WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1999

LEGISLATIVE ASSEMBLY

Tuesday, 16 March 1999

Legislative Assembly

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

BILLS (2) - APPROPRIATIONS

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

1. Prisons Amendment Bill.

2. Marketing of Meat Amendment Bill 1999.

LEEUWIN-NATURALISTE NATIONAL PARK - SURF BEACH ACCESS

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 838 persons -

> To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned petitioners call on the State Government to reverse its decision to impose visitor entry fees for people accessing surfing beaches within Leeuwin National Park and further call on the Government to recognize that free access to our beaches is fundamental to our way of life.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 152.]

SWAN RIVER, FORESHORE REDEVELOPMENT

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 42 persons -

> To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned citizens call upon the State Government to reassess its priorities and redirect the $80 million it has committed to the redevelopment of the Swan River Foreshore to more worthwhile community infrastructure projects in the areas of health, education and public transport.
>
> And your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound will ever pray.

[See petition No 153.]

CAMPING LAWS, AMENDMENT

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of five persons -

> To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in the Parliament assembled.
>
> We the undersigned, call upon the State Government to amend certain laws which are seen as unfair, restrictive and discriminatory towards us, the Australian public.
>
> We therefore ask that the following legislation be amended.
>
> 1. The Caravan Park 50 km protection zone be returned to its former 16 kms.
>
> 2. The 3 night Camping Law be amended to 28 nights on rate payers own property allowing for holiday visits by family or friends without having to seek special written permission from authorities.
>
> 3. That country road Park/Rest Areas limit of 4 hours be increased to 12 hours allowing long distance tourists, travellers and truck drivers to vacate roads during the hours of darkness if they so choose.

4. That en-route country Rest Stops of up to 12 hours be not defined as camping.

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

[See petition No 154.]

THE WESTERN AUSTRALIAN PEOPLE'S CONSTITUTIONAL CONVENTION, DEFERRAL

Statement by Premier

MR COURT (Nedlands - Premier) [2.07 pm]: Members would be aware that between March and August 1998, seven constitutional forums were held at various locations around the State. The forums were very successful and were attended by almost 800 people. The forums provided the Government with a unique opportunity to gauge the public's view on the three important matters: The state Constitution; the implications of a republic for Western Australia; and federation issues. The forums arose out of the work of the Western Australian Constitutional Committee and the Government's response to the recommendations of the Commission on Government relating to the Western Australian Constitution.

The next stage in the process will be to hold a Western Australian people's convention. The purpose of the convention is to build on what has emerged from the constitutional forums. Given the importance of ensuring a level of bipartisan support for the people's convention, late last year I had discussions with the Leader of the Opposition about the timing and format of the convention. The Government accepts the view put forward by the Leader of the Opposition that for the convention to be legitimate in the eyes of the people, at least half of the convention delegates should be elected. Such a process is lengthy and would mean that the convention should not be held until after the commonwealth referenda.

In these circumstances, I inform the Parliament that Cabinet has agreed to postpone the people's convention until after the commonwealth referenda, which are expected to take place in November this year.

EGG INDUSTRY, NEW DEVELOPMENTS

Statement by Minister for Primary Industry

MR HOUSE (Stirling - Minister for Primary Industry) [2.10 pm]: I bring to the attention of the House an opportunity for Western Australia's Golden Egg Farms and our State's egg producers. Today Golden Egg Farms will be announcing the formation of a new joint venture which will link producers and organisations from Western Australia, New South Wales, South Australia and Tasmania.

After 12 months of negotiations in which Golden Egg Farms played a crucial role, an agreement has now been signed which establishes the largest national egg organisation and one with the widest geographical spread. This partnership will be operational by July 1999. The new organisation has been formed with the needs of customers in a changing local and national marketplace firmly in mind. These needs include a single national brand for eggs; a concentrated and coordinated national marketing effort; and supply chain efficiencies. As well, this new group will deliver a reduction in organisational overheads and a borderless market for eggs. The benefit is national supply of fresh eggs from local producers without the logistical problems associated with transporting produce interstate. All these benefits are delivered while still maintaining a producer-owned organisation where the focus is clearly on the customer.

Golden Egg Farms itself has evolved into a highly successful organisation which can deliver significant benefits to the joint venture. Golden Egg Farms has the largest single egg processing site in Australia and is responsible for 80 per cent of all Australian egg exports. As a processor, Golden Egg Farms has also led the way in quality assurance, being the first to achieve ISO 9002 accreditation.

The benefits to Golden Egg Farms and the State's egg producers will also be considerable, with the New South Wales cooperative being the leaders in on-farm quality assurance, having implemented the WA developed SQF 2000. Also synergies will be created through the joining of these four organisations, resulting in cost savings in areas such as technology transfer, marketing and administration.

The Western Australian industry is united in its support of our current system which has allowed change and advances to occur. Prices of Western Australian eggs to the consumer are the lowest in Australia and the current system ensures a stable supply of fresh produce at competitive prices. The fact that Golden Egg Farms has become the dominant exporter in Australia demonstrates the initiative of the State's egg industry and the capacity of the current system to foster its development.

Today, I have also announced the outcomes of the national competition policy review. This will see the present system of vesting and licensing maintained. To allow the industry to continue to evolve, and develop efficiencies which will only serve to heighten its effectiveness as a member of the joint venture, some changes may occur. These may include the removal of the power for Golden Egg Farms to set the maximum retail price, the removal of the maximum number of birds per producer,

and alternative organisational structures. The industry will further consider these and other matters before recommending changes which best suit Western Australian producers and consumers.

ENVIRONMENTAL HEALTH PACKAGE, ABORIGINAL COMMUNITIES

Statement by Minister for Aboriginal Affairs

DR HAMES (Yokine - Minister for Aboriginal Affairs) [2.13 pm]: Mr Speaker, a new environmental health package has been put together for remote Aboriginal communities in Western Australia which aims to lift health standards and quality of life. It has been developed to meet some of the needs identified in the recent environmental health needs survey. The package includes dust abatement through greening and sealing roads and pathways and the provision of swimming pools.

We are all aware that despite exhaustive research and big injections of funds, the health of Aboriginal people remains the worst of any group in the nation. Infant mortality is high and children often suffer respiratory disorders, chest infections and middle ear infections which lead to deafness and learning disabilities. The rate of asthma is double that of the rest of the community and they also suffer from eye disease and worm infestation. Much of the blame for these problems lies with poor environmental health.

