of the Government or the Education Department.

The proposed Statute will be called the School Education Act. Separate legislation already exists for the Curriculum Council, the vocational education and training sector and each of the universities. The generic title of the current Education Act made sense in 1928, since it contained provision for both teacher education and technical education, and the Education Department managed both government and non-government schooling. Clearly, things have changed markedly in 70 years; indeed, many of us can reflect on our own school days to identify significant differences.

In the early 1930s, there were over 900 government schools in our State. Many were small, one-teacher schools throughout the southern half of Western Australia serving the agricultural, mining and timber areas. There were relatively few secondary schools or non-government schools. Classroom instruction was typically delivered in rooms with ordered rows of desks. The original Act described compulsory attendance requirements in terms of children's capacity to walk distances of up to three miles. The regulations still contain provisions for teachers to air classrooms during recess and for principals to lay and set fires between May and October.

Today there are more than 1 100 government and non-government schools throughout this vast State, catering for nearly 350 000 children. We have demand for specialist schools at all year levels, and can be proud of a schooling structure which caters for the diverse needs of all children including those with a disability, those with special talents, and children from differing cultural and language backgrounds. We take computers, telecommunications, or audiovisual aids in our schools for granted, and there are many specialist teachers in practical, vocational and creative areas. Governments are faced with demands for new schools in rapidly growing urban areas and we have a huge investment in buildings, facilities, staff and resources for schooling. The Education budget now exceeds $1.3b. In the 1928 debate it was reported that the annual Education budget was £750 000. Even allowing for inflation, this highlights the increased demands which our society has made for high quality educational instruction for our young people.

Objects and structure of the Bill: I turn now to the content of the Bill, which is based on four key objectives -

> that every Western Australian child has a right to receive a school education;
>
> that parents have a right to choose the form of education that best suits their child's needs, whether at a government school, a non-government school or in a home education setting;
>
> that parents have a responsibility to work together in partnership with schools for children's schooling to be successful; and
>
> that a government schooling system must be provided to meet the educational needs of all children.

The first principle underlines the obligation which is placed upon parents and government to ensure that all children receive education throughout the primary and junior secondary years, and an entitlement that children have access to education from kindergarten to year 12. While the Bill requires all parents to ensure that their children have access to an educational program, the second principle underlines their right to choose the mode of schooling which they think best suits their children. They may choose to enrol at a government or non-government school, or provide an alternative program through home based education.

The third principle reinforces that for a child to succeed at school, the cooperation and support of the child's parents is essential. In Western Australia, we have an outstanding record of this cooperation and support. Most parents demonstrate active encouragement and support for their children and their children's school. It is clear that the support of parents and citizens' associations and school decision making groups in government schools, and parents and friends' groups and school councils in non-government schools is invaluable. They provide our schools with forums for discussion of educational matters and contribute to tangible improvements to school facilities. The Bill

reinforces the individual responsibilities of parents by making it clear that there are obligations concerning enrolment and attendance matters which parents must shoulder. Parents' interests are protected by ensuring that they have access to complaint and dispute resolution processes for which the Bill explicitly provides.

The fourth principle reinforces that public schooling is a major responsibility of government and that provision must be made for the educational needs of all children. Since 1893 when it was established, the Education Department has maintained a distinguished record of managing education in this State.

The seven parts of this Bill form a structure that can be easily understood and applied throughout the lifetime of the legislation. Five parts are of particular interest. Part 2 contains provisions which affect all students. The Bill's compulsory education requirements may be met by parents enrolling their children at a school or by registering as home educators. Also appearing in this part are a number of enrolment and attendance provisions for children at government or non-government schools and the means by which absenteeism is to be managed. The establishment and operation of government schools is described in part 3, which is the longest part of the Bill, containing eight divisions. These divisions include enrolment provisions, discipline matters, provisions for financial management and the functions of the chief executive officer, principals and teachers. The participation of parents in government schools is described through the sections related to school councils and parents and citizens' associations. Part 4 of the Bill makes provision for the registration of non-government schools and school systems, while part 5 describes the registration and operation of community kindergartens. Part 6 contains various administrative matters, including the powers of the Minister for Education, the operations of the Education Department, and the employment of staff in the Education Department. Parts 1 and 7 respectively provide the preliminaries and miscellaneous provisions, while two schedules describe transitional and consequential provisions.

In view of the length of the Bill, it is not possible to go into every detail in the time available. I will spend some time on significant aspects. Detailed clause notes will be provided for all members before the Committee stage.

Enrolment and attendance: The notion of a comprehensive and universal kindergarten to year 12 education was not envisaged when the current Act came into effect. The Bill has been prepared on the basis that all children in the State have an entitlement to have access to pre-compulsory, compulsory and post-compulsory education programs. As already stated, the Government is in the process of providing increased access to pre-compulsory education and the school entry age will change in 2001. To reflect the importance society places on school education, the Bill maintains a commitment to compulsory education for children aged between six and 15 years. This is not changed from the existing legislation, although adjustments to these ages are provided for as the changes to the school entry age take effect. Allowance has been made in the Bill's definitions for the impact of this on the ages during which children are in their compulsory and post-compulsory education periods. While a non-compulsory education system would make for a simpler piece of legislation, the Government assumes a significant responsibility on behalf of the people of the State. It enacts this responsibility by ensuring two things. The first is to provide access to an appropriate educational program for each child and the second is to charge parents with the responsibility to ensure that each child is enrolled in an educational program which satisfies the requirements of the Act. The current Act allows for children who are 14 years of age to be exempted from the requirement to participate in compulsory education. The Bill retains an exemption provision, but enables the Minister to exempt a child of any age, provided the exemption is in the best interests of the child. There is power to revoke the exemption if there is a change in the circumstances under which it was granted.

The Bill makes provision for enrolment information to be collected by schools, including both custody information for estranged families and information about the vaccination status of the child. The Green Bill included a penalty for the provision of false information which has now been removed. In the public consultation period, concern was expressed about the definition of "parent" and attention has been given to the way in which the term is used throughout the Bill. The definition makes allowance for those situations in which the natural parents of a child are separated. In such cases they might exercise differing responsibilities for the child's education. Family Court orders may influence these responsibilities. In some decisions, such as enrolment at school or curriculum choices, both parents would have an interest. In other cases, such as provision of reasons for non-attendance, the information should be the responsibility of the parent with day to day responsibility for the child. The Bill makes this separation for these and other relevant matters.

Recognition is also given to the role which responsible adults, other than parents, take in the care of children. In some communities a member of the extended family exercises a supervisory role over the child. The drafting enables such a person to be acknowledged for the contact information held by a school, provision of reasons for non-attendance and authorising an alternative attendance or participation mode for the student. Comment was also received about a relatively recent phenomenon; that of 'independent minors' or children who because of family circumstances live away from their families and are not under the direct supervision of parents. The Bill has been amended to recognise these children.

The attendance provisions of this Bill are much more flexible than those of the 1928 legislation. While many students attend their schools on a daily basis, there are many who spend part of their school time elsewhere, such as in work experience, TAFE classes, enrichment activities or other special educational programs. To acknowledge this increasing flexibility, the Bill provides a new approach to school attendance and participation. Where a student will spend a regular or fixed time away from the school site, but still be enrolled at the school, the principal and parents will be able to enter an alternative participation arrangement.

Home education: A growing number of parents provide home based education for their children. The Government recognises that they should have the right to exercise that choice. Provided the appropriate approvals are obtained, the Bill provides for the compulsory education requirement to be met by home education. It is unfortunate that the drafting of the Green Bill caused some alarm and strong reaction among those involved in home education. It has never been the intention of the Government to diminish access to this option, nor to change significantly the operation of home education in Western Australia. This portion of the Bill has been significantly altered in the light of feedback. While the extent and nature of the changes might not please all those who made submissions, the Bill allows greater flexibility while holding to three essential requirements. These are -

that parents have a right to automatic recognition as home educators;

that there is an obligation on home educators to provide evidence that their child's educational program meets a minimum standard in relation to other children of similar age and ability; and

that, in extreme circumstances, the Minister has the capacity to cancel the registration of the home educator, in which case the child should be returned to a school enrolment.

The inspection provisions of the Green Bill have been replaced by an evaluation of the child's educational progress which is to be made by a home education moderator. This person will have the role of providing a report for the chief executive officer on the child's educational progress. The responsibility to arrange such visits will be given to the home educator, with the requirement that an evaluation be carried out at least once each year. Subject to satisfactory progress, judged in relation to the curriculum framework, the registration will be able to continue indefinitely. If the parent has cause to be dissatisfied with an evaluation report or any cancellation of registration following an evaluation, the Bill provides access to an independent review and advisory process. A home education advisory panel will contain representatives of both home educators and the chief executive officer. The Minister will, on receipt of a recommendation from the panel, have the power to confirm, vary or overturn the report or decision. During 1998, a home education advisory board will be established. This will have a membership which is representative of the home education movement, as well as members to represent the education agencies. Its purpose will be to provide guidance both for the Minister and home educators concerning the provision of home education in Western Australia. I envisage that, as a result, there will be opportunities to provide appropriate support, advice and guidance for home educators. The board will have a valuable role in the implementation of the provisions of the new Act.

Fines and penalties: There was considerable reaction in the public consultation phase to the number and extent of penalties contained in the Green Bill. The view was expressed that the legislation should focus on a positive approach to dealing with non-compliance issues and minimise, eliminate or reduce the fines. Most attention was given to the penalties associated with absenteeism, to which I will turn in detail in a moment.

The penalties have been reviewed in light of feedback and wherever an appropriate alternative response is available the penalty has been removed. In some other cases, the penalties have been modified. Penalties deleted from the Bill include those for failing to notify change of enrolment particulars, failing to notify cause of absence, and provision of false information at the time of enrolment. Changes to the operation of school attendance panels have led to the removal of penalties for failure to attend, failure to swear an oath or provision of false information.

For some offences involving the protection of children, the security of school premises or the handling of sensitive data, the penalties have been brought into line at the level of a $5 000 fine or six months' imprisonment. Where penalties are to be imposed, both the Sentencing Act and the Young Offenders Act make clear that a range of sentencing options is available to magistrates. Further, all financial penalties are taken to be maximum figures, in accordance with the Sentencing Act.

Absenteeism: There are many reasons some children fall into a pattern of repeated absence from school. In a number of cases, wilful absence can be traced to an alienation from schooling due to poor achievement, family circumstances or behavioural causes. In some cases, parents or children simply defy the requirement to participate. This area is one in which the need for partnership between school and family is greatest.

Although we should acknowledge that a number of schools provide successful alternative programs or truancy intervention strategies, cases will arise where, despite the best efforts of schools and parents, children stay away. Any unauthorised absence is of concern because of the valuable educational time that is lost and because the absence of

some children is associated with inappropriate behaviour in the community. In order to complement the compulsory education requirement, the Bill makes it clear that it is an offence if the attendance or participation requirements are not complied with and provides for a fine to be imposed. Without an offence provision, there would be no compulsion on parents or children to participate in the intervention strategies that the Bill provides.

Significant attention has been given to ways of dealing with absenteeism to minimise or avoid prosecuting parents or their children. The establishment and operation of school attendance panels is a major intervention strategy which has been well received. As an independent body its task will be to examine the reasons for a child's absence and to provide appropriate advice to the child, the parents and the school, with the aim of securing the child's regular attendance and participation in the educational program. However, this strategy can work only if there is appropriate judicial force to support it. Referral of a case of absenteeism to court is to be a last resort. Nonetheless, that option must be available. The Bill makes it clear that no case can proceed to court unless a school attendance panel or the chief executive officer provides a certificate to declare that all reasonable and practical steps have been taken to secure compliance with the attendance requirements and, further, that breaches have still occurred. This will occur only if the child or the parents have little regard for the attempts that have been made to solve the absenteeism problem.

Comment is in order about the penalties for absenteeism. In the 1928 Act, the response to chronic truancy was to make a child a ward of the State. In those days that meant the child was placed in an institution or detained, with the parents being responsible for some of the costs.

Penalties can be stated only in terms of fines or periods of detention. The maximum penalty on parents has been reduced to $1 000, with a daily penalty of $25, for failure to ensure the child's attendance or participation at school. Concern has been expressed about the potential use of fines against families that do not have the capacity to pay. Should a case be brought before a court, our State's sentencing laws give discretion for the magistrate to take into account the capacity of the offender to pay, as well as a range of other sentencing options.

The penalty for a child has been reduced from $100 to $10 to make it clear that it is not punishment that is sought, but compliance with the attendance requirement. The existence of this penalty is designed solely as a trigger for intervention in extreme cases when a child defies all efforts by parents and schools to attend school. The absence of a sanction would mean that there was no compulsory education. To limit a sanction to parents would fail to account for the fact that by early adolescence some children take these matters into their own hands. A sanction in the form of a monetary penalty makes it clear that failure to cooperate with a school attendance panel can lead to the intervention of the justice system as a last resort. However, a child's case need not reach the Children's Court. The Young Offenders Act enables offences to be dealt with by means of a caution or by referral to a juvenile justice team. It is also worth noting that the Criminal Code makes allowance for the different ages at which children are considered legally able to answer for their own actions.

Access to government schools: Many parents have made it clear in recent years that they want to exercise choice of schools within the government sector. Although this choice must be limited by the physical capacity of schools to provide accommodation and the availability of appropriate educational programs, the Bill allows for flexibility in setting intake boundaries for government schools. The chief executive officer will decide whether to establish a boundary around a school. Parents will have a greater choice of schools where there are no boundaries. This approach has been adopted in recognition of the desire for many parents to choose between government schools according to the programs they offer and the increased mobility of the population.

The Bill provides clarification of the role of the Minister for Education in the establishment, classification, amalgamation and closure of government schools. If the Minister decides to close a government school, it is necessary to provide 12 months' notice of the closure. By agreement of the parents at the school, closure may be effected in less than the prescribed 12 month period.

The recent development and release of the local area education planning framework overlapped to a certain degree with the public consultation phase on the Green Bill. A number of responses drew attention to the desirability of consultation with local school communities concerning any proposed closure or amalgamation of government schools. Accordingly, the Bill has been amended to require the Minister for Education to undertake consultation in all cases, in line with the provisions of local area education planning. Matters on which consultation is to occur include alternative arrangements for the enrolment of students affected by the proposal, the continued education of those students, and the disbursement of assets realised as a result of the proposal. A school's P & C association must be consulted about disposal of property originally provided by the association.

Curriculum: The curriculum framework authorised under the Curriculum Council Act allows considerable freedom of choice for both non-government schools and home educators in philosophy, content and methodology of their educational programs. The Bill provides that in government schools the chief executive officer will carry

responsibility for the curriculum, subject to the requirements of the Curriculum Council Act. The community wants schools to be places at which children are excited and stimulated by what they learn. By the same token, parents trust that their children will not be exposed to inappropriate influences. The Bill makes clear that the undue promotion of political, religious, industrial or advertising information is not allowed in government schools beyond what is a reasonable balance in the curriculum. Principals will be required to intervene if any person or organisation uses the school as a forum to disseminate inappropriate promotional information. The Bill provides also for special religious education to be provided in government schools and makes allowance for schools to include prayers and songs that are based on religious, spiritual or moral values in school activities. There is allowance for parents to request that children be withdrawn from parts of the curriculum, including religious activities, on the grounds of conscientious objection.

The Bill makes allowance for children to be excused from attendance at government schools at certain times of the year if significant religious or cultural events relate to them. Examples include funeral ceremonies involving Aboriginal people and the period of Ramadan for Muslims. Relevant dates and circumstances will be prescribed in regulations.

Education of children with a disability: Many children in our education systems are identified with special needs. Educational programs for these children provide demands that can be significant in terms of physical, human and financial resources. In the government school sector, a set of social justice policy statements of the Education Department provides a clear message that such children should have the same rights to quality education as those in mainstream classes. The Bill provides an administrative framework for decision making about the educational programs for children with a disability. This will give parents a clear idea of the relevant procedures and their entitlement to receive information about such decisions.

If a child with a disability is enrolled at a government school, the principal is required to consult with the parents and to take their wishes into account in determining the content and implementation of the child's educational program. In making a decision about whether an educational program is available or appropriate for a child with a disability, the chief executive officer is required to consult with the child's parents and to take into account their wishes. If necessary, a determination is to be made, taking account of the benefits and detriments for all persons concerned, any additional cost involved in providing a program for the child and the effect of the child's behaviour, disability or other condition.

The reasons for the chief executive officer's decision are to be given in writing to the parents. Where they disagree with a determination, the parents have the right to seek an independent review. Recommendations as a result of the review are to be made to the Minister for Education by a disabilities advisory panel. It will be made up of members who have appropriate skills and attributes. Additionally, the potential for parents to exercise their right to take action under equal opportunity or discrimination legislation provides an appropriate check on the way in which these decisions are made and reported.

Concern was expressed during the public consultation phase about the term "disability". It has been modified to match the corresponding definition in the Disability Services Act. The effect of this is that consideration is to be given to the effect of the child's condition in relation to the need for support services and his or her capacity for communication, social interaction, learning or mobility, rather than to the condition itself.

During the public consultation phase, people sought greater detail about the criteria which are to be used to determine whether an educational program is appropriate in relation to a child with a disability. In view of the possibility that the term "appropriate education program" may be applied to any individual child, it was not considered appropriate to provide greater detail.

Suspension and exclusion of students in government schools: The Bill makes provision for regulations to be made concerning the discipline of students in government schools. Under the current regulations corporal punishment is prohibited in government schools and this will continue to be the case under the new regulations. Many schools have developed effective strategies for managing student behaviour. It is still necessary, however, to provide support in the Act and regulations to deal with difficult cases. The Bill continues the general provisions of the current Act which authorise suspension and exclusion of those students whose behaviour is inappropriate. Where a breach of school discipline occurs, the school principal will be authorised to suspend a child from attendance at the school up to a maximum time prescribed in the regulations.

Principals will be able to recommend exclusion of a student from a school for significant or persistent breaches of school discipline, or for behaviour which disrupts the education of other students. Exclusion recommendations are to be considered by a school discipline advisory panel, whose function is to advise the chief executive officer on the matter. On receipt of a recommendation from the panel, the chief executive officer is empowered to make orders for a partial or complete exclusion of the child from attendance at the school, or to direct the child to attend another

school. The Bill encourages the chief executive officer to make arrangements to ensure an on-going educational program for the child. Principals are given authority to exclude students of post-compulsory age for unsatisfactory attendance or if the student is not participating in an appropriate way in the educational program. This inclusion provides a strong message that enrolment in post-compulsory education is a privilege rather than a right. A student excluded under this provision retains an entitlement to seek enrolment at another school.

Fees for instruction and charges in government schools: This Bill provides a welcome opportunity to clarify issues relating to fees for instruction and charges associated with government schooling. In the late 1990s, the community expects schools to provide a variety of relevant educational activities with the latest methods and technology. The 1928 Act was not framed with such demands in mind, since the resources needed to deliver schooling then were minimal by comparison. Apart from some specific circumstances, no fee or charge may be imposed or collected for the cost of providing an educational program in a government school. Fees for instruction, as prescribed in regulations, are able to be collected for overseas students and some persons aged over 18 years, or for other students when instruction is provided by persons other than the teaching staff of a government school.

Under the Bill, government school principals will be authorised to determine a charge to parents for the materials and services which are directly used by students in the school's educational program. The school must be able to explain the nature of the charges to parents and to demonstrate how they benefit the students. Parents will also have a role in scrutinising and approving charges through their representation on school councils. Charges must be no greater than a limit to be set in the regulations. These charges are enforceable in that they can be recovered through legal processes, but the Bill is explicit in saying that no child is to be deprived of an educational program if the charges are not paid by the parents. Further, the regulations will empower the Government to put in place means of addressing financial hardship for individual parents.

There is no intention by the Government that school charges are to provide any more than a relatively minor contribution towards the cost of those materials and services that are of direct benefit to the students. In the same way that calculators, rulers, textbooks, pens and the like belong to the student, there are consumable materials and services that it makes sense for the school to supply on behalf of all students and for some of these charges to be recovered. Examples include art and craft materials, photocopied material for learning activities, cooking ingredients, book hire schemes, and library resources.

I do not believe that the general public considers that there should be no contribution at all by parents towards these consumable costs. What I do hear is concern about the level of the charges to be set. Although I share that concern, the capacity should exist to change these levels from time to time in response to inflation. There has been a ceiling for some time on the maximum amount which can be charged in years 8 to 10 for a school's standard educational program. The current amount of $9 in primary school, which has been in place for many years, is not a realistic amount. The Education Department has, at my request, established a panel of people to seek appropriate advice from schools and parents on what the charges should be, taking into account proper information collection and deliberation. Other payments will be voluntary in nature and may apply to high cost optional courses or activities beyond the standard educational program of the school. Participation in these activities will be dependent upon the payment of the relevant costs.

Before leaving financial matters, I point out that the Bill contains an important new provision for government schools to establish special funds for building or library purposes, or for a school foundation fund to benefit the school generally. In the past, school communities have undertaken fund raising efforts directed towards the cost of capital works, including canteens and performing arts or music centres. The ability to establish such funds will assist them in attracting tax-deductible status for donations. Further, many of our government schools are developing some of the healthy traditions of their non-government counterparts by having a body of past students or corporate sponsors who are keen to support schools in tangible ways. The potential for government schools to attract bequests and tax deductible donations will address a need which has been identified for some time.

The Bill enables limited access to sponsorship and advertising support in government schools. This has been an area of ambiguity and it is not appropriate to exclude the support of local enterprises from school activities. Schools will, however, need to be protected from commercial exploitation. The Bill requires the Minister to make decisions about these matters in ways which are consistent with the best interests of students' education in government schools.

It is important to note that neither the school charges nor the school funds management approaches are predicated on a move to get schools to fund themselves. As noted earlier, education spending has risen well ahead of the inflation rate over a 70 year period. Between 1993-94 and 1996-97, this Government has increased spending on government school education by $211m or an average of 6.6 per cent each year. Clearly, the Government remains committed to a high level of funding for the education sector.

Parent and community involvement in government schools: For the past decade, the Education Act has contained

provision for school decision making groups. This has been a means by which parents and community members could become involved in the management of their local government schools. The Bill maintains this important role and allows for further participation at schools where there is a readiness and willingness to do so.

When the new Act comes into force, all school decision making groups will become school councils. They will have a role in school planning, dress codes, student behaviour codes, endorsement of school charges and implementation of religious activities. Provision is made for their roles to be extended, on request, to include participation in the selection of the school principal and other functions to be specified in regulations.

Where appropriate, school councils may seek the permission of the Minister to become incorporated and take on further prescribed functions.

Conditions for the establishment, composition and operation of school councils will be included in the regulations. It is intended that membership will include the principal, parents, community members, staff and, in certain circumstances, students. The majority will be parents and community members.

There is no doubt that in the future, government schools will continue to move to increasing levels of self-management and local decision making. Local area education planning and the realignment of central and district offices sets a clear direction for the management of education in the future by focusing education planning and support closer to schools. Similarly, the curriculum framework will allow for locally determined curriculum directions and a locally managed learning program to suit the needs of the individual school. Schools now have closer links with local communities, particularly business and industry.

The provisions for school councils in this Bill allow for greater flexibility in the way government schools are managed, to reflect local community needs and circumstances. Parents, staff and the wider community will be responsible for making decisions about the management of schools locally.

The Bill continues the provision for parents and citizens' associations to be the main avenue for community support to be provided to government schools. I think it is appropriate here to acknowledge the tremendous efforts of this State's P & C associations and all those members who have worked so hard to build a sense of community around each government school.

The Bill requires each association to be incorporated under the provisions of the Associations Incorporation Act. Most associations already satisfy this requirement. Constitutional provisions and changes will need to be approved by the Minister for Education.

The Bill provides a power for the Minister for Education to initiate winding-up proceedings if an association is not complying with the requirements of the School Education Act or if it fails to follow a direction given by the Minister. This power also exists in relation to incorporated school councils.

The provision in the Green Bill about 'other associations' has been retained, in spite of considerable concern about its inclusion from the Western Australian Council of State School Organisations and many P & C associations. There is no desire to promote the growth of other associations. Rather, the retention of provisions in the Bill concerning such bodies provides a way of controlling their operations.

Non-government schools: The Government has a responsibility to ensure that a certain minimum standard is maintained for children who attend non-government schools. The Bill provides for a comprehensive scheme of registration and, in doing so, provides a framework to validate processes which have been used in Western Australia for some time.

For non-government schools, the registration and re-registration procedures will require the governing bodies to account for the quality of the educational programs which they provide. Further, the Minister may seek information of an educational, financial or statistical nature from these schools. To enable the Minister to monitor these matters over time, the Bill has a requirement that non-government schools be re-registered at least every seven years.

In terms of financial accountability, the Bill is explicit in identifying accountability on the part of the Minister and the non-government schools for the public moneys which are allocated as part of the Education budget.

The Minister will be able to enter agreements with systems of non-government schools. These agreements will enable some of the Minister's registration and accountability functions to be devolved to the systems themselves.

Community kindergartens: The Bill provides that independent preschools which exist under the current Act will be regarded as non-government schools in the future, and that preschool centres and care centres which have teachers provided by the Education Department will be called community kindergartens.

The Green Bill was drafted on the basis that no new community preschools would come into existence. In view of

some objections to this approach, the Bill has now been amended to enable new community kindergartens to be registered.

The permit system of the 1928 Act has been replaced by a registration system with similar provisions to those outlined for non-government schools.

Administration: In view of the flexibility needed to allow for changes in the way schools are managed and curriculum is delivered in the future, the Bill provides a power for the Minister to exempt a school or group of schools from certain provisions, subject to conditions and the publication of a notice in the *Government Gazette.* Such a notice is to be laid before Parliament in the same way as for regulations.

There are some obvious examples of schools for which such flexibility might be required or desirable. They include senior colleges, the School of Isolated and Distance Education and Schools of the Air. New government schools at Ballajura, Warnbro and Clarkson are being encouraged to consider new organisational and curriculum delivery structures. Another example would be the planned school for Aboriginal children.

It is conceivable that when new schools are created in the future, there may be a need to provide for exemptions from certain provisions applying to other schools. This is clearly a power which needs to be used circumspectly. The requirement to supply details to Parliament provides an appropriate accountability mechanism.

The Bill makes provision for there to be departments of the Public Service to assist the Minister in the administration of the Act.

For the management of government schools, the Bill enables the formulation and promulgation of CEO instructions. These will provide the policy and administrative framework in the Education Department to supplement the Bill and its supporting regulations.

Staff employed in the Education Department: This Bill has been prepared in the knowledge that many provisions in the current Act and regulations can be better managed through industrial legislation, as well as the various awards and agreements which have been developed in recent years.

Under the current Act, teachers in the Education Department are employed by the Minister for Education. The Bill provides for their employment in the department. Consistent with the provisions of the Public Sector Management Act, the Bill provides that employment matters be managed by the chief executive officer.

The application of section 7C of the 1928 Act has proved to be controversial. No provision of its kind is included in the Bill. Matters related to discipline and substandard performance of teachers are to be managed using part 5 of the Public Sector Management Act. This will be consistent with processes applied to other public sector employees.

Staff in the Education Department will be employed in four categories: Public service officers; teaching staff; other officers, such as, library officers and school administrative officers; and wages staff. The Bill recognises at least two classifications within the teaching staff of the department, namely teachers and school administrators.

The management of teaching staff in government schools is stated in terms that enable greater application of public sector wide standards, particularly in relation to substandard performance and discipline.

The Bill provides lists of functions for the chief executive officer, principals and teachers in government schools. These will serve to clarify the roles and responsibilities of these officers in a time of decreasing centralised control over government schools.

Review and advisory processes: In the public consultation, a number of requests were made for the inclusion of an independent complaints and dispute resolution process for parents. These requests appeared to be based in a desire to have access to the reasons for decisions and to know that the decision making processes were fair.

Although the majority of decisions made about students occur with the full support and cooperation of parents, there are times when disagreement occurs or a parent seeks a review of an administrative decision. The Bill requires both complaints and dispute resolution processes to be developed and made available for parents in both the government and non-government schools sectors.

It also contains review processes which are intended to ensure that administrative decisions are made in ways which are open and accountable. Following the revision of the Bill, there are six types of review mechanisms -

> school attendance panels may be established to consider matters related to absenteeism and to facilitate the return of children to normal attendance;
>
> home education advisory panels may be established if a parent seeks a review of a home education evaluation report or a decision to cancel home education registration;

disabilities advisory panels may be established whenever a parent seeks a review of an enrolment decision concerning a child with a disability;

school discipline advisory panels will be required to consider the case of any child for whom exclusion is recommended;

non-government school registration advisory panels will be formed to review decisions by the Minister to refuse to register or re-register a non-government school; and

community kindergarten registration advisory panels will be formed to review a decision by the Minister to refuse to register a community kindergarten.

The Minister will also have the capacity to establish an advisory panel for any matters relevant to the legislation. The membership of these panels is to be determined by the Minister, taking account of the attributes, skills and other qualities needed to make decisions appropriate to each case. In general, a parent or community member will be included in each panel, but the specific membership profile will be provided in the regulations. It will be possible for panel members to receive allowances or remuneration in relation to their work, provided they are not already public sector employees.

To underline the need for open and accountable management, the Bill has been amended to include a review by the Minister or a delegate. In this provision, the Minister has discretion to examine any complaint concerning decisions made under the Act about an individual student, whether in a government or non-government school. Any such review is limited to the process and information by which the decision was reached, taking account of the various mechanisms already available under the Act. Once the Minister has considered the matter, there is scope to give advice about the decision making process to the person who made the original decision. This function may be delegated to a person other than the chief executive officer. The discretion to do this rests with the Minister.

There is provision for review of the new Act within five years of its commencement. This is a highly appropriate approach to new legislation of this magnitude and will give the opportunity for the major policy settings to be examined and, where necessary, for changes to be made. The Bill has been written to complement other laws of the State, particularly in relation to public sector management, financial accountability and industrial law.

Process for completion and implementation of the Bill: It is planned that the new School Education Act will come into effect from the beginning of 1999, with the passage of the Bill to be completed during 1998. The debate on this Bill will be resumed in the next session of the Legislative Assembly and I look forward to an informed and high quality debate on issues of fundamental importance to the people of Western Australia both now and in the future.

I am aware of the considerable interest regarding the regulations which will be developed to support the Bill. This work is to occur during 1998, and I repeat an undertaking I have given outside the House that relevant interest groups will be consulted in the development of the regulations and that the draft regulations will be made available for public comment prior to being made.

In conjunction with the debate on the Bill and the making of regulations, attention will also be given to implementation strategies to accompany this legislation. This work will commence in 1998. While the Bill represents a new construction for the law relating to school governance, it does not require a significant change in the day to day operations of schools. I envisage that implementation issues will continue to be identified during the early life of the new legislation and that changes can be managed appropriately.

I propose that, in addition to providing relevant information for school administrators and representatives of the government and non-government school sectors, detailed information will be prepared to explain the major changes, including rights and responsibilities for parents and other members of the community.

In conclusion, I report to the Parliament that the Bill has been subjected to a federal competition policy analysis and is deemed to contain no unnecessary restrictions on competition. The development of this Bill has been a lengthy and complex task. I acknowledge the efforts of those who have brought the review to this stage. I thank the members of the reference group for their significant contributions and, particularly, the chair of that group, my colleague the member for Roleystone and Parliamentary Secretary to the Minister for Education, Mr Fred Tubby, for their energy and commitment in this work.

A small but hard working project team, headed admirably by Mr Ken Booth, has consulted extensively with a range of interest groups and provided policy advice and drafting instructions for the preparation of the Bill. Close consultation has occurred with the Education Department, the Catholic Education Office and the Association of Independent Schools of Western Australia, all of which have provided valuable support and advice. I reiterate my appreciation to all those who have brought this Bill to fruition.

Mr Speaker, this Bill reflects careful thought and planning, and a clear organisation and structure, and it provides the basis of a comprehensive legislative framework for the governance of schooling in this State, not just for the present but well into the next century. I commend the Bill to the House.

Debate adjourned, on motion by Mr Ripper.

SELECT COMMITTEE ON PERTH'S AIR QUALITY

Leave to Meet when House is Sitting

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

That -

(1) this House grants leave for the Select Committee on Perth's Air Quality to meet when the House is sitting on Thursday, 27 November 1997;

(2) (a) the Committee be empowered to present to the Clerk of the Legislative Assembly, while the House is not sitting, Discussion Papers Nos 4 and 5 which shall be deemed to be laid on the Table of the House; and

(b) the Clerk shall take such steps as are necessary and appropriate to publish the discussion papers.

PUBLIC ACCOUNTS AND EXPENDITURE REVIEW COMMITTEE

Leave to Meet when House is Sitting

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

That leave be granted for the Public Accounts and Expenditure Review Committee to sit when the House is sitting on Wednesday, 26 November 1997.

SURVEILLANCE DEVICES BILL

Committee

The Deputy Chairman of Committees (Mr Sweetman) in the Chair; Mr Day (Minister for Police) in charge of the Bill.

Clause 1: Short title -

Mrs ROBERTS: I note a number of amendments on the Notice Paper, some of which are housekeeping matters. The Minister indicated in the second reading debate last week that he would introduce an amendment to cover the use of the forward looking infra-red camera on police helicopters. Is that amendment on the Notice Paper at this stage?

Mr DAY: The amendment is on the Notice Paper, by the insertion of new paragraph (d) in clause 7. This will allow the FLIR camera to be prescribed as exempt from the operation of this Bill.

Mr McGOWAN: This Bill deals with two aspects of the law: The first is law enforcement and providing relevant authorities with appropriate powers to obtain evidence in certain cases which have not been covered in the past. The second aspect is privacy and the rights of individuals, balanced against the intrusive nature of some areas of life today; for example, those involving the media. These two aspects are not necessarily closely related.

While the Government was in the process of drafting this Bill over the past 10 years, why did it decide to include law enforcement and privacy provisions in one Bill? An argument can be made for the introduction of a privacy Bill to cover people's right to privacy, as opposed to the right of people to know, and another Bill covering the gathering of evidence by police.

Mr DAY: I have heard the suggestion that the privacy aspects of this Bill should be separated and included in another Bill. However, that would make nonsense of this legislation. I explained last week that, on the one hand, this Bill is intended to give law enforcement agencies and officers the ability to use intrusive means of surveillance to investigate serious crime. On the other hand, it is intended to ensure that appropriate protections are provided in the legislation for individual privacy.

I think the effect of the member for Rockingham's suggestion would be to ensure that police and other officers were given all the powers under this Bill without constraints on how they did it or what they did. It would make a nonsense of the legislation to separate it. However, I agree that other aspects of privacy concerning activities in the more

public arena should be considered by Parliament at an appropriate stage. It is always possible that a privacy Bill could be developed. That would be the responsibility of the Attorney General rather than my responsibility as Minister for Police and it would deal with other aspects.

The privacy aspects of this Bill are intended to ensure that law enforcement agencies use these intrusive surveillance devices only in a well controlled environment. It is also intended to ensure that members of the public are not able to covertly record private activities or conversations when it is not appropriate. It seeks to achieve a balance between those two issues.

I think the member for Rockingham suggested that members of the news media and journalists should not be subject to the same constraints as would apply to police officers, officers of the Anti-Corruption Commission, the National Crime Authority and the general public. We could have a debate about whether journalists and news organisations should be given status above everybody else in the community. On reflection and in the interests of a balanced debate, most people in the community expect news organisations to be subject to the same reasonable constraints that apply to other members of the community generally.

Mr RIEBELING: Mr Deputy Chairman-

The DEPUTY CHAIRMAN (Mr Sweetman): I cannot give the member the call. We are dealing with the title and it does not lend itself to opportunity for a freewheeling debate. Ample opportunity will arise for comment on the relevant clauses.

Mr RIEBELING: I rise to debate the title of the Bill and to comment on the Minister's remarks, which were allowed by the Deputy Chairman, concerning what the public perceive and what should be in this legislation. It is outrageous for the Minister to suggest that somehow the Opposition is suggesting that the media should be treated differently from the police and the like. Clearly this legislation deals differently with law enforcement agencies than it does with the media. That is exactly the point; they are being treated quite differently. The penalties provided are directed at the media and it has no way around them. The media cannot seek a warrant from a magistrate to have a listening device installed somewhere or get permission to use a tracking device.

Mr Bloffwitch: Nor should it; it is not the law.

Mr RIEBELING: The member for Geraldton can have his say in this debate if he wishes to read the legislation and comment on it.

Mr Bloffwitch: I have.

Mr RIEBELING: In that case he should make sensible comment about it. This legislation inhibits the ability of the Press. If the Minister wants to be seen to be censoring the Press and inhibiting its ability to gather information, he should put this legislation through as it is.

The definition of "private conversation" in the Bill clearly indicates that conversations such as those picked up between Mr Kennett and Mr Peacock several years ago would have been illegal and none of that information would have hit the Press.

Mr Bloffwitch: Nor should it.

Mr RIEBELING: Some people might suggest that the people using cellular phones should have more brains. That was part of the story.

Mr Bloffwitch: That would be your view; not mine.

Mr RIEBELING: Perhaps it should be illegal to buy devices which enable people to hear conversations. If they are sold legally we must cop the results.

Mrs Roberts interjected.

Mr RIEBELING: That is right. It made particularly good press and caused some embarrassment when Richardson and Keating's conversation was intercepted. Those matters are newsworthy and should be reported.

Mr Bloffwitch interjected.

Mr RIEBELING: If the member for Geraldton does not think a conversation by two political leaders about a third leader is newsworthy he is on the wrong planet.

Mr Bloffwitch: Why not put a tape recorder in their houses so that they can listen to conversations with their wives; there might be something newsworthy there too?

Mr Cowan: Do you condone it notwithstanding it was an offence to have listened into those conversations and recorded them?

Mr RIEBELING: Absolutely; the Press should get hold of that information.

Mrs Roberts: One of the parties might have leaked it to the media himself.

Mr RIEBELING: That is another version. The conversation could have been leaked to one of the parties to create damage to someone in his own organisation. The Opposition will examine this section of the Bill word for word until the Minister acknowledges that a mistake was made by the Police Department if it drafted this legislation. I would be concerned if it did; it should have been drafted by the Attorney General because this legislation should reflect laws of natural justice, not laws to make the Police Department's job easier.

Mr DAY: As you said, Mr Deputy Chairman (Mr Sweetman), we are dealing with the title of the Bill. I have not heard any member of the Opposition so far refer to any suggestion that the title of the Bill should be different.

It is intended that penalties apply to any person in the community. The member for Burrup is suggesting that members of the Press should be given special status and be exempted from the same penalties that will apply to everybody else in the community. That is a novel suggestion from a side of politics I thought would be fairly interested in preserving civil liberties and protecting individual privacy. The member for Burrup is suggesting, for example, that it would be acceptable for a mobile telephone conversation between him and the member for Girrawheen, which could well be interesting, to be recorded and published on the front page of any newspaper regardless of public interest in it.

I do not think the member for Burrup really wants that to occur. Therefore, this legislation is intended to provide a reasonable balance between the protection of privacy, in which I thought the Labor Party had a reasonable interest, and the investigation of serious crime.

The member for Burrup asked why this legislation was drafted by the Police Service rather than by the Director of Public Prosecutions' office.

Mr Riebeling: The Attorney General's department.

Mr DAY: There is no Attorney General's department. The Police Service was not the instructing agency for the drafting; the DPP was the instructing agency.

Mr Riebeling: Why do you have carriage of the Bill?

Mr DAY: Because for some reason, prior to my involvement with this Bill, ministerial responsibility was transferred from the Attorney General to the Minister for Police.

Mrs ROBERTS: Mr Deputy Chairman -

The DEPUTY CHAIRMAN (Mr Sweetman): I assume the member for Midland will be addressing the short title of the Bill.

Mrs ROBERTS: That is correct, and I really do not need that advice. I suggested during the second reading debate that rather than introduce the Surveillance Devices Bill, a simple amendment should have been made to the Listening Devices Act. We are seeing as the debate is progressing that this Bill is very complex and that the primary outcome would have been achieved by making that simple amendment. However, the Minister is determined to broaden the scope of this legislation by calling it the Surveillance Devices Bill and to cover matters other than those that would be covered by an amendment to the Listening Devices Act.