The decision to make swimming pools part of the environmental health package was not made lightly. We have strong anecdotal evidence from health workers attached to the WA communities of Blackstone and Warburton, as well as from Northern Territory communities which have swimming pools. This evidence suggests that Aboriginal children who swim regularly are much healthier than their counterparts who do not.

A proposal to research the effectiveness of the program is currently with Homeswest which also manages the Aboriginal communities strategic investment program or ACSIP, as it is known. The research project will monitor the package and its effects on communities, especially the effect on the rate and severity of ear disease and other infections in children. The package also gives Aboriginal children an incentive to attend school and access to recreational facilities, providing an alternative to boredom, despair and substance abuse. It includes the adoption of the Northern Territory's successful No School, No Pool policy which means children who miss school cannot use the pool. It also offers training and employment for people in the community.

Communities which will be offered the package include Jigalong, Burringurrah, Oombulgurri, Kalumburu, Bidyadanga, Looma, Bardi or One Arm Point, and Karalundi school. Most of these are also part of the strategic investment program. This package will enhance the effectiveness of essential services being provided to communities under ACSIP, such as housing, power, water and sewerage.

Issues such as ongoing management of swimming pools, appropriate safety programs, and ongoing maintenance and pool cleaning must all be addressed. Consultation is under way with local communities, other government departments, agencies and local authorities over the timing, funding, location, safety, maintenance and management issues.

Although we are in the early stages of this project, it has attracted strong support and I believe it to be an integral part of addressing issues which are fundamental to the health of Aboriginal children.

BREAST SCREENING TENDER

Statement by Minister for Health

MR DAY (Darling Range - Minister for Health) [2.16 pm]: I inform the House of the outcome of the tender for breast screening services in Western Australia. The breast screening program in this State, BreastScreen WA, is part of a national breast screening program provided free of charge to all eligible women, under joint funding arrangements with the State and Commonwealth Governments. The Women's Cancer Screening Service of the Health Department of Western Australia has been responsible for providing screening services under the BreastScreen WA program.

In 1997, a cost-effectiveness review of BreastScreen WA was carried out which showed that although the service was of high quality and met accreditation standards, it was also one of the most expensive in Australia. Following a Cabinet decision in January 1998 to test the market for screening services, a request for proposal was advertised by the Health Department on 3 October 1998, closing on 27 November 1998.

I am pleased to advise that the outcome of the tendering process for the mammography screening part of BreastScreen WA has resulted in the in-house tender, presented by the Women's Cancer Screening Service, being successful. This means that the delivery of the statewide breast screening service will continue to be provided by the Women's Cancer Screening Service of the Health Department of WA.

A plan presented by the Women's Cancer Screening Service was evaluated by the tender evaluation panel as meeting the requirements of the request for proposal document, and the Women's Cancer Screening Service was recommended as the preferred proponent. This recommendation was endorsed by the Government Health Supply Council before being presented to me as Minister for Health. The acceptance of the Women's Cancer Screening Service as the provider of screening services

was based on the service's screening more women, while maintaining quality and accessibility to screening services for women in both metropolitan and rural areas of the State.

As part of the BreastScreen WA restructure, assessment services have been upgraded under the jurisdiction of the Metropolitan Health Service Board and a state coordination unit established with responsibility for the recruitment of women, film reading, collection of data and bookings. Cost savings identified as part of the tender process will be used to screen more women and to provide improved assessment services for women.

This morning I advised the staff of the Women's Cancer Screening Service of the outcome of the process, and I take this opportunity again to recognise the commitment of staff and quality of service provided. I also draw to the attention of the House the recent allocation of $600 000 for the purchase of equipment for the breast screen assessment service, which demonstrates the Government's commitment to improving the service for Western Australian women.

[Questions without notice taken.]

SHIELDS, MR BOB

MR COURT (Nedlands - Premier) [2.57 pm]: Mr Speaker, I seek leave to correct an answer to a question that I gave last week.

[Leave granted.]

Mr COURT: Last week during question time, in response to a question by the member for Belmont, I tabled some information with regard to the employment details of Mr Bob Shields. It has been brought to my attention that there is a typographical error in part 4 of that briefing note, which states that the Government Property Office, with regard to the Mandurah Cultural Centre, engaged Mr Shields for a period of four years and four months. This should read three years and four months.

QUESTION WITHOUT NOTICE 320

Personal Explanation by Minister for Local Government

MR OMODEI (Warren-Blackwood - Minister for Local Government) [2.59 pm]: Mr Speaker, I seek leave to make a personal explanation.

[Leave granted.]

Mr OMODEI: This is the first opportunity I have had to advise the House that on 28 October 1998, I was asked Legislative Assembly question without notice 320 by the member for Carine with regard to car parking facilities at Warwick railway station. Unfortunately the answer I provided to question (1) was changed. Question (1) was -

> What is the ratio of paid parking bays to free parking bays?

The response that was given was -

> The ratio of paid parking bays to free parking bays is 466:434.

The correct answer to the question is -

> Paid parking bays 466, free parking bays 539, including 26, 15-minute parking bays and 10 bays for drivers with a disability.

WESTRAIL FREIGHT SERVICE, SALE

Matter of Public Interest

THE SPEAKER (Mr Strickland): Today I received a letter from the member for Armadale seeking to debate as a matter of public interest the following motion. It is nice to see the new letterhead, member for Armadale. The motion is as follows -

> In light of the mounting concerns from grain growers, rural and regional local authorities, regional development corporations, resource producers, private rail operators and government backbenchers over government plans to sell off the Westrail freight business and the State's rail track network, this House calls upon the Government to -
>
> (a) release the scoping study which purportedly forms the basis for the government decision; and
>
> (b) not proceed with the sale unless the Government obtains a mandate from the people of Western Australia.

If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

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

MS MacTIERNAN (Armadale) [2.59 pm]: I move the motion. In the last month I have spent considerable time - as have some of my parliamentary colleagues in this and the upper House - shadowing the Minister for Transport, watching him attempt to sell the unsaleable. It has become evident to the Opposition through its attendance at seven of the meetings organised by the Minister for Transport that the minister has few friends on this issue. It is also evident that people are angry that the consultation has only come at this point. Notwithstanding the implausible comments of the Deputy Premier from time to time, it is evident that a decision to sell Westrail has been made and that what is now being engaged in is negotiation of the fine detail of the terms of the contract. People ask the minister all the time why they were not advised when the pointy end of the decision was made and why the Government is consulting only now when the decision has been made. Those are good questions and they have not been answered by the Minister for Transport in these forums.