As a consequence, the power of entry with regard to the installation of listening devices will remain at the very least a grey area of the law until such an amendment can be put in place. This Bill is so all encompassing that I believe the Minister has let down both the law enforcement agencies and the public.

Mr DAY: The member for Midland is suggesting that rather than introduce this more comprehensive legislation, we should make a simple amendment to the Listening Devices Act which will overcome the problem that was found in the 1994 High Court judgment about an individual named Coco.

Mrs Roberts: I am saying it could include such a simple amendment. It could also include other matters with regard to listening devices.

Mr DAY: The problem is that this legislation has been drafted with the intention of providing more stringent controls for the protection of individual privacy than are found in the Listening Devices Act. The member for Midland is implying that we should have brought in an amendment to allow law enforcement officers to use force to break into

people's homes simply with the authority of a senior police officer and not with the authority of a judge or a warrant from a judge, and without any of the protections which are provided in this more extensive Bill.

Mrs Roberts: I am not suggesting that, and the Minister should not put words in my mouth.

Mr DAY: That is the effect of what the member for Midland is suggesting.

Mrs Roberts: The Minister should not make suggestions that are unfounded. At no point have I suggested that.

Mr DAY: If the member for Midland is not suggesting that, then she is suggesting that we should have a Bill that is somewhere between this Bill and a simple amendment to the Listening Devices Act. The problem is that it would be very difficult to find a solution that would provide the comprehensive degree of protection of individual privacy we have provided in this Bill, which is something I thought the Labor Party would welcome.

Mrs ROBERTS: The Minister has chosen to misinterpret my comments about the title and nature of the Bill. I am not suggesting that it should have been only a simple amendment to the Listening Devices Act. I am suggesting that it would have been a lot simpler to deal successfully and promptly with the installation and placement of listening devices. However, in introducing this Bill, which puts listening, optical surveillance and tracking devices under the generic heading of surveillance devices, the Minister has bitten off more than he can chew and has made this matter unnecessarily complex.

I do not believe the Minister has consulted widely enough with regard to optical surveillance and tracking devices. As a result, the Minister has introduced very poor legislation. I stand by my comments that an amendment should have been made to the Listening Devices Act; or, failing that, the Minister should have introduced a new Listening Devices Bill. That would have been simpler than dealing with the matter in this all encompassing Surveillance Devices Bill.

The Minister suggests that he is doing more to protect individual privacy. I suggest that he is doing less to protect individual privacy, because we must not forget that the Minister thinks it is fair game for a person who is in his front yard or backyard or somewhere where he may be overlooked to have a photo taken of him.

Mr DAY: I find the argument from the Opposition very interesting because never before this week have I heard any suggestion from the Opposition that we should bring in a simple amendment to the Listening Devices Act to overcome the problem highlighted in the case of Coco. If the Opposition genuinely believed that is what we should do, it would have been appreciated had it made that known to us earlier in the year so that we might have worked in a cooperative manner to achieve that end.

This Bill provides a comprehensive protection of people's privacy. The other implication of what the member for Midland is suggesting is that we should not introduce any protection with regard to the use of video cameras, other optical surveillance devices or tracking devices, because an amendment to the Listening Devices Act would cover the use of listening devices but not the use of those other devices. I thought the Opposition would be interested in supporting a comprehensive piece of legislation which would better protect people's privacy.

If there were some impact upon the activities of journalists, in which the Opposition seems to be so interested, that impact would apply even if we amended only the Listening Devices Act, because that Act covers the use of a video camera which incorporates a microphone to record sound because it is, in part, a listening device.

Mr RIEBELING: The Minister is misinterpreting what we are saying. We are saying that he should not have put the privacy component into this legislation but should have concentrated on how a person can get permission from law enforcement agencies to use the various listening, tracking and optical surveillance devices. In my view, and I think in the view of other people on this side, the Minister's attempt to tie that up with so-called protection of privacy legislation will, I believe inadvertently, restrict the Press in their day to day activities. A camera would clearly be an optical surveillance device under the definition in this Bill. The Minister is basically saying that if a member of the Press were to take a picture of some incident without the permission of the people involved, that person would commit an offence under this legislation. That is outrageous and should not be part of this legislation. The Minister knows that is a mistake and he should not proceed with this legislation.

Mrs ROBERTS: It is very unfair of the Minister to suggest that I had not previously raised with him the concept of amending the Listening Devices Act. If the Minister consults *Hansard* of earlier this year he will note that I, not he, outlined the case for the Coco amendment, as a result of a High Court decision in a Queensland case. To refresh the Minister's memory, because his memory seems to have failed him in regard to my raising the Coco amendment at a much earlier stage this year, I add that I referred to the Liberal Party platform which was that the Government had already drafted legislation to amend the Listening Devices Act.

Mr Day: This is it.

Mrs ROBERTS: I raised that matter with the Minister many months ago. For example, I asked from whom he had a request to progress the listening devices amendment as a result of the Coco case. He said that he had had discussions with the Commissioner of Police. I asked whether he had discussions with any other agencies, and he said that he had not. I am not sure whether that was the correct answer at the time, but it is the one he gave. I take umbrage at any suggestion that I did not raise the need for an amendment to the Listening Devices Act. I specifically referred to the Coco case, and I drew the attention of the Minister to the Liberal Party platform.

Mr DAY: I agree that the member for Midland raised the general subject with me during question time in this place, but I do not recall any specific suggestion that a simple amendment should be made to the Listening Devices Act, as opposed to more comprehensive legislation. I was asked who had spoken to me about the need for this legislation to be progressed. At the time, I said that it was the Commissioner of Police. Subsequently, I think I was contacted by the National Crime Authority.

Clause put and passed.

Progress reported.

[Continued on page 8730.]

COMMISSION ON GOVERNMENT - RECOMMENDATIONS

Motion

Resumed from 25 November.

MR McGOWAN (Rockingham) [12.33 pm]: It is my pleasure to speak on the recommendations of the Commission on Government. This important subject has attracted the attention of the state media, and probably the national media, over the past few years. It is one of the good results of a royal commission when it makes proposals for a change in government operations, and it is incumbent on members of Parliament to treat those proposals very seriously.

I wish to speak about my experiences as a member of this House for the past year, during which time this place has sat for about 24 weeks, and the operations of this Parliament and how they relate to the recommendations of the Commission on Government. I do this because members who have been in this place for a long time can become immune to the way it operates. Perhaps they are so engrossed in the modus operandi and the traditions of this place they forget what it was like to be a new member. The Premier has been in this place since 1982, and he probably falls into that category. It is difficult to remember what it is like to be new to this place, and to remember how unusual the operations of this place appeared to be, and, from that new perspective, what aspects of that operation could be improved.

I am one of six new members in this Chamber, excluding those who came from the upper House after the last election. In many ways, I probably speak on behalf of all new members on how this House operates. A member's role is extensive, and I am very proud of that role. Members are part administrator, social worker, legislator and researcher. One must perform many roles and, in some ways, one must juggle a number of balls at the one time while keeping one's eye on the job. It is not a standard job with only one function. Therefore, one needs many skills. Perhaps I am fortunate because prior to my election to this place I had a wide range of experience and qualifications. Other members come to this place without experience or administrative skills.

It is important that members who come to this place with backgrounds that may not have provided experience to do the job undergo some sort of training to bring themselves up to speed in order to perform particular functions. Office administration and the operation of computers are difficult if one has not had such experience in one's working life. New members should engage in some sort of training in those areas to ensure they are fully conversant with the performance of their functions.

My first observation deals with the role of the office of the Leader of the Opposition. When I first came here I did not realise for a number of months that opposition staff were housed in the summer palace across the road behind this building. A finding of the Commission on Government was that a strong, well resourced and vibrant Opposition is an essential component of any democracy.

I advocate that view whether in government or in opposition. It is an extremely important role because without it we would become a one party State. Currently, the staff of the Leader of the Opposition is split between an office in this building and one in the summer palace across the road. That is a bad way to operate. The Leader of the Opposition has about five staff members in this building and between five and eight over the road. In total, he is provided with between 12 and 15 staff members. Comparing that situation with the resources of government, with

every Minister having about that number of staff, one realises the demands placed on the Opposition to provide an effective alternative.

The most important change we could make would be to amalgamate the Leader of the Opposition's office, even if there were no increase in his staff. His staff is split between the summer palace and this building, and as such their effectiveness is diminished. One of the most urgent changes should be to increase the size of the leader's office to accommodate the staff currently in the summer palace. If necessary, offices adjoining the leader's current office should be requisitioned as a matter of urgency and alternative arrangements made for the members currently occupying them. That would be an important change in the way that the leader's office operates. It would also be a small step in carrying out the Commission on Government recommendations and would improve our democracy.

It has also come to my attention that research and library facilities are poor. I acknowledge that the Government has recently increased each member's electorate officer allowance by 0.4 FTE. That has increased an individual member's capacity to fulfil his duties. However, if we cannot use our electorate officers in this place - that was one of the directives handed down when the increase was announced - our research abilities and capacities in this House are extremely limited. My experience of speaking in this place is that members are often given very short notice - perhaps a matter of minutes - to speak on a Bill that could be very lengthy and to come up with some intelligent remarks.

Several members interjected.

Mr McGOWAN: It is the depth and breadth of knowledge I bring to this place - it has obviously impressed the member for Bunbury. Research facilities available in this place are a serious issue. I know the library staff do their best, but often members will request information and it takes a long time to obtain it. Often we are given only an hour's notice to make a speech.

Several members interjected.

Mr McGOWAN: Before I came into this place I thought that would be a very daunting experience. However, I find that as time goes by it is not upsetting me as much as it did.

Mr Osborne: It is not easy for us either; we must immediately dream up new interjections.

Mr McGOWAN: That is very important in the operation of this place. I am sure the public appreciates the member's interjections.

Research is a serious issue. We must ensure that we can make valid and worthwhile comments in this place. Our research capacities and facilities should be improved. That issue must be addressed urgently to ensure the effective operation of this Parliament and this State.

I have had cause to spend some time in the national Parliament. Its research facilities are second to none. One cannot compare it with this place; one would not think we were in the same business, given the facilities provided to federal members. I have no illusions that we should be provided with the same facilities, but a research staff of more than three librarians should be possible. Often the library staff advise me that they must approach the Battye Library or elsewhere to obtain information. With the reallocation of staff, we might be able to make this place work more effectively than it is at the moment in respect of research.

I always knew that question time was an opportunity for Ministers to avoid answering questions. However, at times the length to which Ministers go to avoid answering legitimate questions is breathtaking. I am not surprised - all sides of politics do that - but I have also noticed that questions on notice are often not answered. The other day I received an answer from the Minister for Police, who is normally good about these things. My question related to the staffing of individual police stations around the State. I thought the Police Service could obtain that information quickly from a computer. My question was specific and was designed to establish how many police officers were allocated to each station and the divisions of responsibility. The answer was divided into regions: The north west, the central district, the metropolitan area and the south west. That did not answer the question. We must treat question time and questions without notice in a much more decent fashion than is the case at present.

The sitting hours of this place are unusual. We sit about 23 or 24 weeks each year when one takes into account Estimates Committees and so on. That is similar to the Commonwealth Parliament's sitting program but more than those of other State Parliaments around the country. The New South Wales Parliament does not sit as often as this Parliament.

Mr Bloffwitch: When you cannot get anything through there is not much point sitting.

Mr McGOWAN: I intended to raise that point. The times we sit are unusual. That issue was the subject of debate

in the first week of this Parliament. We all leave the Chamber and have lunch for one hour and dinner for one and a half hours. That is two and a half hours of the day when we are eating, having a snack, watching television or whatever.

Mr Johnson: Or having meetings.

Mr McGOWAN: There is nothing to stop those meetings being held while Parliament is sitting. I see acres of unoccupied green benches in this place at the moment. Nothing is preventing all the members not here at present from having meetings now. As the member for Geraldton knows, we were on a committee together -

Mr Cowan: You can have your meetings now. Why do you want to change things? The conditions are already available.

Mr McGOWAN: I will not worry about the Deputy Premier's comments; he is not listening to me. The House should be sitting through lunch and dinner. We should manage the business of this place so that we can go home at a reasonable time.

Mr Bloffwitch: We are only knocking off an hour early.

Mr McGOWAN: It is two and a half hours if we sit through lunch and dinner.

Mr Cowan: Before you start making these statements you should consult your colleagues. Some time ago the Leader of the House tried to reduce the lunch and dinner breaks.

Mr Riebeling: So did we.

Mr Cowan: You opposed it.

Mr McGOWAN: During the first week of this Parliament we discussed the sitting hours. The Opposition moved an amendment that we sit through the lunch and dinner breaks. The member for Eyre and others spoke on it.

Mr Cowan: You opposed the proposal ultimately put forward.

Mr McGOWAN: That is not my recollection. I do not care what happened in the past as this change should be made for the future.

Mr Cowan: You were given the opportunity.

Mr McGOWAN: If the Deputy Premier moves the motion, members will support it.

Mr Cowan: I don't want to move it; I'm comfortable with the way things are now.

Mr McGOWAN: It is unusual to hear the Deputy Premier say that, because late in the evening he is usually unhappy with the world and the operations of the Parliament. I thought he would want to knock off by nine o'clock.

Mr Court: That is when he in a good mood - you should see him in a bad mood!

Mr McGOWAN: The Premier should have seen him last night; he is not a pretty sight when sleeping and snoring.

Mrs van de Klashorst: What about country members who would waste the evening sitting around their flats? While we are here, we can work. A number of country members cannot go home. When the House sits from 9.00 pm to 11.00 pm, we can work and get through legislation.

Mr McGOWAN: I find that argument difficult to understand. Most country members receive an allowance. I probably travel further than any other member in this place as I travel to Safety Bay each night.

Mr Cowan: You're breaking my heart.

Mr McGOWAN: I am not seeking sympathy. So engrained is the aggression and nastiness across the Chamber that members cannot see that I am trying to make a good point.

Mr Court: I'm trying to defend the grandfather, who has to stay up at night.

Mr McGOWAN: He gets so grumpy; I have never seen anything like it.

Mr Riebeling: The Leader of the House was very grumpy too last night.

Mr McGOWAN: Yes, but he contained it. I thought he was about to erupt like a volcano around 2.00 am when he went as red as a beetroot. However, he managed to contain himself.

I am sure the member for Carine, being also a new member, can see the ridiculousness of the situation. We should

sit through the luncheon suspension and the dinner suspension. We could get something to eat at our convenience and make the place far more efficient. We could then knock off at 9.00 pm.

Mr Omodei: Then why not move the motion?

Mr Cowan: Because I would have to oppose it!

Mr McGOWAN: I will consider it. If the Leader of the House will give me the time, I will move such a motion.

Mr Johnson: You could knock off earlier in this House if you wanted to. When you had private members' second readings, the opposition Whip was urging your members to take the extra 10 minutes to stall legislation.

Mr McGOWAN: Members are missing the point. We should sit through the meal suspensions and knock off earlier. I am sure if members asked their families about that, they would be happy with my idea. Parliamentary procedure and standing orders are difficult to grasp. When I arrived here shortly before Parliament started this year, a training session was held for new members. It was an extremely hot day on which we received some instruction on the way standing orders operate. I am not still confident that I understand them, and I had an unfortunate experience last week in private members' business in working out how standing orders operate.

However, I do not apologise for that, as I am sure that some government backbenchers would have the same lack of understanding about procedure. In fact, members opposite who arrived in 1993 probably have less experience of speaking in this place than I have, because government backbenchers speak so infrequently that it is amazing. I have seen some government members speak only once in this place.

Mr Johnson: That was also the situation with your backbench when you were in government.

Mr McGOWAN: I am not trying to enter a political debate, but to make some objective comments about the way the place operates.

I spoke five times last week, and the member for Burrup speaks about five times a day. He made some very pertinent remarks last night. I noticed that some members of the government backbench have spoken once this year, and others have spoken not more than half a dozen times. That is not a proper recognition of those people's roles as elected members of this place.

Some instruction on the standing orders should be given to members. The election was held a year ago, and new members, and those in their second term, would benefit from some formalised training on the way the House operates. Obviously, experience is the best way of learning. As many of us now have some experience, formalised training would be a good idea to bring members up to speed on how Parliament operates.

The business in this House is mismanaged. We were here until 2.30 this morning, yet on other days we have had nothing to discuss and we have gone home early. Also, very little notice is given for debates. For instance, half an hour ago we were unsure whether the member for Burrup, the member for Fremantle or I would be speaking on a Bill. We have no set routine on the way the House operates. We need a more formalised arrangement between the Government and the Opposition for what is coming up next so members can properly prepare. Then the Leader of the House, in a fit of pique, would not suddenly spring something on us with which we are not ready to deal.

Mr Court: Wait until you operate under a Labor Government - then you will see what flexibility is all about.

Mr McGOWAN: I am trying to make some objective remarks as a new member about the way the House operates.

Mr Court: I appreciate that.

Mr McGOWAN: I know that the Premier and the Deputy Premier have spent a lot of time in opposition.

Mr Cowan: The Premier made a very good, objective interjection; he is quite right. One hopes that this is the second last day of the session, but you must understand that nine times out of 10, this place is not designed to allow members some licence or warning about when they will speak. You must be prepared to speak when given the call. You do not get that luxury of a warning, I am afraid.

Mr McGOWAN: We are a Chamber of 57 members; it is not as though we are the House of Commons with 600 members, who have all the preparation time in the world. Members of that Chamber are told on what and when they will speak so they can do the proper research. There are 19 members in the Opposition, so we are required to speak on virtually anything at no notice.

Mr Cowan: We are seeking to reduce that number.

Mr McGOWAN: I would be very surprised if our numbers reduced at the next election.

Mr Court: It will be a challenge!

Several members interjected.

Mr McGOWAN: I am sure that neither the Premier nor the Deputy Premier will be sitting on this side of the Chamber in three years if we win office, as neither will come back.

I acknowledge the Deputy Premier's comments, but he is wrong: There should be a better arrangement between the Government and the Opposition, and the Leader of the House should provide more certainty about what comes on for debate, especially considering the poor resources available to the Opposition to prepare for debate. In conclusion I hope the Premier has listened to my comments.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued below.]

Sitting suspended from 1.00 to 2.00 pm

PARLIAMENT HOUSE - VISITORS AND GUESTS

THE SPEAKER (Mr Strickland): I draw members' attention to the presence in the Speaker's Gallery of the Rev Dr Konrad Raiser, the General Secretary of the World Council of Churches based in Geneva; His Grace Dr Peter Carnley, the Anglican Archbishop of Perth; and other representatives of many denominations. Perhaps the members would care to join me in welcoming the visitors to our House.

[Applause.]

[Questions without notice taken.]

COMMISSION ON GOVERNMENT - RECOMMENDATIONS

Motion

Resumed from an earlier stage of the sitting.

MR McGOWAN (Rockingham) [2.34 pm]: Before the suspension, I was speaking about my observations of this place as a new member, and about the improvements that we could make to the running of this House. I made a number of suggestions, and I am pleased that the Deputy Premier was very impressed with those suggestions and said they would be put into operation immediately. I want to suggest a few other changes about which I am sure the Deputy Premier would also be keen.

A matter which has been raised in this House and around the nation and with which the Commission on Government dealt in great detail is the electoral system in this State. I represent the electorate of Rockingham, which is on the verge of being an electorate outside the metropolitan zone. The electorate of Mandurah, which I think it is in the country zone, is not more than 10 minutes from my electorate if one drives at the speed at which the Minister for Transport drives. It is important to note that my electorate contains twice the number of electors than does the Mandurah electorate. That means that two members represent the Mandurah area, which has a similar population to my electorate 10 minutes up the road. Therefore, two members can argue in this House on behalf of that electorate, while only one member can argue on behalf of the Rockingham electorate which has a similar population. Naturally, that leads to a distortion in the distribution of resources to those electorates by the Government.

Mr Carpenter: Don't worry about that: We will get a better deal.

Mr McGOWAN: I thank the member for that. However, under this electoral system, it is possible for there to be a distortion in the distribution of resources from the Government, with glaring disparities between the electorates of Mandurah, Dawesville and Rockingham.

Mr Court: You are anti people living in the country.

Mr McGOWAN: Would the Premier call the Rockingham electorate a country area?

Mr Court: We are trying to provide extra support for country areas.

Mr Carpenter: We will introduce the Premier to an area to which he is very anti.

Mr Court: Which one?

Mr Carpenter: We will tell the Premier that later.

Mr McGOWAN: He should be able to work it out. Would the Premier say that Rockingham is not a country area and Mandurah is? The Premier was saying that country areas need more votes. Is that a fair system?

Mr Court: In time, with the growth of the metropolitan area, that area will be included in the metropolitan area.

Mr McGOWAN: Does the Premier defend the current boundaries for the Rockingham electorate? Would he say that it should be included in the metropolitan area?

The electoral system is a fundamental matter referred to by the Commission on Government, and it should be addressed by the House. I believe the majority of the members of the Liberal Party would agree with me on that point, particularly those who represent metropolitan electorates and who realise the injustice of the current electoral system.

MR COURT (Nedlands - Premier) [2.42 pm]: I appreciate members' support for this motion which will enable us to refer a number of recommendations of the Commission on Government to a parliamentary committee, which will report to Parliament on those recommendations.

I will not comment on all speeches delivered on this motion; however, the member for Rockingham made some interesting observations. As a new member of Parliament, he said that some members who have been in this place for a few years, tend to forget what it is like to be a new member. I have not forgotten. I have been here for 15 years. The member is correct; it takes some time to learn the procedures in this place, and to work out what is taking place at different times during those procedures. I recall my first day in this place. Everyone assumed that, just because my father had served this place for 29 years, I knew my way around; but I could not even find the door to get out! I came to this place midterm, following a by-election, and it was with the benefit of support from both sides of this House that I was able to learn the procedures and find my way around. The only advice I have for new members is that it appears they must suffer total humiliation a few times before they learn the way Parliament operates. I also think that serving some time in opposition is an important part of a politician's learning experience.

Mr McGowan: For the record, can you tell us about the times you faced total humiliation?

Mr COURT: I prefer not to. In opposition, when one joins debate, one learns the hard way. Parliament is one of the greatest levellers because, as people say, Parliament comprises the butcher, the baker, and the candlestick maker. It is a reflection of a broad cross-section of the community. Often it is a humbling experience, when people pull the new member into line, because they have a great deal more experience and knowledge in certain areas.

The member for Rockingham commented generally on the management of the House, the possibility of changing our sitting times, and so on. I agree that it is important to show some flexibility and be prepared to consider change. However, under the current Leader of the House, in the past five years I have seen more change and flexibility in the running of this House than I saw in the 10 years prior to that - and that includes my first year in government in 1982. At that time, for at least half of the year it was common to sit very late; it was common, because there was no time management. We sat incredibly long hours, and there was no advanced notification of sitting dates. We did not have that luxury. We were advised of sitting dates at the last moment.

These days, the operations of Parliament are more orderly. I suggest that when members opposite return to government - and that will happen some time in the future - they will continue our time management practices. I suggest also that it is only a matter of time before the Legislative Council also puts in place those time management principles.

The member for Rockingham also mentioned that there should be more cooperation and certainty in the running of Parliament. As I said before, in the past I have not witnessed the cooperation that occurs now in this place. The backup support provided to members of Parliament is continually improving, and that will continue to be the case.

I thank members opposite for their support of the motion.

Question put and passed.

PUBLIC NOTARIES AMENDMENT BILL

Second Reading

Resumed from 12 November.

MR RIEBELING (Burrup) [2.49 pm]: This Bill is self-explanatory. It seeks to amend a system under which public notaries are appointed throughout the State to sign certain documents which require the signatory to be a specially qualified person. I think the current Act allows a solicitor of five years' standing to be appointed.

Mr Prince: That is correct.

Mr RIEBELING: The current legislation has served people in the metropolitan area very well over the years. The same cannot be said about the way it has served country regions.

Mr Prince: Especially port towns.

Mr RIEBELING: Especially any town.

Mr Prince: In my experience, most of the work is generated in ports - protesting bills of lading and so on.

Mr RIEBELING: There are ways around the notes of protest. The registrar of the court is often able to sign the book of protest, and seal and date stamp it, and it is retained in the vault of the court. It is called upon only if the ship sinks.

The primary call on the services of public notaries in regional Western Australia relates to the transfer of land involving New Zealand and other countries that require the signature of such a person. This problem is massive in northern Western Australia. I understand that there are public notaries in Broome and Geraldton, but in between those towns, there is none. I do not know the situation in Kalgoorlie because I have never lived there, but there is an acute shortage in the Pilbara region. It is unfortunate that this Bill does not address that problem. I understand that lawyers in the Pilbara region are qualified to apply.

Mr Prince: Why don't they?

Mr RIEBELING: I have asked them to apply to provide the service for the region, but as yet that has not occurred. I get very frustrated because people inevitably turn up in my office and I must telephone the New Zealand authorities. I have spoken to the New Zealand courts and had myself approved to provide a specific signature, which is directed to the New Zealand court for the transfer to be processed. Often when one speaks to people in New Zealand they ask why people cannot simply go to Perth. They cannot comprehend that it is 1 000 miles away. They also cannot comprehend that there are no public notaries in those regions.

This amendment should have included a provision to appoint people as public notaries who do not have the current required qualifications. I have noticed a gap in the service.

Mr Marlborough: Be careful: You are suggesting taking work from lawyers.

Mr Prince interjected.

Mr RIEBELING: I understand that.

Mr Prince: You are advocating multiskilling.

Mr RIEBELING: A justice in each region with 10 years' experience could be appointed but not be permitted to charge for his signature - as lawyers can. That would go a long way to solving the problem.

Mr Bloffwitch: You would have an official protest about undercutting from the Law Society.

Mr Prince: I doubt it.

Mr RIEBELING: We probably would. This legislation is drafted for one reason: So that solicitors can be paid.

Mr Prince: This is designed to bring the costs under the control of the legal costs committee.

Mr RIEBELING: It is about fees.

Mr Prince: They are paid now anyway.

Mr RIEBELING: The Minister can argue any way he wishes - this is about paying lawyers, not the service provided or any improvement in that service.

Mr Marlborough: You are trying to sneak it past us.

Mr Prince: You are far too acute.

Mr RIEBELING: I must come to the Minister's defence - he seems embattled.

Mr Prince: Nonsense.

Mr RIEBELING: The legislation has always provided for fees to be paid, and this Bill formalises a standard schedule of fees. However, it does not improve access for the general public to the services provided by public notaries. That

is a huge disappointment to me and I am sure to people in regional Western Australia. When they saw an amendment to the Bill, they hoped that the problems they had experienced for many years would be addressed. I presume the Minister for Health is representing the Attorney General in this matter.

Mr Prince: Yes.

Mr RIEBELING: He therefore would have access to information about the problems experienced throughout the State. I am sure that if the Minister were to undertake some investigations he would find that complaints about the functioning of the Public Notaries Act would relate to access to the service - not the fees charged, because they are not excessive. The signing of a transfer of land at a notary's office, use of the seal and so on would cost less than $100. That may seem excessive for the signing of a document, but when one is dealing with the transfer of land - and a lawyer's time is precious - the fee is not excessive.

It is very inconvenient for country people. New Zealanders living in Karratha might have land which they wish to sell or which they have inherited. They cannot dispose of that land and transfer the money to Western Australia because they cannot have the transfer of land document signed - they are 1 000 miles from the nearest person appointed to do that. It is disappointing that the Government has not chosen to address that problem but has chosen to address how solicitors can charge for the service.

My information suggests that the metropolitan area and the south west - the Minister would probably know better than most whether Albany, Bunbury and the south west land division are properly serviced -

Mr Prince: Albany has one, there are two in Bunbury and possibly one in Busselton and one in Esperance.

Mr Marlborough: Are you a public notary?

Mr Prince: No.

Mr RIEBELING: Why not?

Mr Prince: I had the forms half prepared, but for one reason or another I did not lodge them. I might one day.

Mr RIEBELING: The Minister would be entitled to do so.

Mr Prince: A lawyer has been providing the service in Albany since 1964. He is always there and does an excellent job. In fact, his previous senior partner was the public notary but retired. It was an inheritance situation. I understand that they are always available.

Mr RIEBELING: As I understand the appointment process, need is not a consideration when a person is appointed.

Mr Prince: The Supreme Court looks to see how many there are in that locality. In Albany, two would be adequate.

Mr RIEBELING: However, the list is not scrutinised to identify the gaps.

There are enough lawyers throughout Western Australia to properly service this State. Nearly all lawyers throughout the north would qualify under the five year rule. I know that Karratha lawyer Tony Chilvers has been in the north for 15 years, although I am not sure about the Broome lawyer.

Mr Prince: The young woman I met up there has been in practice for only a couple of years, so she would not qualify.

Mr RIEBELING: I do not suggest that all lawyers should be public notaries. However, they should be found approximately every 250 kilometres: A 500 km round trip is excessive, but a 2 000 km round trip is beyond the pale.

Mr Cowan: They could have gone to New Zealand for that!

Mr RIEBELING: That is right. The Deputy Premier's electorate would face a similar problem. I do not know whether towns in his electorate are properly serviced. It is time that the Attorney General told the Chief Justice of the Supreme Court to send letters inviting lawyers in such towns to apply to become notaries public.

Mr Cowan: We are a step or two behind. We do not even have any lawyers. We are a very law abiding group.

Mr RIEBELING: I thought that visiting lawyers would even pass through law abiding towns.

Mr Cowan: They do.

Mr RIEBELING: They would qualify as public notaries and be valuable assets to these towns. A call for a public notary in a town like Karratha is not great, and I would be approached three or four times a year by people looking for public notaries.

Mr Marlborough: What do they look like?

Mr RIEBELING: They are like the Minister for Health: The have been practising lawyers for more than five years, and they have developed the wealthy look.

Mr Prince: A proper Rumpolean figure.

Mr McGowan: The prosperous look.

Mr RIEBELING: Indeed. The member for Rockingham has not got the girth to have that wealthy look, but he is a lawyer and heading that way. The member for Rockingham will probably speak about the legal aspects of this Bill.

I hope in his reply to the second reading debate the Minister will advise whether it is possible to bring to the attention of the Supreme Court the dilemma people face in the bush. He knows the problem involved, as does the Deputy Premier and every other country member of this Parliament. Most people in city electorates do not know what a notary public is, and they do not care as lawyers are available to them. Country people need that service. I do not know the last time the public notaries legislation was amended.

Mr Prince: Probably never.

Mr RIEBELING: It is probably the only opportunity for 20 years to comment on the Act. It is a valuable service which is not used that often. I hope that the Government openly encourages lawyers of more than five years' standing to apply for such positions. I hope the Minister for Health leads the way. It would make a good press release: He could say that he is providing an extra service for the country. He could say, "I am a lawyer. Although I do not really want to do this, I am prepared to provide the service for the occasional person in my electorate who requires it." I hope all country lawyers take this opportunity to service their communities. I suppose the position is more an inconvenience for busy lawyers than anything; however, that inconvenience would be paid back through public appreciation of the service.

MR McGOWAN (Rockingham) [3.05 pm]: It is a pleasure to follow the member for Burrup on this important Bill. I acknowledge his outstanding, learned and eloquent remarks, and I am also at a loss to know how to follow such a contribution!

Several members interjected.

The SPEAKER: Order!

Mr McGOWAN: We are debating the Public Notaries Amendment Bill.

Mr Cowan: Does the member for Burrup know that?

Mr McGOWAN: He is a notable person who is public. I am keen to work out from where the expression "public notaries" came.

I now refer to another notable person who is a public figure; namely, the member for Girrawheen. Members probably are not aware that it is the member's 45th birthday today, which makes him considerably younger than the Deputy Premier and the Minister for Health - he certainly looks much younger. We are thinking of the member on his 45th birthday.

Mr Shave: You're kidding yourself; he's 65. You're lying to them.

Withdrawal of Remark

Mr McGOWAN: Mr Speaker, I ask for a withdrawal of that unparliamentary remark.

The SPEAKER: Order! I did not hear the remark said to be unparliamentary, but I invite the member concerned to withdraw should he feel that the comment was unparliamentary.

Mr SHAVE: I am more than happy to withdraw and I hope I have not offended the member for Girrawheen.

Debate Resumed

Mr McGOWAN: The Bill deals with the method of payment of notaries public involved in the witnessing of legal documents and the like. I am perplexed that this is a matter of urgency which is dealt with in the last week of the session considering the other important pieces of legislation on the Notice Paper. It is unusual, taking into account the Government's priorities. Nevertheless, we must deal with this Bill with some seriousness.

What can notaries public charge for services they perform, and what activities of notaries public are different from those of other people entrusted with such responsibilities, such as justices of the peace, commissioners for affidavits

and commissioners for declarations? I am a commissioner for affidavits. I was certainly under the impression that I was empowered as a commissioner for affidavits to witness most documents, including documents that go into the courts. I do not charge for that service which I provide to a large number of my constituents. I do not understand the difference between a notary public and a commissioner for affidavits. It is important that the difference is explained to us by the Minister.

It is very difficult at times to find a notary public. I have had the experience of people bringing in documents that have indicated that a notary public had to witness certain things on the documents. I am at a loss to know where notaries public are, their numbers in the metropolitan area or what are the requirements for someone to become one of them. I think that most, if not all, are legal practitioners.

Mr Bloffwitch: I have met dozens of legal practitioners and I have never known many who are notoriety publics. I would be interested to know exactly what they do.

Mr McGOWAN: They are known as notary publics and not notoriety publics. I am sure that some lawyers are -

Mr Bloffwitch: They are probably notorious.

Mr McGOWAN: That is the word I was looking for.

I seek an explanation from the Minister because it is important when a large number of people in our society are given these responsibilities. I have a number of justices of the peace in my electorate. They are relatively easy to contact to do these jobs. Why is there a distinction on some legal documents between having to have a notary public and having to have a commissioner for affidavits, commissioner for declarations or justice of the peace? It provides a great deal of inconvenience to people seeking someone to witness a document who holds those responsibilities. We should be trying to remove that inconvenience, while retaining some sense of responsibility in the people who have to witness documents. I seek an explanation from the Minister on those points.

MR PRINCE (Albany - Minister for Health) [3.13 pm]: First, on the matters raised by the member for Burrup, my experience and understanding is that there are probably enough notaries public in the metropolitan area, mostly in the central business district. They deal with particular papers that require to be notarised, usually for international commercial transactions.

Mr Riebeling: Most people would expect to come to Perth.

Mr PRINCE: That is correct. Fremantle had a number of public notaries. I do not know whether they are still there.

Mr McGinty: Their numbers are diminishing.

Mr PRINCE: It was very common to find them in a port because they had a lot to do with bills of lading and so on. Perhaps that was more in years gone by.

Mr McGowan: What sort of documents do they deal with?

Mr PRINCE: As I said, such things as bills of lading. As far as I can recall, and this is stretching my memory back a long way - the member for Fremantle has been to university more recently than I - this has its origin in continental law and goes back to Roman times. I suspect it was imported into the United Kingdom at the time of the Norman Conquest. A notary public is a person whose witnessing or authorising of a document is kept by the notary so that the register can be referred to. It is important for trade between States. In the European context, obviously in the past it involved trade across borders. In the more modern context, public notaries deal with documents that pass internationally from one place to another. They are distinct from commissioners for oaths, justices of the peace, commissioners for declarations and so on, whom I will come to in a minute. My first experience of this was as an articled law clerk at Robinson Cox, where the senior partner, Hon Ian George Medcalf, was a notary public.

Mr McGowan: He was also a member of Parliament.

Mr PRINCE: Yes he was. He was also a very, very good Attorney General.

Mr McGowan: I met him recently.

Mr PRINCE: He is a remarkable man and quite one of the best equity lawyers this State has ever seen.

In any event, he had a very large register as a public notary, with a seal and so on. Any form of document that had to be sealed had to be copied and placed in the register as proof of the existence of the document, among other things. The fact that he witnessed the document was acceptable I think by international covenant in other countries. The treaties for public notaries go back hundreds of years. It is probably one of the conventions these days out of Geneva. That is the origin of it. As the member for Burrup so eloquently put it, it is the signature that is required by some

jurisdictions on documents, for example for the transfer of land. The member for Burrup gave the example of New Zealand. I have had experiences when dealing with people with property in France and in some States of the United States.

The commissioner for oaths or affidavits of the Supreme Court is empowered by the Supreme Court to swear an oath as if it were evidence given in court as to the truthfulness of a document which contains writing. I am a commissioner for oaths and have been for a long time. I provide that service for anyone who comes through my door in my electorate. I am entitled to charge a fee for it but I take the view these days that as a member of Parliament that is inappropriate. A commissioner for declarations is somewhat different and is not entitled to charge. A justice of the peace could witness certain documents and declarations in a more restricted form. These days most papers that require a signature of a witness in the State of Western Australia or in the Commonwealth of Australia can be witnessed by teachers, police officers, bank officers and a raft of witnesses. The public notary's job if anything has probably diminished over the years and these days is largely confined to documents from other countries. I doubt there is much more I can say of any use in respect of the origin of notaries, other than to note that the Act provides for the appointment of either a general public notary or district public notary as the case may be.

Mr Riebeling: What are the qualifications?

Mr PRINCE: An applicant to be a public notary must be on the roll of practitioners under the Legal Practitioners Act - not suspended; a practitioner of the court of three years' standing; a practitioner of the court of less than three years but who has practised for seven years as a public notary somewhere else; a person of good character and reputation and competent to Act as a notary; and there must be a need for the appointment of a public notary in the district where the applicant is practising. There is a needs test. I cannot tell the member how many there are in the State. I doubt whether it is more than 100.

I take very much to heart what the member for Burrup said about their maldistribution throughout this State, particularly in the northern areas. I am more than happy to take that up with the Law Society to see if it is prepared to publish a short article in the next edition of *Brief*, urging practitioners who practise outside the metropolitan area in areas where there are no public notaries to make application in order to provide that very occasional service for people such as the constituent of the member for Burrup. I also take to heart his suggestion that I find the forms I filled out some 15 years ago and never bothered to submit, resurrect them and send them in. That has nothing to do with the Bill before the House, which is simply to change the method of fixing the fees that a public notary can charge for performing his or her service from fees fixed by the Supreme Court judges from time to time to those fixed by the Legal Practitioners Board.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and passed.

WILLS AMENDMENT BILL

Second Reading

Resumed from 13 November.

Question put and passed.

Bill read a second time.

As to Committee Stage

MR McGINTY (Fremantle) [3.20 pm]: Mr Speaker, I was having a brief exchange with the Minister and I did not hear you put the question that we were moving to the Wills Amendment Bill. The Opposition wants to make some brief comments on this Bill. It would be a pity and a misuse of the appropriate procedures of the House to do all that via the Committee or third reading stages.

MR BARNETT (Cottesloe - Leader of the House) [3.21 pm]: It is at your discretion, Mr Speaker; however, the Government would not object to our backtracking.

The SPEAKER: I will put the question. However, an opportunity is about to arise for members to debate the Bill. The question is that I do now leave the Chair -

Mr McGinty: That was not my point, and I do not think it was the point of the Leader of the House.

The SPEAKER: The opportunity to make remarks will occur in Committee.

Mr McGinty: That is not appropriate.

The SPEAKER: Unfortunately I have put the question.

Mr McGinty: That is not the way to handle something like that.

MR PRINCE (Albany - Minister for Health) [3.24 pm]: I asked the member for Fremantle across the Chamber whether he wanted me to have an adviser for this Bill. Mr Speaker, at the time you put the question on the second reading he was responding to me that he did not think an adviser was required. It was I who caused the distraction to the member for Fremantle.

The SPEAKER: The difficulty is that the House has made a decision and I have put the question. However, the opportunity to make the points can come. The question is that I do now leave the Chair and the House resolve itself into a Committee of the Whole for consideration of this Bill.

Committee

The Deputy Chairman of Committees (Ms McHale) in the Chair; Mr Prince (Minister for Health) in charge of the Bill.

Clause 1: Short title -

Mr McGINTY: It is unfortunate that we find ourselves in this position. In the past when issues such as this have arisen about which there was no great contention the matter has been handled by the Speaker's putting the question again. That has occurred on a great number of occasions and that has been the way these sorts of matters have been dealt with expeditiously. Members have now been deprived of the second reading debate on this Bill. That should not have occurred. I do not feel inclined to bastardise the processes of this place and have a debate in Committee or the third reading stage which is appropriately a second reading debate. The way this matter was handled was unfortunate. It should not have been allowed to evolve in this way. Members are left with nothing to do other than to misuse the procedures of the Chamber.

Clause put and passed.

Clauses 2 to 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

MR PRINCE (Albany - Minister for Health) [3.25 pm]: I move -

That the Bill be now read a third time.

MR McGOWAN (Rockingham) [3.26 pm]: This Bill will change the standard of proof for documents that are outside the concept of a will in the event of an intention by a testator to amend the intended effect of a will. I presume the intent of this Bill is not to refer to codicils, because they constitute the formal will making document.

Mr Prince: Of course it does.

Mr McGOWAN: Is its intention also to refer to other documents; for instance, notes that people may write?

Mr Prince: No.

Mr McGOWAN: What about documents entered into by people such as soldiers in wartime?

Mr Prince: They are covered under a special provision in the Wills Act.

Mr McGOWAN: Are they not intended to be covered under this legislation either?

Mr Prince: This legislation deals just with the standard of proof necessary for proof of a will in solemn form in the Supreme Court, which means evidence, usually in an oral hearing and backed up by affidavit. Until now the standard of proof has been that the court be satisfied beyond reasonable doubt, which is the criminal standard.

Mr McGOWAN: Does the Bill refer just to formal documents that purport to amend a will?

Mr Prince: The court must be satisfied that the document or documents that are sought to be proved as a will are found on the balance of probabilities, not beyond reasonable doubt, to be the will.

Mr McGOWAN: I understand that. My question relates to the wider area of will making. As the Minister will be aware, if a person is married, any will he or she had prior to that point is invalid.

Mr Prince: Yes, unless it is a will made in contemplation of marriage.

Mr McGOWAN: Naturally. A number of Law Reform Commission reports have addressed the situation of people's wills leaving their estate to their spouse even though they were separated, maybe for a long period, but had not amended their wills. Upon their death they may well leave their property to an estranged spouse with whom they may have already agreed on a property settlement, and their property may not go to those who the deceased would have wished; for instance, to a new de facto spouse, parents or the like. The Government should deal with that law of succession. Will the Government deal with that issue as a priority?

Mr Prince: A will made by a person in favour of his spouse, but who subsequently becomes separated or even divorced, and who does not revoke that will either by a subsequent marriage or will and then dies, is valid. That person's lawyer engaged for the purposes of divorce proceedings should have done the right thing by the client by advising him to change his will.

Mr McGOWAN: The Minister would be aware that many people do not formally divorce.

Mr Prince: Yes, and if they have not made a will the pre-existing will is it.

Mr McGOWAN: Does the Government intend to deal with that situation?

Mr Prince: The member for Rockingham is now talking about an alteration of property interest between de facto couples and that is a totally different area in family law. Succession is a vexed area. The law of wills has been simple and consequently well understood and with little doubt about it. The will is the will unless there has been a subsequent will or a marriage. If we start talking about an existing will being invalidated by a de facto marital relationship, we must define that. The definition becomes difficult, and that becomes debateable. These are the problems that should be debated when changing the law of succession arising out of problems which the member so eloquently put.

Mr McGOWAN: It is an area which perhaps should be given greater priority than the area with which we are dealing today, because it affects so many people and creates so much litigation.

Mr Prince: In which case people should make new wills.

Mr McGOWAN: That is easy to say. However, many people never make a will.

Mr Prince: If they never make a will, they need to know the effect of not making a will.

Mr McGOWAN: The Minister is missing my point. The law intervenes when someone is married.

Mr Prince: The law stepped in as a mater of public policy thousands of years ago and said that the wishes of the deceased shall be put into effect. Originally the wishes of the deceased were determined by what that person said as he or she died, and the witnesses were those people around the bed. As people became more literate, those wishes were put down in writing, usually by members of the clergy because they could write. The document spoke for the deceased after death. I am going back to Roman law for this.

Mr McGOWAN: There has been some amendment to the situation that the will is the last expression of a deceased person's intentions. The testator family maintenance provisions under the succession legislation are a major amendment to that principle.

Mr Prince: In this State, the Inheritance (Family and Dependants Provisions) Act deals with widowers, widows, and dependent children and grandchildren. It does not deal with de factos.

Mr McGOWAN: It is an area that the Government should consider.

MR PRINCE (Albany - Minister for Health) [3.35 pm]: I thank the members of the Opposition for their support of this matter. It is merely a matter of changing the standard of proof to be used for the proving of a will in solemn form in the Supreme Court from the criminal standard of beyond reasonable doubt to the civil doubt of on the balance of probabilities, which changes our law in line with the other laws around Australia which in like fashion over the years have been changed to the civil standard rather than the criminal standard.

Question put and passed.

Bill read a third time and passed.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL

Council's Amendments - Committee

Amendments made by the Council now considered. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mrs Edwardes (Minister for the Environment) in charge of the Bill.

The amendments made by the Council were as follows -

No 1

Clause 2, page 2, after line 8 - To insert the following new subsection -

(2) If this Act is not proclaimed within 6 months after the day on which it received Royal Assent, it commences on the first day after the end of that period.

No 2

Clause 6, page 4, line 13 - To insert after the word "amended" the following words -

(a) by inserting after the words "The Board shall" the following words -

" , in or after consultation with the Building and Construction Industry Training Council; and

(b) ".

No 3

Clause 7, page 6, after line 23 - To insert the following new paragraphs -

(b) at least 2 of the members shall be drawn from persons acceptable to one or more of the bodies named in subsection (1)(a), (1)(b), (1)(c), (1)(d), (1)(e) or (1)(f); and

(c) at least 2 of the members shall be drawn from persons acceptable to one or more of the bodies named in subsection (1)(g), (1)(h) or (1)(i).

No 4

Clause 7, page 6, after line 26 - To insert the following new subsection -

(4) The Ministerial appointments to the Board must be made in accordance with section 10A.

No 5

Clause 7, page 7, after line 5 - To insert the following new section -

Minister to invite applications

10A. The Minister shall -

(a) establish and make available to applicants selection criteria for positions on the Board; and

(b) advertise in two major newspapers circulating throughout the State that a position is available and applicants are invited to apply.

No 6

Clause 11, page 9, line 9 - To insert after the word "to" and before the word "the" the following -

(a)

No 7

Clause 11, page 9, line 10 - To insert after the word "arrangements" the following -

; or

(b) the carrying out of construction work for charitable purposes,

No 8

Clause 15, page 13, lines 1 to 8 - To delete the lines and substitute the following -

Duration of Act

35. (1) Subject to this section, this Act expires 5 years from the day on which it comes into operation.

(2) Not earlier than 12 months before the expiry provided for in subsection (1), the Governor, by notice published in the *Gazette*, may extend the operation of this Act for a further period of not more than 5 years commencing on the day on which this Act would otherwise have expired and may, in like manner, continue the operation of this Act for 1 or more periods being not more than 5 years in each case.

(3) Any order made under subsection (2) is to be laid before each House of Parliament not later than 7 sitting days of each House from the day on which it is made and has no effect unless affirmed by resolution of each House passed in the same session.

Mrs EDWARDES: I move -

That amendment No 1 made by the Council be not agreed to.

This amendment will add a new subsection. Clause 2 brings an Act into operation by way of a date fixed by proclamation. That provides certainty to the commencement date and is the standard drafting procedure. The amendment does not cater for the long drawn out appointment procedures which have no default clause. The Government disagrees with this amendment because it does not provide the same flexibility that is contained in the Bill and is therefore considered unnecessary.

Mr KOBELKE: I cannot agree with the Minister on this amendment, unfortunately. The backdrop to this amending legislation is that we wish to see the improvements contained in it come into effect; therefore, we support the legislation and wish to see it enacted. However, we see major problems with some aspects of it which relate primarily to the fact that the sunset clause will lead to the building and construction industry training fund being done away with. I will not go into that during debate on this amendment. There is a connection because this amendment is seeking to ensure there is no undue delay in putting in place the amendments contained within the Bill. The specific reason for tying it down is that a new board is to be set up. We are not talking about a whole new arrangement. The board already exists. The amendment is changing the basis on which board members will be selected. It will no longer be tied to the industry training council; it will no longer have sectoral representation; and the numbers on the board will change. I find it unbelievable that there would be any problem in reconstituting the board in six months. The amendment is simply saying that if the legislation is not proclaimed within six months after the day on which it receives Royal assent, it will commence on the first day after the end of that period. The Minister will have six months to ensure that the procedures are followed and the new appointments are made. Given that this matter has been in train for some time, that we already have an existing structure and that this is only a rearrangement of the people who will be on the board, it should not create any problems.

This amendment was moved in the other place, but not by the Labor Party. I am not arguing from the point of view that we have ownership of it; however, we agreed with it and supported it because we are concerned that, as this is a sunset clause, any delay in starting up may mean the effects of the amendments cannot be put in place and evaluated before we find ourselves up against a sunset clause which will kill the whole thing. We are opposed to that. With this amendment the changes will be put in place promptly, and the building and construction industry training fund and its board will be up and running in a matter of only a few weeks and will have time to put in place the much needed reforms and then we will be able to evaluate them. I cannot see what the problem is in saying that this should happen within six months from when Royal assent is given to the legislation. On that basis, we will not support the Minister's motion to disagree to this amendment.

Question put and passed; the Council's amendment not agreed to.

Mrs EDWARDES: I move -

That amendment No 2 made by the Council be not agreed to.

This amendment seeks to have the board consult with the Building and Construction Industry Training Council. In the formulation of its annual operational plan, the board will consult with various bodies, including the BCITC. We do not believe it is necessary in this legislation to single out only one of these bodies - the BCITC - with which the board will consult. Therefore, we believe this amendment is unnecessary.

Mr KOBELKE: We are in very strong support of this amendment and wish to see it remain in the Bill. A major change being put in place by this Bill is this separation between the actual training fund board and the industry training council. Under the current legislation they are made up of the same people. For very good reasons the Minister has moved to see a separation. I will not enter into the arguments about why there should be a separation; however, we must keep in mind the roles of the industry training council and the industry training fund board. The industry training council has the pre-eminent role of laying down the training plan for the building and construction industry. The board of the fund is, in my view, an adjunct to that. It has the money - $6m a year. We could end up with a totally ridiculous situation whereby the key body responsible for planning and articulating training in this industry simply becomes the tail on the dog, the fund board. The board can go off and do all sorts of things which could in some ways undermine or be destructive of the training put in place by the training council. At the moment the two work more or less as one and because of that, some conflicts of interest are perceived and, therefore, there must be a separation. We are going from that situation to one where the two bodies are not even required to talk to each other. The Minister has just said that the industry training council will be able to seek views from a whole range of bodies, and that is absolutely true; however, she wants us to omit from the legislation totally the requirement for any consultation to take place between the industry training fund board - the agency with the money - and the body that is to designate the form of training, the industry training council.

This amendment is saying only that the board shall, when it is allocating the resources of the fund to the various programs, do it in or after consultation with the Building and Construction Industry Training Council. It is not tying the arms of the fund board; it is simply saying that it cannot lay down its programs for spending the money until it has at least consulted with the Building and Construction Industry Training Council, the body which under other legislation is supposed to have the key role in laying down on an annual basis what the training will be in this area.

Surely that amendment is a reasonable compromise. It in no way jeopardises the total independence of the two bodies; it simply places a requirement in the Statute that before laying down its plan for training, the industry training funding board must talk to the peak training body. I will make comment about why it is to be made in or after consultation. If the clause said "in consultation" only, the Minister may be able to attack the proposal and say that it is too tight; that it is requiring one body to work with the other.

We support the amendment which says that its plans will be made only in or after consultation. If the two bodies do have a difference of opinion or there is a personality clash between members within the two organisations, the form of consultation could simply be asking for the view of the board and after that consultation, within the Statute as we want it amended, the council could continue with its planning scheme for the year. It must at least have made an attempt to consult with the industry training council, which has prime responsibility for the annual training plan.

Question put and a division taken with the following result -

Ayes (31)

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

Noes (17)

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

Pairs

Dr Hames	Mr Riebeling
Dr Turnbull	Mr McGowan

Question thus passed; the Council's amendment not agreed to.

Mrs EDWARDES: I move -

That amendment No 3 made by the Council be not agreed to.

This is a proposed amendment to clause 7, which is a key aspect of the Bill dealing with membership of the board. The Hitchen report recommended that membership of the board be restricted to seven members, including the chair, to be appointed by the Minister, but not as representatives of various sectors or organisations. The new independent board is the key to the future improved performance of the fund. The proposed amendment would remove flexibility in making appointments by requiring that two of the members must be drawn from persons acceptable to one or more of the employer bodies named, and two of the members must be drawn from persons acceptable to the union bodies named. This is contrary to the Hitchen report, and it restricts the power of the Minister.

In addition, parliamentary counsel considers that proposed new paragraphs (b) and (c) are confusing and poorly drafted. No explanation is given of how acceptability would be determined. No provision is made should there be an insufficient number of persons "acceptable" from whom the Minister may make appointments. The proposed amendment does not indicate how acceptability will be evidenced. The amendment would maintain the possibility of membership from employer and union bodies similar to the membership of the current board, where conflict of interest has arisen because these bodies have their own group training scheme and/or skill training centre which are major recipients of BCITF funds. Therefore, the Government is absolutely opposed to this amendment.

Mr KOBELKE: The Government has proposed a major change to the membership of the board of the building and construction industry training fund. There are reasons that changes should be made to the existing structure, and the Opposition has no problem with that. However, the Minister's proposed change goes well beyond that which is required to fix the current issues, which relate mainly to the fact that the membership of the board is seen to be directly representative of a range of organisations. The power of the Minister to appoint independent members, therefore, is minimal, and she wishes to extend that. The amendment proposed by the Legislative Council will give the Minister that power. I do not see any problem with that proposal. It simply requires some measure of sectorial representation, but not in its current form.

Under the current arrangements, membership of the board comprises a presiding member, appointed by the Minister and 11 other members appointed by the Minister in accordance with the legislation. The members may nominate a person as presiding member. With respect to the other 11 members, one person shall be appointed to be a member on the nomination of each of the following bodies: The Master Builders Association of Western Australia; the Housing Industry Association - Western Australian Division; the Australian Federation of Construction Contractors - State Division; the Confederation of Western Australian Industry; the Trades and Labor Council; the Building Trades Association of Unions of Western Australia - Association of Workers; the Australian Workers Union - Western Australian Branch; the Metal Trades Federation of Unions - WA Branch; and the Western Australian Municipal Association. Two members shall be employed in, or be officers of, the Public Service of the State. The Minister can clearly nominate those members. The difficulty with the existing structure is that it is fairly large and can be unwieldy. These nine members are nominated by bodies involved in the industry, and the Minister has no say in that. The majority are from those constituent groups.

The Opposition is happy to accept the proposal that the Minister should make the appointments, but the Minister wants to take it a big step further. She does not want to enable these bodies to put forward names for membership that must be seriously considered. Their suggestions can be totally ignored under the Government's amending legislation, and the Opposition has difficulty with that. It is happy to free up the process so that the Minister has a far greater say in the appointment of members of the board, and the Minister will be able to appoint each member of the board. The proposed amendment from the other place indicates that at least some of the members should be drawn from names put forward by the constituent groups.

The amending legislation which changes section 10 of the Act requires that the board shall now consist of seven members rather than 11, and they will be appointed by the Minister after consultation with a number of bodies which reflect those I have already mentioned, although they change a bit. The bodies now to be consulted are the Master Builders Association of Western Australia; the Housing Industry Association; the Construction Contractors Association of Western Australia; the Master Plumbers and Mechanical Services Association of Western Australia; the Master Painters, Decorators and Signwriters Association of Western Australia; the Western Australian Builders Labourers, Painters and Plasterers Union of Workers; the Construction, Mining, Energy, Timberyards, Sawmills and Woodworkers Workers Union of Australia; and the Australian Manufacturing Workers Union. The point is, the Minister will make the appointment and will be required only to consult those bodies. As a result of the amendment in the Bill the Minister of the day will be able to go through the charade of writing a letter and appointing to the board whomever he or she wishes. The Opposition believes that goes too far.

Mr BROWN: I also support the Council's amendment. There seems to be a desire by the Government to remove

from this and other Acts of Parliament provisions which give to employee organisations an opportunity to either nominate or influence the nomination of people to various boards - in this case, the board under the Act. This is always a matter of some debate because of the fundamental philosophical disagreement about whether certain organisations should have the right to be represented on such boards.

However, it seems that proposals to remove the influence of those organisations are particularly strenuous concerning organisations dealing with "blue-collar workers" compared with other organisations. For instance, in other Bills before this Parliament the Government has sought and achieved the removal of a requirement to appoint people nominated by employee organisations, particularly traditional unions. However, it has not taken the same approach with other organisations. For example, under the Legal Practitioners Act the Law Society can make appointments, including appointments to committees such as the Legal Costs Committee, which recommends the schedule of fees that the various courts pay members of the profession.

The Government has given no indication that the requirement, which gives the Law Society direct representation on the legal costs committee, is philosophically wrong or should be removed because it gives an organisation that fairly significant right. It is significant because it enables members of an organisation to sit on a committee which determines their remuneration.

The Government has made no move to remove the influence of the Australian Medical Association from a series of boards on which its members sit in judgment of other members of the profession. The members make determinations about whether members of the profession can continue to operate, or whether they should be removed from the profession and have their standing changed.

Likewise, in other legislation recognition is given to organisations or their members. The distinction seems to be that where an organisation represents blue-collar workers - the lower paid workers - it is somehow tainted and unreliable and should not be provided with that degree of authority. However, where an organisation represents "professionals" it should be given that responsibility and authority. A strong class position has been adopted. It is reflective of a view of the world about the role and influence that people from one class, blue-collar workers, should have compared with the role and influence of people from another class such as professionals. The Council's amendment will overcome that form of discrimination.

Mr KOBELKE: I said earlier that the number of people on the board to be constituted under this amending Bill will be seven, but it will be 10. I meant to say that seven members will be drawn from the various industry groups. In addition, two independent members will be appointed by the Minister who are not members of those organisations. A further independent member will be appointed by the Minister as chairman of the board. I am referring to the seven members on which the Minister is required to consult a range of industry groups.

The amendment from the other place is to require that at least two of those members be acceptable to the industry groups; that is, the Master Builders Association, the Housing Industry Association, the Construction Contractors Association, the Master Plumbers and Mechanical Services Association, the Master Painters, Decorators and Signwriters Association and the Federal Contractors Association.

The amendment seeks to provide also that at least two other members shall be drawn from persons acceptable to one or more of the other bodies; that is, the Western Australian Builders Labourers, Painters and Plasterers Union of Workers; the Construction, Mining, Energy, Timberyards, Sawmills and Woodworkers Workers Union of Australia and the Australian Manufacturing Workers Union.

The wording in the amendment requires that at least two of the members shall be drawn from persons acceptable to one or more of those bodies. That happens twice within the groupings. I do not see the basis for the Minister's claim that there would be a problem in defining what is acceptable. It would simply be a matter of writing to the groups and asking them to put forward names. It would be in the hands of the Minister of the day to ask them to each provide up to a dozen names. By any use of the English language, those names would be taken to be acceptable to that group. If a group decided not to respond to the Minister, a range of other groups is available. I do not believe that at least one or two of the three or four groups would not put forward a list of names from which the Minister would choose two.

The other groups would know that they would be left out in the cold if they did not put forward a name, because if only one other group in their category put forward two or more names, the Minister would be able to take up the provisions of the Act, appoint the people and form the board. This amendment is wide open. We are not dealing with a restricted scheme of things where the failure of a group to put forward a name might mean that the legal definition of acceptability and of having names put forward would be a problem. Therefore, because of the way it is structured, that eventuality would not arise. The Minister would simply have to write to the industry groups, designate the number of nominations that the Minister was seeking, and make it clear that the Minister alone would

decide which people would be appointed to the board; and for the purposes of the amendment, the Minister would be required not only to consult but also to appoint as four of the 10 members of the board people who were acceptable to the industry groups. That is a very workable amendment. If the Minister had a fight with a particular organisation on the company side, the Minister could choose the people whom he or she wanted from among the other six groups.

Question put and a division taken with the following result -

Ayes (28)

Mr Ainsworth	Mr House	Mr Pendal
Mr Baker	Mr Johnson	Mr Prince
Mr Barron-Sullivan	Mr Kierath	Mr Shave
Mr Bradshaw	Mr MacLean	Mr Sweetman
Dr Constable	Mr Marshall	Mr Trenorden
Mr Court	Mr Masters	Mr Tubby
Mr Day	Mr McNee	Mrs van de Klashorst
Mrs Edwardes	Mr Minson	Mr Wiese
Mrs Hodson-Thomas	Mr Omodei	Mr Osborne *(Teller)*
Mrs Holmes		

Noes (17)

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

Pairs

Dr Hames	Mr Ripper
Dr Turnbull	Ms MacTiernan

Question thus passed; the Council's amendment not agreed to.

Mrs EDWARDES: I move -

That amendment No 4 made by the Council be not agreed to.

This amendment to new subsection (4) deals with the membership of the board and ministerial appointments, and amendment No 5, which is forthcoming, deals with new section 10A. New subsection (4) refers to "ministerial appointments", and that is misleading, if the intention is to restrict the reference to "independent members", as all the appointments are made by the Minister. This subsection is poorly drafted.

Mr KOBELKE: The real effect of this amendment is picked up in the next amendment, so I will reserve my comments about that matter. However, I want to take up the Minister's point that the proposed subsection is poorly drafted. I will not argue that it is the best possible drafting in the world, but I do not think it is all that different from the many things that we have seen in the Government's legislation.

This amendment requires the Minister to advertise the vacancies for these board positions. The Government already does this in a general way by putting out notices once or twice a year indicating that it needs to appoint to a range of boards and committees people who have a community interest and specific professional qualifications and experience to enable them to perform this important role. The Minister has said that the use of the words "ministerial appointments" is not the best way of wording this amendment. We could make a further amendment to this if the Minister could suggest a way of tidying it up.

I do not believe that this amendment will create ambiguity, because proposed section 10, which is to be amended, states that the board shall consist of seven members appointed by the Minister; subsection (2) states that at least two of the members shall be in the Minister's opinion independent of the bodies referred to in subsection (1); and subsection (3) states that one of the independent members referred to in subsection (2) shall be appointed by the Minister as chairman of the board. It is clear from those words that the members will be appointed by the Minister. It is simply providing that, in making those appointments to the board, the Minister should do so in accordance with

section 10A, which relates to the requirement to advertise those positions, and we will discuss that in dealing with the next amendment.

Question put and passed; the Council's amendment not agreed to.

Mrs EDWARDES: I move -

That amendment No 5 made by the Council be not agreed to.

This amendment deals with clause 7 and seeks to insert new section 10A, requiring the Minister to invite applications. It also refers to the advertising and how the selection criteria should be made available. This amendment is totally unnecessary as it appears from the amendment to section 10(4) that it may be intended to apply only to the appointment of the independent members. Therefore, it could potentially create two classes of eligibility to the board.

Paragraph (a) also makes reference to establishing and making available selection criteria. Who are the applicants? Presumably there are no applicants until after the advertising in the newspapers referred to in paragraph (b). When one reads proposed new section 10A in conjunction with section 10, it is unclear in its application.

Mr KOBELKE: The intention is to provide that the Minister make appointments only after the positions have been advertised. In undertaking that advertising, notice of the criteria should be provided. We accepted that the degree on sectorial representation of industry bodies had created a problem. We want to free it up.

We are now moving to a situation in which people who have no background in the industry could be appointed. The establishment of these criteria will ensure that when the Minister appoints a person, we can see the basis for that appointment. There is a very sound reason to require advertising of vacancies on the board. Further, there should be some indication of the selection criteria so that people will know whether it is appropriate to put forward their name. In addition, when the appointments are finally announced by the Minister, we would be able to make a judgment about who has been appointed with knowledge of their skills and background and the criteria laid down.

The Minister suggests that there are some technical problems. I accept that the wording is not as clear and as precise as one might like, and that "applicants" is perhaps not the best word. However, the Minister is using those minor deficiencies to attack a good proposal rather than seeking to reach some accommodation so that we can improve the Bill by including this requirement for advertising and notification of the selection criteria. The deficiencies are minor; they will in no way stop the implementation of the Bill, and particularly this section relating to advertising and the appointment by the Minister of members to the board. The word "applicants" is clearly meant to refer to intending applicants, and that will not create a real problem. While this amendment was not put forward by the Labor Party, it is one to which it will give its support.

Mr BROWN: I am surprised that the Minister opposes this amendment. It seeks to open up the appointment process to make it more transparent than otherwise might be the case. My colleague the member for Nollamara referred to the implications of changing the appointment processes. These changes will mean that the Minister is given a great deal of discretion on the appointments he or she ultimately makes. It is not unreasonable in those circumstances for people to be informed of the selection criteria. Would one be required to be a member of the Liberal Party or should one hold the same philosophical views as the Government? Is an applicant required to know anything about the building and construction industry? The fact that there appears to be some reservation about agreeing to a modest change to the legislation is worrying.

Whether the words are elegant enough is not strictly applicable. We all know that, if the Government wishes to pick up the spirit and intent of the amendment, it can refer the matter to parliamentary counsel, who will draft a form of words that meet the same objectives, but perhaps more elegantly and more in tune with the language in the Bill. To oppose an amendment on the basis that it is not elegant or that it is drafted in such a way that it leaves matters to interpretation is simply an excuse for opposition - it does not deal with the substance of the proposal.

Providing selection criteria is not an unusual practice. Generally speaking, people will know the selection criteria when they apply for a position or voice an interest in participation on a board. Therefore, they are aware of the qualities, qualifications and training one would be expected to have to be selected for a position. The absence of selection criteria when the Minister has the broad discretion currently proposed in the Bill is worrying.

The amendment also proposes that when board positions become available they be advertised. Again, in the interests of openness and accountability, when the Minister has almost absolute discretion to nominate whomever he or she wants, it is appropriate that people have the opportunity to put forward their own name for consideration. I cannot understand why the Government so strongly opposes that aspect of the amendment from the other place. One could assume, I hope not correctly, that the amendment is opposed by the Government because the Minister does not want to be confronted by very good, qualified people applying for board positions, whom the Minister does not want to appoint.

Question put and passed; the Council's amendment not agreed to.

Progress reported.

[Continued on page 8722.]

PUBLIC SCRUTINY OF BILLS AND REGULATIONS BILL

Second Reading

MR BROWN (Bassendean) [4.32 pm]: I move -

That the Bill be now read a second time.

This Bill establishes a framework and process designed to facilitate the proper scrutiny of government legislation by the Parliament and the people of Western Australia. The Bill seeks to achieve this objective by opening up the legislative process to make it more transparent and accountable; encouraging greater public participation in the assessment of legislation; and creating better legislative outcomes by testing the economic, social and environmental impact of proposed laws and regulations. I will deal with each of those objectives in turn.

The Bill provides for a more open and accountable legislative process by requiring the Government to disclose the economic, social and environmental implications of each new law that comes before the Parliament; providing a parliamentary committee with the mandate to review proposed legislation; and giving the public an opportunity to participate in the legislative process by making submissions to the parliamentary committee. The Bill seeks to achieve greater transparency by placing an onus on Ministers to produce impact statements on the benefits and implications of substantive Bills and delegated legislation. It is envisaged that impact statements will provide a level of information that will facilitate and encourage public scrutiny. The Royal Commission into Commercial Activities of Government and Other Matters recognised the impossibility of holding government to account in the absence of solid information. The commission observed that accountability can be exacted only where those whose responsibility it is to call government to account are themselves possessed of, or are able to obtain, the information necessary to make considered judgements. Information is the key to accountability. Impact statements are designed to provide the type of information needed to assess the implications of the proposed legislation. Of equal importance is public participation in the assessment process. The Commission on Government reported that public participation in the legislative process is seen by many as a desirable goal. The commission observed that it is argued that as Parliament makes laws which can affect people's lives, so the public should be able to have a say on that legislation.

The commission noted that the submissions it received had a constant theme of supporting more public input into the legislative process. The commission reported that the Parliamentary Commissioner for Administrative Investigations saw the need for the public to be provided with the opportunity to comment, by way of public hearings if necessary, on both primary and secondary legislation. The commission reached the conclusion that it was appropriate to increase the opportunity for public participation in the legislative process. In doing so, it noted the lack of any formal process to give effect to this conclusion. This Bill establishes a framework that facilitates and encourages public participation in the process. It provides access to timely information on legislative proposals and gives the public an opportunity to make submissions to the parliamentary committee charged with the responsibility of examining proposed legislation. I believe the processes and information required by this Bill will lead to better legislative outcomes. In a rapidly changing and complex society, there has never been a greater need to ensure proposals for change are thoroughly scrutinised so that the laws which follow are appropriate and well directed, and do not have unintended consequences.

I now turn to the central clauses of the Bill. Clause 5 imposes a duty on a Minister introducing a Bill to table an impact statement on the day of the second reading in the House in which the Bill originates. The impact statement will include a statement on the objectives of the Bill and an assessment of the costs and benefits of the Bill, including an assessment of the economic, social and environmental impact as well as the likely administration and compliance costs. Clause 6 requires the Minister to place a notice in a daily newspaper within 48 hours of the second reading of the Bill. The notice will provide advice of the nature of the legislative proposals under consideration, where information may be obtained, as well as invite public submissions on the proposals. Copies of all submissions, the Bill, the second reading speech, the notice and the impact statement are required to be provided to the parliamentary committee charged with responsibility for reviewing the Bill. Clause 7 authorises the parliamentary committee to prepare a report on the Bill. In preparing its report, the committee may hold a public hearing or call for oral submissions. The committee's report is to be presented to the House in which the Bill did not originate. Clauses 8 to 12 establish similar procedures for reviewing regulations. Clause 14 provides an exemption from these procedures where a Bill or regulation does not provide an appreciable economic, social or environmental burden and in certain other limited circumstances.

It is our intention to seek public comment on the Bill before we return next year after the parliamentary break. I commend the Bill to the House.

Debate adjourned, on motion by Mr MacLean.

MOTION - ELECTRICITY

Uniform Tariff

DR GALLOP (Victoria Park - Leader of the Opposition) [4.38 pm]: I move -

> That this House reaffirm its commitment to a uniform electricity tariff for all residential and business customers throughout the State and reject the Minister for Energy's proposal that regional consumers using more than 200 000 kilowatts a year be charged an additional premium.

Mr Deputy Speaker, you have probably heard the expression that it takes two to tango. I want to do a tango with the National Party; no National Party member is in the Chamber, but perhaps my call in the wilderness might bring some of them from those outer fields where they are currently sowing their crops, so they can come in and participate in this very important debate that deals with the interests of regional electricity consumers in Western Australia.

Mr Barnett: You will need a sheep dog.

Dr GALLOP: One thing is for certain: The Minister for Energy will not provide a sheep dog for me to bring them into the Chamber because he is the culprit in respect of not considering the interests of regional consumers on this issue.

The importance of this issue on the second last day in which we are sitting in Parliament is quite clear. We have an opportunity to send a very clear message to the Minister for Energy. That message is that we do not want to see the uniform electricity tariff compromised in any way. The institution has served the State well. His continuing efforts to undermine it are destabilising the rural community, undermining confidence in the development of that community and increasing costs to those trying to create jobs in regional Western Australia. We must recognise that the National Party is saying exactly the same things we are saying in regional communities throughout Western Australia. It is saying it to interested individuals and associations. The time has come for the National Party to make that statement in this Parliament, so that it is absolutely clear where the National Party stands. We do not accept an undermining of this important institution in Western Australia.

I will be quoting later from correspondence that the Deputy Premier, the Leader of the National Party, has been sending out to regional Western Australia. It is interesting to note that at a recent meeting of local government representatives in the great southern region his colleague the Deputy Leader of National Party said that the corporatisation of Western Australia's energy authorities was a mistake and he supported a reversal of that process. If the National Party is saying to regional customers and associations that it supports the preservation of the uniform electricity tariff system, it must back up those statements with real support in this Parliament for the uniform electricity tariff.

We have an opportunity today to send a clear message to the Minister for Energy and the Government of Western Australia that the Legislative Assembly supports the uniform tariff and does not -

Mr Barnett: A clear message to Labor voters and small business in Western Australia.

Dr GALLOP: Does the Deputy Leader of the National Party deny saying to a regional grouping of local governments recently that he was opposed to the corporatisation process of our energy authorities and wanted to see it reversed?

Mr House: I noticed that nobody from the Labor Party was at that meeting. The Leader of the Opposition purports to talk about regional Australia and he did not have anybody at that meeting. Why was nobody there? He could not care less about rural Western Australia.

Dr GALLOP: Let us see where the Deputy Leader of the National Party stands tonight. I was in that area a few days later and I was told what the Deputy Leader and Leader of the National Party said in their attempts to undermine the coalition, but at the same time not do anything about the issue, just as they are trying to undermine the member for Albany over the foreshore development in Albany. They have the hide to come into this Parliament and talk about native title holding up development. A development is ready and able to go in Albany and the National Party is trying to undermine it. Millions of dollars have been spent on that development and they are trying to undermine it.

Mr House: Are you in support of that development?

Dr GALLOP: Of course we are.

Let us look at the history of this issue. A Cabinet decision of October 1996 approved the addition of up to 8¢ a unit to the electricity price for users of more than 200 000 kilowatts per year, the increase being limited to power consumption over the previous year. The increase was less than 8¢ where power was generated by a source other than diesel fuel. The National Party participated in and supported that decision in October. However, it triggered a major controversy in the community that found its way into the election campaign. When the heat went on, the National Party tried to distance itself from that decision. Members of the National Party were only too happy to tell everyone of their opposition to the increase and reiterate their opposition to the tariff. On 10 December last year the Deputy Premier said, "You either have a uniform tariff or you don't. You can't draw a line and say above that line a surcharge exists and below the line it doesn't." He described the Minister for Energy's comments as garbage.

The National Party then went to the regional communities in Western Australia and promised that it would not enter into a coalition until the uniform tariff issue had been reinstated, just as it told the rural community it would oppose the gold royalty. We all know that the coalition was reformed. They were happy to take their seats back on the government benches and enjoy the salaries that went with it.

The Minister for Energy then modified his position somewhat and he took a submission to Cabinet in June 1997. He proposed a new policy for the non-interconnected system which would mean surcharges for amounts consumed above 100 000 kW a year. The surcharge would be smallest in Carnarvon, greater in Esperance and greater again in areas where diesel was the dominant fuel. He also proposed an end to the R2 tariff, the commercial time of use tariff, that had been introduced by the previous Labor Government and applied to 57 customers in regional Western Australia. Interestingly this submission by the Minister for Energy was itself a slap in the face for the National Party. That was because in February 1997 the Deputy Premier give the Minister for Energy a 1 July deadline to resolve this issue. He said that the matter would be resolved in the next few months.

Let us look at the National Party. In the election campaign the National Party said it would not form a coalition if there was a compromise on the uniform tariff. We had the election and it is back in the coalition. Then National Party members tell the people in the regional communities of Western Australia that it will be resolved a few months from February. It was not resolved in a few months. The Minister for Energy took another proposal back to the Cabinet.

It still has not been resolved and the Minister for Energy is still not moving away with his push to end the uniform tariff in Western Australia. His latest proposal, his third proposal, involves an excise premium to apply to consumption over 200 000 kW over a year. The customers involved would be charged up to an extra 4¢ a unit, with increases in any one year limited to 10 per cent.

The Minister for Energy modified his position from the June Cabinet submission and it now affects about 83 customers in Western Australia, whereas his June submission would have meant that 138 customers who consume over 100 000 kW were affected. The Minister stated that he would seek tenders for power generation on a competitive basis. Most likely this competitive process would start with Esperance, move to Broome and Derby and then to Exmouth.

The justification for this policy has not changed for the Minister for Energy whatever version one takes - October 1996, June 1997 or October 1997. Whichever way one looks at it, this Minister wants to break the uniform electricity tariff and bring a version of the user pays principle to Western Australia. He said that in this Parliament in August 1997 and it is a beautiful summary of the argument. He stated -

> Electricity is sold to householders for around 12¢ a kilowatt hour. It is sold to businesses for around 16¢ a kWh. In regional parts of Western Australia the cost of generating that power is anywhere between 20¢ a kWh and 65¢ a kWh. That is why we have a problem. The cost of generating power is well in excess of the price for which it is sold. For that simple reason there has always been a loss or cross subsidy.

We can apply that principle to all areas of the government delivery in regional areas: The Water Corporation; gas; electricity - as the Minister said in that statement; education; and health. The Government could apply that principle of cross-subsidy all through regional Western Australia. If we accept the Minister's logic in that area it is the thin end of the wedge and we will see the beginning of the end for regional consumers in Western Australia. We will see the beginning of the end of that great principle that wherever one lives one will be treated the same by the Government of Western Australia.

This is an issue of high principle. We have always supported this important issue. We believe there should be equality of treatment for citizens throughout the State and real incentives for regional development in Western Australia. This is a real opportunity for the National Party to line up with the Opposition and send a clear message to the Minister for Energy that we do not approve of this. The fact that we are doing this -

Mr Barnett: This is bizarre, given this is your last opportunity for private members' business for the year.

Dr GALLOP: We happen to take this issue seriously. We know that the Minister for Energy does not, but members on this side of the House do.

Things are so bad in the Government that the Deputy Premier has taken it upon himself, despite the conventions that apply in a normal Cabinet, to write to people outside Perth encouraging them to write to him so that he can take their arguments into the Cabinet against the Minister for Energy. In his capacity as Minister for Regional Development, the Deputy Premier wrote a letter to councils throughout Western Australia with regard to this policy as follows -

> It is my view that, as a public utility, Western Power has a responsibility to provide an essential public service with common tariffs applying throughout the State. The Corporation's overall operating profit level should be the key relevant factor when determining appropriate tariffs, rather than treating components of their operations as separate business entities having different discriminatory tariff schedules.
>
> If development of the regions is to be fully realised, then the cost of essential services should be competitive compared to the costs of these services in the metropolitan and near metropolitan areas.

The Opposition agrees with that. It is now giving the National Party an opportunity to vote in this Parliament for a clear statement that opposes the compromising of the uniform electricity tariffs. The principles are clear: Equality of treatment and incentives for regional development. The National Party cannot keep telling people in the community that it supports the Labor Party and opposes the Minister for Energy on this issue, but when it comes to the crunch back off on those commitments. It cannot keep enticing people within the ambit of its sphere of influence and, when the crunch comes, say that it did not mean what it said in terms of a vote in the Parliament. There is a clear opportunity this evening for a vote on this issue. I hope there will be a vote on this issue, so that the people of Western Australia will be absolutely clear about where every member of Parliament lines up.

Mr House: You are starting to repeat yourself, so it is time to sit down. You have already repeated yourself three times.

Dr GALLOP: Have I? How will the Minister for Primary Industry vote on this issue this evening?

Mr House: You will see when the time comes.

Dr GALLOP: However the Minister votes on this issue, it will be broadcast in the community. The Opposition will be keen to see whether members of the National Party will say in this Parliament the things they say to people in the community, so that there is consistency between the statements made in the community and those made in this Parliament.

Mr House: Just as you did about your position with regard to local government? When you were in Albany you forgot to say you were a member of the Government that tried to introduce one-vote-one-value for local government.

Dr GALLOP: I said I supported one-vote-one-value.

Mr House: No, you forgot to tell them.

Dr GALLOP: No I did not. It is crystal clear that I told them.

Mr House: Do you support one-vote-one-value for local authorities?

Dr GALLOP: Absolutely. At the time I was asked the question, and I said I could not agree with the people there, because the Labor Party supports one-vote-one-value.

Mr House: I look forward to your writing a letter to the *Albany Advertiser* correcting its report.

Dr GALLOP: That is what I said.

Mr House: That is not how you were reported, and you know it. You should write to the newspaper and correct the report.

Dr GALLOP: I will do that now that I have been informed of that incorrect report. The Labor Party's position is very clear on this issue.

The time has come for the National Party to indicate to the people of Western Australia, through its position in this Parliament, that it opposes the actions of the Minister for Energy in attempting to compromise the uniform electricity tariff. I have great pleasure in moving this motion and I look forward to receiving the support of the National Party.