The groups which have been vocal in their opposition to this proposal include farmers - particularly grain growers; the rural shires - the Opposition has met privately with a number of those shires; the regional development commissions; and the Westrail employees. I have also met with several of the major private rail companies and the resource users. All these people are diametrically opposed to the Government's proposal. It is very difficult to find anyone who -

Mr Omodei: Did you say all of them; all of the people at the meetings held in Katanning, Northam, Kalgoorlie, Geraldton, Bunbury, Esperance -

Ms MacTIERNAN: No. A few people, particularly those from the Pastoralists and Graziers Association, have been supportive. I do not know about Esperance as it was the only meeting at which we did not have anyone attend.

Mr Wiese: Not true; you were not at Katanning.

Ms MacTIERNAN: People with similar interests to the Opposition attended the Katanning meeting and reported back.

Mr Ripper: We had our agents.

Ms MacTIERNAN: Yes, we had our agents there. The overwhelming impression at all of the meetings and through the Opposition's private discussions with the regional development commissions and the rural and regional urban shires has been that people do not support this proposal. In addition, the private rail operators which are currently looking to buy into the system and operate in Western Australia do not support this proposal; nor do the resource users. A group of 13 resource users got together and, following the example of the Premier, employed a consultant to speak to the Opposition and presumably to the Government on their behalf pressing their concern about the Government's plan. It then became evident that both the minister and the bureaucrats representing the government view, including the billion dollar man as he is called, were making outrageous misrepresentations at those meetings.

In the process they were tying themselves up in a number of contradictions that became evident to the people at those meetings. I will go through some of the lies that emerged from those meetings. The first lie is that everybody is doing it; everyone all over Australia is privatising the rail. They go through a litany of privatisations. They gloss over the fact that successive Queensland Governments - that includes National Party Governments as well as Labor Party Governments - have positively rejected this proposition and have rejected it because they understand the impact of such a privatisation on rural Queensland. They then go on to claim at these meetings that Australia's largest economy, New South Wales, will privatise its operation. They also refer to FreightCorp. The first deceit in that is that New South Wales has divided its rail operation into a rail access authority and the current Government has given an absolute, categorical commitment that it will never privatise the tracks that are owned in that State. It rejects the proposition that has been proposed by Western Australia. Contrary to what has been said time and again by Dr Whitaker, there is no desire by the New South Wales Government to sell FreightCorp, the freight arm of the New South Wales operation. Indeed it is very happy with the operation of FreightCorp. It is operating successfully and has taken work from some of the private companies.

I will go into that when I discuss the second lie. The second lie is that we must sell Westrail because once we have an open railroad, we will not be able to compete. We will fall victim to the competition from the private sector. That does not stack up when we consider the facts.

I refer members to FreightCorp, the New South Wales operation that was corporatised and put under the authority of a commercial board that included senior people from the transport and finance sector. Not only has it been able to win a route between Sydney and Brisbane which is operating at a profit, but also it has recently won a job off Australian Southern Railroad one of the great American hopes that was brought in when it bought the South Australian network. It was competing for a major coal contract. Indeed, Westrail was short listed. At the end of the day the company that was able to offer the best deal was the corporatised government-owned body FreightCorp. When I raised this matter at the meetings, Dr Whitaker attempted to resort to all sorts of calumnies about FreightCorp. He claimed that it subsidised that operation and that it could not have possibly been able to succeed unless it had a subsidy. We have been through this extensively with the New South Wales Government, the Rail Access Corporation and FreightCorp and there is not an ounce of truth in it.

This was an operation that was not at all subsidised. To be fair, some rural networks in New South Wales are subsidised on a community service obligation basis, exactly as we subsidise various rural passenger rail services. No subsidy went into Leigh Creek and that is a clear example that we have a government operation that could compete with the rivate sector. If members look at Westrail's track record they would say that it must be in a fair position to be able to compete. It has been operating a rail system for over 100 years. It has been promoting itself as the most successfully-performing, government-owned railway in Australia which has declared profits for three consecutive years.

The next lie to which the Government refers is the problem with debt, which is increasing. It is certainly increasing, but that is partly because the Government has been capitalising the maintenance budget. Whatever the reason, Westrail's profit has increased at a sufficient rate to ensure that the debt is serviced and the profit continues to increase. That claim simply does not add up.

The third lie is that there will be no job losses. Westrail workers, local authorities and, indeed, rural businesses are very concerned about job losses and their effect on the broader community. We know that job losses cause people to move out of a district, resulting in fewer people attending schools and hospitals. Resources are cut and the decline spirals. We have seen the results of the privatisation of Westrail's track and Main Roads' maintenance operations. These results were experienced particularly in Kalgoorlie when Great Southern Railway took over the South Australian freight operation: The associated staff number of 1 670 was reduced to a little over 700 workers - the number of jobs declined by almost half. By and large, these job losses were in rural areas. In fact, the problem was so desperate that before the last election the Federal Government had to inject money as part of a rural rescue project.

Notwithstanding all this experience with Westrail track, maintenance, Main Roads and Great Southern Railway, the Government tells us that the American who buys our operation will be different from the Americans who bought the South Australian and New South Wales operations; that is, he will retain all the jobs. Apparently, the American company which buys our operation will find that Westrail has made all these adjustments. Wayne James, the Commissioner of Railways, stated in a letter that in the last 10 years, we have increased the freight task by some 30 per cent, decreased rolling stock use by 45 per cent and decreased employment by 70 per cent. Therefore, all the hard bits have been done. As you would know, Mr Deputy Speaker, it does not take people at public meetings long to reach the following conclusions: "If Westrail has done all the hard bits, how come this private operator will do a different job?"

Who is the private operator who receives the brownie points in the Government's glossy promotions? It is none other than Great Southern Railway - the company which reduced its staff by 900, and introduced workplace agreements which reduced wages and conditions of the people who remained in employment. It was a double-whammy for the rural communities involved. On the one hand the Government is arguing that we should adopt the GSR option because we will accrue fantastic benefits of increased freight use and a cut in costs, yet the Government also states that none of the things GSR has done elsewhere to make the gains will happen here. It simply does not add up. One cannot have it both ways.

Lie No 5 is that farmers have nothing to worry about. Many concerns expressed in regional areas is that the more marginal tracks will be shut down, and that the operator will seek to consolidate on the major tracks. The Government says, "Don't worry, we've taken care of it. The contract will say that all lines will be locked away with the grain strategy group agreement." Nevertheless, the fine detail indicates that the guarantee that the lines will remain open extends for only five years.

We all know that cross-subsidisation is involved, as has been admitted by Wayne James when examined by the Public Accounts and Expenditure Review Committee. There is a degree of cross-subsidisation of smaller lines from large lines within the freight network. That should be the case, as it is the only way to maintain the volume of our grain production. The rural shires are aware of the consequences of closing the smaller lines; namely, a cost transfer to local government, as occurred already with the six lines closed down during this term of government.

Mr Omodei: How will it be a cross-transfer to local government?

Ms MacTIERNAN: Has the minister not spoken to local government? When heavy haulage is taken off rail and placed on roads, it impacts on the quality of road maintenance. Those road trains are dynamite to rural roads. Letter after letter has been received from, and discussion after discussion held with, local authorities expressing concern about the impact on their shires of the lines being closed.

Mr House: That shows how little you know! All the lines closed are by major roads which are funded by the State Government, not local government.

Ms MacTIERNAN: That is not true.

Mr House: You don't know. I live out there! You fly out there every now and again.

Ms MacTIERNAN: That is not what the local shires are saying to the Opposition.

Mr House: You say the most stupid things when you do not understand the issues!

Ms MacTIERNAN: All right. The local authorities are expressing these concerns to the Opposition very loudly and clearly, including the authorities in the areas in which the lines have already been closed. Also, local communities have other concerns: They are concerned that the narrow roads will be far less safe as a result of increased heavy haulage on them. This is seen as a substantial reduction in their amenity.

The Opposition does not have the time it would like to debate this issue. I need to indicate the wrongs of the Government's proposal. A vertically integrated sale is proposed; namely, we sell off the freight business together with the track network and all the associated infrastructure. That will be a decision, if it goes ahead, the State will rue for a long time. Essentially, it will be anti-competitive. Without a shadow of doubt, we will hand over a private monopoly to a multi-national company, and, odds on, this will be one of the large, first-rank American companies. The Government's only answer to this claim is that it has its rail access scheme in place. It has drafted this fantastic scheme to protect third-party access on the line! However, anyone who knows anything about rail knows it is claptrap. Talk to private rail operators, and those with experience in the United States. They will say that there are 1 001 ways in which a rail operator can frustrate its opposition if it has control of the track network. The Government has the naive belief that its rail access code will somehow be able to control the operators, who to date have not been controlled in such situations elsewhere in the world. The Government acknowledges that no such precedent exists of a rail access scheme working with a vertically integrated operation; that is, the person managing the line is in competition with the people to whom it is supposed to grant access to the lines. It is complete nonsense.

Mr Court: Does that not happen now?

Ms MacTIERNAN: It happens with Westrail. The Opposition does not say that change is not needed. I will now give you the flavour, Mr Deputy Speaker, of the American companies. Members should bear in mind that Wisconsin Central Transport Corporation has bought operations in Tasmania and New Zealand, Wyoming has bought the South Australian operation and Rail America has bought the Victorian operation. These companies are part of the Association of American Railways, which has released a paper I have with me. These operators call rail access legislation "forced access", about which they say -

> Forced access refers to the government directing a railroad to allow a competitor to operate over its privately owned track. To make matters worse, the access rate would be set a by a federal regulator at a level that is below the owning railway's full cost to maintain and improve the track. It would be the same as, for example, requiring the only newspaper in town to open its presses for use by a would-be competitor or forcing one car dealership to allow another dealership to share its showroom since the second one has not built its own dealership in the area.

That tells us what these American companies think about third-party access. It provides some idea of how they will conduct business.

Finally, I was surprised to learn today that the Government did not lodge its access code with the National Competition Council until last week, although the legislation was introduced into Parliament about nine months ago. It will be impossible to put this out to tender until that code has been approved. In the normal course of events, that will take at least six to nine months, if indeed it is ever approved, of which I certainly have my doubts. At the end of the day, we have no guarantees that third party operators will be able to operate on this line. The American companies who are buying it up are dead opposed to what they call forced access. They will fight it every inch of the way. They will sign the document, but they will employ a thousand and one ways of smart practice to frustrate competition. The resource users know that. That has been the experience in the United States. Federal Court and Supreme Court orders have had no effect.

We ask the Government to do two things: Firstly, to show some honour and provide us with this $800 000 scoping study, which was commissioned by this Government and paid for by the people of this State. Let us see that study and the projections contained therein; secondly, to have the decency to wait until it has a mandate to put this ridiculous proposal, which has no popular support, to the people. If it wins the election, it can then go ahead with it.

MR HOUSE (Stirling - Minister for Primary Industry) [3.22 pm]: Transport reform in this State has been ongoing for some time. To consider the reforms that were first implemented in Westrail one needs to go to about 1983 when the current member for Eyre was the Minister for Transport and some 16 000 employees of Westrail were spread around rural Western Australia. He implemented a series of reforms that met a great deal of resistance at the time. He had a vision about what should happen to the railway service in rural Western Australia. Many of us were dubious about the things that we thought the incoming Labor Government in 1983 would do. I well remember the public meetings in my home town and other small country towns. Firstly, we sought information in the same way that the current Minister for Transport is doing by going around to rural areas giving out information to local authorities and meetings of user groups. Secondly, we were concerned that something we had done for a long time would have a detrimental effect on us.

As events transpired, nothing could be further from the truth. To the great credit of the then Minister for Transport and current member for Eyre, he pursued those reforms. It cost him a bit of skin and hair in some of his areas of prominence, such as the electorate of Collie and other similar areas. However, the reforms that he implemented stand as a testament to

his vision. I give credit to him for that, just as I am equally sure that in a few years this Parliament, and users of the freight system in Western Australia, will pay testament to the present Minister for Transport for his vision with the current freight business in rural Western Australia.

Users of that freight system seek a good, efficient service at the lowest possible cost. It has started to deliver that. In recent years, under the then Minister for Transport, Hon Eric Charlton, freight rates were driven down some 30 per cent across rural Western Australia. That is a huge gain for those of us who use that facility. Those reforms and the efficiency of the service need to continue. If one considers those facts, one of two things must be done: The Government must put in dollars from the consolidated fund or another approach must be found. The other approach is that national competition policy will put this State in a position whereby it must accept other users of the track, whether we as a State Government like it or not, and another competitor will be running on that track. They are the facts of the matter.

Dr Gallop: Do you not have any faith in your public institutions?

Mr HOUSE: That is a good interjection, because the facts are that Governments do not run things like rail freight businesses very well. Plenty of evidence supports that and suggests that private enterprise will do a better job.

Dr Gallop: Let us test the market.