MR BARNETT (Cottesloe - Minister for Energy) [4.54 pm]: I find it extraordinary that on the last occasion of private members' business this year, the Opposition has chosen to run a motion that has been run two or three times already. I would have thought a Labor Party, with a purported sense of social conscience, would be concerned about

issues such as health and education that affect a large number of people. This issue affects about 80 businesses in regional Western Australia, and it does not affect the people of this State to any significant extent. I will take some time to go through the background of the issue to make it very clear. There are differing views about this policy issue. There is quite openly a policy debate about it.

Dr Gallop: You should listen to the member for South Perth because you made a commitment that his Bill would be debated. No doubt you will rat on that commitment, just as you ratted on the business of the House for today.

Mr BARNETT: The Leader of the Opposition is a strange person today! With the minimum of interruption, I will get through my speech as quickly as possible. I now place clearly on the public record what are the issues. There are differing policy responses to this issue.

Western Power currently operates 29 isolated power systems throughout Western Australia. In 1997-98 it is estimated there will be a loss of $33m across those isolated systems. That situation was very much exacerbated when the then Federal Government in 1995 increased the excise on light fuel oil from 6.5¢ to 33¢ a litre. It was a fourfold increase. It added $16m or $17m duty to the losses already incurred by Western Power. The effect of that on the cost of power generation was to increase it by up to 8¢ a kilowatt hour in regional Western Australia. There is no mystery. The losses in the provision of regional power are a consequence of Western Power selling power to customers at a price below the cost of generating it. In the isolated power systems the cost of power generation varies from 20¢ a kWh to 65¢ a kWh, depending on the location. However, under the uniform tariff policy, this power is sold to households at 12.75¢ a kWh, and approximately 16¢ a kWh for business customers.

Dr Gallop: You have said this before.

Mr BARNETT: I will say it again. The Leader of the Opposition has raised this matter three times, so he will hear the same answer three times.

Part of the coalition regional development pre-election policy was that the coalition Government would retain the existing uniform power tariff for residential and small business consumers in regional Western Australia. That is the policy on which the coalition parties went to the election, and there is no backing away from that policy commitment.

In response to the Federal Government's increase in fuel excise, Western Power has applied some additional charges as a transitional arrangement. They reflect the extra cost of power generation due to the increase in the federal fuel excise, and they vary from place to place according to the mix of fuels. The transitional increase of 8¢ a kWh applies only to increases in consumption above 200 000 units. For example, if a company consumed 220 000 units and then increased its consumption to 250 000 units, the premium would be paid on the additional 30 000 units. Similarly, Western Power applies the charge to new customers only where power consumption exceeds 100 000 units. I am not happy with the transitional arrangement, but it was an immediate response.

Dr Gallop: Was it agreed by Cabinet?

Mr BARNETT: It was agreed by senior Ministers, and applied by Western Power as a transitional arrangement.

Dr Gallop: Was it agreed by the full Cabinet, including the National Party?

Mr BARNETT: It was agreed at a meeting involving the Premier, Deputy Premier and me. Western Power applied it under its regulations as a transitional arrangement.

Dr Gallop: The National Party agreed to it - goodness gracious!

Mr BARNETT: I wish the Leader of the Opposition would show some maturity for a moment. He should consider his antics today. He is keen for the member for South Perth to be allocated some time, and so am I. I will go through my argument and, with fewer interruptions, I will get through it more quickly.

Mr Kobelke: Who is spitting the dummy today?

Mr BARNETT: I am not spitting the dummy, but I am explaining some of the realities of a significant regional issue.

Dr Gallop: We know the realities; they apply in every area of non-metropolitan provision of services.

Mr BARNETT: I would argue for the endorsement of a uniform tariff policy and it should be supported on economic and social grounds. However, the uniform tariff in the way it is currently structured does not work equitably for the simple reason that the higher the energy consumption, the higher the cross-subsidy. Therefore, the larger the consumption, the larger the business, the larger the cross-subsidy. If the Labor Party had any true sense of social conscience, it would take note of that when considering its position. It adopts a strange position on many issues; for example, the gold royalty. This is an opportunity for it to consider its social position.

Several members interjected.

Mr BARNETT: There is an economic position, but members opposite should consider their social position.

The simple relationship is, because the subsidy is unlimited, the larger the business, the larger the energy consumption, the larger the cross-subsidy. Who gets the subsidies? Not the small business.

Several members interjected.

Mr BARNETT: Members opposite are starting to struggle.

The Labor Party supports subsidising a large resort hotel and it is not hard to guess where -

Dr Gallop: Cable Beach.

Mr BARNETT: Yes. It receives a cross-subsidy of $460 000 per year. A large supermarket in Broome receives a subsidy of $148 000 a year.

Dr Gallop: What about the abattoir in Esperance? Will you tell us about that?

Mr BARNETT: Yes, I will.

A large Federal Government corporation effectively receives a State Government subsidy of $65 000 a year. A national retailer receives a subsidy of $109 000. I wonder how the small businesses in that town feel, knowing their major competitor, the national supermarket chain, receives that subsidy on one premises. Where is the Opposition's principle for small business in regional Western Australia? When does it stand up for small business?

Several members interjected.

Mr BARNETT: Members opposite do not like it because they are not standing up for their constituents nor small businesses in their electorates.

A major fishery of international standing receives a subsidy of $260 000 a year and a major supermarket in Esperance receives a subsidy $70 000 a year. It goes on and on.

Mr Marlborough: This Minister is trying to get $450 000 to get a company off the ground in Geraldton because he believes it will benefit the State. What is he going on about? What is his rationale?

The DEPUTY SPEAKER: Order! Every member is entitled to have his say in this Chamber. I have been very patient because I realise it is an emotional issue, but the Minister must be permitted to make a statement. Every time he tries to say something he has three members jumping down his throat. Let us bring some order to the debate and give the Minister an opportunity to speak.

Mr BARNETT: The realty of the existing policy is the bigger the business, the bigger the subsidy. The situation is that electricity consumers, the mums and dads of Perth and the south west plus the Government, through reduced dividends, are providing substantial subsidies, running into hundreds of thousands of dollars, to large businesses in regional towns. Those subsidies are to the direct detriment of many small businesses competing in those regional towns. It is fairer to provide the same amount of subsidy to all businesses on an equal basis, and that is what I propose.

Only 83 Western Australian businesses are consuming above 200 000 units a year. The uniform tariff is not in question for the 14 200 residential consumers nor is it in question for the 4 500 small businesses in regional Western Australia. They are not affected by any scenario.

The situation is complicated because some of the larger energy consumers are on off-peak tariffs. The concept of an off-peak tariff is that the price of electricity could vary during the time of day to reflect differences in the cost of power generation. The problem is that in regional Western Australia, 80 per cent of the cost of power generation is in fuel costs. There are minimal, if not zero, time of day variations in generation cost. There is no logic for time of use tariffs.

Historically, Western Power did not want time of use tariffs to apply in regional Western Australia. The reality is that the Labor Party, when in Government, insisted that off-peak tariffs apply to that area.

Dr Gallop: Yes, so they could get something that the metropolitan consumers were getting.

Mr BARNETT: It insisted on it when there was no economic logic.

Dr Gallop interjected.

Mr BARNETT: The Leader of the Opposition should dry up.

A consequence is that the problem of getting it back to a more sensible basis has been made more difficult. It is true that if we were to abolish time of use tariffs and introduce the new pricing formula I suggested of 4¢ per kilowatt hour, the result would be large changes in energy costs. The proposal is that in any given year, there would be no increase beyond 10 per cent to any consumer. That should be considered in the context that business tariffs in the metropolitan area, the south west and regional Western Australia have not increased since 1991. All those businesses have had a real decrease of between 15 to 20 per cent.

I argue that any business consuming more than 200 000 units of electricity a year is a large business; for example, large hotel chains, large processing works, goldmines, Telstra and organisations like that. They are big players and they should be involved in a direct commercial relationship with Western Power. They should not be trying to piggyback on a uniform tariff policy designed to protect ordinary people and small to medium size businesses. I have spoken to the big players and of course they do not like paying more for electricity, but they recognise it is the proper business thing to do.

Uniform tariffs is only part of the problem. I acknowledge it is part of the problem that attracts the most public attention, but the real issue in regional Western Australia is providing extra generation capacity. I will give the House some examples.

Dr Gallop: You are delaying those decisions.

Mr BARNETT: Broome has about 14 megawatts of generating capacity. The peak load in the 1997-98 financial year could exceed that. Again the point comes through - Broome is at almost full capacity in terms of demand, but 40 per cent of all generating capacity in Broome goes to only 21 businesses. Surely, they should carry some part of the cost of trying to improve the situation. Similarly, in Exmouth the demand is growing at 10 per cent per year and there is a need to expand capacity. The same could be said of Esperance and other centres. Again, when members look at the loss of $33m, there are many areas of the State - the small towns and isolated places - where there is no realistic alternative in the foreseeable future. Western Power and the Government accept responsibility for that.

If members consider the total losses, out of the $33m, the loss in Esperance is $7.2m, in Broome $10.3m, in Derby $2.7m, and in Exmouth $2.6m. If the problem in those areas could be solved, the Government would break the back of the issue. The real challenge is not to whine about uniform tariffs when they are not at risk, but to concentrate in a business, economic and demand management sense as well as in an energy conservation sense, which used to interest the Labor Party, on the real issues and reach a solution.

The Government, through Western Power, has been able to solve the problem in one case, and that was with the Ord hydro-power. Private power generation has solved the problem and an extra premium is not necessary in Kununurra nor is it necessary for the expansion of the Ord River. The Ord hydro-power is competitive. Western Power is currently negotiating with the Derby hydro-project. It might solve the issue in that town. There might be an opportunity to use gas to assist the fishing industry in Exmouth. The member for Ningaloo might comment on some options in his electorate. The problems in Esperance are a little more difficult to solve, but options are available.

Nothing will be gained by going to regional areas and building extra capacity to provide the opportunity for businesses to grow, and at the same time allowing the losses to blow out. The $33m loss could be a $50m, $60m or $70m loss before we know it. That is not good economic management, nor is it good business practice. We must define the uniform tariff, and there may be differences about how that is defined. The Deputy Premier has pushed me a long way from where I was six months ago, but the process goes on. We must define the uniform tariff, because then we can invite private sector investment and encourage those customers using 200 000 or perhaps 100 000 units or more to enter direct contracts with the electricity generator. Then the State and Western Power can assume the proper responsibility for the townships, the mums and dads, and the small to medium businesses in the communities. That is all we need to do. It is not that hard, because we have opportunities. As the State grows and resource developments take place, we will have an opportunity to reach a resolution.

We cannot go out with an open-ended cheque book or an open-ended subsidy. That would be irresponsible, and the Labor Party should appreciate that. It is a complicated issue but there is a way through it, as demonstrated in Kununurra, and it can be demonstrated probably next in Broome-Derby. This is all about good economic management and attracting much needed private sector investment in generation capacity. It is about giving a price signal to energy consumers, the large consumers, that they must pay some part of it. Even if the large energy consumers pay 4¢ a unit extra on consumption above 200 000 kWh a year, Western Power would recover one quarter of the increase in the federal fuel excise. This is not all about clawing back huge amounts of money; it is about defining the uniform tariff and requiring companies to enter proper corporate relationships.

Dr Gallop interjected.

Mr BARNETT: It is incredible that this is the last opportunity this year for the Labor Party, but it argues for increased, open-ended subsidies for large businesses in regional Western Australia! What about health, education and ordinary people? What about the environment and demand management? What about real solutions? The Opposition has not addressed any of those important issues. The Opposition argues for open-ended subsidies for electricity consumers in Western Australia, and big business in regional Western Australia. Members opposite should be ashamed of themselves!

MR SWEETMAN (Ningaloo) [5.13 pm]: I wish to comment on uniform electricity tariff -

Dr Gallop: Your electorate will be very disappointed if you do not support us!

Mr SWEETMAN: My electorate would be very disappointed if I did not make a contribution to this motion. That is why I am compelled to comment. In my electorate, nine towns could be considered to be loss-making operations for Western Power. Very early I accepted that this is a complex argument. In extreme cases each side can claim to be right. In its presentation the Opposition has extrapolated its point of view by putting forward the worst case scenario.

Dr Gallop: I do not think we did. We put forward a principle on uniform tariff.

Mr SWEETMAN: I am concerned about the principle of regional development, particularly in my electorate. I have committed myself to making an attempt to arrive at a satisfactory resolution in this case. To do that, one must be able to commit oneself to this topic, and to explore all avenues and possibilities. In some areas there is little hope for improvement - and many of those areas remain static. Therefore, expanding businesses or new businesses in the area are unlikely to be affected, because they do not have a good outlook in the community, regrettably. Ultimately, Gascoyne Junction may double its population - that is, from 25 to 50, and a large consumer may be caught because he will use more than 200 000 units -

I am talking about the excess. A new business will pay the excess. I see some light on the horizon for the five mining towns of Meekatharra, Cue, Mt Magnet, Sandstone and Yalgoo. If Precious Metals Australia progress - that is looking more likely each day that passes - a vanadium plant will be established east of Mt Magnet. It will require a gas spur into the area. That will create the possibility of a huge power generating capacity adjacent to that operation, which will benefit other mining operations and facilitate new mining ventures. Best of all, there will be an opportunity to reticulate on an expanded grid arrangement from the facility to the towns, which would take the heat from the uniform tariff issue.

As I said, there is some light on the horizon for those types of towns. In the interim, when matters of concern are raised in the electorate, my responsibility is to approach the Minister with these concerns. The Minister said that he is trying to place the tariffs on a more sensible basis.

Dr Gallop: There is only one way to do that, and it is to increase prices for some people - your constituents!

Mr SWEETMAN: Some people can afford to pay. The uniform tariff debate has become a little muddied simply because government departments or agencies have been drawn into it. There is a separate pricing policy for government departments, particularly affecting the harbour precincts. The harbour precinct in Carnarvon accommodates 22 businesses, one of which is the Department of Transport. I firmly believe that we should have full normalisation within the Department of Transport's area so that Western Power can reticulate to each business. The Department of Transport should be considered as just one consumer. However, a normalising process must take place first.

I am working with the local shire which is already trying to fast-track that arrangement to bring about normalisation, which will result in the shire taking on roads and drainage within the precinct. That will clarify the road reserve, which will then give an opportunity for Western Power to take over the power reticulation to each business.

The confusion surrounding the issue of uniform tariffs is because the subsidy applied to those businesses within the precinct is 15¢ after adding on the 2¢ charged by the Department of Transport for reading the meter. The businesses will pay a disproportionate amount of approximately 32 cents per unit or double the amount other businesses pay in the town. That is an impost which the businesses cannot handle. It is a very difficult situation at the moment because Western Power will no longer cover the subsidy. If the Department of Transport wants to on-sell power at a discounted rate, it must provide that subsidy.

These matters must be worked through. This is a deep and complex argument in many areas. That is the reason I am committed, as the member for Ningaloo - an area which contains nine towns in which Western Power loses money -

Dr Gallop: Voting in support of this motion will help you enormously. You can make a difference tonight!

Mr SWEETMAN: There is a fundamental difference between my views and those of the Opposition on this issue. I accept there is a potential downside for people in my area. They are the people I must represent. I will not make a submission to the Minister on whether the subsidies will be open-ended and delivered to a business in perpetuity. We must solve the situation. This is an opportunity for us to do something on this issue, and help my region.

Dr Gallop: I think you really support us, but you are baulking at crossing the threshold. Feel free to come across! We are waiting for you!

Mr Barnett: The member for Ningaloo has a realistic approach to his electorate, and he is a damned good member, for that reason.

Amendment to Motion

Mr SWEETMAN: I move -

> That the motion be amended by deleting all words after the word "for" and substituting "residential and small business consumers in regional Western Australia."

MR MINSON (Greenough) [5.20 pm]: I have followed this debate today and over the past few months with some interest. The sentiment expressed in the original motion is fine, but I prefer the sentiment in the motion as it will be amended. It takes a little more depth of thought and analysis on this issue than simply to reflect on a sentiment.

When people move to an area to carry out a base industry, or to support a base industry, those people should be supported with a uniform tariff. Most Western Australians support that concept. I have no problem with it at all, and nor does the Government - it never has had. However, some ramifications must be reflected upon if one moves to a situation of totally open-ended arrangements for uniform tariffs. Let us reflect on some of those ramifications.

Dr Gallop interjected.

Mr MINSON: First, there is no pressure on the feds to reverse the policy which has created a lot of the problems in the first place.

Dr Gallop interjected.

Mr MINSON: If the Leader of the Opposition listened, he might learn something. I have noticed in the past couple of years that he has not learned anything, as he spends all his time talking.

Dr Gallop: I can talk and listen at the same time.

Mr MINSON: I have never noticed the member walk and talk at the same time.

The ramifications are as follows: First, there is no pressure on the Federal Government to reverse this decision -

Mr Cowan: We put some pressure on them.

Mr MINSON: I know. If every time the Federal Government wants to shift costs to the State Government, and the State Government takes it, and simply fills the gap, one has a problem.

The second ramification of this policy is that no incentive will be provided for any major user to be innovative in generating its own electricity.

Dr Gallop: That is not true!

Mr MINSON: Come on, Leader of the Opposition!

Dr Gallop: There has been great innovation. Go to the east Kimberley.

Mr MINSON: It is silly for the Government to say that it will pay no matter the cost involved and the amount used. In that case, no incentive is provided. Further, there is no incentive for another private operator, or someone who wants to look at something laterally, to say, "There is a better way of doing it. I will generate the electricity and I will provide it cheaper than if it were subsidised." The right signals are needed to create incentives.

Another aspect has been overlooked: We all benefit from industries in our nation and State which generate exports and import replacements. Some such industries operating in regional Western Australia are not affected by the tariff problem. If we have an open-ended subsidy, one is saying to all residential consumers and industries in other areas that they must pay a premium to subsidise other major industry elsewhere. In so doing, one compromises the industries which are trying to develop export markets. I suspect that aspect needs investigation. Also, one compromises the industries trying to generate products which will replace exports.

Mr Riebeling: If you spread the burden of the subsidies over the entire population and market, surely the impact will be very small.

Mr MINSON: That may well be the case, but the international trading world is not interested in whether the member wants to provide cheap electricity for a major user. In assessing a product it cares only about how much it will cost, when it can be provided, whether supply will be regular, and how good is the product. The member may feel warm and fuzzy in saying that it does not matter where one goes in Western Australia, as much electricity as industries want should be supplied forever at a uniform rate; however, that approach will compromise a lot of industry around the State.

Further, such a policy gives no incentive to conserve power. We must make all our industries as competitive as possible. Over the past few years, some considerable change has occurred in the Australian industrial scene. Labour market reforms, which members opposite knock, have generated considerable benefits for those industries starting in this State. We are becoming mature enough to talk about taxation reform. We have seen an increase in the value of some of our competitors' currencies which will make them less competitive, and we have seen our currency devalued a little. Also, we have seen the deregulation of the gas market. Therefore, the way is now open for some truly major developments to occur in regional Western Australia. It is not responsible to say to operations that it does not matter where they go, or how much electricity they use, as taxpayers in Western Australian and other electricity users will subsidise them. It sends all the wrong messages. Other businesses will be compromised by that approach.

Mr Riebeling interjected.

Mr MINSON: I cannot do the analysis for the member for Burrup - somebody else can do that. However, the approach he advocates will cost somebody else in the community. Do not ask me who or by how much; however, by definition, it must cost somebody in the community.

Industries which start with open-ended subsidies will be mendicant industries. At some time in the future, some Government will want to drop the boom gate on that industry, and that will be a huge disaster for the area. It is better if people get their sums right in the first place and adopt an innovative approach to the issue before moving into areas. We must be careful not to develop one area at the cost of another. We need to be intelligent and innovative in how we go about these developments.

It is fair and reasonable that a large user should be able to negotiate with Western Power, as the Minister said, to reach a proper commercial arrangement. In so doing, one does not rule out a subsidy. The Opposition has forgotten to mention in this debate that this approach does not rule out a subsidy. If the Government of the day says that the industry is good and should be developed in an area, and that the industry will provide benefits in long term cost recovery, the Government can make a decision through Cabinet or its arm of Western Power to subsidise electricity costs in that area. That policy gives the Government of the day the option of deciding whether to subsidise.

To say in an open-ended way that people can go to the middle of the desert and use large amounts of electricity, and receive that electricity at a subsidised price, is not a responsible way to go. The sentiment of the original motion is all right, but it is very irresponsible, and members opposite know it. The only reasons members opposite raised the matter today is that they thought they could drive a wedge between the two coalition partners. However, the coalition has done a good job in a pretty successful partnership. The Opposition has not managed to drive it apart yet. I commend the amendment to the House.

MR BLOFFWITCH (Geraldton) [5.29 pm]: A uniform tariff is an interesting concept. In a State as big as ours, a uniform tariff is essential. I will give a few examples. I am in the motor car industry. It does not matter whether one buys a car in Darwin, Tasmania or Sydney, the retail price is the same. An amount of $200 is added to each car. People in Melbourne, where the cars are made, still pay the $200. However, that money goes to subsidise everybody else throughout Australia so a uniform price can be sustained in that market. There are many examples such as that.

People in the home port pay a little more to subsidise the product. I can understand the reasoning of the Minister for Energy; however, I cannot agree with it. In a State as big as this, we must make some sacrifices; we must encourage. Does it matter whether a company is a large multinational business in Albany? Surely it employs local people. Surely it buys local goods in some sense and it helps the local economy. Without such large businesses, I am sure the district would be a lot worse off. In general, they make a positive contribution. I support bringing down the cost of gas in the north. I wonder what will be done in places such as Esperance. The Government may have to subsidise some pockets ad infinitum if it wants a uniform tariff. If we are serious about developing regional areas, we must have these policies. We must have a uniform tariff. Whether it is a nickel mine or a vanadium mine, if it can connect onto the grid, there should be a standard it can work on. It may cost the Government in the short term. However, with the promise of what can come, I believe the end result will be positive.

I support the Leader of the Opposition in his pursuit of a uniform tariff. However, I will not cross the floor to support

the Leader of the Opposition. As the Minister said, there are many different thoughts in our party on this matter. I look forward to our debating it - next year.

MR COWAN (Merredin - Minister for Regional Development) [5.33 pm]: I am pleased to be given the opportunity to debate this motion and the amendment before the House. Before I deal with the substance of the amendment, I convey to the member for South Perth my regret that unfortunately some of the arrangements that might have been made for him have been cast aside. Before the member for South Perth makes a decision on who is responsible for that, he must know that if he accepts that the Opposition can put forward provocative motions, he must expect that members of the Government - that is, members of both sides of the coalition - will respond to that provocation and will defend themselves. If the member is a victim of that, he should not blame just the Government, but put some blame where it belongs.

I commend the member for Ningaloo for his amendment because, as he knows, that amendment came directly out of the regional development policy of the Government. I cannot find any reason for the Leader of the Opposition saying that members of the National Party, particularly me, could not support the amendment, because it is a policy that I wrote, a policy in which I firmly believe, and a policy on which I campaigned when we went to the people. I remind the Leader of the Opposition that one of the things that hurts the Labor Party more than anything else - I have heard it said more by the federal ALP than by the state ALP - is that it has little representation in the regions. One of the reasons for that lack of representation is that it has lost touch with the regions. It is no longer a regional representative party. It has no representatives in the regions outside Mining and Pastoral Region. There is a good reason for that: The party and the Leader of the Opposition are completely out of touch.

The Leader of the Opposition and I have had a debate about his approach to politics. I keep reminding him that he cannot take the qualities that might be regarded as a boon for a person who is a lecturer - that is, an observer of human life or of what happens around him - and not become involved. He cannot keep making observations and not be a participant. The Leader of the Opposition must become a player. He cannot be just an observer and sit on the other side of the fence all the time. The Leader of the Opposition might take that advice too late; nevertheless, I am sure he will take it at some stage.

Dr Gallop: It is gratuitous advice.

Mr COWAN: Perhaps it is, but it is sincerely meant. I would like to see the Leader of the Opposition come off the bench and get onto the right side of the pickets and become a participant. It would be interesting to see.

Significant matters must be dealt with in a debate on regional power. I find it incongruous that we as a Government, and anybody as a Government, can ask the private sector to meet the costs arising from a decision of another Government, yet that is what has happened. This whole argument is based on the decision of the previous Federal Government to include light fuel oil as part of the fuels that were the subject of excise. It is of great regret to me that the incoming Federal Government, the coalition -

Mr Bloffwitch: Didn't remove it.

Mr COWAN: That is right. It failed to remove that impost. I acknowledge that that is a mistake and that is something this Government has had to fight. That is one area in which the Minister for Energy and I are in complete accord. We have made it clear to our federal colleagues that that impost must be removed. However, equally, it must be made clear that we should not ask certain segments of the private sector to bear a cost with which they have been burdened through decisions of another Government. That is not fair. Everybody knows my view on that. There is nothing remarkable about that statement.

Mr Marlborough: You are blaming somebody else. You want to compound the mistake.

Mr COWAN: I was a little more satisfied with the performance of the member for Peel when he had the subject of the Wanneroo royal commission hanging over his head and he behaved a little more like a mouse in this place. Now that he has returned to being a loudmouth, I am not sure that regression will win him too many friends in this place. The member for Peel would not be regarded as an authority on regional development matters or costs that are associated with power.

Mrs Roberts: Get on with the motion.

Several members interjected.

Mr COWAN: I am enjoying this part. Those opposite must understand that private members' business belongs to all members, not just those in the Government or the Opposition. It belongs to all members.

Dr Gallop: We acknowledge that.

Mr COWAN: At the moment the Opposition makes a choice about what it wants to bring before the Parliament during the time for private members' business; however, we have as much right to debate it as those opposite do, and we will. We will make our position very clear. We would never rely on the Leader of the Opposition, or the Opposition, to state our position and we certainly could not rely on the members of the media covering these debates ever to make an assumption that would be in our favour; however, they can report what we say, and that is what they will be able to do.

The issue in this case is not just about the question of the charges that are made available to residential customers. That has never been in dispute. Residential customers can enjoy uniform tariffs. No-one disputes that, not even the Leader of the Opposition. The question then becomes what is a small business.

Dr Gallop: You are backing off.

Mr COWAN: No. The reason I asked that question is because in the Small Business Development Corporation Act there is a new definition about what is a small business. That small business is defined as an organisation which has a number of employees, based on whether it is a service company or whether the owner is working within the business or whether it is associated with manufacturing. There is also reference to turnover. In that instance there is no reference to the volume of power consumption. It is difficult to define what is a small business.

It also must be made clear that a number of what I regard as small businesses are already on a fixed term contract. Those companies, and there is a great number of them, are outside this policy development. Quite rightly, all mining companies should be in that category; so, too, should some of the larger manufacturing and processing companies. However, it ends there and that is the debate the Minister for Energy and I are having about the definition of what is a small business. For the life of me, I cannot accept that a company that you, Mr Acting Speaker (Mr Sweetman) will know very well, Nor West Seafoods Pty Ltd, is in the category of being a large business. I do not regard it as being that; yet, it normally employs 70-odd people, and up to 120 during the season.

This company cops a double whammy simply because it is not only regarded as a high user of electricity and, therefore, subject to this additional impost of 4¢ per kilowatt hour, but also faces the problem of being on government owned land. All agencies on government land - I am quite sure the Leader of the Opposition knows this, but I am not sure whether the member for Peel does - are charged a fee for power which is full cost recovery. On that basis companies such as Nor West Seafoods Pty Ltd and those bodies which operate within the port of Esperance, are faced with a problem. That problem must also be addressed, and it will be.

Dr Gallop: Like this one. That's what you said last October, November, December, January, February, March, April, May, June, July, August, September, October and November. That is what you said last November.

Mr COWAN: I will continue to press until it is addressed. I am sure the Leader of the Opposition knows - he has been around long enough to do so - that although these things can take some time, I am not likely to give up. Had I wanted to give up in this job, I would have chucked it in in 1978, but I did not. We are now 20 years on. I can assure the Leader of the Opposition that the Minister for Energy, our Cabinet colleagues and I will resolve this issue. We must work our way through this.

Mr Barnett: Even if I arm wrestle him!

Mr COWAN: I am confident -

Dr Gallop: You can acknowledge that tomorrow.

Mr COWAN: I will now have to take even more time to explain to the Leader of the Opposition that what we had prior to October 1996 was a tariff policy with several levels in it. One level was that if companies were on government owned land, a charge was applied to the owner of the land which was a direct community service obligation met by Western Power or the owner of the land, and refunded by the consolidated fund. There was a different charge. That is not a uniform tariff. Some companies were on fixed term contracts. Although I do not know what the charges were for them, I can tell members opposite that they were not at the rate which all people regard as a uniform tariff.

Mr Riebeling: Did you know about this when you talked about delivering uniform tariffs?

Mr COWAN: We did know about this. We have been trying to make the point that all of these different issues must be resolved. I will tell those opposite another point that must be resolved: At the moment regional development is suffering significant impediments because Western Power uses the national competition policy as a reason for putting in place the issues associated with the cost that is required for the connection of power to new businesses, or those who want to extend or expand their operations. We have a ludicrous situation in which a new abattoir is proposed to be located in the south of the State. It indicated its power demand. Western Power put in a power line, only to

find that it will not meet the needs of that industry when it is taken in conjunction with some of the feeders that will come off it. To try to meet that demand -

Mr Carpenter: Where is that?

Mr COWAN: Narrikup. Western Power is approaching that business and telling it that it expects the business to fund the capital costs associated with expanding what is a new line. That is nonsense. Western Power is saying to people like the developers of the Monkey Mia resort - that is in the territory of the member for Burrup - that it is not prepared to connect power to the airport because it does not think it will get sufficient costs to cover it. We have a magnificent, quality international development, and in my view Western Power is abrogating its responsibilities.

Dr Gallop: Western Power is an agency of the Government.

Mr COWAN: Of course it is.

Dr Gallop: Why don't you do something about it?

Mr COWAN: We are seeking to.

Dr Gallop: You are seeking to do lot, but you are not finding anything.

Mr COWAN: These issues must be addressed. I know other members want to speak in this debate, so I will conclude on this point. I am quite sure this debate will not go any closer to resolving this issue. It will be resolved by Cabinet, following discussions in Cabinet.

Dr Gallop: That is what you said in February.

Mr COWAN: Those discussions will be led by the Minister for Energy and me, and we do not resile from that. I would love to be able to tell the Leader of the Opposition, but I cannot. However, I can guarantee one thing: This debate and its outcome will make no contribution to the resolution of this power dispute. Unfortunately it will give some people satisfaction by enabling them to say one thing or the other. That is politics; the Government can wear that. However, I guarantee that this issue will be resolved in a way that ensures that we look forward to regional development in Western Australia without the cost of power and power connections being an impediment to regional development, which, unfortunately, they are at the moment.

MR AINSWORTH (Roe) [5.58 pm]: The dilemma I have concerning both the motion and the amendment is what defines big business. That has been the case from the time Western Power imposed additional charges on the uniform tariff. A business that uses 200 000 units a year is not a big business; in many cases it is a very small business.

Mr Carpenter: What did you say? Can you say that again?

Mr AINSWORTH: I am sure the hearing of the member for Willagee has not deteriorated too much in the past five minutes. I said that a business that uses 200 000 units a year is not a big business. The examples in my electorate are numerous. For instance, no-one would consider a restaurant with six or seven employees to be a big business, yet some restaurants of that size use 200 000 units of electricity through their freezers, fridges and other power requirements. A very small family-owned supermarket, by city standards at least, using 600 000 units a year would not be seen by most people as a large business. It is a small family-owned business. It will be severely affected by a range of proposals for increased power that have been implemented over the past 12 months or so.

The main issue is defining what is big business; that is what the ongoing debate is about.

Dr Gallop: Do you think that what you call a big business should have a surcharge?

Mr AINSWORTH: I am not saying that. I am saying that many big businesses, as the definition applies and as applied prior to any increase in the uniform tariff, were on a contract rate. That has not changed. However, a very clear cut-off is occurring between businesses which I think we all regard as small and using less than 200 000 units a year and other businesses which are still small but are being charged additional amounts for power.

However, in the past year or so we have seen a very big shift backwards from where this whole issue began. It first came to light in my electorate when Western Power quoted a potential new, very small business, a rate - what it called in its letter an "indicative rate" - of 40¢ to 45¢ a unit. The 45¢ was treble the uniform tariff. We have come back to the point at which the Minister is offering businesses that consume more than 200 000 units a year a surcharge of 4¢ a unit. I have written to the Minister in response to a letter he sent to me, and a range of other people, rejecting that.

Dr Gallop: Vote for our motion, because that is what it deals with. How can you reject it?

Mr AINSWORTH: The Leader of the Opposition does not know what I have rejected. He is not giving me the opportunity to tell him what I believe. He is presupposing what I am going to do.

Dr Gallop: I apologise.

Mr AINSWORTH: I thank the Leader of the Opposition. He can pass judgment later. The issue remains. I have clearly - I am sure most people who received the letter I received have done the same - rejected the proposition that anyone using more than 200 000 units a year should be charged a surcharge of 4¢ a unit.

The tariff has highlighted the problems, but the problems are far broader. For example, not only in Esperance but also in other parts of the State we need to find alternative sources of power which are far more economical and less harmful to the environment. Those issues are being addressed. Esperance does not have a new power station yet, but I hope it will have one in the near future.

Mr Marlborough: Is the wind picking up down there?

Mr AINSWORTH: There is a lot here from the member for Peel!

The other issue that is affecting us in Esperance is a history of poor infrastructure provided by the utility. When the State Energy Commission of Western Australia examined its power needs it did not realise how much growth would occur in the 20 year period preceding this time. It kept on rolling in more and more diesel-fired generators to add to the capacity to just cope - this is still happening - with the town's load demands. Yet, projections on increased demand and business activity in the town for activities ranging from mining, tourism and light industry suggest that the town will need double or treble the amount of power generation in the early part of the next century.

Even without the power price problem we must consider the infrastructure. At present the quality of the power in the town is a problem. Today representations were made by a farm machinery dealer - a small business - who was having problems after blowing up four computers in four years and is unable to run a large air compressor he recently purchased because fluctuations in the power are so bad. His business is in the heart of the town, not at the end of the line. All those issues must be dealt with, not just the cost.

Mr Barnett: You are aware that Western Power recently announced that $4m to $5m would be spent on a distribution system in Esperance?

Mr AINSWORTH: That is a very good result. We must get progress on that fairly quickly or a disaster of monumental proportions will occur in regional Western Australia in relation to power quality. However, on the principle of uniform tariffs, the spreading of the generation costs across the State is fair and reasonable. That was how things worked before we corporatised SECWA and split it into two units.

Regional power services the area outside the grid, which is where the problems are showing up. However, on the grid itself variable costs are involved in delivery of that power. For example, Ravensthorpe, in my electorate, is right at the end of the line and it receives a very poor quality of power. The costs to Western Power of providing that energy per unit is far greater than the cost outside the Collie power station. However, at the moment those customers are paying the same price per unit as the people in Ravensthorpe.

Dr Gallop: It is called "uniform tariff".

Mr AINSWORTH: That is right. If we do not get this issue right, Western Power will move to disaggregate charges, even across the grid, which would be a bigger disaster than the one we are facing now.

Dr Gallop: Are you aware that Western Power is thinking of that? That proves exactly what I said: This is the thin end of the wedge.

Mr AINSWORTH: I am very much aware of that.

Dr Gallop: You must stop him now; come and vote with us.

Mr AINSWORTH: That is something this Government will not tolerate. In addition, in the process of defining the Government's policy, with which I fully agree, we must make sure we get it right in the regional power area so that uniform tariff applies well beyond 200 000 units of consumption. We must also get it right in the grid system so that places hundreds of kilometres away from a generator do not also face variable costs. Unfortunately, my time is running out and I would like to say much more.

Dr Gallop: We had a commitment. We are voting on this tonight. I hope the member does not move to delay this.

Mr AINSWORTH: Heaven forbid. I want to get this debate cleared up.

Another issue to which the Leader of the National Party referred briefly was some of the infrastructure cost problems we face. On the grid in my electorate, a small business has been set up in a relatively small town and is producing wire products for agricultural purposes. The business has sought to put in a large welder and increase its production significantly. The quote for a dedicated powerline to the premises was in the order of $1.8m, a cost well outside the scope of that business to pay. Again, that reflects the poor quality of the existing infrastructure throughout the State. Although I support the comments by the Minister about the positive announcement of more funds being provided to improve the quality of infrastructure for distribution services, the much greater need is to put government capital into the provision of a good distribution system throughout the State so that not only the price but also the quality is right.

Mrs Roberts: Have you been instructed to talk this long so that we do not vote on this?

Mr AINSWORTH: I have no instructions. I will talk for as long as I have the ability to do so under the standing orders.

I want members to understand where I stand on this issue. I share the concerns of the member for Geraldton -

Dr Gallop: There is something going on here!

Mr AINSWORTH: I do not always agree with the member for Geraldton, but in this case I do. When I first read the opposition motion I thought I would find it very difficult to resist the temptation of crossing the floor. That might make me and some of the people in my electorate feel better, but it would not solve the problem. We would not even win the vote. I understand the Opposition's motion. However, I also agree with the amendment because it is government policy which I support wholeheartedly. Unfortunately, that policy did not set in place a clear definition of what constitutes small business -

Dr Gallop: Do you believe in compromising uniform tariffs, and that some big business should pay a surcharge?

Mr AINSWORTH: I am not saying that. The Leader of the Opposition heard me explain my position earlier. Some big businesses are on a contract, and that will not change. We must have the correct attitude toward what constitutes a business that should or should not be on contract. Currently we are getting it wrong. I want us to get it right. Therefore, I support the amendment, on the understanding that the negotiations will continue until we get it right.

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

Ayes (25)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Minson
Mr Baker	Mr House	Mr Pendal
Mr Barnett	Mr Johnson	Mr Prince
Mr Barron-Sullivan	Mr Kierath	Mr Shave
Mr Bloffwitch	Mr MacLean	Mr Tubby
Mr Bradshaw	Mr Marshall	Mrs van de Klashorst
Dr Constable	Mr Masters	Mr Wiese
Mr Cowan	Mr McNee	Mr Osborne *(Teller)*
Mrs Edwardes		

Noes (16)

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

Pairs

Dr Hames	Mr Grill
Dr Turnbull	Ms MacTiernan
Mr Trenorden	Mr Graham

Amendment thus passed.

The ACTING SPEAKER (Mr Sweetman): The question now is that the words to be substituted be substituted.

Amendment on the Amendment

DR GALLOP (Victoria Park - Leader of the Opposition) [6.03 pm]: I move -

That the amendment be amended by deleting the word "small" from the words proposed to be substituted.

This amendment will place beyond doubt -

Points of Order

Mr BARNETT: We are in the process of putting the remainder of the amendment to the motion.

Several members interjected.

The ACTING SPEAKER: Order! The Leader of the Opposition can move his amendment but private members' business expired at six o'clock. Therefore, the only option is to adjourn debate or to deal with the motion that the words to be substituted be substituted.

Dr GALLOP: The member for Roe took the debate beyond 6.00 pm. I will not keep the House for long with this amendment. It is important to line up people on the issue when we vote. I request a short time to address my amendment and to vote on it, in order to obtain a true reflection of opinion in this House.

Acting Speaker's Ruling

The ACTING SPEAKER: Order! I have no option but to put the question or to adjourn debate.

Dissent from Acting Speaker's Ruling

Dr GALLOP: I move -

That the House dissent from the Acting Speaker's ruling.

I have full respect for the Chair but the ruling was unfair, Mr Acting Speaker. We have been debating a very important issue, and I want to make it very clear that this Parliament has a clear position on uniform tariff. I have full respect for you, Mr Acting Speaker, in that position. However, it was a bad ruling. Therefore, I move dissent from it.

Mr BARNETT: The coalition Government supports the Acting Speaker's ruling. This is a stunt. As you correctly said, Mr Acting Speaker, we can either put the motion that the words be inserted or we can adjourn debate. The Government does not care which way we go: We can put the motion that the words be inserted and vote on it, or adjourn the matter and continue debate at another time. The Government supports the Acting Speaker's ruling.

Mr RIPPER: I support the motion moved by the Leader of the Opposition. The ruling from the Chair must take account of the circumstances in the House. The purpose of having a Speaker is to ensure that the House is assisted in reaching a true conclusion to debate. The purpose of having a Speaker is to ensure that the House makes a decision which the majority of members in the House would like to see implemented.