Mr HOUSE: That is what we are about to do; we are about to test the market. The Government wants that efficient service to continue. The grain industry is a large user of rail freight. The changes that have occurred are that Co-operative Bulk Handling Ltd is heading towards becoming a publicly listed privatised company; the Wheat Board has changed its modus operandi in a new, different and innovative way; farmers are operating in a different way, and they have increased yields significantly; the amount of grain grown in this State has increased. Therefore, pressure is being put on the rail facility to perform in a better way. Private enterprise can deliver a better service.

One issue that affects people in the bush is the condition of the roads. As a person who operates more than a few trucks, I inform the House that trucks cause a great deal of damage to the roads. The only solution to that problem is to put more and more grain on rail. The way to do that is to make it cost efficient and effective. That can be done by making sure that there is competition in the business, which is what we are seeking to do. One unidentifiable cost in this discussion is the damage that is done to roads by large trucks carting grain. It is difficult to identify that cost. However, it exists. We want to make sure that that grain is put onto rail. That can be done under the proposal that the Government is putting forward. Why would any farmer want Government in control of his business? We would not want a government institution, which is run by perhaps a future Labor Government, to operate a business that needs to be profitable; we would not want that.

Dr Gallop: What is your view on Telstra?

Mr HOUSE: If the Opposition moves another matter of public interest next week, I will speak on that and give my view on Telstra. I fear that a Labor Government in the future might increase freight rates, because that is the way it would see a balancing of the books. It could not care less about those of us out in rural Western Australia. In the grain-growing areas that are affected by this proposal, Labor does not hold a single solitary seat in this Parliament. It would not have one ounce of sympathy for those people in the rural areas. It would come into this Parliament and move an increase in freight rates. That was its approach in the past: Just ramp them up, without caring about the grain growers, who would finish up paying the cost.

This is a sleight of hand by the member for Armadale. She wants to keep this facility under government ownership so that when the Labor Party is in government it can increase the cost to subsidise something that happens in the city. We have seen it done before. Without doubt, the majority of farmers favour this proposal. Every week I talk to farmers, groups of farmers, representatives from the Pastoralists and Graziers Association of WA, the WA Farmers Federation and others. I can tell members that the majority of farmers are in favour of this proposal. One of the reasons for that is that they see the good commonsense of the efficiencies that will be delivered. They have been to the meetings and have listened to what was said, as have representatives of the rural shires. They clearly understand this proposal. They asked many questions and put some propositions, and they will ask many more questions in the meetings planned for the next couple of weeks.

I would welcome the member for Armadale at these meetings. I am sure she will attend them. She will find that farmers are very much in support of the proposal.

Ms MacTiernan: That is nonsense. How do you explain the public position of the WA Farmers Federation, which represents the majority of grain growers?

Mr HOUSE: That is a good question. The WA Farmers Federation made a public statement in October last year expressing its concern about what might happen if Westrail's freight business was sold, and it expressed further concerns about track access, access to the garner bins and other matters. Does the member know what a garner bin is?

Ms MacTiernan: Yes, but you are making the speech.

Mr HOUSE: The member does not know; she should not tell fibs. Next time she is in the bush, I will give her a quick run-around a grain terminal and point it out to her.

Ms MacTiernan: And I will show you a quick run-around an economics book.

Mr HOUSE: I am one of the people in this Parliament who do not need a lecture about economics because I have run a business very successfully. I started it with very little, and it is a very successful business. That is more than the member for Armadale has done. I do not need a lecture on economics; my runs are on the board.

Dr Gallop: Did you inherit the wealth or create it?

Mr HOUSE: I inherited some of it.

Dr Gallop: That is right.

Mr HOUSE: I could tell the Leader of the Opposition a long story about that, but I will not bother.

Mrs Roberts: The member for Armadale has also run a successful business.

Ms MacTiernan: Definitely, and without an inheritance from daddy.

Mr HOUSE: Good, I am pleased to hear it; but let me assure the member that I do not need a lecture about economics.

The WA Farmers Federation made a statement last October and expressed a number of concerns. I have talked to many of the members of that group and I acknowledge that some are still concerned. They want more information, which they have sought at public meetings, and no doubt that will be given at the next series of meetings. However, the majority of members of the Farmers Federation are now very much in favour of this proposal. People asked questions about the privatisation of Co-operative Bulk Handling Ltd and what would happen with the Wheat Board decisions made a few months ago. They were legitimate questions which have been answered. There is absolutely no question that the key to this issue is lower freight rates and an efficient service, and that can be delivered by this Government under this proposal.

DR GALLOP (Victoria Park - Leader of the Opposition) [3.33 pm]: The Opposition has raised two fundamental issues in this debate this afternoon. The first is that the scoping study, which the Government has financed to look into this question, should be released so that all the stakeholders - those invited to the public meetings - can actually see the facts and figures of privatisation and what the consultants to the Government said about it. If it is such a you beaut idea, why has the study not been released by the Government for public comment? The Government of Western Australia has concealed its intentions with respect to this matter from the people. It went into the campaign for the last election with the following policy on Westrail: To encourage Westrail to increasingly pursue commercial objectives in its operations with community service obligations specifically recognised and funded; pursue further reductions in freight rates by encouraging competition on rail and further allowing third party access; develop a system of accreditation for third party operators on the system to ensure that environmental and safety standards are maintained; continue to modernise Westrail to ensure maximisation of rail use for freight in Western Australia; retain and upgrade the *Avon Link, Prospector, Australind* and coach services; and support Federal Government's Australian Rail Track Corporation in principle, although the concept needs to be fully funded and the interests of the State safeguarded before Western Australia becomes a participant.

There was no debate before the last election on whether or not Westrail should be privatised. The reason was quite clear: It was not on the agenda of the Opposition, the Government or anyone else. I would have thought the honour of the Government would rest upon a policy consistent with that which it put forward during the election campaign.

Mr House: Do you have a policy on it now?

Dr GALLOP: The member for Armadale has articulated the Labor Party's policy quite clearly. On these issues, and it applies to AlintaGas and Westrail, there is clear division between the two sides of the Parliament. The Labor side has a simple message: With respect to Westrail it wants a competitive rail network which services regional communities and agricultural and mineral industries. Labor wants to make sure that competition works in the system. That is the basic thrust of the Labor Party's approach to this issue, and also to electricity and gas matters. However, the Government wants the quick sell. Its objectives are very narrow and indefensible because it wants to sell the system to get some revenue. The Opposition's approach has economic credibility, and social and environmental concerns. The Government's approach is economic vandalism. It will flog off this asset to the first comer, and the people of Western Australia will lose important infrastructure. That will make it harder to get a competitive marketplace in operation. That is the Labor Party's policy. It supports competition and third party access, and it believes there are community service obligations. However, it does not support a sell-off of this infrastructure to interests that are outside the Government of Western Australia. This is a responsible approach to the question.