Mr Barnett: Do you want to guillotine private members' business?

Mr RIPPER: No, but I am aware that on many occasions in the past private members' business has gone past a defined time because government members have spoken longer than expected on certain motions. The only reason we are in this position now, and we reluctantly must move dissent from the Acting Speaker's ruling, is because the Government has broken an agreement with the Opposition.

That agreement was twofold: Firstly, that we would get a vote on this Bill; and, secondly, that the member for South Perth would have time to give a speech on a matter that he has put forward. The Government has broken both elements of that agreement. Sufficient time has not been left for a vote on this Bill. The member for Roe went beyond 6.00 pm in making his remarks. Technically, Mr Acting Speaker (Mr Sweetman), I suppose you might have said, "I will leave the Chair", and there would have been no vote.

Mr Barnett: You forget that the Acting Speaker was in the process of putting it to the vote. That is what he is trying to do.

Mr RIPPER: The second part of the agreement has gone; the member for South Perth has missed his opportunity.

Mr Acting Speaker, the reason that we are in this position where we have reluctantly moved dissent from your ruling is that the Government has failed to honour its undertaking to the Opposition and the Independents in this Parliament.

The reason it has failed to honour its undertaking is that it is embarrassed by this issue and does not want to vote; in particular, it does not want to vote on the amendment moved by the Leader of the Opposition. The Government does not want to have a clear decision before the House. The Government does not want to reveal divisions in its ranks. It is for that reason that it has manipulated the situation and put us in this position.

I return to the crux of the case. Mr Acting Speaker, I believe you should rule in a way which enables the House to reach a decision which reflects the true views of members of this place, rather than rule in a way which makes it more difficult for the House to reach such a clear decision.

Question (dissent from Acting Speaker's ruling) put and a division taken with the following result -

Ayes (18)

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

Noes (25)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Minson
Mr Baker	Mrs Holmes	Mr Omodei
Mr Barnett	Mr House	Mr Prince
Mr Barron-Sullivan	Mr Johnson	Mr Shave
Mr Bloffwitch	Mr Kierath	Mr Trenorden
Mr Bradshaw	Mr MacLean	Mrs van de Klashorst
Mr Cowan	Mr Masters	Mr Wiese
Mr Day	Mr McNee	Mr Osborne *(Teller)*
Mrs Edwardes		

Pair

Mr Grill	Dr Hames

Question thus negatived.

Debate (on amendment on the amendment) Resumed

The ACTING SPEAKER (Mr Sweetman): The Leader of the Opposition has moved to delete the word "small" from the words to be substituted.

Point of Order

Dr GALLOP: We have deleted the words. We are now moving to substitute other words. We should put it in those terms.

The ACTING SPEAKER: I am saying that the Leader of the Opposition has moved to delete the word "small" from the words to be substituted. We do not have a seconder for that amendment.

Mrs Roberts: I second the amendment on the amendment.

Amendment on the amendment put and a division taken with the following result -

Ayes (18)

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

Noes (25)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Minson
Mr Baker	Mrs Holmes	Mr Omodei
Mr Barnett	Mr House	Mr Prince
Mr Barron-Sullivan	Mr Johnson	Mr Shave
Mr Bloffwitch	Mr Kierath	Mr Trenorden
Mr Bradshaw	Mr MacLean	Mrs van de Klashorst
Mr Cowan	Mr Marshall	Mr Wiese
Mr Day	Mr McNee	Mr Osborne *(Teller)*
Mrs Edwardes		

Pair

Mr Grill	Dr Hames

Amendment on the amendment thus negatived.

Amendment (words to be substituted) put and passed.

Motion, as Amended

Question put and passed.

Sitting suspended from 6.22 to 7.30 pm

MOTION - ORDER OF BUSINESS

MR HOUSE (Stirling - Minister for Primary Industry) [7.32 pm]: I move -

That Order of the Day No 11 be now taken.

As to Suspension of Standing Orders

DR GALLOP (Victoria Park - Leader of the Opposition) [7.33 pm]: I move, without notice -

That so much of the standing orders be suspended as will allow continuation of debate on -

Mr Johnson: You cannot do that.

Dr GALLOP: I am moving to suspend standing orders. I can do that.

The ACTING SPEAKER (Mr Sweetman): I am sorry; it was my mistake. There is a motion before the House which needs to be voted on.

Motion Resumed

Question put and a division taken with the following result -

Ayes (20)

Mr Ainsworth	Mrs Holmes	Mr Minson
Mr Barron-Sullivan	Mr House	Mr Omodei
Mr Bradshaw	Mr Johnson	Mr Prince
Mr Court	Mr Kierath	Mr Trenorden
Mr Day	Mr MacLean	Mr Wiese
Mrs Edwardes	Mr Masters	Mr Osborne *(Teller)*
Mrs Hodson-Thomas	Mr McNee	

Noes (12)

Mr Carpenter	Mr Graham	Mr Pendal
Dr Constable	Mr Kobelke	Mr Ripper
Dr Edwards	Mr McGinty	Mr Thomas
Dr Gallop	Mr McGowan	Mr Cunningham *(Teller)*

Pairs

Mr Board	Mr Grill
Mr Marshall	Ms McHale
Dr Hames	Ms Anwyl
Mr Tubby	Mrs Roberts
Dr Turnbull	Ms MacTiernan

Question thus passed.

SUSPENSION OF STANDING ORDERS

Financial Accountability Bill

DR GALLOP (Victoria Park - Leader of the Opposition) [7.38 pm]: I move -

> That so much of the standing orders -

Mr Johnson: You can't do that.

Dr GALLOP: I certainly can. I move -

> That so much of the standing orders be suspended as would allow continuation of debate on the Financial Accountability Bill.

The business of this House is broken up into various segments, one of which is private members' time. We know that private members' time has already been circumscribed in the last few weeks of the parliamentary session as the Government tries to expedite some of its business. An agreement was entered into this evening to allow consideration of three matters in private members' business today: First, the second reading of opposition legislation by the member for Bassendean; second, consideration of a motion from the Opposition on the uniform electricity tariff; and, third, consideration and vote on the Financial Accountability Bill which was introduced by the member for South Perth. I was the only speaker on this side of the House on the uniform tariff motion. I spoke briefly on the motion to ensure sufficient time was available for the Government to put its position and for the issue to be voted on. However, as has been the case today, the Leader of the House broke an agreement he entered into with the Opposition and the Independents to allow the Financial Accountability Bill to be properly debated and voted on. The Opposition is now giving the Government an opportunity to try to recover the situation it lost before dinner and allow members a period to debate the Financial Accountability Bill so that members can vote on that matter. That is a simple matter. I will summarise the argument clearly.

An agreement was given. That agreement was broken by the government parties when this place debated the motion on uniform electricity tariffs. We now have an opportunity to correct that situation and allow sufficient time for the Financial Accountability Bill to be properly debated and voted on in this House. That agreement was entered into by the Government with the Opposition and the Independents and we expect that agreement to be met in this Parliament. We kept our side of the bargain; the Government did not keep its side. The Government can now recover the situation and show some goodwill to this Parliament and to the member for South Perth and allow that Bill to be properly debated.

MR PENDAL (South Perth) [7.42 pm]: I rise more in sorrow than in anger because I would prefer not to be in the position of seconding and supporting the motion moved, quite properly, by the Leader of the Opposition. It is correct that a solemn undertaking was given, not once, but twice, that Order of the Day No 9 of private members' business would be dealt with before the end of this session, not in government time, but in private members' time. Private members' business ceased at 6.00 pm. The House is operating under a set of suspended standing orders that prevent private members' business being debated through until 10 o'clock tonight. One of the Ministers interjected a few minutes ago on the Leader of the Opposition to say this was a stunt.

Mr Shave: That was me, your friend - the member for Alfred Cove.

Mr PENDAL: I know precisely who it was. The member's parliamentary values -

Mr Shave: You're a political reject.

Mr Court: Hang on, Doug.

Mr PENDAL: The member for Alfred Cove should take the advice of his Premier and hang on. The people of my electorate decided 64 per cent to 36 per cent that I won and the Government lost. Perhaps the member for Alfred Cove finds that difficult to come to terms with. However, in the course of time he might learn to grow, not just as a powerbroker, but as a parliamentarian. That is what is at stake tonight.

A Bill was introduced as a private member's Bill 10 weeks ago. I was aware that that Bill represented, at least in part, some embarrassment to the Government.

Mr Court: It is no embarrassment to us.

Mr PENDAL: Was it not really? Can the Premier tell you, Mr Acting Speaker (Mr Ainsworth), why he issued the riding orders today that this Bill would not come on for discussion?

Mr Barnett: Not true.

Mr Court: That is a fabrication.

Mr PENDAL: Is the Leader of the House telling me that he did not take his riding instructions from the Premier, but that he took it upon himself to break that promise that was given in the presence of his counterpart three weeks ago and that was repeated today when I saw the Leader of the House? Not only that, prior to the dinner adjournment we were treated in this House to an extraordinary outburst by none other than the Leader of the National Party who got to his feet on the motion on electricity tariffs. His opening words were an attack, not on the Opposition's motion, but on me for having made arrangements with his Leader of the House that the Financial Accountability Bill would come on for debate.

I do not intend to dwell on this matter tonight. However, when an undertaking is broken it is a serious matter. It is even sadder when an undertaking that is given by someone whom I respect and whom I regard as a friend is broken without any reference to me. I found out about it second-hand; I did not learn about it from the person with whom I had entered into that agreement. I repeat: There is less than one and a half hours of private members' business once standing orders have been suspended. That one and a half hours finished at six o'clock tonight. I look my former Liberal Party colleagues in the face and ask them: Are they happy that they would be part of breaking an agreement that makes a mockery of the Parliament?

Mr Shave: We're not happy with the Liberal Party giving you a living.

Mr PENDAL: I assure the member for Alfred Cove that the Liberal Party does not give me a living.

Mr Shave: Yes, it does. You'd be nothing if it were not for the Liberal Party.

Mr PENDAL: On 14 December 1996 the people made that decision. That decision was not made by the person who is running around, doing his best to undermine his leader in the hope that he can bring about a leadership spill. That is his agenda. People know that; they do not expect anything further.

A government member: You're wrong.

Mr PENDAL: Am I?

Several members interjected.

The ACTING SPEAKER (Mr Ainsworth): Order! The member for South Perth should confine his remarks to the motion before the House.

Mr PENDAL: I agree. We must suspend standing orders to bring home to every member of this House something I heard year in, year out when I was happy to be part of a Liberal Party front bench. Year in, year out, month in, month out, and week in, week out we said Governments must be accountable to this place, the Parliament. We believed that with a passion that members would not understand today. Yet I was cautioned by some members in the course of the previous division not to put the onus on them because they were not part of the decision. They are part of the decision by supporting it.

I repeat: I am acting more out of sorrow than anger.

Mr Shave: You break my heart.

Mr PENDAL: I did not set out to seek the sympathy of the mindless Minister who just interjected. I set out to make an appeal to the people who control the front bench and those who support them, because in the end, frontbenchers do not remain frontbenchers unless they continue to receive that support.

Last night a very important thing happened in this Parliament: A Bill passed in the upper House, one that was sponsored by a private member on behalf of a select committee of the House. That was important, not because of the people involved, but because it meant the parliamentary system worked, other than at the behest of the Executive. That is a good thing for members of the Government, the Opposition, every other small or large party and the Independents who agreed that that Bill should go through. I put to the Government that the same imperatives are now

at stake. Because I can count, I know this motion moved by the Leader of the Opposition will not be passed. We will come to the end of an important session of Parliament. If this is indicative of where the Parliament goes from here, this current Government will go down the path of previous Governments that learned to treat Parliament with contempt. It will lose because people will come to believe that Parliament now means nothing. I ask members on the government side, many of whom are people of goodwill, at least to take this message into the recess: Yes, we had to vote with the Government on this occasion; we could not let down the Leader of the House or the Premier or the Deputy Premier; but in 1988 we, as individuals, will ensure through the operations of the party room that this will never happen again. Members must make up their mind whether they end up a discredited lot of people who treat Parliament with contempt, or allow what they promised - that this debate on the Financial Accountability Bill during private members' business should come on for a decision. Those opposite are confronted by a very serious matter, and I hope they do not let themselves down; more than that, I hope they do not let the people of Western Australia down. I support the motion.

MR BARNETT (Cottesloe - Leader of the House) [7.52 pm]: At the outset I say that I regard the member for South Perth as a good friend. I do not know whether that damages his career more than it damages mine. Sometimes things get confused in the heat of the moment and in debate in this House. I will make a few observations, but I will not get into a bitter argument or dispute about the matter. Traditionally it has been a convention in this House that private members' business would cease totally during perhaps the last two to three weeks of Parliament. This Government has consistently allowed private members' business, albeit reduced to one and a half hours, to continue through to the last week of the parliamentary session. We have always allowed time to debate private members' business.

Mr Ripper: Not in your first, you didn't.

Dr Gallop: That is a reflection of your legislative program and nothing else.

Mr BARNETT: Members opposite could at least try to be slightly gracious. It is on the public record that this Government, and this Government alone, has allowed private members' business to continue until the end of a session. We have done that consistently, and that is a matter on the record of the Parliament. It is not up for dispute.

The member for South Perth referred to the Maritime Archaeology Amendment Bill. My recollection is that the Government allowed that Bill to be debated in government time and allowed it to go through. It started in the time for private members' business. I may be wrong, but my recollection is that we concluded the debate and accommodated the wish of the member for South Perth. The Bill had support. My recollection is that the Government accommodated the passage of that legislation which, quite properly, received support from all members.

With respect to the antics, the comic opera, the farce of tonight, I will make some comments. Maybe my recollection is not perfect and maybe that of the member for South Perth is not perfect either. My recollection, such as it is, is that we had two matters for business. The first was a second reading by the Opposition; the second was a debate on the uniform electricity tariff. It was of interest that the only member from the other side to speak on that debate was the Leader of the Opposition.

An opposition member interjected.

Mr BARNETT: It may have been deliberate, and that is quite proper. If the Opposition feels that is the most important issue it wants to raise on the last couple of sitting days of Parliament, because it thinks it can drive some wedge between the coalition partners, that is fair game. Having raised that issue, it was my understanding, which I relayed to the member for South Perth, that that debate would probably take about an hour. That was my best judgment of what would happen. As I was principally the target of that, I made it clear that I would speak. I spoke, not excessively, but I went through the detail of the issue. The Deputy Premier, who I guess was the other target of the motion, also wanted to speak. There was no strategy to delay debate. The member for Greenough wanted to speak about his electorate, as did the member for Ningaloo; the member for Geraldton, whose views I do not happen to agree with, also wanted to speak. I was not going to deny country members of Parliament speaking. That is the way the debate unfolded.

Dr Gallop: Why don't you give the member for South Perth another half an hour?

Dr Constable interjected.

Mr BARNETT: The member for Churchlands is interjecting, but she was not part of the conversation. Yes, several weeks ago I indicated that we would try to accommodate the Bill of the member for South Perth; however, I did not give a guarantee that we would deal with it tonight. I say that for one simple reason - the Minister responsible for that legislation is the Premier. The member for South Perth had not discussed debate on the Bill with the Premier. When we had that conversation I was not even sure the Premier would be in the House. I could give no guarantee, and I am not being evasive.

Mr Pendal: You are the Leader of the House.

Mr BARNETT: I am telling members what happened. My understanding was that we would have a second reading debate on the uniform tariffs legislation, which has already been debated about three or four times, and it would take about an hour. It did not. There was no filibustering, no strategy to delay the debate. In fact, Mr Acting Speaker (Mr Ainsworth), you quite rightly wanted to speak about your views relating to Esperance. The Opposition raised an issue that is of more importance to members on this side than it is to those on the other side. We have the country members of Parliament on this side of the House.

Mr Ripper: We have a few over here as well and we have concern for the whole State.

Mr BARNETT: There is no validity to any suggestion that the Government delayed debate. We wanted to bring it to a vote. Indeed, it was the antics of the Leader of the Opposition to delay the vote and create a farce. Members were still voting at 6.20 pm. The assertion was made that the Premier had asked me to delay the debate. That is not true. It did not happen. I can assure the member for Churchlands that the Premier and I did not speak about this Bill until perhaps five minutes ago when I came to the House after the dinner break. There was no discussion. The Premier may interject about whether we discussed this matter.

Mr Court: I will get up in a moment and make a few comments.

Mr BARNETT: We did not discuss it - that is the truth. It was not discussed. I neither lie, nor make up stories.

Dr Gallop: You have no more friends. You have lost your Independent friends; you have lost your party friends.

Mr BARNETT: The Minister for the Environment says that she is my friend. This is the classic storm in a teacup that might come at the end of a parliamentary session. The member for South Perth became upset because he thought some deal had been made and welched upon. If he is of that view and under that misunderstanding, I apologise. There was certainly no hard and fast deal that we would terminate debate to bring on this motion. I expected debate to allow that Bill to be dealt with. I did not know whether the Premier was available. During the debate, when the member for South Perth raised his concerns, I indicated that the Government would provide time to deal with it. That seems to have escaped the moment.

MR HOUSE (Stirling - Minister for Primary Industry) [7.59 pm]: Given what the member for South Perth said to the House, I make it clear that I became involved in this discussion part way through the matter. During the debate on the motion moved by the Leader of the Opposition on power and energy charges, I saw by interjection that the member for South Perth was upset because he thought he would not get his Bill debated. I spoke to him while the Leader of the National Party was speaking. After he relayed to me the discussion he believed he had had with the Leader of the House, I told the Leader of the House that it was my view that we should try to accommodate this agreement if there was one and if there was not the member for South Perth had a point which we should try to accommodate. He assured me that it would not take more than half an hour in round figures.

The Leader of the House said that no deal was done as far as he was concerned; nonetheless, the Government would try to accommodate the member for South Perth later tonight or, at the very latest, tomorrow. I relayed that message to the member for South Perth. On the way past I apologised to the member for Churchlands because I had been extremely rude to her in the course of that conversation.

Mr Pendal: Yes, you were.

Mr HOUSE: He knew that because I relayed it clearly.

Mr Pendal: You said that was the message from the Leader of the House, but there were no guarantees.

Mr HOUSE: That is right. The member for South Perth knows there are never guarantees. However, the Government intended to try to attempt to find the time to accommodate the member for South Perth. I cannot accept that the member for South Perth could then indicate to members on this side that we had done something that was unsavoury. We tried in an honourable way to somehow accommodate what was very important to him.

Mr Pendal: Two undertakings were given and you were not present at either. I respect the fact that you tried to alter the course of that. Nevertheless, those undertakings have been breached, although I acknowledge you tried to accommodate me.

Mr HOUSE: The member for South Perth should have allowed the Government the privilege of accommodating him, which it was prepared to do. The leader of the House gave that undertaking and I believe that would have been done.

MR COURT (Nedlands - Premier) [8.03 pm]: The member for South Perth said that I gave instructions to the Leader of the House for this Bill not to be brought on. That is not the case. As it has just been explained, not only

was the Government prepared to accommodate the member for South Perth with the maritime Bill, which was debated in government time -

Mr Pendal: That is nothing to do with it and it is not true; it was not debated in government time.

Mr COURT: It was debated on 27 August this year between 10.00 pm and 10.40 pm. The Deputy Leader of the National Party just said that it was explained to the member for South Perth that we were prepared to debate his Bill in government time; yet he is putting the House through this nonsense.

Mr Pendal: No, no, no. You have a superficial understanding of this matter like you have on most other matters.

Mr COURT: The Government has made it clear to the member for South Perth that it is quite prepared to accommodate his Bill, yet he carries on with what I see as a stunt and it does not help his cause.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [8.04 pm]: I support the motion moved by the Leader of the Opposition, but it is fairly clear the Government will not support it. I would like to see the Bill put forward by the member for South Perth debated.

Mr Kierath: Not now.

Mr RIPPER: That is the question I will ask. Will the Leader of the House place on the record an undertaking that the Bill proposed by the member for South Perth will be debated before we rise tomorrow?

Mr Barnett: I am prepared to say that. As I indicated through the Minister for Primary Industry to the member for South Perth this afternoon, the Government is prepared to deal with it.

Mr Pendal: You could have done that at 5 o'clock and you declined.

Mr BARNETT: Cross my heart and all that sort of stuff; we will bring it on tomorrow.

Dr Gallop: That is an important question we had resolved.

The ACTING SPEAKER (Mr Ainsworth): Order! The leader of the Opposition will come to order. To be successful this motion requires an absolute majority. If I hear a dissenting voice I will have to divide the House.

Mr Pendal: In view of the assurances we do not need to divide.

Dr Gallop: I call for a division.

Question put and a division taken with the following result -

Ayes (16)

Mr Brown	Mr Kobelke	Mr Riebeling
Mr Carpenter		Mr Ripper
Dr Constable	Mr Marlborough	
Dr Edwards	Mr McGinty	Mr Thomas
Dr Gallop	Mr McGowan	Ms Warnock
Mr Graham	Mr Pendal	Mr Cunningham *(Teller)*

Noes (25)

Mr Baker	Mrs Holmes	Mr Omodei
Mr Barnett	Mr House	Mr Prince
Mr Barron-Sullivan	Mr Johnson	Mr Shave
Mr Bloffwitch	Mr Kierath	Mr Sweetman
Mr Bradshaw	Mr MacLean	Mr Trenorden
Mr Court	Mr Masters	Mrs van de Klashorst
Mr Day	Mr McNee	Mr Wiese
Mrs Edwardes	Mr Minson	Mr Osborne *(Teller)*
Mrs Hodson-Thomas		

Pairs

Ms McHale	Mr Marshall
Ms Anwyl	Dr Hames
Ms MacTiernan	Dr Turnbull
Mrs Roberts	Mr Tubby

The ACTING SPEAKER: As there is not an absolute majority of members present and voting in favour of the motion, I declare the question negatived.

Question thus negatived.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL

Council's Amendments - Committee

Amendments made by the Council further considered from an earlier stage of the sitting. The Acting Chairman of Committees (Mr Ainsworth) in the Chair; Mrs Edwardes (Minister for the Environment) in charge of the Bill.

Progress was reported after Council's amendment No 5 had been not agreed to.

Mrs EDWARDES: I move -

> That amendment No 6 made by the Council be agreed to.

This will allow a levy exemption or a reduction in that levy when construction work is carried out for charitable purposes. That has always been the intention. The issue was raised by the member for Nollamara.

Mr KOBELKE: I thank the Minister for the way in which she has cooperated by taking on board this amendment. An industry person drew to my attention the fact that under the current Act provision is made for organisations to be exempt from this levy - although it may have been used only sparingly - for the construction of a building which would be sold for charitable purposes. Proposed section 25A provides an ability, after consultation with the board, for the Minister to make a decision and publish it, to specify conditions and criteria relating to the provision of training arrangements by a project owner, and to allow an exemption or reduction in the levy payable by such a project owner. The amendment will split the clause into paragraphs (a) and (b). Proposed section 25A will now read -

> After consultation with the Board, the Minister may publish a notice in the *Gazette* providing that, if specified conditions and criteria relating to -
>
> (a) the provision of training arrangements; or
>
> (b) the carrying out of construction work for charitable purposes
>
> by a project owner are met by that project owner, the Board shall grant a specified reduction in, or exemption from, the levy payable by the project owner under this Part.

I have not been able to consider the matter carefully enough, or to receive legal advice. However, it appears to adequately open up the potential for the exemption without creating a loophole. I have always considered this a balancing act, because we do not want any proposal on any training provision to simply be exempted, even if it does not meet the requirements of a special training arrangement. Without seeking legal advice, and without having the qualifications to make a sound judgment, my commonsense reading of the amendment is that it appears to ensure that the exemption will be either because a special training arrangement has been struck or construction work has been undertaken for charitable purposes. That split in the provision will allow the reduction or exemption from the levy to apply. I thank the Minister for ensuring that we are not shutting off the potential for charitable organisations who seek to raise funds from the construction of a building to be denied exemption from the levy.

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

Mrs EDWARDES: I move -

> That amendment No 7 made by the Council be agreed to.

Again, this amendment provides for construction work for charitable purposes to be exempt from the levy.

Mr KOBELKE: My previous comments apply, and I thank the Minister again for achieving this amendment.

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

Mrs EDWARDES: I move -

> That amendment No 8 made by the Council be not agreed to.

The amendment is poorly drafted. It is unclear, and creates confusion. I was almost tempted to agree to proposed

subsection (1), but parliamentary counsel has advised that the amendment is a nonsense. In effect, the Act expired on 1 July 1996 unless difficult principles of interpretation are applied. We made the decision to proceed, and we now have an opportunity for the funds within the BCITF to be utilised in a very effective and constructive way for training. In the opinion of parliamentary counsel, the section is poorly drafted and inappropriate. Counsel further advises that the interaction of proposed subsections (2) and (3) creates uncertainty about whether the Act has been validly extended. The references in subclause (2) to "the Governor by Notice" and in subclause (3) to "Order" adds to the confusion. It is considered that the words "not earlier" should read "not later". The amendment also creates difficulties with clause 14 of the Bill which provides for a review of the Act within a period of 12 months before the date referred to in proposed section 35(1)(a). A date is no longer referred to, and there is no section 35(1)(a), thus creating further confusion. Clause 15 is an important provision and requires certainty on the expiry or extension of the operation of the Act. The clause is poorly drafted, is unclear and creates confusion.

Mr KOBELKE: I note the Minister's comments. To some degree, I accept her advice because I do not have alternative advice. I am very sympathetic with the aim of the amendment, but the Minister has picked holes in the way it has been drafted. I note the advice about whether the five year period from the day the Act comes into operation would apply to the principal Act as opposed to the amending Bill. According to the Minister's comments, that is still open to debate. However, we cannot put in place legislation which opens up that degree of uncertainty. This is a very important part of the legislation. I will not contest or argue the point, because to do so would only reach a point of some conjecture and uncertainty, we cannot put in place legislation which is of dubious intent. I will comment on the intention, because when we return this matter to the other place, it is likely the Minister's comments and legal advice will be considered, as well as other means to amend this proposed section. Clause 15 is crucial to the Bill. It is the sunset clause. It states that the Act will expire on 31 December, 2000; the original version was 1999.

During an earlier stage of the debate, the Minister was willing to extend that by one year and also to provide for a review in the 12 months preceding that expiration. The Opposition's concern is that, there could be delay in implementing the Bill, it could be late in 1998 before the amendments are in place, and they contain very important reforms that will help the BCITF board to work more effectively. If that were to occur in late 1998, there would be only one year and a bit during which to assess the work of the board, to establish whether the problems experienced in the past had been overcome and to try to convince this Minister and her Government of the real value of the fund. Members on this side have no doubt about the value of this fund and the importance of maintaining it. It provides $5m to $6m a year that goes directly into training in Western Australia. We are concerned that the Government has sought to close down the fund and to leave industry to rely on money from the Government, through the Australian National Training Authority, the TAFE scheme and private providers. The industry experiences a very high turnover and it is very important to the State. The Opposition does not believe it should be left in the parlous position of having this sunset clause hanging over it; nonetheless, we cannot remove it.

The Government is committed to this dual view of the fund: On one hand wanting to improve it and on the other hand wanting to abolish it. The Bill before the House has a rather strange mixture of improvements and a move to abolish the fund. This amendment sought to extend that period somewhat, so there would be ample time for the fund to prove itself under the new arrangements. There would then be some chance of changing the Government's mind and therefore extending its life. There are provisions relating to a single extension by the Governor using a proclamation, but that has limited use for a fund that members on this side see as having an ongoing role in training for the building and construction industry.

I will not address the Minister's criticisms of the amendment. It contained a very important move to extend the time before the sunset clause is enacted. Perhaps with another minor amendment we can shift it out by a few years.

Question put and passed; the Council's amendment not agreed to.

Report

Resolutions reported and the report adopted.

Committee of Reasons

A committee consisting of Mr Kobelke, Mr Osborne and Mrs Edwardes (Minister for the Environment) drew up reasons for not agreeing to Legislative Council amendments Nos 1 to 5 and 8.

> No 1: Bringing an Act into operation by way of a day fixed by proclamation provides certainty to the actual commencement date and is the standard drafting procedure. For instance, the amendment does not cater for the long, drawn out appointment procedures, which have no default clause. The amendment does not provide the same flexibility and is considered unnecessary.

No 2: In the formulation of the annual operational plan, the board consults with various bodies including the Building and Construction Industry Training Council. It is not necessary to single out only one of these bodies - the BCITC in the legislation - with which the board consults. The amendment is considered unnecessary.

No 3: The Hitchen report recommended that the membership of the board be restricted to seven members - including the Chair - to be appointed by the Minister, but not as representatives of various sectors or organisations. The new independent board is the key to the future improved performance of the fund. The amendment has removed flexibility in making appointments by requiring that two of the members must be drawn from persons acceptable to one or more of the employer bodies named and two of the members must be drawn from persons acceptable to the union bodies named. This is contrary to the Hitchen report and restricts the power of the Minister. Parliamentary counsel considers the new paragraphs (b) and (c) are confusing and poorly drafted. No explanation is given of how "acceptability" would be determined. No provision is made should there be an insufficient number of persons "acceptable" from whom the Minister may make appointments. It does not indicate how "acceptability" will be evidenced. The amendments maintain the possibility of membership from employer/union bodies similar to the membership of the current board where conflict of interest has arisen because these bodies have their own group training scheme and/or skill/training centre which are major recipients of BCITF funds.

No 4: The proposed new subclause (4) refers to "ministerial appointments". This is misleading, if the intention is to restrict the reference to the "independent members", as all the appointments are made by the Minister. This subsection is poorly drafted.

No 5: It is considered this amendment is unnecessary as it appears from the amendment to section 10(4) it may be intended to apply only to appointments of the independent members, thus creating two classes of eligibility for appointments to the board. Paragraph (a) also makes reference to establishing and making available to applicants selection criteria. Who are the "applicants"? There are no applicants, presumably until after advertising in the newspapers referred to in paragraph (b). The new section 10A when read in conjunction with section 10 is poorly drafted and unclear in its application.

No 8 (1): Parliamentary counsel has advised that this amendment is a nonsense because in effect it means the Act expired on 1 July 1996 unless difficult principles of interpretation are applied. In the opinion of parliamentary counsel the section is poorly drafted and inappropriate. Counsel further advises that the interaction of subsections (2) and (3) creates uncertainty about whether the Act has been validly extended or not. The references in subsection (2) to "the Governor by notice" and in subsection (3) to "order" adds to the confusion. It is considered "not earlier" should read "not later".

No 8 (2): This amendment also creates difficulties with clause 14 of the Bill which provides for a review of the Act "within a period of 12 months before the date referred to in section 35(1)(a)". There is no longer a "date" referred to and there is no 35(1)(a) in section 35, thus creating further confusion.

Clause 15 is an important provision and requires certainty in relation to expiry or extension of the operation of the Act. The clause is poorly drafted, unclear and creates confusion.

MRS EDWARDES (Kingsley - Minister for the Environment) [8.34 pm] I move -

That the reasons be adopted.

MR KOBELKE (Nollamara) [8.35 pm] We wish to expedite the passage of this Bill but we have some real concerns and disagreement with the Government on some clauses. We do not wish to hold up the matter but we want to put on the record that the report of the committee of reasons contains material with which we do not fully agree and some parts with which we totally disagree. In order to have the committee of reasons message relayed to the other place so that these issues are resolved and the Bill passed, we will support the Government in having this matter brought to a conclusion and the Bill enacted.

Question put and passed; reasons adopted and message accordingly returned to the Council.

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL

Council's Amendment - Committee

The Council's amendment now considered. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Prince (Minister for Health) in charge of the Bill.

The amendment made by the Council was as follows -

Clause 93, page 50, lines 1 to 5 - Clause deleted.

Mr PRINCE: I move -

That the amendment made by the Council be agreed to.

The other place removed the requirement that would have otherwise changed the Nurses Act, which presently reads that in disciplinary matters in a general sense the Nurses Board be bound by the rules of evidence. That was sought to be changed so that the rules of evidence would not apply on a number of, in my view, entirely cogent, reasonable and proper grounds. First, in no other health registration board in Western Australia nor, as far as I know, in the Commonwealth or any other comparable jurisdiction is anybody bound by the rules of evidence. The Crown Solicitor's Office has been consulted and agreed that the amendment was therefore appropriate. The expense and delay of being bound by the rules of evidence have proved to be substantial, both for the Nurses Board and persons required to attend formal disciplinary inquiries. The board profile is adequately weighted in favour of nurses, as is the professional standards committee, which is normal in disciplinary boards of this type, whatever may be the profession. It is quite obvious from researching the files that related to the preparation of the Nurses Act 1992 when it was in Bill form, clause 72(1) of draft No 7 of the Nurses Bill 1990 and all prior drafts provided that the professional standards committee could not be bound by the rules of evidence. The word "not" was included in all the drafts. The departmental files do not reveal any submission proposing that the committee be bound by the rules of evidence. The proposal appears to have been made by one senior legislation officer at the time, apparently on the grounds that the outcome of an inquiry may result in a person losing his right to practise and so his livelihood. The advice I gave the committee in the other place which dealt with this matter is that it is inappropriate for a quasi judicial body, which is what the Nurses Board is when it deals with these disciplinary matters, to be bound by the rules of evidence. There is no evidence at all to support the proposition that being bound by rules of evidence is appropriate where an inquiry could result in a person's registration being suspended or revoked. That is not the case in any other registration board. Nonetheless, the Government with reluctance accepts the committee's recommendations when the matter was considered in the other place. The concerns raised by the Australian Nursing Federation in this matter will probably now have to be considered in the context of an overall review of the Act, which is in train consequent upon the operations of the competition legislation which now binds all organisations, such as the Nurses Board.

If members wish I will provide copies of the submission I made in writing to the chairman of the Legislative Council Standing Committee on Constitutional Affairs and Statutes Revision. The Council has rejected this clause of the omnibus Bill. This matter has come back from the Council as an amendment. I am explaining why it is here. I am reluctant to accept the amendment from the Council, because it is fundamentally wrong. However, for the sake of the totality of the omnibus Bill I am content that this amendment stand, and the Bill proceed.

Mr RIPPER: The Opposition supports the recommendation of the Standing Committee on Constitutional Affairs and Statutes Revision to enact the Bill subject to the exception of clause 93. We note the Government's reluctance to go along with this amendment but we also note that it has in the final analysis agreed with the committee and the Legislative Council. Clause 93 proposes to amend the Nurses Act by removing an anomaly whereby the professional standards committee of the Nurses Board of Western Australia is bound by the rules of evidence when conducting a formal inquiry. The Nurses Board and the Australian Nurses Federation have apparently been unable to resolve their fundamental disagreement about the amendment. I understand that the Australian Nurses Federation that covers registered nurses did not support this amendment. The committee has also pointed out that the matter had not been able to be considered by all of the relevant parties, including enrolled nurses covered by the Liquor Hospitality and Miscellaneous Workers Union. Given this situation it was clear that the proposed amendment was not non-controversial, which contradicts the convention that amendments in Bills like this should be minor amendments which would not arouse controversy, in particular amendments which must not impose or increase obligations or adversely affect any existing rights. In view of that disagreement over the significance of the amendment, it is our view that clause 93 should not be included in the Bill and the issue of rules of evidence should be considered as part of the overall review of the Nurses Act. I am not sure when this will take place.

Mr Prince: It must happen in the next calendar year, otherwise we get penalised by that big ogre, the Commonwealth. It has been reviewed as a result of the competition policy legislation. This is plainly bad law.

Mr RIPPER: So we are assured the review will occur in 1998. It is unfortunate that, potentially, the Chambers should be disagreeing over what should be a minor amendment. The convention should have been followed. It is perhaps an example of why a Bill like this should be considered by a parliamentary committee in this Chamber before it comes on for debate or perhaps by a joint standing committee. When a debate occurred on a previous statutes repeal and minor amendments Bill I suggested that an appropriate committee might be the Joint Standing Committee on Delegated Legislation. That committee is experienced in dealing with, if one likes, the smaller changes to the law that are normally embodied in delegated legislation, and those are the sorts of changes in principle we make when

we consider statutes repeals and minor amendments Bills. These Bills are normally quite difficult to handle in the Chamber, because a range of Ministers and shadow Ministers might be involved. No one shadow Minister or Minister can deal with every change that is proposed.

Mr Prince: Another way might be when we divide this Chamber as we did for the censorship legislation.

Mr RIPPER: I suppose that is a possibility. However, what concerns me is that normally an Opposition might want to ask questions of the Minister responsible for a change and anything up to half a dozen Ministers are responsible for changes and if they are not all in the Chamber, the Minister responsible cannot get the advice and what might be a simple query cannot be resolved because of that phenomenon. These are Bills which are not easily handled in the whole House. I would prefer to see them handled by the Joint Standing Committee on Delegated Legislation or by another suitable parliamentary committee. I hope that the Leader of the House will consider that proposition for the new parliamentary year.

Mr PRINCE: There was no intention of bringing this matter forward as a contentious matter somehow hidden in an omnibus Bill. This was a request made to me by the Nurses Board. It is clearly a sensible request when no other board is bound by the rules of evidence. There was a quirk that should not have been there and it was put forward in that light. The fact that the ANF decided to make it contentious in that sense occurred after the event. There was no prior knowledge that it would be contentious as far as I was concerned.

Mr Ripper: Once it becomes contentious it must come out.

Mr PRINCE: I express my frustration that this is bad law.

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

Report

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

SUNDAY OBSERVANCE LAWS AMENDMENT AND REPEAL BILL

Second Reading

Resumed from 20 November.

MR KOBELKE (Nollamara) [8.48 pm]: The Opposition supports this Bill. The Bill seeks to deal with two matters: Firstly, to repeal the Imperial Act known as the Sunday Observance Act 1677, a United Kingdom Statute, insofar as it is part of the law of Western Australia. Secondly, it seeks to amend the Interpretation Act to remove any doubt that any decision by a person acting judicially is valid despite its happening on Sunday. This amendment would abrogate where it still applied the common law rule that so-called judicial acts are mostly prohibited on Sundays, while at the same time it would have retrospective application to validate any such acts which have already occurred in case the common law rule applied.

My colleague in the other place Hon Nick Griffiths when speaking on this Bill, gave us an interesting dissertation about the "tapestry of our constitutional history". His speech took us back to the days when Sunday was a day of rest, spent with family and friends. He reminded us that even legislation which has been part of the law of the land for 320 years needs to be properly scrutinised before being repealed.

Mr Prince interjected.

Mr KOBELKE: The Minister's interjection may indicate there was some value in it - I suspect there was - and perhaps we are slow to update our legislation.

I am sure this House will be interested to learn that the Sunday Observance Act was passed in a century that, compared with the eighteenth century, was a momentous time for legislation. The seventeenth century included such legislation as the Star Chamber and Habeas Corpus Acts of 1640, the Act for the Abolition of Feudal Tenures of 1660, the 1689 Bill of Rights and the Statute of Fraudulent Devices of 1691. The reason for the meagre crop of Statutes in the eighteenth century was described by Edwards Jenks in *A Short History of English Law* in the following manner: Apparently, the reaction which followed upon the agitation of the Civil War, combined with the feeling of uncertainty produced by a disputed succession to the Crown, rendered the nation unwilling to allow the laborious and disturbing machinery of parliamentary reform to tamper with the ancient institutions of the country.

Mr Prince: A reaction to the model Parliament of the Commonwealth.

Mr KOBELKE: I am no student of the history of those days, but from my knowledge I think the Minister is correct.

It seems that very little has changed; 320 years later the laborious and disturbing machinery of parliamentary reform is now considering the Sunday Observance Act. Earlier today this House considered the Commission on Government report. Only five years after the commission was first proposed the recommendations are yet to be implemented, and that perhaps pales into insignificance, bearing in mind that this Statute has been around for 320 years.

I must admit I was not familiar with the Sunday Observance Act of 1677 prior to this debate, but I understand the only section of the Act that probably has any remaining relevant application in Western Australia is section 6, dealing with service of process on Sunday. It was one of the many imperial Acts examined by the Law Reform Commission of Western Australia in its 1994 report on United Kingdom Statutes in force in Western Australia. The commission considered that, because section 6 was still applicable, it needed to be preserved. However, because it is out of date, it recommended that it be reviewed. The commission pointed out that the Statute had been repealed in a number of jurisdictions in Australia, as well as in New Zealand and the United Kingdom. It is interesting that the Government has taken three years to act on that report. That is not a particular indictment of this Government, because I believe the Government of which I was a member was also slow in tidying up some of these loose ends which had been part of the Statutes for many years, in this case going back to well before the foundation of responsible government in the colony of Western Australia.