It is interesting that that is acknowledged by the disquiet that exists within coalition ranks. We understand that there are critics within the coalition of the Government's policy on this question, and that there is disillusionment and unhappiness with the policy. Why is that? There are three important reasons. First, those who want real competition, as does the

Opposition, recognise that third party access will be impossible to guarantee where one of the freight companies owns and manages the track. That argument has been put very well by the member for Armadale. The second reason for the disquiet in government ranks is that profit maximisation is bound to threaten the low return and unprofitable lines. We know that and so do members opposite. Thirdly, they know, as the Opposition knows, that if this business is privatised, it will be extremely difficult to facilitate proper integration with the national rail system. One approach that the Opposition believes has no credibility in economic, social or environmental terms is a quick sell off of the freight business and the track as a vertically integrated operation. It is bad policy, bad economics, bad for the people of Western Australia, and bad for the future. The alternative approach is the preservation of public ownership and the separation of the freight operations from track management, which would give the system a future. It would also give the people who work in that industry a future. It will give hope and is based on a belief in the system and what it has created over many years, but does not deny that competition should be in the system. There is no denying that a competitive element is needed.

The terms of this debate are very clear. Will the Government give Westrail the chance to compete or will it not? The Government will not give Westrail the chance to compete. It does not trust the people involved. It does not believe in their skills and capacity. It does not give any credence to the institution or the capacities and competitiveness that Westrail has built up over the years. The Government does not think Westrail can compete. The Minister for Primary Industry said the Government does not think Westrail can compete. Therefore, the answer to the Opposition's question is that the Government will not give Westrail a chance to compete. The Government will flog off Westrail, just as it will flog off AlintaGas and not take into account the long term interests of the State. We see a clear division on these issues: The Government wants to sell things off to gain the revenue with no consideration being given to basic economics or the losses to the people of Western Australia over the short, medium and long terms. The Opposition is serious about competition. It believes that our public institutions can compete in the marketplace. It has faith in the people who work in those industries to produce good results for our people.

Mr Wiese interjected.

Dr GALLOP: We know that members like the member for Wagin and the member for Geraldton agree with me on subjects like this. We know that the WA Farmers Federation, the majority of farmers and other stakeholders agree with what I am saying. The Opposition is on the right track with this issue, but the Government will flog off an asset and get no real return for the people of Western Australia.

MR COURT (Nedlands - Premier) [3.43 pm]: We have had one breakthrough in 12 months - the Opposition now accepts competition. I will outline why the Leader of the Opposition has no credibility on this issue. The Government's first priority is to ensure competitive transport rates for our export industries. A large part of the transport component of our export industries is handled by the private sector. However, Westrail is a major provider of transport, both in the mining and rural sectors. The Government's first goal for Westrail was to make it more competitive. We have gone a long way towards that end. It is an outstanding achievement that Westrail's freight rates have been reduced by around 30 per cent. In other words, at a time when many costs have increased, Westrail's efficiencies have enabled producers to be more competitive, which is a good news story.

Ms MacTiernan interjected.

Mr COURT: When the member for Armadale stops interjecting I will say something nice about her.

Ms MacTiernan: I want you to tell the truth about what the resource providers are saying to the Government.

Mr COURT: The member for Armadale has done her dash. At least on this subject a member of the Labor Party has been prepared to put her position in writing so that it can be assessed. That is a major step forward because very few people on the other side have been prepared to go into detail on these policy issues. The policy set down by the member for Armadale states -

> The freight division would be corporatised and operate as a private sector company.

Ms MacTiernan: That is one model; the New South Wales model.

Mr COURT: That is the Opposition's view. The member's paper sets out "What Labor will do." It says that Labor will sell the freight business.

Ms MacTiernan: It says that the freight division will be corporatised.

Mr COURT: It also says the freight division will operate as a private sector company. The member for Armadale is saying that the Labor Party will sell the freight business.

Dr Gallop: It does not "sell"; it says "corporatise". It says exactly the opposite. What does the Premier think corporatise means?

Mr COURT: It says that the freight division would be corporatised and operate as a private sector company.

Dr Gallop: It will be competing with the others.

Mr Kobelke: But it will be owned by the Government.

Mr COURT: How can it be a private sector company if it is operated by the Government? There is agreement between the Opposition and the Government: Both sides want to sell the freight business.

Dr Gallop: Do not be ridiculous; that is not our position.

Mr COURT: The Opposition wants to separate Westrail's above-track and below-track operations. It wants to corporatise the above-track operations by selling it off to the private sector.

Dr Gallop: We are not saying that, and the Premier is misleading the Parliament.

Ms MacTiernan: If the Premier knew anything about rail and had listened to the debate, he would have heard about FreightCorp, which is the New South Wales corporatised entity which has been more than successful in competing with private companies. The Premier should try telling a bit of truth and should not misrepresent what others are saying.

Mr COURT: Is it my turn to speak, Mr Deputy Speaker?

The DEPUTY SPEAKER: The member for Armadale will come to order. It is the Premier's turn to speak and I ask him to address his comments to the Chair.

Mr COURT: The one thing that the Opposition and I agree on is that the freight division can be put into the private sector.

Dr Gallop: That is not what we are saying.

Mr COURT: This is the last time I will repeat this. The Opposition's paper states -

> The freight division would be corporatised and operate as a private sector company.

Ms MacTiernan: I suggested that we follow the New South Wales model. The Premier is showing his abysmal knowledge of rail around Australia.

Mr COURT: I will talk about the New South Wales model. I listened to the Opposition. In New South Wales, a body called the Rail Access Corporation is responsible for owning the track, for selling access to the track and for maintaining the track. The Opposition said that it would will keep Westrail's freight business. As in the New South Wales model, the Opposition says that it will allow the private sector to compete in the freight business, but it wants Westrail to be one of those competitors. It also wants the Government to retain responsibility for the track in an arrangement similar to that of the Rail Access Corporation. Other States have different arrangements. Tasmania, South Australia and Victoria have vertically integrated models, but they have done things differently. Victoria has leased its track, whereas South Australia and Tasmania have had a straight sale of their track. In South Australia and Tasmania - Victoria has only just commenced its operations - there was a massive new investment in upgrading the track after the sale had taken place.

Ms MacTiernan: What are the job losses?