I gather that the matter was highlighted in the context of the Restraining Orders Act, and the possibility that the service of telephone restraining orders could be prohibited on Sunday, due to the 1677 Act. Even if that Act did not prohibit such service, the common law rule may have caused some difficulties. In any event, I agree that, if there is any doubt about the matter, it is better to repeal the old Act rather than leave the matter undecided or in a state of uncertainty.

I note that the common law rule has been abrogated in a number of cases, such as the Supreme Court Act and the District Court of Western Australia Act, which have specific provisions that enable the courts to sit at any time; similarly, with criminal matters dealt with under the Criminal Code. However, it appears that this is not the case for other types of judicial proceedings dealt with under the Justices Act, as there are statutory provisions in a variety of Acts that specifically provide for the validity of certain kinds of judicial acts done on Sundays. Once this Bill is passed, these types of provisions will no longer be required.

Although I support the concept of days of rest, I am reluctant to have this translated into practices that may inhibit judicial processes, especially given that more modern legislation recognises changing social practices and specifically allows for certain things to be done on Sunday. It must also be accepted that, as a matter of practicality, Sunday may well be the only day on which people can be found at home for the various judicial processes to be successfully served.

I wish to comment on the significance of Sunday. I have some concern that people are slipping away from any real observance of Sunday. Although it is obviously part of my background and beliefs, I believe it is also detrimental to society at large. The pace of life and the pressures of the modern world are such that people need a day of rest each week. However, very few people have the religious conviction or strength of character and purpose to observe a day of rest. People of the Jewish faith, especially those of the orthodox faith, are well known for the great emphasis they place on their Sabbath. That can be linked to the very strong family bonds in many Jewish families. From the strength of that family bond, the support it gives to people, and the importance of that day of rest to the general wellbeing of the family and individuals, we can recognise what is being lost. Some people have the discipline to set aside time for their families and for their own personal benefit to ensure they have time to recuperate, relax and look after their physical and mental wellbeing. In this day and age, with the hectic pace of life, very few people do that successfully. My slant is perhaps biased because I probably make my judgment based more on the people in this Chamber and our associates than on people in other walks of life. In my judgment, very few of us have the balance right. I must confess that I have failed. I tend to find work all-consuming to the detriment of my family and perhaps my health.

Mr Prince: I suspect what you are saying is apposite to everybody in this Chamber.

Mr KOBELKE: As I look around this Chamber, I am aware of how hard members on both sides work. For example, the Minister for Multicultural and Ethnic Affairs is exemplary as a Minister of this Government. It does not matter how many functions I attend across the whole of Perth, he always seems to be there. I am sure other Ministers work equally as hard. I know that the majority of my friends in the Labor Party work extremely hard. We are dealing with only one aspect, but it is part of the bigger picture of withdrawing the range of Statute provisions and customs that set aside Sunday as a special day. Because of the pace of life we need to find that balance again and put aside more time for relaxation. In some ways I am being hypocritical because I have not been able to find that balance.

This Statute takes one more step away from the structure that helped people to put aside that one day a week.

Mr Bloffwitch: We are now big enough to do those sorts of things.

Mr KOBELKE: I do not think we are. It is a complex issue and it comes down to the personalities and psychology of people as individuals. There are many social pressures, such as earning more money to buy a better house or car, for which people are willing to work longer hours. People may chase jobs that force them to work when their spouses are not working. At the end of the day it is up to the individual, but if the individual is in a society that does not have a strong cohesion or a set of well determined rules on how to behave, the individual would have to be a strong person to organise and discipline himself. I recognise I have not given a priority to that because I tend to put work first and that has dangerous consequences.

Mr Bloffwitch: This Bill will not change very much except that if I want to sign something on a Sunday instead of a Saturday or Monday I can. It is not a big thing we are doing.

Mr KOBELKE: The member is right and that is what I said. This is but one pointer to the bigger issue. I am not saying it is not the thin end of the wedge, because that is nonsense. The time of having widespread observance of the Sabbath or any day of rest has long gone. We are tidying up a bit of the machinery, and to that extent the Opposition fully supports the Bill.

It is worthwhile taking this opportunity to acknowledge that in seeking the greater freedom to do what we want - to have flexibility in our lifestyles and a level of affluence in our society - we must work harder and longer and there is a cost. That cost is caught up with the fact that we have done away with some of the valuable things we had when we had a more clearly prescribed day of rest. This Bill deals with a minor matter long after the social mores have well and truly changed.

It is an ongoing charge to totally deregulate. We have gone past the point of gaining benefits. It is not appropriate to debate it now, but the change the Government is making to labour laws is leading to total deregulation. Penalty rates are being done away with on the basis that it makes particular enterprises more efficient and it provides cost savings. However, when we look at what it is doing to families and individuals, we see it has the potential to be destructive. I say "the potential" because there will not be a negative outcome in every case. The effect on society generally is that people have less time to spend with their families.

A study was done in a coalmine in New South Wales which looked into the effects of the extension from eight and a half hour to 12 hour shifts. It is a different issue, but it raised the same problems. The concern that received the highest statistical significance was that families had difficulty coping with the lack of communication, particularly between spouses, because of the extended hours. The same problems exist when we do not have a day set aside by Statute on which families can get together. That has been the case in the past, but it is disappearing and a range of labour laws are attempting to totally wipe it out. It would be a retrograde step and it is time members looked seriously at preserving time for families to be together. It will give people time to play sport and watch their children play sport without being caught up with their responsibility to work. Saturday afternoon shopping affected sporting associations; for example, a lot of netball teams could not find players.

Mr Bloffwitch: We lost eight netball teams in Geraldton when we went to Saturday afternoon shopping.

Mr KOBELKE: We should question whether we should be inhibiting judicial acts by law that are based on Christian religious practices when many people in the community observe different religious practices and for those people Sundays have no special significance . Many people do not observe any religion. In Dianella and the part of Noranda previously in my electorate there is a big Jewish population and they have their observance on Saturday. There is a variation on which day it should be. In my electorate there are also two mosques and a Buddhist temple. In a multicultural society we cannot impose the Christian values and observances, although I find them meaningful.

We need to put in place structures that help uphold values, but they must not be exclusive. I am a strong supporter of restrictions that apply to Good Friday and Christmas Day. While they are of Christian significance and practising Christians are a small part of society, if we wipe away all the restrictions which uphold something of significance to people, we will have a society without any direction. As we become more multicultural we may have to allow into our calendar more respect of and significance to non-Christian events. It is something I would be willing to look into. I am opposed to the continuing move to remove by legislative means special days which are set aside as part of the Christian calendar.

My concern is with clause 48A(2) which gives the Bill a retrospective character. The reason for the retrospectivity was not dealt with in the second reading speech, although when the Attorney General was challenged on the matter in the other House he attempted to deal with it. Is the Minister able to give a clear undertaking that this clause clarifies the situation to make sure we do not get caught with matters that may arise from a past date, or is it more than that? While it clearly seeks to do that, there may be cases which have been initiated that could use a loophole -

Mr Prince: The intention is to ensure retrospectively that the technical point cannot be raised with validity.

Mr KOBELKE: I accept that and that was the position which I was accepting. I understand the Minister is not responsible for the Bill and is only handling it in this place, but will he find out whether the Attorney General has advice that cases may be pending that would seek to use the contravention of the prohibition of service on Sunday to win a case?

Mr Prince: There is none that I know of, but it is possible. There is one learned magistrate in this State who makes a point of refusing to deal with matters when he notes the summons was served on Sunday. There is one judicial officer who takes that view of this legislation. Given that to be the case it is possible someone might try it on. Subsection (2) of section 48A seeks in a preparatory way to make that not possible to occur.

Mr KOBELKE: Does the Minister know the age of the magistrate?

Mr Prince: I do, I have appeared before him on many occasions.

Mr KOBELKE: He does not go back to 1677, I hope.

Mr Prince: He is not quite that old.

Mr KOBELKE: The Opposition is prepared to accept the reasoning for the retrospective nature of the Bill, but we urge the Government to ensure that an adequate explanation is given in future for retrospectivity in legislation.

The huge political outcry against retrospectivity in the 1980s was because retrospective legislation had been introduced that applied a taxation liability that had not existed previously, and people said, almost as a matter of principle, that legislation should not be retrospective. However, retrospectivity seems to be the fashion these days. I cannot count the number of Bills that this Government has introduced in the past five years that have had a retrospective element; it may be 50 or 60 Bills. I concede that in many of those cases, retrospectivity may have been inevitable in order to deal with an issue.

Mr Prince: From the point of view of reasoned and sensible analysis of any Bill, you should approach any new piece of legislation with the view that retrospectivity is bad and critically examine any retrospective clauses to see whether they are justified in a particular instance. That is a good reasoning process for examining any retrospectivity, and that is what you just did in respect of this Bill.

Mr KOBELKE: I accept what the Minister is saying, but any element of retrospectivity should be referred to in the second reading speech and some explanation given about why it is essential for the Bill to be retrospective, and that was not the case in the second reading speech for this Bill.

Schedule 1 deals with consequential amendments. I will give two examples of Statutes from which we will remove the special provision for service on a Sunday because the general problem that may have arisen because of the 1677 Act and the common law will no longer arise. Clause 1 repeals section 647 of the Criminal Code, which states that "The taking of a verdict or any other proceeding of the court is not valid by reason of its happening on a Sunday." The second example is found in clause 6, which amends section 45 of the Police Act, which states that "any warrant of arrest under this or any other Act may be executed by any police officer or constable on any Sunday, Good Friday, or Christmas Day", by deleting the words "Sunday, Good Friday, or Christmas Day". Similarly, the words "Sunday or other" in section 70 of the Police Act will be deleted.

The Opposition is happy to support this Bill as an important measure to improve certainty in the validity of judicial acts performed on a Sunday.

MR PRINCE (Albany - Minister for Health) [9.15 pm]: I am obliged to the member for his support and for his rather lengthy speech, which has been quite interesting. I reiterate what I said about retrospectivity. I take the retrospective nature of proposed section 48A(2), which is part of clause 4 of the Bill, as being declaratory in most respects, but also as obviating the possibility of a person raising the technical argument that a particular court process was not valid because it was served on a Sunday.

The amendment to the Criminal Code to allow the taking of a verdict on a Sunday is highly sensible in a jury trial. A jury might retire on a Friday and wish to return its verdict on a Sunday, but at present the members of the jury must sit and twiddle their thumbs because they cannot deliver their verdict until the Monday. That is not sensible.

Mr Kobelke: While we do not wish to hamstring the judicial system, even though there might be no prohibitions with regard to delivering a verdict on a Sunday, a jury in that situation might be of one mind in not wanting to deliver a verdict on a Sunday.

Mr PRINCE: If a jury knew that it was not permitted to bring down a verdict on a Sunday, it might rush to deliver

a verdict on a Saturday in order not to have to spend an extra day engaged in jury service. If a jury was not constrained in that fashion, one would hope its deliberations would be sensible, careful and sober and that it would take as long as was necessary.

Mr Kobelke: Although there may be good reason to remove this prohibition so that certain processes can take place on a Sunday, we need to recognise that at times there may be a negative effect. We cannot address that matter in legislation of this form, but we need to take account of the need for families to have special days when they can be together.

Mr PRINCE: I agree entirely about the effect on families. I do not think any person, particularly a member of this place, would disagree. Members of Parliament lead a strange life, particularly if they are country members. I leave home on Sunday evening and if I am lucky I get back home on Thursday night; if not, on Friday morning. It is a very strange life, with a wife who is on her own and children who are at university and school, to be a peripatetic parent. I appreciate that this happens in the mining industry with fly in, fly out, but at least that has some regularity and people know that they will be home for a set period. That does not happen to us.

I take to heart what the member said about family commitments. While it might have been appropriate 200 or 300 years ago for the State to say that on Sundays people would do nothing other than go to church, times have changed, and given the flexible nature of society and the new workplace that is evolving not just in this State but throughout the whole of Australia and worldwide, I suspect it is very much the case that people must make those decisions for themselves.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and passed.

SURVEILLANCE DEVICES BILL

Committee

Resumed from an earlier stage. The Deputy Chairman of Committees (Mr Baker) in the Chair; Mr Day (Minister for Police) in charge of the Bill.

Progress was reported after clause 1 had been agreed to.

Clause 2: Commencement -

Mr McGOWAN: This clause sets out the date at which the Bill comes into effect. I understand that the Minister has expressed some concern about the bringing the Bill into operation due to the requirements of the Police Service in relation to law enforcement. What is the priority in relation to this Bill, and when is it likely to come into effect? Has the Police Service, or any other government agency, expressed any urgent demand for the Bill to be in operation before next year?

Mr DAY: The Police Service is keen, and I received a similar request from the National Crime Authority, that this legislation come into effect as soon as is practicable so the powers to be made available to law enforcement officers under the legislation can be used.

Mr McGOWAN: Does that mean that the Bill will receive royal assent this year or next year? This Bill has been 10 years in gestation. Is the urgency such that the concerns people have expressed about the Bill about whether it is workable will not cause the Minister to further review it before its passage? Does the Minister see it as being a Bill without problems? What is the Minister's view? Will the assent to the Bill overcome the problems with the wording and the potential requirement for litigation?

Mr DAY: An assumption is being made by the member for Rockingham that problems may arise with the wording of the Bill. That may not be the case. The reality is that the Bill will not pass through both Houses of Parliament this year. Therefore, more time will be available for the examination of matters raised in discussion with the member for Rockingham and through the Press. I will meet representatives of the Media, Entertainment and Arts Alliance and other news organisations as soon as is practicable. Although it would be desirable for the Bill to come into effect as soon as possible, it will not occur in 1997. I hope it will happen early in 1998.

Mr McGOWAN: The Minister must acknowledge that substantial concerns have been expressed about the Bill. It is unusual to have a Bill drafted and introduced into Parliament before meeting groups like the media alliance. The Minister must acknowledge that some serious problems have arisen regarding the operations of the Bill, its impact on responsible media reporting and activity which people never previously regarded as illegal.

Mr DAY: I will meet with those organisations with a view to allaying their concerns. I agree that people have

concerns, but whether they are well founded is another matter. As I have said all along, I am happy to meet with anybody with reasonable concerns to explore the issues involved with a view to allaying those concerns.

Mr RIEBELING: I am pleased to hear that the Minister is considering concerns, especially those of the Press, which have been raised. Why was the Director of Public Prosecutions engaged to draft this legislation? It was my understanding from what the Minister said in answer to a question that the DPP was instructed to draft the legislation. I thought the Director of Public Prosecutions would have had severe concerns about a conflict of interest in drafting this type of legislation. Does the Minister know of any concerns of the DPP about the request for that office to draft the Bill? Why was the Crown Solicitor not used as the drafting authority for this legislation?

Mr DAY: Well before my time, a committee was formed under the previous Labor Government in 1987 to review the Listening Devices Act. It is my understanding that the committee was formed under the authority of the then Attorney General. The responsibility for the drafting of this Bill was initially with the Attorney General, and prior to my becoming the Minister for Police the responsibility was transferred to the Minister for Police. It was an unusual situation. The instructing agency continued to be the DPP throughout. The Director of Public Prosecutions has become the principal instructing agency, but obviously in consultation with the Police Service and other relevant authorities.

Mr RIEBELING: Did the Director of Public Prosecutions express concern about his role in drafting the legislation? I thought an eminent lawyer such as the head of the Office of the Director of Public Prosecutions would have seen a severe conflict of interest in that sort of instruction. The DPP must operate under this legislation. The normal course of events is for him to ensure that the concerns of the public, as well as the prosecution, are met. The Crown Solicitor, an independent body, would ensure that natural justice is preserved, not only to advantage a prosecution, but also to allow the public to have confidence that justice is seen to be done and that the rules of natural justice apply under this legislation.

Mr DAY: I am not aware that any concerns have been expressed by the DPP about his role and, more particularly, the role of his office in the drafting of this legislation. I do not see it as an unusual situation. For example, the Police Service is the instructing agency for a range of legislation that involves the Police Service and under which it ultimately has responsibility for taking action. Similarly, the Water Corporation may be the instructing agency for the drafting of legislation that may have an impact on water management in Western Australia. In the end, the court makes judgments about cases. The DPP is simply the prosecuting agency. Legislation is put into effect only if it is passed through both Houses of Parliament: Members of Parliament make a judgment about legislation.

Mrs ROBERTS: Why is the commencement date such day or days as are respectively fixed by proclamation, and not the date on which this Bill is assented to? Does that commencement date relate to resourcing problems or to things that must be put in place before the legislation can be proclaimed?

Concerns have been expressed about a possible conflict of interest arising from the DPP drafting this legislation. This situation differs from that relating to an agency such as the Water Corporation, as the Minister cited in his example. I suspect the Minister met Mr McKechnie on a number of occasions about his views and gave him instructions. Is that correct?

Mr Day: I have had some discussions with the DPP.

Mrs ROBERTS: About this Bill?

Mr Day: Yes; however, most of the drafting was done prior to my becoming Minister. A number of changes have been made over this year.

Mrs ROBERTS: It has come to my knowledge that significant changes have been made since the Minister took responsibility for this portfolio. That is an inappropriate comment for him to make.

Mr Day: It is simply a true comment. I am not saying I have not had any involvement, just that the bulk of the drafting was done previously. I agree entirely that some changes have been made this year.

Mrs ROBERTS: For example, changes have been made at the request of the Anti-Corruption Commission.

Mr Day: Yes.

Mrs ROBERTS: The ACC was not consulted before the Minister became the Minister for Police.

Mr Day: Changes have been made at the request of the ACC and others.

Mrs ROBERTS: The Minister fails to understand that a conflict of interest arises because if the office of the DPP has drafted the legislation, it has a stake in the legislation. Once this Bill becomes law, an argument could be raised

about the interpretation of various sections. If that office has a stake in the legislation because it has been heavily involved in drafting it, it will have a less than objective view about that interpretation. It must be remembered that that office is not like any other agency: The DPP is a prosecuting agency. It may make decisions on the basis of what it believes the legislation means because it drafted it in the first place.

Mr Day: Who should have been the instructing agency?

Mr Riebeling: The Crown Solicitor's office.

Mrs ROBERTS: Yes. There are other alternatives. It could have been drafted by crown counsel rather than the DPP. After all, that is where most legislation is drafted.

Mr RIEBELING: Did the DPP show any concern about his role in drafting this legislation? It is my understanding that concern was expressed about a directive from Cabinet that the DPP would be the agency that would do the drafting. The Minister said that this legislation was put in place prior to his taking office. My understanding of the DPP's involvement was a more recent occurrence than the Minister indicates; namely, that it happened not in the formative stage of this legislation, but in the later stages. The Minister indicates it is normal for the DPP to draft this type of legislation. However, what other legislation of this type has the DPP put together? This is an instrument that is used by prosecution and that should enable citizens of Western Australia to access justice. The people who know the most about the horse racing industry, for example, would be those involved in the industry. However, the Government has decided that an independent body should have control over that industry and that the Government, not the Western Australian Turf Club, draft the legislation. I thought it would be improper that the agency that enforced this legislation was the one to draft it. I believe the DPP advised the Minister of that. Either the Minister has not been advised of that, or that concern was expressed prior to his appointment as Minister. Do the records of the Minister's officers indicate that concern was expressed by the DPP?

Mr DAY: One point must be made clear: The DPP did not draft this legislation; the drafting was done by parliamentary counsel.

Mr Riebeling: Why did you say the DPP did it?

Mr DAY: I did not say the DPP drafted the legislation. The member for Burrup and the member for Midland said the DPP drafted the legislation. I said the office of the DPP was the principal instructing agency. That is not the same as saying it drafted the legislation.

Mrs Roberts: I said he was the instructing solicitor.

Mr DAY: The member said he drafted the legislation. It might have been a slip of the tongue.

Mrs Roberts: My notes are based on the fact that I believe the DPP was the instructing solicitor and my comments were made in the belief that he was the instructing solicitor, not that he drafted the Bill. Perhaps I expressed that incorrectly when I spoke on this clause.

Mr DAY: That is correct, but certainly the DPP was the principal instructing agency. It is not as though that is the only agency involved. It is also important to note that the original drafting instructions for this Bill were based on a report that was completed in 1988 into the Listening Devices Act. Included on the committee which reviewed that legislation was an assistant crown solicitor from the then Crown Law Department and also a crown prosecutor who was in a section which was also part of that department. There was quite a substantial input from people, apart from those officers who ultimately came within the office of the Director of Public Prosecutions.

Mr Riebeling: What was that?

Mr DAY: I am saying that there was a substantial input to the initial drafting instructions from people other than those who ultimately became part of the office of the Director of Public Prosecutions, or were in that office.

Mrs Roberts: Are we talking about 1988?

Mr DAY: Yes.

Mrs Roberts: In 1988 it wasn't just listening devices; it had not broadened out to optical surveillance and tracking devices.

Mr DAY: Yes; that was part of the problem. That is what we are trying to overcome through this Bill.

Mrs Roberts: When they were instructing then, they were instructing only with regard to listening devices. I am suggesting that the Minister keeps referring back to 1988 as if the Labor Party has some ownership of this matter, of which we should be taking cognisance.

Mr DAY: What a good idea.

Mrs Roberts: I am suggesting that in 1988 what was talked of was only a review of the Listening Devices Act. There was no discussion at that time about optical surveillance devices or tracking devices.

Mr DAY: That is not the case. A problem that was identified by the committee which reviewed the Listening Devices Act was that it did not cover optical surveillance devices or tracking devices. A recommendation was made that those devices should be brought within the ambit of this legislation.

Mrs Roberts: The Minister said, with respect to the committee, that the National Crime Authority cannot use listening devices. That is totally incorrect. It can use listening devices under the federal legislation.

Mr DAY: There is a problem with the National Crime Authority not being able to use listening devices, for the same reason the Western Australian police cannot use listening devices where they need to use forced entry.

Mrs Roberts: What about when they are used under the Customs Act, for example?

Mr DAY: They can be used, but only in certain circumstances; namely under Customs Act offences.

Mrs Roberts: In the recent case of John Kizon it was reported in the media that the NCA or the Australian Federal Police had used listening devices. I am suggesting that under federal legislation both the Federal Police and the NCA have successfully been able to place listening devices.

Mr DAY: Yes, in certain circumstances.

Mr RIEBELING: Had the Minister given the response he has just given several hours ago, we might have moved on by now. I understand all about instructions that come from various agencies, quite properly from prosecution sections to the lawyers who are drafting the legislation. It is my recollection, and I am convinced it is the recollection of others in this place, that the Minister said that the Director of Public Prosecutions was instructed to draft the legislation. That is exceptionally rare. I do not think it has happened before. A little earlier the Minister said that he did not consider it abnormal. I now understand that the Minister is saying that the DPP had an opportunity to comment on the legislation and that those comments were directed -

Mrs Roberts: He was the instructing solicitor. He admits that he gave instructions.

Mr RIEBELING: I do not know whether the Minister has changed his view on that. I am trying to find the *Hansard* reference so that perhaps the Minister can look at what he actually said. There is a difference in what the Minister said earlier from what he is saying now. This has caused me some considerable problems. In the Minister's discussions with the DPP, was there any indication by him to any one in the office of the DPP of his being uncomfortable with its role in this legislation?

Mr Day: No.

Mr RIEBELING: None at all?

Mr Day: No.

Mr RIEBELING: I take it that no memorandum will turn up to that effect.

Mr DAY: I do not think so; no. The member for Midland asked why this Bill will be brought into effect by way of proclamation, rather than on the day of Royal assent. As she suggested, that is because certain procedures must be put in place for the legislation to be used properly by the appropriate authorities. It is also necessary for appropriate equipment to be purchased and for a facility to be established for the monitoring of the devices and the storing of records. It will also be necessary for appropriate regulations to be drafted and made public.

Mrs ROBERTS: I thank the Minister for his answer. Are the funds for that facility and equipment which needs to be purchased on budget for this year? If so, what is the cost?

Mr DAY: The Government has indicated that, if necessary, it will make available to the Police Service $452 000 for the purchase of appropriate equipment.

Clause put and passed.

Clause 3: Interpretation -

Mr DAY: I move -

Page 2, line 22 - To delete "the Deputy" and substitute "a Deputy".

Mrs ROBERTS: I have some concerns about the definition of "authorized person". I note in the case of the Police Service of the State that can be the Commissioner of Police. If the amendment is passed, I understand it will then read "a Deputy Commissioner of Police and an Assistant Commissioner of Police". I think this is too broad, and that the Commissioner of Police must take responsibility, particularly where this relates later in clause 21 to the emergency authorisations. It states that "an authorized person may issue an emergency authorization".

In my speech during the second reading debate I said that, at the very least, I was uncomfortable about these emergency authorisations. In my view they circumvent the legal process. All applications should be put before a judge. Despite the Minister's response during the second reading debate, I am still not sure of how long these emergency authorisations will stay in place. It is not sufficient to suggest that the parties will have to report to a judge at the earliest time practicable, or whatever the time is, or within a day or two. There are some limitations on what a judge may, or may not, do.

I also made the point that there was no inadmissibility of evidence where that evidence was obtained contrary to this legislation. It seems to me that the emergency authorisations in themselves leave open the potential for a listening, surveillance or tracking device to be put in place and for within a day or two a judge to rule that the authorisation not continue and that the device be removed. Yet evidence can be gained as a result of an emergency authorisation under conditions that would not have been approved by a judge. It is fair to assume that if, subsequent to the emergency authorisation, a judge ruled that the device be removed forthwith, the judge probably would not have permitted the device to be placed in the first place.

The legislation contains an anomaly in that evidence gained in that situation would not necessarily be ruled inadmissible in court. I have enough concerns about that without the authority for that emergency authorisation to go beyond the Commissioner for Police; he must take responsibility. How many people would be authorised persons under the current Police Service structure, including the Commissioner of Police, all deputy commissioners and all assistant commissioners? My concern is that under clause 21 those authorised persons would issue those emergency authorisations.

This is a very serious issue; surveillance devices are an invasion and infringement on people's privacy. The commissioner should take responsibility. He should be advised whenever an application is being made. If he does not act as the authorising person - he may be ill, on leave, interstate or overseas - the Acting Commissioner of Police should be responsible. The Minister might give arguments about why one person should not be fulfilling that role but we could perhaps entertain the deputy commissioners in that role. However, we should not accept assistant commissioners of police as authorising agents.

Mr DAY: The amendment is to allow for the fact that since the Bill was drafted the Police Service has provision for two deputy commissioners of police. One is acting and one is appointed. The member for Midland said that only the Commissioner of Police should be able to issue emergency authorisations, but that would be unworkable and unrealistic. It would be impossible for any single person to be available 24 hours a day, seven days a week to issue an emergency authorisation.

As the member for Midland said, we propose that the authorisation be extended to the deputy commissioners and assistant commissioners. There are two deputy commissioners and six assistant commissioners, making a total of nine people who would be able to issue an emergency authorisation. That is by no means a large group of people. It is a substantial change from the situation under the Listening Devices Act.

Mrs Roberts interjected.

Mr DAY: Under the Listening Devices Act an authorisation can be issued by an officer of the rank of inspector or above, which amounts to approximately 150 officers under current staffing levels. The situation is changing from an inspector or above being able to issue an authorisation to an assistant commissioner or above. It is restricted to nine people. It is a very good balance. An assistant commissioner or deputy commissioner is a very senior position in the Police Service. I have no doubt they will fulfil their duty responsibly and solemnly.

Mr RIEBELING: I thank the Minister for that answer. I understand these authorised persons can issue an authority.

Mrs Roberts: Under clause 21.

Mr Day: In certain circumstances, as specified in the clause.

Mr RIEBELING: For some reason they must have access to nine people for that facility to be effective.

Mr Day: Yes; one of nine people can issue an emergency authorisation subject to approval by a judge as soon as is practicable thereafter.

Mr RIEBELING: Why on the next page is there a definition of Chief Stipendiary Magistrate, who is one person and who under this legislation will have the power to issue the warrants?

Mr DAY: Any magistrate will be able to issue a warrant for a tracking device.

Mr RIEBELING: Why is the definition of Chief Stipendiary Magistrate in the Bill when there is no definition of a magistrate, unless I have missed it? Presumably it is efficient to have a single magistrate authorised to do whatever work.

Mrs Roberts: We were told "magistrate" was in the Interpretation Act.

Mr Day: It does not relate to the issuing of warrants; it relates to clause 23 regarding the confidential amount of information and a decision to make certain information available. There is a proposed amendment to that clause in any case.

Mr RIEBELING: Will the definition be amended to include "other magistrates" in relation to duties under clause 23?

Mr Day: No, there is no proposal to extend that authority to any magistrate other than the Chief Stipendiary Magistrate. A magistrate cannot issue an emergency authorisation in any event, and not for a tracking device.

Mr RIEBELING: Is the Minister saying therefore that the commissioned officers can issue a device, but a magistrate cannot be trusted with that sort of task? Nine police officers will be able to do it, but a magistrate will not be given that authority. The Minister will probably be able to allay my fears about the issuing of warrants. Often the public is concerned about the powers given under warrants but its fears are allayed because of the involvement of judicial officers to properly scrutinise the evidence prior to issuing a warrant. Under this legislation, nine police officers will have the authority to do that. I understand that the powers of a magistrate are not as great as the ones the commissioned officers have under this legislation.

Mr DAY: The member for Burrup is talking about a different matter. Magistrates are not involved in the issuing of emergency authorisations. Senior police officers may be involved. As specified in clause 21, emergency authorisations can be issued, but only in certain restricted circumstances. When they are issued, approval from a judge must be obtained as soon as practicable, and a written report must be made to the judge without delay. Magistrates will have the ability to issue a warrant for a tracking device in a non-emergency situation.

Mr McGOWAN: It has been indicated that this Bill was introduced after a significant period of consultation, gestation and consideration. What consultation has the Minister had; what negotiations did he undertake, and with whom?

The DEPUTY CHAIRMAN (Mr Baker): Order! The Committee is debating a proposed amendment to clause 3. It is a simple one which seeks the incorporation of "a" before the word "deputy". The member should confine his comments to that amendment.

Mr McGOWAN: My comments relate to the consultation process undertaken by the Minister before deciding on this amendment, and the negotiations he undertook in a personal sense. I would like to be assured that this Bill was not delivered to the Minister - being a new Minister who has no real involvement in its workings. I seek the assurance from the Minister that, as a government member, he fully supports the legislation rather than its being introduced at the behest of an element in the bureaucracy, the Director of Public Prosecutions' office or the Crown Solicitor's Office - or anywhere else.

Mr DAY: I have had very little consultation on the amendment. I accepted the request and advice of the Police Service that it would make sense to pass such an amendment. The reason is self-evident. I have had some discussion over the past year on this matter with organisations such as the Anti-Corruption Commission, the National Crime Authority, the Police Service and the DPP, and I recall some discussion with private investigatory agents.

Mr McGOWAN: Not only this amendment but also the entire Bill will have a substantial impact on the way the media operates in this State. For instance, every night the news media will need to consider what is placed on the television news in the evening; whether it breaches the legislation and renders the station liable to face criminal penalties. Perhaps the Minister should have consulted with media organisations, television stations, *The West Australian* and the *Sunday Times*, community newspapers and groups such as lawyers involved in this area. I know a lawyer by the name of Bill Grove who is involved in advising in these areas, including defamation and contempt matters.

Mr Day: Is he a friend of yours?

Mr McGOWAN: Yes, I know him. I came across him when he was on the International Humanitarian Law Committee of the Red Cross, as was I; although I suspect he would not remember me. It would be important for the

Minister to negotiate with such organisations, because part of the Bill addresses criminal matters, and clauses 5, 6 and 7 relate to the gathering of information by people, organisations or the media. Those groups should have been part of the consultation process before the Minister was satisfied that this legislation was what the State needed.

Mr RIEBELING: Were any human rights organisations, or people concerned with citizens' rights, consulted? I understand that the Minister consulted extensively with prosecuting arms of government. Perhaps the Barristers Board or people involved in defence counsel work should have been consulted. Were any of those people consulted?

Mr DAY: I have not had any consultation with human rights organisations. However, as indicated on a number of occasions, this legislation will provide much greater protection for individual privacy than currently is provided in the Listening Devices Act. If the member for Burrup cannot understand that those protections are available, I can go through them again at the appropriate time.

It is an interesting suggestion by the member for Burrup that there should have been greater consultation with human rights organisations, on the one hand; yet on the other hand, the Opposition and the member for Rockingham in particular have suggested that it is an infringement on the rights of journalists to inquire into people's private activities - implying that journalists should be able to use surveillance devices in a covert manner! The Opposition cannot have it both ways. Either members opposite believe in protecting human rights and preserving individual privacy, or they do not. The Opposition should work out where it stands on this legislation, because they cannot have it both ways.

The member for Rockingham suggested that the legislation would have a substantial impact on the operations of media organisations; that every night they would need to check how the news bulletins are put together so that they do not infringe this legislation. That is not the case. We will examine these matters in more detail when we reach the appropriate clauses. The suggestion that there will be a substantial impact on the activities of media organisations and journalists is an assertion which is not supported by the detail of this legislation.

Mr RIEBELING: The Minister is definite that the legislation provides many protections. We will talk about that later. He is also convinced that the Press has nothing to fear from this legislation. However, the Minister finds it necessary under the definitions to go to the extreme of saying that people with hearing aids or strong prescription glasses will not breach the legislation. The Minister is saying that the media have nothing to fear. Journalists have high-powered lens cameras, but they have nothing to fear. However, according to this legislation, if that equipment is misused they have a great deal to fear. The use of any piece of equipment that enhances an image or sound is a potential offence against this legislation.

The Minister went to extraordinary lengths in the definition section to ensure that people who are hearing impaired do not commit an offence unless the amplification of the hearing aid is set above a normally audible level. The Minister is saying that the media have nothing no worry about, but the draftsperson has gone to extraordinary lengths to ensure that a person who in anyone else's mind would not be considered is excluded. There is no mention of journalists going about their normal duties. How will an investigative journalist operate in Western Australia after the enactment of this legislation? How would Watergate have been exposed if legislation such as this were in place? We would never have heard about it; legislation such as this would have made that impossible. We live in a democracy and scrutiny by the media is vital. If this legislation reduces that ability to scrutinise, it is bad and should be amended.

Mr DAY: I was asked earlier about consultation with media organisations. There was consultation by my predecessor during 1995 with the Media, Entertainment and Arts Alliance.

Mrs Roberts: He was going to get this legislation through, too.

Mr DAY: There was a desire to have the legislation passed somewhat earlier, but other matters overtook its progress.

The specific exemption of hearing aids and glasses was recommended by the committee that reviewed the Act. We are trying to make it as clear as possible so that problems do not arise in future.

The member for Burrup is implicitly suggesting that members of the media should have rights over and above those of any other member of the public in Western Australia to use surveillance devices in a covert manner. Most people would not accept such a proposition.

Mr Riebeling: You are removing their ability to do that work.

Mr DAY: If any member of the media currently has the ability to covertly record private conversations or activities without the subject being aware of it, yes, that is being limited - as it is for every member of the public. Members of the media need to ensure in these supposedly investigative activities that they are not trespassing. The activities to which members have referred, including the member for Rockingham - presumably on the suggestion of one of his friends -

Mr McGowan: What are you alleging?

Mr DAY: I am not alleging anything: I am simply suggesting that the member has been advised that this will impose significant limits on the ability of members of the media to do their job. No-one - including members of the media and everyone else - can trespass on private property in the name of investigative journalism or anything else. The law prohibiting trespass has far more effect on their activities than this legislation ever will. However, we will come to the specific details of how this might or might not impact on the activities of journalists at the appropriate time.

Mrs ROBERTS: The Minister is forever trying to put words into our mouths. He has just accused the member for Burrup of "implicitly suggesting" things and he is always accusing me of suggesting things. I adopt a particular point of view, so I must hold a particular opinion. Members on this side are more than able to express our opinions; none of us is particularly shy about giving our views outright without trying to imply -

Mr Day: I was referring to the consequences of what you are suggesting.

Mrs ROBERTS: I have been waiting to deal with the definition of "authorised person". The amendment changes the definition of an authorised person; in particular, it changes it to take account of the fact that there are now two Deputy Commissioners of Police, albeit that one is an acting deputy commissioner. The Minister suggested in his response to my earlier point that the nomination of nine officers is warranted. In response to the member for Rockingham, he suggested that he went along with that because that is what the Police Service requested. That is an indication of how the Minister has gone wrong in this legislation: He has given the Police Service and perhaps the Anti-Corruption Commission and other agencies just about everything they have requested. However, he has not established checks on those agencies.

The Minister referred the member for Burrup back to clause 21. He pointed out that these emergency authorisations are not given willy nilly; special criteria must be met, and clause 21 deals with those criteria. The Minister cannot have it both ways. He has pointed out to the member for Burrup that these emergency authorisations will be given only in exceptional circumstances. How often might this provision be used? Perhaps the Minister has evidence of how this works in other States, if they have provisions such as this. If he does that, he will help my argument in relation to the first point.

The Minister also suggested that we could not expect our Police Commissioner or an acting commissioner to be on call at all times.

The definition of authorised person in Clause 3(1)(a)(iii) should be removed. I have listened to the Minister's argument in relation to the deputy commissioners and assistant commissioners. There is absolutely no necessity for nine people within the Police Service to be authorised persons. These situations should arise relatively rarely. We simply need to look at the Police Commissioner's current salary - it is probably about $180 000 -

Mr Day: It is about that.

Mrs ROBERTS: If we are paying someone that amount of money, he should be on call when emergencies occur. The Minister referred to some very serious situations that could include a siege, hostages and so on. These events will occur very infrequently. There is no reason to have nine commissioned officers available to do this.

We should also have some sanctions, and they should apply to the Police Commissioner or, at the very least, the Police Commissioner and the two deputy commissioners.

Mr DAY: The Bill provides significant checks and balances on the activities of the Police Service. They are far above what is currently the case under the Listening Devices Act. It would be necessary for a police officer who wishes to use a surveillance device to get authorisation within the Police Service and then to get a warrant from a judge of the Supreme Court for a listening device or optical surveillance device or a warrant from a magistrate for a tracking device. That is quite different from the current situation where no warrant is required from a judicial authority. All that is required is an authorisation by a police officer of inspector level or above. As I said earlier, that means that possibly 150 officers would be able to issue that authorisation to use a listening device in an intrusive manner under the current legislation.

The need for an emergency authorisation must be justified to a judge as soon as practicable after the use of the device or after it has commenced being used. As to how often an emergency authorisation would be required, it is obviously impossible to predict in any accurate numerical terms. We are talking about the use in a siege or hostage situation or where a major drug deal may be about to occur where there has been little previous notice. If it were used more than six to 10 times a year, it would be somewhat surprising. As I have said, only nine senior police officers can authorise the emergency use of a device. That is different from the current situation where on a general basis approximately 150 officers can authorise the use of a device, whether it be for an emergency or not. There is a significant tightening of procedures under this Bill over and above the current case.

Mrs ROBERTS: I take issue with the Minister's comments. He seems to be justifying this legislation on the basis that it is stricter than the current legislation. I agree with him on one point straightaway: The existing legislation is inadequate. In many respects this legislation is better than the existing legislation, but in many other respects it contains some aspects which are worse. It could open up situations which give me grave cause for concern. It is not sufficient to say that merely because it is better than the current legislation it is therefore acceptable. The Minister has a responsibility to bring into this House good, appropriate legislation, and the best where possible. He has totally failed to justify the need for nine people to be authorised in the Police Service. I note that it is not really only nine people who will be authorised persons, as described in the definition. When we look at clause 3(1)(b) and (c) we will perhaps discuss then the numbers of officers of the Anti-Corruption Commission and of the National Crime Authority who are also able to put these emergency authorisations in place.