Mr COURT: The Opposition cannot talk about job losses. It reduced the number of jobs in Westrail from 20 000 to 4 000. Why does the Opposition not talk about efficiency?

Ms MacTiernan interjected

Mr COURT: I wanted a rational debate on this matter.

Ms MacTiernan interjected.

Mr COURT: The member for Armadale can abuse me as often as she likes. However, under the opposition model, the State will own the track, be responsible for selling access and maintaining track quality, and for providing the moneys to upgrade the track. I will refer to what has occurred in the United Kingdom. The Leader of the Opposition's friend, Prime Minister Tony Blair, commented on the UK rail system. He said that he did not object in principle to the railways; that John Prescott, who was the then Deputy Prime Minister, wanted to get private finance into the railway system. Last month, Tony Blair said that for too long Britain's railways had been systematically starved of investment, and to deliver those policies there must be investment, with the lion's share of that investment coming from the private sector. A Labour Prime Minister said that the private sector must drive the new investment needed to upgrade the UK rail system.

Ms MacTiernan: We want the private sector to invest and we want competition.

Mr COURT: The Labor Party is saying quite the opposite. It is saying that the Government will own the freight division and it will also provide the investment.

Ms MacTiernan: No, the private sector will be investing.

Mr COURT: The danger, as the Minister for Primary Industry has outlined, and as many primary producers would see it, is that if we owned it and made all the investment, we would have no incentive to invest in upgrading the infrastructure. That has been demonstrated in the past. We now have a Labor Government in the United Kingdom that does not have an issue with private sector investment in these activities. What I find galling is the Leader of the Opposition's saying, "Don't you have faith in public institutions to compete?" Yet, as a minister he was prepared to have the private sector build the Collie Power Station and to sell SGIO.

Dr Gallop: I think I have you worried.

Mr COURT: I am paranoid. In 1992, the leader stated that the Labor Government was moving to privatise some activities. It was his view that that did not represent a betrayal of principle but that it was merely a redrawing of the boundaries in acknowledging the changed circumstances of the 1990s.

Several members interjected.

Mr COURT: Using the Opposition's terminology we would be "flogging it off". When the Leader of the Opposition wanted to sell a government business he said that the Government of the day took the view that its limited resources should be used to provide vital community services and not to develop and extend government-owned commercial enterprises. Members opposite want a corporate body running the show, but a few years ago they said that that should not happen and that government funds should be used to provide vital community services. What is the Opposition's policy? When in government it is okay for members opposite to sell off these bodies and to have the private sector undertake these tasks!

I return to the issue of Westrail. It is a major step forward for members opposite in their current policy vacuum to say that they accept that we can now have competition with Westrail.

Dr Gallop: We have always said that.

Mr COURT: No doubt members opposite will change their view on what they will do. They want the Government to release the scoping study. That study contains extensive sensitive material about the cost structures and so on of Westrail. It would be inappropriate for that information to be released and it would sabotage the sale process, which members opposite would like to see.

We have addressed the financial information the Opposition wants and the whole question of the competitive vulnerability of Westrail, and that information has all been made public.

Ms MacTiernan: Do you support competition?

Mr COURT: I certainly do.

Ms MacTiernan: Do you understand the argument that this will be a monopoly?

Mr COURT: I do not accept that. If the member had been following what has been taking place with deregulation in a wide range of industries, she would know that we have some powerful bodies in place that will ensure that access regimes are a fact of life.

A number of issues must be debated and addressed. The sale of an asset such as this is complex and must take into account a number of considerations, particularly when looking at the State's long-term development. There is a complete lack of faith in what the private sector can do, although we have seen the world's largest tonnage rail systems built in this State by the private sector. If a company were to take over this infrastructure, it would be in its interests to expand the business. To do that it would be prudent to invest money in upgrading the infrastructure - money that the Government would find it difficult to provide. If the company were able to run an efficient business and to expand its business, it could pull some of the bulk freight off the road network, which would make a terrific difference both environmentally and -

Ms MacTiernan: They are happy to run their own rail lines, but not for a multinational company to have a monopoly.

Mr COURT: Do we not have a situation now in which the Government owns the track but calls the shots with regard to access?

Ms MacTiernan: We recognise that the situation must change. It is far more critical when it involves these American companies. They are opposed to what they term "forced access". They will do everything they can to sabotage your access regime.

Mr COURT: They would not want to bid if they did not accept the access regime. They are operating in Australia under our regimes.

I will refer again to my three main points: Firstly, our prime goal must be to provide more competitive freight rates for industry, particularly export industries. We have been able to bring about major improvements and to pass on the cost savings and we now have more competitive freight rates. Secondly, it was all very well for the Leader of the Opposition

to say six years ago that it was okay to have certain policies about the sale of public assets, but he now runs around beating his chest saying that the sale of any public asset is a dreadful sin. He did not mind selling public assets when it suited his purposes.

The member is correct: The Government must make a number of decisions about the sale process, and they will be made appropriately. I ask members opposite to keep their minds open to the fact that everything good does not need to be controlled by the Government.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [3.59 pm]: The shemozzle known as the Australian Labor Party has finally discovered competition.

Mr Thomas interjected.

The DEPUTY SPEAKER: The member for Cockburn will come to order!

Mr OMODEI: The Labor Party almost destroyed the old West Australian Government Railways. It left it as an inefficient organisation without appropriate modern rolling stock. The State Government is trying to reintroduce competition. The Labor Party talks about jobs and job losses, when it presided over the old Public Works Department staff reduction from 8 500 people when it came into government to 3 500 people when it left. All of a sudden it is concerned about workers. This is the same party that wants to gut the timber industry in the south west.

Some of the benefits for the new entity will include operating efficiency and flexibility. It will have lower freight rates, higher capital expenditure, a network extension, on-rail competition and market growth. As the Minister for Primary Industry mentioned, farmers are about getting rail freight rates down, becoming more efficient and getting road freight onto rail in some of those places where that can be facilitated. It amazes me that the Labor Party, which has presided over more job losses in rural Western Australia than any party that I can recall, all of a sudden has become holier-than-thou on this issue. Instead of going around country Western Australia telling a whole lot of lies to people who are not fully informed, why does Labor not start telling the truth for a change?

Question put and a division taken with the following result -

Ayes (19)

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

Noes (29)

Mr Baker	Mrs Edwardes	Mr MacLean	Mrs Parker
Mr Barnett	Dr Hames	Mr Marshall	Mr Pendal
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Masters	Mr Prince
Mr Board	Mrs Holmes	Mr McNee	Mr Shave
Mr Bradshaw	Mr House	Mr Minson	Dr Turnbull
Dr Constable	Mr Johnson	Mr Nicholls	Mr Wiese
Mr Court	Mr Kierath	Mr Omodei	Mr Osborne *(Teller)*
Mr Day			

Question thus negatived.