I am restricting my comments at the moment to the definition of an authorised person in clause 3(1)(a), which the Minister is seeking to amend. I too would be surprised if there were more than six to 10 instances a year when emergency authorisations were used. That demonstrates my point 100 per cent: These matters will occur very rarely and they are serious. If we have a hostage or siege situation, I expect that the Commissioner of Police of this State would be immediately advised and on duty. Commissioned officers do not operate from 9.00 am to 5.00 pm; they need to be on call. When we have a Commissioner of Police who has a total salary package probably in excess of $180 000 and deputy commissioners who are also well paid to do a very difficult job, part of their job is being on call. I find it disturbing, to say the least, to think that if we had one of these very serious situations, neither the Commissioner of Police nor either of the two Deputy Commissioners of Police would be available to deal with it. Taking the number to nine persons is going too far. The Minister must err on the side of caution and we should adopt a cautious approach to this new legislation. We should restrict the definition of authorised person to only the Commissioner of Police and perhaps the two deputy commissioners. As I have said, it would be very disturbing if those serious situations occurred and those men, or women as they may be in the future, were not informed or were unable to deal with that emergency authorisation. We must be cautious when we give out these additional powers, especially given their importance. Having regard for this surveillance legislation, it is quite appropriate that those three people take responsibility. That responsibility should not be devolved to any of those six other persons. I seek the Minister's explanation of whether any reporting mechanisms are in place to the Commissioner of Police should an assistant commissioner proceed with an emergency authorisation.

Mr DAY: The matter that the member for Midland raises is a matter of judgment. Certainly my judgment and the judgment of the Government is that the position of assistant commissioner is very senior. The occupant of such a position would be able to exercise the appropriate discretion and judgment as to whether it is appropriate to issue an emergency authorisation. It is quite conceivable that the Commissioner of Police could be overseas, on leave or whatever and that one of the two deputies could also be away for some reason. If we accepted the proposition of the member for Midland, that would leave only one deputy commissioner available to issue such an authorisation. The strong likelihood is that that officer would be available, but if for some reason he were not available at very short notice, there needs to be available somebody at assistant commissioner level. We would have a larger pool of people, which is still quite restricted, so that at very short notice, if necessary, somebody could be found to be able to give an emergency authorisation in a life threatening situation, such as where somebody has been taken hostage or there is a siege. I understand that there is a roster of assistant commissioners at all times, therefore an assistant commissioner can be guaranteed to be located to issue an emergency authorisation. As I have said, an assistant commissioner is a very senior position and what we have suggested here is appropriate.

Mrs Roberts: What about reporting to the Commissioner of Police when an assistant commissioner issues an emergency authorisation?

Mr DAY: Any emergency authorisation must be taken before a judge, whoever issues it. It is therefore subject to the scrutiny of a Supreme Court judge as soon as practicable after it has been issued.

Mrs Roberts: What about the Commissioner of Police?

Mr DAY: If the Commissioner of Police issues it, likewise he would have to go before a Supreme Court judge.

Mrs Roberts: He may not be aware; that possibility exists. An assistant commissioner could get an emergency authorisation and go before a judge. The commissioner may not ever become aware of it other than from an annual report.

Mr DAY: I would find it highly unlikely that if we had a siege or a hostage situation, the Commissioner of Police would not be made aware of the situation. The legal requirements are that approval would need to be given by a Supreme Court judge. One cannot find anybody judicially higher than that in Western Australia to give consideration to these matters.

Mr McGOWAN: The Minister indicated that he had consulted with the Director of Public Prosecutions, the police and some other private group. He also indicated his predecessor had consulted with the Media, Entertainment and Arts Alliance. Has the Minister consulted with representatives of the media?

Mr DAY: I have had limited discussions with a couple of journalists about this subject in their professional capacity in reporting on the issue. I have received a letter from the Media, Entertainment and Arts Alliance in the past couple of days requesting consideration be given to their concerns. There has also been a verbal request for a meeting with that organisation, to which I am happy to agree. There was consultation with and an exchange of correspondence between my predecessor and that organisation.

Mr RIEBELING: Has the Minister agreed to meetings with media executives in Western Australia next week?

Mr DAY: I have not agreed to meetings with media executives in Western Australia. I have agreed to meet a representative or representatives of the Media, Entertainment and Arts Alliance. I understand there was some discussion between my office and some of the news organisations with a view to meeting with a representative or representatives. I have not agreed at this stage to meet any news executives, as the member for Burrup put it.

Mr McGOWAN: Does the Minister contemplate changing this Bill based on a meeting with the Media, Entertainment and Arts Alliance or based on the provisions relating to the collection of information by the media?

Mr DAY: No, I am not contemplating changing this Bill. I am open to any reasonable suggestions once the people with whom I have discussions have a full understanding of the Bill and have had all the issues discussed in a rational manner.

Mr McGOWAN: I am at a loss as to what the Minister means. I presume the Minister will tell these people what he thinks the Bill means, but he will not accept any criticisms they might put forward.

Mr DAY: I did not say that. I said I was not contemplating any changes at present. If anybody can put up a good argument for change at an appropriate time, obviously the Government would consider it.

Mrs ROBERTS: I find that an extremely strange way of dealing with things. I have told the Minister before both privately and publicly that it is strange to bring in this kind of Bill so late in the piece. The Minister should have brought complex legislation like this into the Parliament much earlier. We have a responsibility to pass good legislation in this place before we send it to the Legislative Council. We run the risk of this Bill being amended and perhaps referred to the Legislation Committee. Basically it will encounter a lot of difficulty in the Legislative Council, and we will only have to bring it back here and redebate it. I do not see that as an efficient way of dealing with legislation. Perhaps the Minister should take into consideration that the coalition Government can no longer bring legislation into this Chamber and get it rubber stamped in the upper House. Because we now have better scrutiny in the upper House it puts a much greater responsibility on the Government to bring legislation into this Chamber which will pass the test of the Legislative Council.

The Labor Party in government has always had to take that into consideration. It has always had to negotiate with the Opposition. In the Labor Government's case it was the coalition Opposition with regard to every piece of legislation. Extensive consultation took place to ensure the Labor Party was not wasting its time in the Legislative Assembly sending legislation to the Council which had little hope of success or which would be greatly amended. Surely it is worth the time for the Minister to consult across the board. Serious concerns have been raised about this Bill from a number of sources.

Surely at this late stage in the sitting the Minister should consult widely with those groups, revamp this Bill and bring it back to the Assembly in a form that can be agreed to by all of us. The Minister claimed that the member for Rockingham and the member for Burrup suggested we consult different extremes in persons and groups. The Opposition's attitude is that the Minister should consult across the spectrum, and seek views from a wide variety of parties with an interest in this. Did the Minister consult with private investigators, consider their views and incorporate them into the legislation? If their views were not incorporated, why not?

Mr DAY: The member for Midland has suggested this is not good legislation. It is not a proposition which I accept. In fact, there has been extensive consultation over a number of years in the development of this legislation. I mentioned some of the organisations earlier. There has been consultation with private investigators, particularly prior to my taking over this Bill. I had one meeting with representatives of private investigators about three months ago.

Mrs Roberts: Did you accommodate their concerns.

Mr DAY: I listened to their concerns and my understanding of the outcome is that they went away with a general acceptance of what was being proposed.

Mrs ROBERTS: My understanding is that private investigators put forward proposals which had initially been considered in the Bill, but because of the interests of other parties they have been withdrawn from the Bill. From the Minister's earlier comments he appeared to be unaware of this.

Mr WIESE: I have been listening upstairs to some of the debate. I have not heard so much rubbish for a long time. The history of this legislation dates back to the previous Government. It was picked up and developed by me as the Minister for Police over a four year period. Substantial discussions took place with at least two sections of the private investigation industry and changes were made to the legislation as a result of those discussions. In addition, substantial discussions were initiated by me with the media because I had some concerns about the position in which the media could be placed as a result of some suggestions. Changes were made as a result of those discussions, which I initiated with the media. At that time there were strong expressions that what we were doing and incorporating in the legislation addressed the concerns of the media and those concerns I might have had with regard to the position of the media. It is total and absolute nonsense to talk about lack of discussions in the development of this legislation.

Mrs ROBERTS: The member for Wagin suggested that amendments had been incorporated in the legislation because of concerns raised by private investigators. Has the member checked whether those provisions inserted as a result of the concerns raised with him, have been included in the current legislation?

Mr Wiese: I believe the legislation in front of the Committee addresses the concerns of the majority of the private inquiry agents industry. Two or three sections of the private inquiry agents industry seem to have totally contradictory views. It is difficult to get something that will meet the requirements of each section of the industry. This legislation is workable and it certainly addresses the concerns of the majority of the industry.

Mrs ROBERTS: The member is up to his old tricks. I have asked a question which he has failed to answer. I asked whether he had checked that the amendments proposed as a result of the concerns raised with him by the private investigators are still in the Bill. He does not know.

Mr Day: The member for Wagin is not under interrogation. Many of the concerns expressed are unfounded.

Mrs ROBERTS: Who told the Minister they were unfounded?

Mr Day: I am expressing my view.

Mrs ROBERTS: Is it the opinion of the DPP or the Minister's personal view?

Mr Day: It is absolutely amazing that the member for Midland believes there is a massive conspiracy between the DPP and me, as Minister, to present legislation that is not in the interests of the people of Western Australia. It is absurd. I made it clear in the second reading speech that, generally speaking, activities outside a building would not be regarded as private activities, and that was largely to take account of the concerns of private investigators about whether they could, for example, investigate insurance fraud when people were on their back lawns or front lawns.

Mrs ROBERTS: That is one of the areas about which I am concerned. Under the definition in this Bill people on their back lawns could quite easily expect to have their privacy intruded upon. It is a huge inadequacy of the legislation that people will be allowed to peer over other people's fences, lean cameras over and film people from particular vantage points. The Minister is in denial mode. He will not entertain any arguments. The Government has the numbers in this place and can bludgeon the legislation through. However, if it does not get through the other place, we will have wasted hours and will have got absolutely nowhere. The Minister should be more accommodating of the views of other people. He should have greater consultation and perhaps concede that the police and/or the DPP, and other law enforcement agencies, are not the only people in this State of whom he should take notice in framing legislation. That has been one of my principal themes throughout the second reading debate and during the Committee stage.

Mr RIEBELING: Mr Deputy Chairman -

The DEPUTY CHAIRMAN (Mr Sweetman): Before I give the member for Burrup the call, I remind him that the Committee is considering an amendment. I have been in the Chair for 45 minutes and very little of the debate has related to that amendment. The amendment proposes to replace "the Deputy" with "a Deputy". I caution the member that his remarks must relate to the amendment. If they do not, I intend to put the amendment.

Mr RIEBELING: I seek your guidance Mr Deputy Chairman. Can I respond to the comments by the member for Wagin and the Minister for Police in relation to this clause? Presumably, because you allowed the Minister and the member for Wagin to make their comments, you will allow me to speak on that issue. I wonder why I am to be restricted, but the Minister and the member for Wagin were allowed to speak on these matters.

The DEPUTY CHAIRMAN: I have been scrupulously fair in handling the remarks so far pertaining to this

amendment. The member for Burrup might single out the member for Wagin. His comments were at least as constructive in this debate as those of anyone else, without discounting any contribution to date. I am simply saying that the member's comments must relate to the amendment.

Mr RIEBELING: In relation to this amendment, the member for Wagin clearly stated that he consulted with the Press. He refused to say which members of the Press - perhaps he has forgotten. He said he consulted with the security agents industry and that the discussion resulted in amendments to the legislation. After questioning from the member for Midland, it appears he does not know whether the amendments are still in the legislation. The Minister may be able to enlighten us.

How extensive were those discussions with the Press and the private investigative services? Where are those concerns addressed? It is interesting to me that the Minister is quoted in the Press as saying it will be for the courts to determine whether privacy offences occur under this legislation. I do not know whether the Minister said that, but he certainly does not appear to be saying it now.

Mr Day: It is always the case that a court must determine whether an offence has been committed. There is nothing novel about that.

Mr RIEBELING: The Minister is saying it is not clear cut. In some circumstances at least a court will need to determine whether the privacy provisions of this legislation have been breached.

Mr DAY: It has been the case for hundreds of years under the Westminster system of government that the courts determine whether an offence has been committed. There is nothing new about that. If there is a suspicion that an offence has been committed by whomever, it is a matter for the police, the DPP or the prosecuting agency to take it to a court of law for a determination to be made.

Amendment put and passed.

Mrs ROBERTS: The definition of "Anti-Corruption Commission officer" is an officer or other employee appointed under section 6(1) of the Anti-Corruption Commission Act. Does that include everyone employed by the ACC or is it selective? If it is selective, which staff members of the ACC are included under that definition?

Mr DAY: The definition in the Bill is the same as the definition in the Listening Devices Act which was inserted in 1996 by amendment. Section 6(1) of the Anti-Corruption Commission Act states the commission may appoint such officers and other employees as it considers necessary for the purpose of enabling the functions of the commission to be properly performed. In other words, "staff" means officers who have been appointed by the commission.

Mrs ROBERTS: Am I correct in interpreting that it could be any officer or staff member of the ACC which it determines to appoint? A later clause in the Bill refers to the Anti-Corruption Commission officers being able to apply for warrants. Does it mean the receptionist can apply for a warrant if it is recommended by the person in charge of the ACC?

Mr DAY: No, it does not mean that. It means that anybody who has been given authority by the commission to undertake such activity would be able to apply, and typically that would refer to the investigators of the Anti-Corruption Commission of whom there are more than there were 12 months ago.

Mr RIEBELING: I have several concerns with the definitions clause. The second last definition on page 4 is "listen to" and the words "includes hear" follow. Is that a typographical mistake?

Mr Day: Why would it be a typing mistake? It says "listen to" - someone hearing a sound.

Mr RIEBELING: This is the definition clause and it is so pedantic that we end up with hearing aids. Should it be "to hear"?

Mr Wiese: You listen to a conversation or hear a conversation.

Mr RIEBELING: It does not make sense. I refer to the definition of "listening devices"; the inclusion of people with hearing aids is remarkable. The definition of "optical surveillance device" includes glasses, lenses and the like. The definition of "private activity" means any activity carried out in circumstances that may reasonably be taken to indicate that any of the parties to the activity desire to be observed only by themselves. It is somewhat expansive in relation to private activity. The definition of "private conversations" has already been considered in relation to the Press. It still creates a concern. The definition of "surveillance device" means a listening device, a surveillance device or tracking device. Some of the definitions are repetitive and after the surveillance device other devices are described.

Mr Day: The surveillance device is a generic term and there are three different types of surveillance device - a

listening device, an optical surveillance device and a tracking device. Some devices may be a combination of those surveillance devices.

Mr RIEBELING: Why is the surveillance device definition included when the content of that explanation is then described? I suppose it is to fill in the page.

Mr DAY: Later in the Bill the member will note that the words "surveillance device" are used so that it is not necessary to spell out on every occasion the three types of surveillance device. It is to save words in the legislation.

Mr RIEBELING: The Minister is saying it is easier to include the words "surveillance device" rather than " tracking device" or "listening device". It would not be a problem for the draftsmen to mention all those devices throughout the legislation.

Mr Day: In some circumstances it is appropriate to do so and in others it is easier to use the generic term.

Mr RIEBELING: Perhaps the Minister will comment on the points I raised.

Mr DAY: I refer to the use of the words "listen to", and "hear". It is like my saying, "I am listening to the member for Burrup" or "I can hear the member for Burrup"; one does not say,"I can hear to, the member for Burrup". The wording is entirely appropriate.

Mrs Roberts: That is informative - you used to be a dentist and I used to be an English teacher.

Mr DAY: That is why we are making rapid progress on this Bill.

I am sure I have adequately dealt with the other points raised by the member for Burrup.

Mr McGOWAN: Clause 3 defines things such as private activity and private conversation. Those matters relate directly to clauses 5, 6 and 7, which regulate the use of listening devices, optical surveillance devices and tracking devices. What area of government or what part of the bureaucracy wanted these privacy provisions, which are not about law enforcement, put into this Bill? The understanding of most people and the Opposition was that this Bill would deal primarily with law enforcement, yet it contains these privacy provisions.

There are a number of grey areas with regard to the regulation of these activities. On Thursday, 20 November, I asked the Minister, "Would this Bill limit the operations of photographers in this State in taking photographs of a person in a public place where it was a clear invasion of his or her privacy?" and the Minister replied, "In short, the answer is yes." People occasionally take photographs which another person may regard as an invasion of his or her privacy but in circumstances where the person who is taking the photograph has a reasonable belief, or certainly a subjective belief, that it is not an invasion of that person's privacy. There appears to be a great deal of confusion about how these clauses will operate.

The other point I need to emphasise is that these provisions will not prevent harassment. We are all familiar with the harassment by photographers such as the paparazzi who follow persons of public note. This legislation will not prevent that harassment in public places. There is, however, a major prospect that this legislation will affect the legitimate activities of the news media in recording people who are involved in corrupt activities. In one example in New South Wales, the news media recorded a conversation in a person's vehicle about a police officer receiving corrupt payments. Is a vehicle a private place? I am sure a vehicle is not a place where people would think they were likely to be photographed. What would happen if the vehicle were in the car park of a building? Would that be an infringement of these provisions and render the offender liable to a fine of $50 000? These questions need to be answered.

Does the Minister stand by his statement last week with regard to these situations, and does the Minister envisage any difficulties with regard to the activities of the responsible media?

Mr DAY: It is not the case that the bureaucracy suggested that these definitions and these restrictions on the invasion of individual privacy should be included in the legislation, nor is it the case that I am acting in some way as an agent for government bureaucracy in Western Australia and am seeking to further its aims, as the member for Rockingham seems to be implying. This is one of the issues that was identified in the review of the Listening Devices Act, which was undertaken in 1988. The report of that review states that the minimal safeguards in place in the present Act with respect to the retention or destruction of private information gained by lawful police use of a listening device no longer seem adequate to ensure public confidence in the use of listening devices during police investigation of serious crime. It refers also to the need to protect individual privacy. It is not the case that the bureaucracy put this forward and some monster is being created by the bureaucracy. This Bill is intended to provide much better protections for individual privacy than are provided under the current legislation.

If there were a clear invasion of privacy as defined in this Bill, it would be possible to take action. I do not foresee

any difficulties for news organisations in their responsible gathering of information through the recording of conversations or through filming in a public place. However, news organisations, journalists and other people in Western Australia who were seeking to record covertly a private conversation or activity in which they had no direct involvement would be restricted from doing that under this legislation. That is exactly what is intended; we want to provide appropriate protection for individual privacy. I do not believe there will be any significant constraints upon the appropriate activities of journalists in this State.

In the New South Wales example that was mentioned by the member for Rockingham, the recording of the conversation of that police officer while in a motor vehicle was made by the Wood Royal Commission, not by a news organisation. The Wood Royal Commission decided to make that recording available to the public, and obviously it was then aired through the electronic news media; but that information was not gathered initially by the news organisations concerned.

Progress reported.

BILLS (3) - RETURNED

1. Mutual Recognition (Western Australia) Amendment Bill.

   Bill returned from the Council without amendment.

2. Fuel Suppliers Licensing and Diesel Subsidies Bill.

   Bill returned from the Council with amendments.

3. Acts Amendment (Franchise Fees) Bill.

   Bill returned from the Council with an amendment.

ELECTORAL COMMISSIONER - CHAIRMAN OF PRIVATE SCHOOL BOARD

Council's Resolution

Message received and read notifying that the Council had passed, and seeks the Assembly's concurrence with, the following resolution -

> That under, and for the purposes of section 5B(11) of the *Electoral Act 1907*, this House authorizes **Kenneth William Evans** to hold and retain the office of Chairman of the Council of the *John Septimus Roe Anglican Community School* during his tenure of office as the Electoral Commissioner.

Motion to Concur

MR BARNETT (Cottesloe - Leader of the House) [11.13 pm]: This is an unusual situation that is new to my experience in Parliament. For purposes of clarification, with the aid of the Clerk, I outline section 5B(11) of the Electoral Act -

> (11) The Electoral Commissioner shall not, except in so far as he is authorized so to do by resolutions of both Houses of Parliament, hold any office of profit or trust (other than his office as Electoral Commissioner) or engage in any occupation for reward outside the duties of his office and if the Electoral Commissioner contravenes this subsection he shall be regarded, for the purposes of section 5C, as being guilty of misconduct.

This section of the Electoral Act makes it clear that the Electoral Commissioner cannot hold any post for remuneration or profit without a resolution of both Houses of Parliament. Ken Evans wants to retain the chairmanship of the Council of the John Septimus Roe Anglican Community School. No member of Parliament would object to his retaining that position. Therefore, I move -

> That the House concur in the resolution contained in Legislative Council Message No 65.

MR KOBELKE (Nollamara) [11.12 pm]: The Opposition strongly supports this motion. The John Septimus Roe Anglican Community School is in the electorate of Nollamara and on the boundary of the electorate of Girrawheen. That member for Girrawheen would like to speak on this motion, I am sure, and recount the many fine young people he knows who attend that school! I will be much briefer.

This is a new school. The board is under the chairmanship of Dr Ken Williams, a well-known educationist who provides excellent leadership to the school board. The Opposition wants him to continue in that role and wishes him well.

The Minister indicated that under section 5B(11) of the Act the Electoral Commissioner may not hold an office of profit or trust while in that position. I would expect that his office as chairman of the board to be one of trust, not one for which he seeks financial reward. The Opposition wants his services to be available to the school.

Clearly, he holds a special position as state Electoral Commissioner. Therefore, it is right and proper that some requirement apply in the Act, such as this procedure, to ensure that the Electoral Commissioner does not take on a range of other duties. This is a special duty which he is most suited to perform well. Therefore, the Opposition gives its full support to the motion.

Question put and passed and a message accordingly returned to the Council.

ADJOURNMENT OF THE HOUSE - ORDINARY

MR BARNETT (Cottesloe - Leader of the House) [11.14 pm]: I move -

That the House do now adjourn.

I advise members that we are travelling fairly well with the legislative program. Depending on what happens with the Council with respect to messages - it is a little uncertain about what progress will be made tomorrow - we hope to be able to conclude our business around five or six o'clock tomorrow. It may be necessary to resume later in the evening if messages arise. The intention is that, subject to Council messages, we will not need to sit tomorrow evening.

Question put and passed.

House adjourned at 11.15 pm

QUESTIONS ON NOTICE

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

FUEL AND ENERGY - POWER STATIONS

Exmouth - Relocation

1942. Dr GALLOP to the Minister for Energy:

(1) With regard to the power station located in Exmouth, is the Minister aware that the local council are concerned that this ageing power station is inhibiting urban development in the town?

(2) If yes, what steps is the Minister taking to relocate the power station to a more suitable location?

Mr BARNETT replied:

(1) The Minister is not aware that the local council believes the existing Exmouth power station is inhibiting urban development in the town. Western Power (SECWA) purchased the Exmouth power station from the Exmouth Shire Council in October 1982. The town load dropped with the closure of Harold Holt Naval Base in 1992. The load is growing with new residential/tourist development but the station is considered adequate until at least 2000. There have been complaints from residents in the houses across the road from the station. There has been no approach from the Exmouth Shire Council seeking relocation of the station.

(2) None.

GOVERNMENT INSTRUMENTALITIES - INDEMNITIES

Nature and Extent of Liability

2034. Mr KOBELKE to the Minister for Resources Development; Energy; Education:

(1) Have any agencies or departments for which the Minister is responsible offered any form of indemnity or remain liable under any indemnity?

(2) If any such indemnity has been offered then -

(a) to whom has it been extended;
(b) what is the reason for the indemnity;
(c) what is the maximum potential liability that could be called on through this indemnity?

Mr BARNETT replied:

(1) There are two sources of power for the Government to offer a guarantee or indemnity. They are either:

(a) offered pursuant to a specific statutory power to do so, in which case they are characterised as a Statutory Guarantee or Indemnity or,

(b) if there is no specific statutory provision, the guarantee or indemnity is referred to as a Surety.

Some common guarantees and indemnities, generally those which are not offered pursuant to a statute, referred to above as "sureties", are:

(c) incidental to another function, such as the purchase of a good or service (for example a contract where the purchaser indemnifies the supplier of software against any unauthorised use of that software or a contract for advertising where the advertiser indemnifies the publisher against legal action arising out of the publication of the advertisement) or,

(d) granted to persons or officers in the performance of their duties for the State or for any public authority or public body of the State (some of which are statutory).

All Statutory Indemnities, Guarantees and Sureties which are either (c) or (d) are excluded from the operation of Treasurer's Instruction 821 (TI 821).

TI 821 requires all indemnities and guarantees which are not of the excluded types, statutory and otherwise, to be entered in a register. They are then included in the Treasurer's Annual Statements which are tabled in Parliament. For details of all such guarantees and indemnities as at 30 June 1996 see the Treasurer's

Annual Statements 1995-96. TI 821 does not apply to indemnities falling within (c) and (d). This is appropriate as the nature of these indemnities means that they arise as part of the everyday affairs of government.

(2) Researching contracts entered into in order to ascertain whether there is an incidental indemnity in each contract would be an unreasonable diversion of resources. It would also not be a particularly useful exercise because:

(a) in many instances the contract has already been successfully completed;

(b) circumstances surrounding a contract and an arising claim may give rise to an implied obligation to indemnify even where there is no express obligation; and

(c) it would be impossible to state any maximum potential liability.

GOVERNMENT INSTRUMENTALITIES - PILBARA REGIONAL OFFICE

Location and Staff

2206. Mr GRAHAM to the Minister for Resources Development; Energy; Education:

(1) In which town is the Pilbara Regional Office of each department under the Minister's control?

(2) How long has the regional office been in that town?

(3) Where was the previous location of the regional office?

(4) How many people are employed in the regional office?

Mr BARNETT replied:

AlintaGas

(1) AlintaGas has a pipeline maintenance depot located at Karratha.

(2) The depot was constructed in 1983/84.

(3) No previous location.

(4) There are 6 AlintaGas employees located at the Karratha depot.

Western Power Corporation

(1) Port Hedland.

(2) Since its establishment over 20 years ago.

(3) Not applicable.

(4) 23.

Department of Resources Development

(1) Nil.

(2)-(4) Not applicable.

Office of Energy

(1) Karratha.

(2) Since 1 January 1995.

(3) Not applicable - Office of Energy was established on 1 January 1995.

(4) One.

Department of Education Services, Curriculum Council

(1)-(4) Neither the Department of Education Services nor the Curriculum Council has a Pilbara Regional Office.

Education Department of Western Australia

(1) The Pilbara District Education Office is located in Karratha.

(2) Since 1979.

(3) Not applicable.

(4) Currently, Pilbara district staff are located in two centres, in Karratha and in Hedland. A new District Director has been appointed for the Pilbara, located in Karratha. From 1 January 1998, there will be 24.6 full-time equivalent staff located there and in a sub-centre in Hedland.

RESOURCES DEVELOPMENT - EAST SPAR PROJECT

Local Content - Tabling of Documentation

2235. Mr KOBELKE to the Minister for Resources Development:

(1) Will the Minister table detailed documentation in support of his statement in the Parliament on Thursday, 11 September 1997 that the East Spar Project's local content was 75 per cent to 80 per cent?

(2) If not, why not?

Mr BARNETT replied:

(1) The East Spar Project has a total cost of $250 million and was characterised by a successful alliance between the developers and local industry. According to information provided by the Project Management, the local content overall was 83%. A breakdown of key components is as follows:

- Local content overall was 83%.
- All fabrication, pipework, structural, trades, Navigation Control Communication (NCC) Buoy and engineering work were done in Western Australia.
- Pressure vessels and heat exchangers were done in Australia.
- Compressor packages, Glycol package and some heat exchangers were obtained from overseas.

(2) Not applicable.

HERITAGE - PLACES AND OBJECTS

Identification, Assessment and Conservation Program

2246. Ms McHALE to the Minister representing the Minister for the Transport:

(1) What are the policies, programs or procedures associated with cultural and natural heritage places and objects under the Minister's control?

(2) What financial commitments have been made by the Department of Transport to identify, assess and conserve heritage places and objects?

(3) If no such policy, program or procedures exist, when can they be expected?

Mr OMODEI replied:

(1) Transport agencies including Main Roads, Westrail and the Port Authorities follow all statutory requirements and procedures to consider cultural and heritage significance in the development of new projects and for the protection of existing facilities and buildings.

(2) Heritage and environmental issues are assessed as part of all new capital works programs. Buildings and facilities are maintained under normal maintenance programs funded through recurrent operating budgets to ensure durability.

(3) Not applicable.

GOVERNMENT INSTRUMENTALITIES - OCCUPATIONS AND PROFESSIONS

Registered or Licensed

2257. Dr CONSTABLE to the Minister for Resources Development; Energy; Education:

Which occupations and professions operate in Western Australia under a system of registration or licensing administered by an agency within the Minister's portfolio?

Mr BARNETT replied:

I am advised:

AlintaGas: Occupations of interest to AlintaGas which require registration or licensing are gas fitters and gas inspectors.

Western Power Corporation: Nil.

Department of Resources Development: Nil.

Office of Energy

- Electrical contracting work.
- In-house installing work.
- Electrical fitting work.
- Electrical mechanics work.
- Gas fitting.
- Restricted electrical work, ie persons who work on
- office equipment
- domestic equipment
- plumbing/gas equipment
- commercial equipment
- industrial equipment
- refrigeration/air conditioning equipment
- instrumentation/process control equipment
- communication/computing equipment
- laboratory/scientific equipment.

Education Department of Western Australia: Nil.

Department of Education Services: Nil.

Curriculum Council of Western Australia: Nil.

GOVERNMENT INSTRUMENTALITIES - MARKETFORCE

Contracts - Number and Value

2346. Mr BROWN to the Minister for Works; Services; Multicultural and Ethnic Affairs; Youth:

(1) Since February 1993, has the Minister and/or any department or agency under the Minister's control engaged the company Marketforce?

(2) How many contracts has the company received?

(3) What is the value of each contract?

(4) When was each contract let?

(5) What has been the total amount paid to the company each financial year since that time?

Mr BOARD replied:

(1)-(5) The member should be aware that it would require considerable resources to go back over five years of archives to obtain the information sought. It would be unreasonable to expect the resources to be committed but if the member has a specific question about any particular contract with Marketforce, I will consider providing that information.

RESOURCES DEVELOPMENT - PROJECTS

Expenditure - Date

2388. Mr GRILL to the Minister for Resources Development:

I refer to the Minister's answer to question on notice 691 of 1997 and request to know the year in which expenditure on each development project listed in the reply commenced?

Mr BARNETT replied:

I assume the member is referring to Question on Notice 1633 and not 691.

(1) Please refer to the Table below.

Table 1.0 Commissioned Projects in South-West (1987-1997)

Current Projects (1987-1997)	Capital Value ($M)	Companies Involved	Year Expenditure Commenced *
Albany Hardwood Plantation	60	Albany Plantation Forest Company	1993
Beenup Mineral Sands Project	200	BHP Titanium Minerals Pty Ltd	1996
Boddington Gold Mine	80	Worsley Alumina Pty Ltd	1987
BP Feed Flexibility Project	60	BP Refinery Kwinana Pty Ltd	1992
BP Kwinana Energy Co-generation	160	Mission Energy Holdings Pty Ltd	1996
BP Mogas Expansion	200	BP Refinery Kwinana Pty Ltd	1994
Bunbury Hardwood Plantation	60	Mitsui & Co. Australia Ltd	1995
Capel Synthetic Rutile Plant Expansion	134	Westralian Sands Ltd	1995
Chandala Synthetic Rutile Plant and Kwinana Debottlenecking	44	Tiwest Joint Venture	1996
Collie Hardwood Plantation	60	Hansol Australia Pty Ltd	1996
Cooljarloo Mineral Sands Project	600	Tiwest Joint Venture	1989
Dardanup - WESPINE Pinelog Sawmill	50 (over 10 yrs)	WESFI and Wesfarmers Bunnings	1993-2003
Eneabba West Mineral Sands Mine	115	RGC Mineral Sands Ltd	1990
Ewington II Coal Mine Development	60	Griffin Coal Mining Company	1996
Forrestania Nickel concentrates	100	Outokumpu Oy of Finland	1991
Golden Grove - Zinc Copper Mine	140	Normandy Poseidon, Exon Coal and Minerals Australia Ltd	1988
Hedges Gold Mine	50	Alcoa of Australia	1988
HIsmelt Iron Ore Smelting R & D Facility	200	HIsmelt Corporation Pty Ltd	1993
Jangardup Mineral Sands Mine	46	Cable Sands (WA) Pty Ltd	1994
Kemerton Silicon Smelter	120	Simcoa Operations Pty Ltd	1989

Current Projects (1987-1997)	Capital Value ($M)	Companies Involved	Year Expenditure Commenced *
Kemerton Titanium Dioxide Plant	150	Millenium Inorganic Chemicals Ltd	1996
Kwinana Ammonium Nitrate Plant	69	Wesfarmers CSBP	1992
Kwinana KB30 Hydrate Plant	52	Alcoa of Australia	1994
Kwinana LPG Plant	120	Wesfarmers LPG	1987
Kwinana Nickel Refinery Upgrade	50	WMC	1992
Kwinana/Pinjarra/ Wagerup Refinery Upgrades	73	Alcoa of Australia	1988
Narngulu Synthetic Rutile Plant Expansion	85	RGC Mineral Sands Ltd	1990
Pinjarra Gallium Extraction Plant	50	Rhone Poulenc Chemie Aust. Pty Ltd	1987
Premier Coal Mine Development	100	Wesfarmers Coal Limited	1994
Wagerup II Expansion	316	Alcoa of Australia	1990
Wagerup Liquor Burning	61	Alcoa of Australia	1994
Worsley Refinery Round-out	120	Worsley Alumina Pty Ltd	1990

Table 1.1 Projects Under Construction in South-West

Projects Currently Under Construction (@ 30th June 1997)	Capital Value ($M)	Companies Involved	Year Expenditure Commenced*
Collie Power Station	575	Western Power Corporation	1995
Cockburn Sound Kiln 6	76	Cockburn Cement Ltd	1995
Kwinana Cement Clinker Grinding Facility and Lime Kiln	60	Swan Portland Cement Ltd	1996

SW Projects ($40M+) Commissioned/Under Construction as at 30 June 1997

Total Capital Expenditure ($M): $4,496 million

MINISTRY OF JUSTICE - MR DAVID BREWSTER

Conditions of Employment

2402. Mr BROWN to the Parliamentary Secretary representing the Minister for Justice:

(1) Is a Mr David Brewster employed by the Ministry of Justice?

(2) If so, in what position?

(3) When was he appointed?

(4) Was he previously employed or engaged in the public sector?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Yes, on a 12 month contract.

(2) Executive Officer, Justice Co-ordinating Council.

(3) 28 January 1997.

(4) Yes.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2513. Mr BROWN to the Minister for Resources Development; Energy; Education:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mr BARNETT replied:

Department of Resources Development

(1) 1.

(2) $ 2,234.88.

(3) (a) 1.

(4)-(5) Nil.

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which involves creating a workforce which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

Office of Energy

(1) Nil.

(2)-(4) Not applicable.

(5) Nil.

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which involves creating a workforce which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

Curriculum Council

The Curriculum Council did not exist during the 1996-1997 financial year. Neither the Secondary Education Authority nor the Department of the Curriculum Council advertised any Level 7 positions outside the Public Service during that year.

Department of Education Services

(1) One such position (the chief executive officer) was advertised outside the Public Service in the 1996/97 financial year.

(2) $9,964.96.

(3) The position was filled during the 1997/98 financial year by the person who had been acting in the position.

(4)-(5) Nil.

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which involves creating a workforce which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

Education Department of Western Australia

(1) 26.

(2) $40,305 (Press advertisements for all Central Office positions)

(3) (a) 3.
(b) Nil.
(c) 1.

(4)-(5) 6.

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which involves creating a workforce which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2518. Mr BROWN to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mr SHAVE replied:

DEPARTMENT OF LAND ADMINISTRATION

(1) Two.

(2) $1,344.50.

(3) (a) One.
(b) Nil.
(c) One.

(4)-(5) One.

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which involves creating a workforce which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

MINISTRY OF FAIR TRADING

(1) Nil.

(2) Not applicable.

(3) (a)-(c) Not applicable.

(4) Not applicable.

(5) One.

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which involves creating a workforce which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

WESTERN AUSTRALIAN LAND AUTHORITY

(1) Two.

(2) $4,663.74.

(3) (a) Two.
(b)-(c) Nil.

(4)-(5) Nil.

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which involves creating a workforce which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

WESTERN AUSTRALIAN ELECTORAL COMMISSSION

(1) Nil.

(2)-(4) Not applicable.

(5) Not relevant.

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which involves creating a workforce which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2528. Mr BROWN to the Minister representing the Minister for Transport:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

Geraldton Port Authority

(1) Nil.

(2)-(5) Not applicable.

Esperance Port Authority

(1) Nil.

(2)-(5) Not applicable.

Bunbury Port Authority

(1) Nil.

(2)-(5) Not applicable.

Port Hedland Port Authority

(1) One position.

(2) This figure is unknown to the Port Authority as this was the General Manager’s position and it was handled by the Public Sector Management Office.

(3)-(4) Nil.

(5) Not applicable.

Albany Port Authority

(1) Nil.

(2)-(5) Not applicable.

Eastern Goldfields Transport Board

(1) Nil.

(2)-(5) Not applicable.

MetroBus

(1) None.

(2)-(4) Not applicable.

(5) None.

Fremantle Port Authority

(1) Four positions.

(2) $6 856.

(3) (a) Three.
(b)-(c) None.

(4)-(5) None.

Department of Transport

(1) 13 positions were advertised.

(2) Approximately $27 000.

(3) (a) One.
(b) Nil.
(c) Four. (The remainder were filled from within the Public Sector)

(4) Two.

(5) Two within Transport

Westrail: As defined by the Public Sector Management Act, Westrail is a Public Sector Agency and is not part of the Public Service. The information provided in the reply to this question is based on level 7 and above positions advertised outside of the organisation during the 1996/97 financial year.

(1) Two.

(2) $4 813.31.

(3) (a) One.
(b)-(c) None.

(4)-(5) None.

Dampier Port Authority

(1) One.

(2) $2 300.

(3) (a)-(b) Nil.
(c) One.

(4)-(5) Nil.

Main Roads WA

(1) Twelve.

(2) $6 506.12

(3) (a) Two.
(b)-(c) None.

(4) None.

(5) One.

(6)-(7) This Government has launched the following:

A managing diversity policy which involves creating a workforce which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

SCHOOL EDUCATION BILL - INTRODUCTION TO PARLIAMENT

Changes to Draft

2636. Mr RIPPER to the Minister for Education:

(1) When will the Government present the final version of the School Education Bill to Parliament?

(2) Does the Government intend to change sections of the draft Bill relating to home schooling?

(3) If yes, how?

(4) Does the Government intend to change sections of the draft Bill relating to truancy?

(5) If yes, how?

Mr BARNETT replied:

(1) The revised School Education Bill will be presented to Parliament before the end of the current session.

(2) Yes.

(3) There will be changes to address concerns about the tone of the clauses and to remove the penalties. A parent choosing home education will be able to apply for automatic registration. The responsibility to arrange evaluation visits will be transferred from an inspector to the responsible parent. An advisory panel review process will be introduced to deal with disputes. The Minister will retain the power to withdraw registration in extreme circumstances.

(4) Yes.

(5) Greater emphasis will be given to intervention strategies to deal with absenteeism. The function of the proposed School Attendance Panels will be modified so that the causes of the child's absence can be considered and strategies put in place to achieve satisfactory attendance. As a last resort, the child's case will still be able to be referred to the court system. For this purpose, a nominal penalty of $10 will be retained. The *Young Offenders Act 1994* provides a range of sentencing options which will be available to the court without the need to impose fines in the first instance. The powers of School Attendance Officers will be limited to the collection of information about attendance from young people in public places. That information may be considered by a School Attendance Panel at a later date.

ENVIRONMENT - STEPHENSON AND WARD INCINERATOR CO PTY LTD

Incinerator Site - Report

2647. Mr RIPPER to the Minister for the Environment:

(1) Has the Minister received the report of the Department of Environmental Protection investigation into the allegations of contamination at the Stephenson and Ward incinerator site?

(2) Will the report of this investigation be publicly released?

(3) If not, why not?

(4) If yes, when?

Mrs EDWARDES replied:

(1) No, but I understand I will receive this shortly. I am advised the investigation is concluded.

(2) I will make the decision on public release of part or all of the report based on its content, but in principle I would support its public release.

(3) Not applicable.

(4) I will make the decision on release of the report after I have considered the Department's advice to me.

BOATING INDUSTRY - PLEASURE CRAFT

Registration Fees - Increase

2658. Mr PENDAL to the Minister representing the Minister for Transport:

(1) Is it correct that registration fees for pleasure craft in Western Australia have risen by 50 per cent?

(2) If so, will this increase fees from $110 to $165 for many modest craft?

(3) What is the justification for such a steep increase in one instance?

(4) Has the increase become a source of quick revenue, as distinct from an increase justified on the grounds of cost?

(5) Will the fund increase be quarantined for the purpose of education for boat owners and increased launch facilities?

(6) Is the Minister prepared to review the Government's decision to implement such a savage increase?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) The Government has approved increases in boat registration fees to be phased in over a two year period - the 1997/98 and 1998/99 financial years. The fee increases are as follows:

	1996/97 (Last Year)	1997/98 (This Year)	1998/99 (Next Year)	Percentage increase over two years
0 to 4.99m in length	$31	$40	$49	58.06%
5 to 9.99m in length	$62	$79	$96	54.83%
10 to 19.99m in length	$115	$147	$179	55.65%
over 20m in length	$157	$201	$245	56.05%

(2) Appromixately 65% of registered vessels are less than five metres in length and for these vessels the registration fee this year has increased from $31 to $40. Only 2.9% of vessels registered in Western Australia are over 10 metres in length.

(3) This fee increase will provide additional funding to the maritime program of Transport and will be used for improvement initiatives such as:

* upgrading navigational aids
* increased boating safety education
* compliance monitoring
* dredging
* charting programs

Currently recreational boat users contribute less than 25% of the cost of services provided and there is a considerable element of government subsidisation. Every dollar of the increase will be retained by Transport for maritime initiatives.

(4) No.

(5) See (3) above.

(6) No.

CARAVAN PARKS AND CAMPING GROUNDS - BAYS FOR CASUAL USERS

2741. Mr BROWN to the Minister for Local Government:

(1) Has the new Caravan Parks and Camping Grounds Act 1995 lead to a change in the mix of bays being let on a permanent and casual basis?

(2) Has the Minister/Government received any representations from people in organisations concerned about the lower number of caravan park bays being available to visitors and casual users?

Mr OMODEI replied:

(1) I am not aware of any changes.

(2) No representations have been received.

FUEL AND ENERGY - GAS

Dampier to Bunbury Pipeline - Compliance with Local Government Requirements

2745. Mr BROWN to the Minister for Energy:

(1) When the Dampier to Bunbury national gas pipeline is owned, partially owned or operated by a private operator(s), will the Government ensure that the operator -

(a) pays local government rates in respect to the land utilised by the pipeline;

(b) complies with State and local laws;

(c) complies with maintenance and public liability issues; and

(d) maintains, allocates and uses appropriate buffer zones?

(2) Will the Minister ensure that local government is involved in any negotiations or discussions leading to "in principle agreements" with AlintaGas?

(3) Will the Government ensure local government is properly consulted before any agreements are struck with any private owner or operator?

(4) If not, why not?

(5) Will the Government ensure that any private owner or operator is obliged to meet the same obligations as any other private company operating and involved with local government?

(6) If not, why not?

Mr BARNETT replied:

(1) (a) The Dampier to Bunbury Pipeline Bill 1997 establishes that the DBNGP Land Access Minister, following a transfer from AlintaGas, will hold the primary easement and access rights with respect to the DBNGP corridor and pay to all relevant local governments an equivalent amount to the rates that would have been paid in respect of the land in the DBNGP corridor if that land was rated on its unimproved value.

(b) There is no exemption from compliance with State and local laws for the Dampier to Bunbury Natural Gas Pipeline or its owner or operator. However Schedule 4, clause 46 of the Dampier to Bunbury Pipeline Bill 1997 provides that the operation of any pipeline in the DBNGP corridor as contemplated by that Act is to be regarded as being within the purposes for which land in the DBNGP corridor may be used. Accordingly, any local government zoning or land use restrictions (or that of any other law or authority) will not apply to a pipeline operating within the DBNGP corridor the owner of which has obtained a conferral of rights under Section 34 of the Dampier to Bunbury Pipeline Act 1997 from the DBNGP Land Access Minister.

(c) The owner or operator of the Dampier to Bunbury Natural Gas Pipeline must be issued, and must comply, with a licence under the Petroleum Pipelines Act 1969. The usual conditions which apply to all pipelines administered under that Act will apply which include operational and maintenance standards and safety emergency and public liability issues. Adequate insurance for public liability is one of the conditions usually imposed and which will be imposed on the petroleum pipelines licenses for the Dampier to Bunbury Natural Gas Pipeline.

(d) The existing pipeline corridor has established sensible "buffer" zones where appropriate, and particularly in the metropolitan area. These will continue after the sale. It is the Government's intention that for any additional land brought into the DBNGP corridor, where appropriate, sensible buffer zones would also be established.

(2) Pursuant to the Dampier to Bunbury Pipeline Act 1997, AlintaGas as the legal owner of the Dampier to Bunbury Natural Gas Pipeline and associated assets, will enter into an Asset Sale Agreement for the sale and purchase of those assets. The pipeline and its 30 metres easement corridor has been in existence and operation since 1985. The sale of those assets does not involve any issues (other than rating which has been dealt with under (1)(a) above) for local government. The sale is being coordinated by a Steering Committee appointed by the Minister for Energy which contains the appropriate balance to represent the interests of government generally in the sale. It would be inappropriate for local government to be involved in negotiations relating to the sale of the State's most strategic energy asset.

(3)-(4) As outlined in (2) above, the sale of the Dampier to Bunbury Natural Gas Pipeline and associated assets does not raise any issues which concern or involve local government. However under Part 4 of the Dampier to Bunbury Pipeline Act 1997, The DBNGP Land Access Minister is able to declare that further land comes within the DBNGP corridor if he considers that access rights need to be conferred in respect of that land for the purposes of the construction, installation and operation of gas pipelines. It is the Government's intention that the DBNGP Land Access Minister consult with all appropriate authorities and bodies including local government before such a declaration is made and published in the Government Gazette.

(5)-(6) The private owner and or operator of the Dampier to Bunbury Natural Gas Pipeline will be obliged to meet the same obligations as other private owners of significant gas transmission pipelines in Western Australia so far as local government is concerned.

SEWERAGE - BLACKADDER CREEK CONTAMINATION

2766. Mrs ROBERTS to the Minister for Water Resources:

(1) What was the extent of the contamination of Blackadder Creek after a sewer main burst at Midland Caravan Park?

(2) Are there any concerns for children swimming or playing in the creek?

(3) What actions are being taken to ensure such an event does not reoccur?

Dr HAMES replied:

(1)-(3) The Midland Caravan park pump station is privately owned and operated. Any enquiries regarding the effects of the burst sewer main at the Midland Caravan Park should be referred to the Swan Shire Council, which under the Health Act is responsible for all caravan parks and camping areas within its boundary. Although it is not the responsibility of the Water Corporation, the Corporation provided some assistance to help repair the burst sewer main.

FUEL AND ENERGY - ENERGY NEWS WA

Free Market Competition

2770. Mr BROWN to the Minister for Energy:

(1) Has the Western Australian Government produced a publication entitled "Energy News WA"?

(2) Is the publication an official Western Australian Government publication?

(3) On page 3 of the October 1997 edition, is there reference under a heading of "The need to regulate" to the Government not allowing unfettered competition at all levels?

(4) Does the article state "Government regulation is needed to ensure that certain groups are not adversely affected by free market competition"?

(5) In what way or ways does the Government intend to regulate to ensure groups are not adversely affected by free market competition?

(6) Why has the Government taken this stance?

Mr BARNETT replied:

(1)-(2) The Office of Energy, a government agency, produced the publication "Energy News WA".

(3)-(4) Yes.

(5) By way of example, the Government is committed to a uniform electricity tariff policy in regional areas for residential and small business users and we would intend to regulate to ensure that that group of users is not adversely affected as the opportunities for free market competition in electricity unfold.

(6) The Government has a responsibility to ensure that the community in general will benefit as a result of reform in the energy sector.

FUEL AND ENERGY - GAS

Dampier to Bunbury Pipeline - Debt

2771. Mr BROWN to the Minister for Energy:

(1) Has the Government decided to sell a hundred per cent in the Dampier to Bunbury gas pipeline?

(2) As at 1 November 1997, what was the debt owed on the pipeline?

(3) Is it the Government's intention to repay the debt on the pipeline with moneys received from the sale?

(4) Is it expected that the sale of the pipeline will realise a higher amount than the debt owed on it?

(5) If so, how will the surplus be used?

Mr BARNETT replied:

(1) Yes.

(2) Approximately $920 million.

(3)-(4) Yes.

(5) Yet to be determined. Clause 8 of the Dampier to Bunbury Pipeline Bill 1997 provides for a Direction to be made to the corporation to pay some of the proceeds to the Treasurer and for some or all of this amount to be credited to the Dampier to Bunbury Natural Gas Pipeline (DBNGP) Corridor Trust Account. Such a Direction would be made by the Minister for Energy, with the concurrence of the Treasurer, and would be tabled in Parliament. The DBNGP Corridor Trust Account is to be used to fund an enhanced gas corridor which will provide space for further pipelines in the future.

SERVICE STATIONS - INDEPENDENT

Wholesale Price of Petrol - Deregulation

2773. Mr BROWN to the Minister for Commerce and Trade:

(1) Is the Minister aware of the concerns of independent service station proprietors about the Federal Government's intention to de-regulate the wholesale price of petrol?

(2) Is the Minister also aware that some independent service station proprietors believe multi-national companies have established a wholesale pricing policy between the company owned wholesaler or retailer to make it increasingly difficult for independent service stations to financially survive?

(3) Will the Minister make representations to the Federal Government to ensure independent service station proprietors are not disadvantaged by oil industry de-regulation?

(4) Will the Minister make representations to the Federal Government to introduce a law which requires oil companies to sell fuel to retailers 2 or 3 cents below the lowest price such companies are retailing fuel at their outlets?

(5) If not, why not?

(6) What measures will the Government recommend to prevent large oil companies manipulating fuel prices to drive independent service station operators out of business?

Mr COWAN replied:

(1)-(6) Question on Notice 2773 is exactly the same as Question 2554. A response to that question was provided on Thursday 16 October 1997.

PARKS AND RESERVES - NATIONAL

Fitzgerald River - Roads

2779. Dr EDWARDS to the Minister representing the Minister for Transport:

(1) Further to correspondence received from the Acting Minister of Transport dated 24 July 1997 (ref: 57874), has the Minister received acknowledgement that a road through the Fitzgerald River National Park would "not be detrimental to its content"?

(2) If not, why not?

(3) If so, from whom was the acknowledgement received?

(4) Is the Minister still in the process of seeking this acknowledgement?

(5) Given the cost of repairs to the existing gravel roads in the Fitzgerald River National Park and the public demand for all weather roads to the coast, will the Minister be upgrading the existing roads?

(6) If not, why not?

(7) If so, when will the upgrades be expected to take place?

Mr OMODEI replied:

(1)-(4) The Department of Conservation and Land Management, in accordance with the Park Management Plan, has adopted a "no access" policy. However, access will still occur on an ad hoc basis, to the detriment of the Park environment. As I have indicated previously, there are many examples in the world where access has been provided to unique and significant places. It is up to the community to acknowledge that if access is to be provided to the Fitzgerald River National Park, then it must be in a controlled corridor. This would be a long term project and no route identification or planning has been undertaken at this stage. Eventual planning for such a corridor would involve environmental impact studies and public consultation.

(5)-(7) Existing roads within the National Park come under the control of the Department of Conservation and Land Management. Main Roads provides some funding for maintenance and upgrading of roads within National Parks, but the priorities for the allocation of funds are determined by the Department of Conservation and Land Management.

FUEL AND ENERGY - TRANSFORMER

Lot 12, Bird Road, Mundijong

2785. Dr EDWARDS to the Minister for Energy:

(1) Is the Minister aware of claims that a transformer is buried on Lot 12, Bird Road Mundijong?

(2) Can the Minister confirm the presence of a transformer buried on Lot 12, Bird Road Mundijong?

(3) If so, will the Minister please provide the exact location of the buried transformer?

(4) If not, why not?

Mr BARNETT replied:

(1) No.

(2) No. A transformer is currently being installed on a pad mount which is above ground.

(3) Not applicable.

(4) As far as Western Power is aware no transformer is buried on site.

YOUTH - MAYLANDS

Services and Facilities

2797. Dr EDWARDS to the Minister for Youth:

What services and facilities are available for young people in the suburb of Maylands?

Mr BOARD replied:

A wide range of services and facilities is provided by Commonwealth, State and local government agencies for young people in the suburb of Maylands. If the member could be more specific I will seek to provide her with detailed information in response to her question.

ROADS - PERTH-DARWIN HIGHWAY

Construction - Date and Location

2798. Dr EDWARDS to the Minister representing the Minister for Transport:

(1) What work has been undertaken in and just north of the Swan Valley for the Perth to Darwin Highway?

(2) When will construction start and at what site(s)?

Mr OMODEI replied:

(1)-(2) As far as the proposed new alignment north of Reid Highway is concerned, Main Roads has allowed the Shire of Swan to utilise the section of the road reserve between Youledean and Park Streets to provide a connection to Gnangara Road near Ellenbrook using Lord Street. This work has been completed. The agreement also allows the Shire to use the reserve between Park Street and Gnangara Road to remove traffic from the northern section of Lord Street and construction timing is a matter for the Shire of Swan. It is understood that work will commence on this section in 1998. Negotiations with Council are continuing regarding use of the reserve to meet interim local needs north of Gnangara Road. Further studies are in progress to determine the appropriate alignment and route location north of the Swan Valley to north of Bindoon. No timing or funding has been determined for other construction on the new Perth to Darwin National Highway.

WESTERN POWER - PERSONALISED NUMBER PLATES

Cost

2804. Dr GALLOP to the to the Minister for Energy:

(1) Is Western Power purchasing personalised number plates for its employees?

(2) If yes -

(a) what is the extent of the purchase;

(b) how much is it costing Western Power?

Mr BARNETT replied:

(1) No. Western Power, however, has been working with the Department of Transport in developing corporate plates for its whole vehicle fleet, with the exception of those vehicles in the executive vehicle scheme. The new plates are part of Western Power's package in changing the organisation in culture and image.

COURTS - FAMILY

Kalgoorlie - Family Law Applications

2809. Ms ANWYL to the Minister representing the Attorney General:

(1) What was the number of Family Law applications filed in the Court of Petty Sessions sitting as the Family Court in Kalgoorlie for the years ending -

(a) 1990;
(b) 1991;
(c) 1992;
(d) 1993;
(e) 1994;

(f) 1995;
(g) 1996;
(h) 1997?

(2) Is data available with respect to the number of proceedings initiated from the Family court of Western Australia Registry at Perth but sitting at Kalgoorlie for the years ending -

(a) 1990;
(b) 1991;
(c) 1992;
(d) 1993;
(e) 1994;
(f) 1995;
(g) 1996;
(h) 1997?

(3) If so, would the Minister provide detail of the number of applications filed and whether the applications were for dissolution or other substantive applications?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(1)-(3) The Family Court of Western Australia schedules circuit sittings in Kalgoorlie three times each year with a Registrar/Magistrate and three times with a Judge. All matters filed in or transferred to the Family Court of Western Australia which emanate from the Eastern Goldfields region are dealt with during these circuit sittings. The detailed statistical information sought is not readily available.

MAIN ROADS WESTERN AUSTRALIA - SUBURBAN MOTOR WRECKERS

Purchase

2815. Ms MacTIERNAN to the Minister representing the Minister for Transport:

(1) In respect to answer to question on notice No. 2071 of 1997, has the department leased or sold all or any of the land purchased from Mrs L P Taylor?

(2) If yes -

(a) to whom was it leased or sold;

(b) was the availability of the land for lease or purchase made known to the public?

(3) Was the hotline sold by auction or tender?

(4) Where was the auction or tender advertised?

(5) What price was received for the hotline?

Mr OMODEI replied:

(1) No.

(2) Not applicable.

(3) Persons attending the auction were asked to submit written offers to the auctioneer for the hotline access as it was not clear at the time of the auction whether the hotline access could be sold. When it became clear the hotline access could be sold it was disposed of to the highest written offer received by the auctioneer.

(4) In *The West Australian* newspaper.

(5) $3950.

PUBLIC TRUST OFFICE - ADVISORY BOARD

Function and Intent

2836. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

(1) I refer to the recent establishment by the Attorney General of an Advisory Board for the Public Trust Office and ask what is the purpose, function and intent of this advisory board?

(2) On what criteria were members selected?

(3) Who are the members and who are their employers?

(4) Have all members been identified as having no vested interests in any Trust Company or organisation that may benefit by their involvement in this process?

(5) Is privatisation or corporatisation a possible alternative for the future of the Public Trust Office?

(6) If yes to (5) above, why?

(7) If no to (5) above, why not?

(8) If corporatisation is an alternative for the future of the Public Trust Office, what will this mean for staff and the public?

(9) Are the community service obligations (the unprofitable services provided by Public Trustee staff to the elderly, the infirm, the mentally ill and the minors whose funds are held in trust) likely to be contracted out in the future?

(10) If yes to (9) above, why?

(11) What are the alternatives for the future of the Public Trust Office?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply.

(1) To consider and advise on the implementation as far as practicable and desirable, the recommendations contained in 7.3 of the KPMG Review of the Public Trust Office, November 1995.

(2) Capacity and experience.

(3) Mr Richard Basham
C/- Grant Thornton
Chartered Accountants

Mr Peter Patrikeos
C/- Freehill Hollingdale & Page
Barristers and Solicitors

Mr Ian Warner
C/- Jackson McDonald
Solicitors

Mr Allan Read
Retired - Ex General Manager Trustwest

Mr Gary Byron
Director General Ministry of Justice

Mr Ken Bradley
Public Trustee

(4) Yes.

(5) Unknown at this stage.

(6)-(7) Not applicable.

(8)-(9) Not applicable see 5 above.

(10) Not applicable.

(11) No decision made. I suggest you read the KPMG report.

QUESTIONS WITHOUT NOTICE

CORRUPTION - ANTI-CORRUPTION COMMISSION

Secrecy Provisions

847. Dr GALLOP to the Premier:

Does the Premier agree with claims by the chairman of the parliamentary committee overseeing the Anti-Corruption Commission, Hon Derrick Tomlinson, that -

(a) the ACC secrecy provisions provide a convenient shield for the Police Commissioner to hide behind; and

(b) the secrecy provisions could be used to bury important social issues?

Mr COURT replied:

(a)-(b) I do not agree with those comments. The Police Commissioner does not want to hide behind any shields. Yesterday the Anti-Corruption Commission tabled its annual report. It came up with a number of what I believe are good recommendations. Members opposite would do well to read them.

HEALTH - JOONDALUP CAMPUS

Auditor General's Report - Commercial Interests of Operator

848. Mr McGINTY to the Minister for Health:

I refer to the Auditor General's report on the Joondalup Health Campus contract and its finding that -

> It is possible therefore for the Operator to seek to limit the quantity of services provided where, for example, the Operator considers it not to be in its commercial interests.
>
> . . . there is a risk that the Operator might seek to discharge some patients inappropriately early. This practice could have a negative impact on the overall quality of care of the patient concerned and could increase the cost of community health services funded by the Department . . .

Given the Auditor General's findings, will the Minister guarantee that the private operators will not be able to veto patient care that is not in its commercial interests?

The SPEAKER: Before I give the call to the Minister for Health, I remind members that questions are meant to be reasonably brief.

Mr PRINCE replied:

The member for Fremantle would be aware, as would anybody with knowledge of the health system, that there has been a growing move to short stays, especially in acute care hospitals, for a number of reasons, mostly associated with good health. The Auditor General and I discussed his remarks in the sense of shifting a burden to community health services. I think it is far more likely that a person being discharged from acute care is then looked after mostly by a general practitioner and by other services. That is not shifting the burden to community health centres in the technical sense of the word as the member for Fremantle and I would understand it, but is cost shifting to some extent to that part of Medicare that pays the GP. If early discharge is good for the patient, it should be practised. That is what the clinicians always tell me. If it is not, which is often the case with elderly people, a person should stay in hospital. There is no way that the quality issue will be able to be manipulated by any operator because operators are observed, benchmarked and compared with other public hospitals.

Dr Gallop: You are wrong on that. That is exactly what the Auditor General said. You are totally wrong, as you have been on this issue right from the start.

Mr PRINCE: The Leader of the Opposition said this would be another Port Macquarie, and it expressly is not. The Government learnt the lessons and it has done this well.

Dr Gallop: That report confirmed everything I said.

Mr PRINCE: I give the assurance that there is no way an operator will be able to manipulate this to provide less than optimum patient care, when benchmarked against all the public health facilities and public hospitals in the metropolitan area. Benchmarks are the things that will decide what happens to patients and when they happen. That is what the operators are in the business to do.

POLICE - LAVERTON

1997 Premier's Award for Excellence

849. Mr SWEETMAN to the Minister for Police:

What initiatives and programs have the Laverton police implemented to assist Aboriginal communities in the central desert region and how are officers recognised for assisting those groups?

Mr DAY replied:

I am happy to answer this question because the operation of the Laverton Police Station is another outstanding example of the high degree of commitment and dedication that is being shown by police officers from one end of the State to the other in assisting the community generally as well as in fighting crime. I am pleased to inform the House that this morning the Laverton Police Station was announced as the overall winner in the 1997 Premier's Award for Excellence in Public Sector Management and as the winner in the individual category for service design and delivery. This is the most prestigious award offered to any public sector agency and is an outstanding credit to the officers of the Laverton Police Station.

Despite having the largest area to cover of any police station in the world - nearly 600 000 square kilometres - Laverton police have taken community policing to exceptional lengths to serve the 5 000 residents of the area. The officers have introduced programs in the Aboriginal communities of the central desert, including the special Constable Care program which focuses on petrol sniffing problems. They have introduced also officer involvement in the local school program and a domestic violence intervention program. They conduct also the Better Tracks program, which aims to divert young Aboriginal children in the area away from volatile substance abuse. They have also arranged for football clinics to be conducted with the Eagles' football player Chris Lewis.

Many of these services are provided by the local police outside working hours. They have resulted in the officers developing a close and mutually understanding relationship with the local community. An indication of this respect is that the Aboriginal elders from the Ngaanyatjarra community have given a tribal name to the local officer in charge and have given him permission to attend tribal meetings and visit sacred sites. The congratulations of all Western Australians should go to Acting Senior Sergeant Keith Gallop-Fenzi and his team for their outstanding contribution. It is another example of the excellent work that is being done by police from one end of the State to the other. I commend their activities.

EDUCATION - DEPARTMENT

Budget - Projected Deficit

850. Mr RIPPER to the Minister for Education:

I refer to the Minister's estimate that the 1997-98 Education budget may suffer a shortfall of $30m. I refer also to the requirement for the budget to provide for 2 500 extra places as a result of the abolition of the youth dole and for half the cost of at least a 7 per cent salary increase for teachers. What cuts to existing education staff and activities will be made because of these difficulties, or will the shortfall be made up partly by allowing schools to charge extra fees including hundreds of dollars for vocational courses?

Mr BARNETT replied:

As I said yesterday to the member for Fremantle, the shortfall in the Education budget is around $30m. About half of that will be accounted for by the productivity allowance in the forward estimates. The other half could be seen as genuine budgetary issues.

Mr Ripper: Do you think that paying teachers the additional money they require is not a genuine budget issue?

Mr BARNETT: That must be seen in the context of a budget of $1 300m. It is not a huge blowout, but it is a budgetary situation. The calculation for a potential deficit of $30m includes a modest increase in teacher salaries. That has been factored into the calculation and taken into account. There will be no rush of charges or fees or anything else on parents.

Mr Ripper: What about cuts in head office?

Mr BARNETT: There has been some reduction in staffing. As was announced earlier this year, local area education planning requires a shift of resources from the central office to district offices and a smaller number of district offices. It also involves some redundancies, which have occurred. There have been some voluntary redundancies within the teacher area. As to school closures, the answer is no. People keep on raising this issue and saying that we are closing schools. The point of local area education planning is to improve the quality of education. For the first time the

community has a genuine say in the provision of education in an area. It may be that in my electorate a high school will close.

Mr Ripper: And in my electorate.

Mr BARNETT: Yes, and in other members' electorates. It could affect your electorate, Mr Speaker. We are all in the same boat. Mr Speaker, as you will appreciate, particularly as an educationist looking at the range, diversity, quality and demands of a modern education system, if a high school has a year 8 intake of fewer than 50 students, which is smaller than the intake for many primary schools, it will not be possible by the time those students are in years 11 and 12 to provide the quality of education those young people deserve. The Government would fail in its responsibility to future generations if it did not confront that issue. That is what local area education planning is about.

DISABILITY SERVICES - COMMONWEALTH-STATE DISABILITY SERVICES AGREEMENT

Meeting with Federal and State Ministers

851. Mr MARSHALL to the Minister for Disability Services:

I understand that the Minister will attend a meeting of federal and state Ministers with responsibility for disability services in Canberra this week to negotiate a funding package for the next five year commonwealth-state disability services agreement. What are the key issues facing Ministers as they go into this important negotiation?

Mr OMODEI replied:

The member for Dawesville is correct again: I will be attending a conference in Canberra and will lead the charge by state Ministers in relation to this issue. I chaired a teleconference this week of all state Ministers and there is great solidarity on this issue. Some critical demand issues underpin the negotiations that will take place with the Commonwealth and the federal Minister for Family Services, Warwick Smith. To date all Ministers have received a second major report on the size and cost of unmet demand for disability services and the estimated future growth in demand for these services. This was an independent report prepared by the Australian Institute of Health and Welfare and indicates a massive level of unmet need for disability services around Australia.

The report states that nationally, 13 400 people with disabilities have an unmet need for accommodation and accommodation support services in their home and respite care amounting to $178m. A further 12 000 people with disabilities nationally cannot work and have an unmet need for a day support program. That amounts to $115m, making a total estimated cost to Governments across the nation of $293.8m, which is certainly a significant sum. The backlog of the unmet demand is a legacy of the neglect of the previous Federal Labor Government which openly acknowledged the extent -

Mr Carpenter: What a lot of rubbish! You know that is not true.

Mr OMODEI: I have letters from the former federal Minister for Health, Carmen Lawrence, to my predecessor, the member for Greenough, in which she acknowledged the extent of the need, but at that time offered minimal financial assistance to help address the situation. I am heartened by the strong support I have had from the disability sector, families and consumers in Western Australia, and by my recent discussions with my State and Territory counterparts who indicate a similar level of support for consumers in their areas. All Ministers are keenly aware that many families across Australia live in a household in which one member has a disability. Many of these households include ageing parents who are the primary carers of their disabled son or daughter. These families will be watching very closely the progress of the negotiations. I ask all members actively to encourage the Federal Government to contribute to the funding that is required over the next five years, to ensure we meet that backlog which is very important for people with disabilities.

Mr Ripper: Perhaps we need a new Federal Government.

Mr OMODEI: We can stand on our record when it comes to people in Western Australia with disabilities. Our Count Us In program is second to none in the nation. We lead the nation. We have a separate Disability Services Commission, a separate board and a separate Minister, something this Government achieved, by comparison with the previous Labor Government which treated people with disabilities with neglect.

POLICE - STATIONS

Budget Cuts - Reasons

852. Mrs ROBERTS to the Minister for Police:

(1) Is one of the main problems with the budgets of police stations, such as the one in Manjimup, that before

this financial year started, last year's overruns were deducted, thus reducing local police operating resources even further?

(2) For weeks the Minister has failed to answer questions about the cuts to the operating budgets of police stations. Will he now confirm that those cuts are 15 per cent? If not, what was the average cut? Surely these matters are not operational.

Mr Court: Have you got a police policy yet? They went to the election without a police policy.

Mrs ROBERTS: That is not true.

Mr DAY replied:

(1)-(2) The Premier asked a very pertinent question. All we see in here from the Opposition is an incoherent list of knee-jerk reaction questions that indicates those opposite have no overall plan or sense of philosophy about what should be done about policing in Western Australia. I have indicated on many occasions, and the Opposition is well aware, that the budget for the Police Service has been substantially increased this year, as has been the case in every year this Government has been in office. I ask those opposite this: By how much do they think the budget for the Police Service should be increased?

Mrs Roberts: I am asking you what cuts you have made.

Mr DAY: By how much should it be increased?

The SPEAKER: Order! It is not acceptable for several people to interject at once. Has the Minister concluded?

Mrs Roberts: If you won't tell us what the operating budget is, how can I say how much more the police need? I am asking how much the Government is spending in this area.

Mr DAY: The member for Midland is indicating those opposite have no idea what they want to do to resource the Police Service. Does the member think the funding should be increased? How would the Opposition pay for it? Where would the money come from?

Mrs Roberts: You should tell us what the funding is and by how much it is cut every year.

Mr DAY: What taxes would those opposite put up?

Dr Gallop: Don't try this smart tactic. You are a failed Minister.

Mr DAY: Those opposite are embarrassed.

Mrs Roberts: What about some openness and accountability. Tell us what the cuts are.

Mr DAY: There are no cuts to the overall Police budget. It has been increased substantially. As to the resources to the stations and the squads, allocations have been made by the senior police management. That is not something in which the Minister has a role. It is up to the Commissioner of Police and his senior management team to determine how the allocation should be made, based on existing needs. As I have said on many occasions, if there is a need for additional funding for a high priority matter or for problems within a particular area, that need will be met.

PUBLIC SERVICE - LEADER OF THE OPPOSITION'S COMMENTS

853. Mr JOHNSON to the Premier:

Is the Premier aware of comments by the Leader of the Opposition on a radio program today, in which he said, "we're losing our sense of public service in Western Australia"?

Mr COURT replied:

The Leader of the Opposition was on a radio program this morning and said -

> I'm absolutely appalled by the way we're losing our sense of public service in Western Australia . . .

While he was saying that, I was attending a function involving 500 public servants in this State who were being acknowledged for the level of excellence in service they are providing. This group of people, which included the Vice Chancellor of Edith Cowan University, Millicent Poole; Carol Day, the President of the WA Youth Orchestra; Jim Snooks of Thiess Contractors Pty Ltd; Geoff Blackman, the Deputy Mayor of Port Hedland - we had to make sure there was someone from the north west; Mal Fiahlo of the Northern Suburbs Migrant Resource Centre; and Simon Forrest from the indigenous studies unit of Edith Cowan University.

The awards were given in recognition of what is taking place inside the public sector. The winners of those awards were as follows: Provision for the future of Western Australia - South Metropolitan TAFE aquaculture development unit; provision of services to regional Western Australia - the Department of Commerce and Trade's Western Australian telecentre network; service design and delivery - the WA Police Service for work at the Laverton Police Station; the equal employment opportunity recognition - the Disability Services Commission; quality improvement - the Fremantle Port Authority; and the award for innovation or excellence in contracting services - Perth Market Authority. The winner of the overall Premier's award for excellence was the Laverton Police Station.

I table a summary of the finalists and participants in these awards.

[See paper No 964.]

Mr COURT: I suggest that members opposite read it to get a better understanding of what is happening inside the public sector. The public sector has undergone a major cultural change.

Several members interjected.

The SPEAKER: Order! Members, I allow some interjections, particularly when they add to the debate. However, I cannot allow an incessant barrage of interjections, sometimes over the top of each other.

Mr COURT: We hear the pessimism about and scorn of the public sector from members opposite. The public servants do a terrific job and this Government certainly gets behind their efforts. It does not engage in the continual negativism that comes from members opposite.

PARKS AND RESERVES - PARKS FOR PEOPLE PLAN

Introduction of Legislation

854. Dr EDWARDS to the Minister for the Environment:

I refer to the launch of the Government's "Parks for People Plan" in June, and ask -

(1) Why has legislation not been introduced as promised?

(2) Why has management of regional parks deteriorated, given that rangers previously patrolled these areas and in some parks there are now none?

(3) Exactly what is the Department of Conservation and Land Management doing with the extra $1m it has received?

Mrs EDWARDES replied:

(1)-(3) Legislation is still being drafted and will be introduced into the Parliament next year. In the meantime an agreement is being developed by the Crown Solicitor's office in consultation with the Ministry for Planning and CALM. CALM has undertaken the management of those parks and has extended all contracts previously in place by the Ministry for Planning. The management of those parks has not diminished.

EXTREMELY DISABLED WAR VETERANS' ASSOCIATION - FREE TRAVEL FOR CARERS

855. Mrs HOLMES to the Minister representing the Minister for Transport:

As the state patron of the extremely disabled war veterans' I am helping this association to get free travel for carers of those with disabilities. As such I ask -

(1) Is the Minister aware of the plight of these war veterans in commuting?

(2) Does the Minister realise that approximately only 30 veterans are still able to travel?

(3) Can the Minister assure me of his urgent consideration in providing passes for the carers of the extremely disabled war veterans.

Mr OMODEI replied:

The Minister for Transport has provided the following response -

(1)-(2) Yes, the Minister is aware of that.

(3) The Department of Transport has commenced a review of all concession and free travel on the Transperth system. Consideration will be given to providing free travel to carers of the extremely disabled war veterans during that review.

MINING - GOLD

Royalty - Reconsideration

856. Mr GRILL to the Premier:

Given the fact that the price of gold fell below $US300 in trading last night; that some of the largest markets for our gold in Asia are in financial turmoil and likely to cut back purchases; that most Western Australian gold producers now have costs above the current gold price; and that the Federal Government is developing a survival package for the industry, I ask -

(1) Is the Premier prepared to reconsider his hardline position on a gold royalty?

(2) If not, what will he say to goldfields communities who are already watching with dismay as marginal producers close their doors?

Mr COURT replied:

(1)-(2) The gold industry is going through a difficult time - prices have dropped considerably. As the member knows only too well, it is a matter of not only the United States price but also the comparison between the Australian dollar and the US price. Under the arrangements made public the Government has deferred the introduction of the royalty. The Government has also agreed to put a floor price in place for the introduction of the second phase of the royalty. The Government has shown that it has always been prepared to listen to the concerns of industry. In its time in government the coalition has been prepared to grant concessions to individual companies that have found themselves in difficulty.

Mr Grill: The price of gold has plummeted.

Mr COURT: As the member for Eyre knows, the Government has acknowledged that. I was interested to hear that the Greens (WA) and possibly the Democrats will vote together to have that royalty defeated in the Legislative Council.

Mr Grill: That is what you should be doing.

Mr COURT: It will be interesting to hear how the Greens and the Democrats justify that decision.

Dr Gallop: Read the paper every day.

GRAFFITI - GOVERNMENT ACTION

857. Mrs HODSON-THOMAS to the Minister for Police:

Will the Minister provide an update on the latest steps taken by the Government to halt the spread of graffiti in our suburbs?

Mr DAY replied:

I thank the member for some notice of this question.

I am pleased to advise the House that the Cabinet has agreed to the creation of an offence for possession of a graffiti implement without lawful excuse.

Dr Gallop: We have already introduced that legislation.

Mr DAY: I will come to the Opposition's proposal shortly.

The Government is well aware of the concern in the community about the level of graffiti offences, particularly in the northern suburbs of Perth but also in other parts of the metropolitan area. For example, there is a particular problem in my area of Kalamunda at the moment. This Government is taking effective action to deal with the problem. The proposed power will permit police officers to seize graffiti implements when the owner has no lawful excuse for carrying them, and to dispose of them. Police will also be able to search persons suspected of carrying such implements. This power will be available to the police day and night, and not in the halfhearted manner proposed by the Opposition; that is, that the power be available only during the hours of darkness.

It is hoped that this legislation will be incorporated into a draft simple offences Bill. This Bill has been in preparation for some time and is part of a comprehensive rewrite of the Police Act, not just a bandaid solution, as the Opposition has suggested. In conjunction with the community and local government, this Government is fighting a successful war against graffiti offenders, and the changes that I have outlined will further that fight against graffiti in the community.

HEALTH - IMMUNISATIONS

Whooping Cough

858. Mr McGINTY to the Minister for Health:

(1) Is the Minister aware of reports in *The West Australian* of 20 November that immunisation rates for whooping cough have fallen dramatically since the withdrawal of the new acellular whooping cough vaccine?

(2) In particular, is the Minister aware that *The West Australian* reported that Perth's central clinic provided 628 immunisations with the new vaccine in October, but this had fallen to only 178 in the first 20 days of this month when the clinic was forced to return to the old vaccine, which has greater side effects?

(3) Does the Minister agree with the federal Minister for Health, Dr Wooldridge, who said that if there was a withdrawal of the free vaccine, it was the choice of the Western Australian Government? Was it the Minister's choice?

Mr PRINCE replied:

(1)-(3) It certainly was not my choice. This is a matter on which I take great issue with my federal colleague.

Mrs Roberts: Was Dr Wooldridge telling lies?

Mr PRINCE: Let me finish. A national immunisation committee recommended that the acellular vaccine was the appropriate vaccine to be used, and in doing so it encouraged, in writing, health departments around Australia to order that vaccine in advance so that they would have sufficient stocks; and this State did that. Dr Wooldridge in a number of public statements and also at Health Ministers' conferences has been very strong in pushing the subject of immunisation, particularly of children, and especially against whooping cough and measles. As members know, sadly the first death from whooping cough in this State has occurred since then, and there have been a number of deaths from whooping cough and measles in the eastern States.

Dr Wooldridge has waged a campaign, which I have supported strongly, and so has everyone else, to increase the rate of immunisation. I have told him and I have said publicly that it is totally untenable for the specialist expert committee, after it promoted the acellular vaccine as the one that we should use, to now say that, for a number of reasons - they keep changing - we should use that vaccine not for each immunisation but for only the second or fifth vaccine, or whatever the case may be.

There is no doubt that the new vaccine with its much diminished side effects is more acceptable to many parents, particularly of young children, who have concerns about this matter, and that immunisation is what we should be pressing. I am gravely disappointed with what the Minister has said subsequently, because there is no doubt that the new vaccine works extremely well, is much more acceptable to people, and will lead to a higher immunisation rate. I have expressed that view, and we have spent $1m, which should have been refunded by the Commonwealth but which it will now not refund. In my view, that is a grave error on his part.

INDUSTRIAL RELATIONS - WORKPLACE AND ENTERPRISE BARGAINING AGREEMENTS

Aboriginal Affairs Department

859. Mr BLOFFWITCH to the Minister for Labour Relations:

Is the Minister aware of the conditions negotiated in a workplace agreement and an enterprise bargaining agreement with the Aboriginal Affairs Department? If he is, can the Minister inform the House of the details of those agreements?

Several members interjected.

The SPEAKER: Order!

Mr KIERATH replied:

I thank the member for the question, and the Opposition for giving me some encouragement. The Opposition and certain unions have been at pains to try to encourage employees not to sign workplace agreements but rather to sign enterprise bargaining agreements, and I thought members would like to know some of the huge differentials that are involved. The Aboriginal Affairs Department has given its employees a choice between a workplace agreement and an enterprise bargaining agreement. The workplace agreement has a 14.8 per cent increase in salary over two years; a 40-hour week; the forgoing of two public service holidays at new year and Easter; higher duties allowance payable

only after 10 days; no short leave; and changes to overtime rates and annual leave loading. The Civil Service Association and the Public Sector Union believe that these conditions are intolerable and people should avoid them at all costs! I will share with members the result of the union negotiated enterprise bargaining agreement, because members may be interested. It has a 14.8 per cent salary increase over two years; a 40-hour week; no public service holidays at new year and Easter; higher duties allowance payable only after 10 days; no short leave; and changes to overtime and annual leave loading.

If those conditions sound familiar, it is because they are identical in nature. The CSA has said that workplace agreements are evil and exploitative and employees should not touch them at any cost; yet it has negotiated exactly the same conditions in an EBA. The only difference is that under one system, workers can choose who represents them. Under the other system, workers are compelled to have a union represent them. Therein lies the heart of the difference.

I raised in this House yesterday the attempts by the member for Nollamara to run a fearmongering campaign among the Public Service and employment in general by saying that their job security was in jeopardy. At the end of the workplace agreement, workers can choose between having the current workplace agreement continue until replaced by another one, or returning to the relevant public service awards. The fact is that EBAs and workplace agreements pay far more than the award is paying or is ever likely to pay.