LEGISLATION COMMITTEE

THE DEPUTY SPEAKER: I remind members that the Legislation Committee established to consider the Court Security and Custodial Services Bill and the Court Security and Custodial Services (Consequential Provisions) Bill is commencing proceedings in the Legislative Assembly committee room adjacent to this Chamber. On sitting days the notice board outside the Chamber will show which Legislation Committees have been established and when they are due to meet. Although only appointed committee members may move a motion or vote, any other member can participate in any of those committees.

RESTRAINING ORDERS AMENDMENT BILL

Second Reading

MR BARNETT (Cottesloe - Leader of the House) [4.05 pm]: I move -

That the Bill be now read a second time.

This Bill allows for the registration and enforcement in Western Australia of restraining orders originating in New Zealand

and other countries prescribed. It will ensure that people who have sought and obtained the protection of a restraining order in another country are afforded the continued protection of that order in this State.

The law in New Zealand relating to domestic violence was reformed recently with the commencement of the Domestic Violence Act 1995 on 1 July 1996. That Act provides for the enforcement of protection orders between New Zealand and other countries. Foreign countries must normally be prescribed by Order in Council, but Australia, and each of her States and Territories, was so designated at the time the Act was passed. As a result, as from 1 July 1996, New Zealand courts have been able to receive and register Australian court orders made for the protection of a person from the violent behaviour of another person. Once registered, an Australian court order has effect in New Zealand and can be enforced there.

At a recent meeting of the Standing Committee of Attorneys General in Melbourne, all Attorneys General indicated their support for amendment of the legislation of the respective States, where required, to allow for recognition and enforcement of New Zealand restraining orders.

Part 7 of the Western Australian Restraining Orders Act 1997 provides for the registration and enforcement in Western Australia of restraining orders issued in other States of Australia. The present Bill inserts a further part that provides for the registration and enforcement in Western Australia of restraining orders issued in New Zealand or any other prescribed country. The new part specifies the categories of persons who may make application for registration of a foreign restraining order; how the application is to be made; the actions to be taken by the clerk of the court on receipt of such an application; the effects of the registration; the impact on the order in Western Australia of variation or cancellation of the order in the foreign country; and, the impact on the order of variation or cancellation of the order in this State.

On registration, the order has effect in Western Australia as if it were a final violence restraining order made and served under the Western Australian Act. However, it is a defence to a charge of breaching the order to satisfy the court that the alleged breach did not constitute a breach in the country in which the order was made, or that the order had been cancelled in the country in which the order was made.

The clerk of the court that registered a foreign restraining order is to register any variation or cancellation of an order made in the originating country and, similarly, is to register any variation or cancellation of the operation of the order in Western Australia. The Restraining Orders Amendment Bill gives further effect to this Government's determination to ensure better access to justice for people who need the protection of a violence restraining order, by ensuring full reciprocity with New Zealand with respect to the registration and enforcement of restraining orders. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

CHILD WELFARE AMENDMENT BILL

Committee

The Deputy Chairman of Committees (Ms McHale) in the Chair; Mrs Parker (Minister for Family and Children's Services) in charge of the Bill.

Clause 1: Short title -

Mr CARPENTER: The Labor Party will oppose the clauses of this amendment because its members believe that they are wrongly focused. We applaud any move to improve child protection in Western Australia or anywhere else in the world. However, the problem is that this amendment seeks to legitimise a register which has been in existence for some time and about which genuine concerns are already held. Those concerns focus on a couple of areas: One of the areas is that while the children who have been abused or allegedly abused will appear on a register, and their personal details will appear on a register, there is no such requirement for the people who have abused, allegedly abused or who have been found to have abused children to appear on the register. This is a considerable concern to a large number of parents of children in the community. To give members an example of the sort of dilemma that erupts in this situation, I refer to one case which exemplifies several cases that have come to my office since I took over the portfolio of Family and Children's Services. In this situation, a young boy aged 12 years was sexually molested by a staff member at a school. That staff member was charged, found guilty and jailed for the offence. As this legislation presently stands, the offender's name would be recorded as would the child's. The parents of the child would ask why their child's name, in the circumstances that pertain to this case, appear on a register of this kind; it is a good question. The child has committed no offence. All sorts of implications flow from being listed on a register such as this. Other members of Parliament may have the same experience with other cases of people who have been found to have been offended against and are considered to be future or potential offenders. That sort of reality is currently being played out in a couple of cases before the courts in Western Australia. I found it difficult to come up with a rationalisation which would meet the fears and concerns that these parents had about their child's name being on the register. I do not believe it should be.

If we are to have a register that deals with child abuse, it should be focused on the offenders and not on those offended against. In the two or three months that I have been the shadow spokesman in this area, no-one has come to me and

supported the legislation as it currently stands. However, a range of people have expressed their concerns about the legislation. I will speak about those concerns specifically as we debate each clause.

During the period from last year until now when this legislation has not been debated, I was hoping that the minister would have had another look at the objectives that it seeks to achieve, and perhaps either build in more safeguards to alleviate the concerns of some of the people involved, or to completely refocus the legislation on the offender. The Labor Party would currently consider only approving a register of this nature if it were kept in an office other than in Family and Children's Services or any other department that delivers services to children. Fears are held in the community, and they were fears that the Wood Royal Commission justified, that the collation of sensitive information about children into an office which delivers services to children can lead to very unfortunate consequences.

Mr PENDAL: It has been many months since we last debated this matter and it is a bit hard in the space of a minute to refocus on where the debate left off. I will make a couple of overall impressions without getting into the detail of some of the amendments and some of the proposed sections. Overall, I think the Government is probably on the right track in wanting to minimise the number of occasions on which children in one form or another can be subjected to maltreatment. It is interesting that so much focus is placed on sexual maltreatment. I am advised that that type of offence represents the smaller number of offences when we are looking at the overall scheme of things and other offences such as physical abuse, emotional abuse and neglect of children are far more prevalent. If that is the case, I would be interested to hear from the minister at some stage early in the debate about where we are at in that overall understanding of maltreatment of children, and whether the sexual maltreatment that we tend to concentrate on is at the lower end of the scale of offences. It is not at the lower end of the scale in seriousness but in the overall number of offences.

That leads me to my view that the Government is heading in the right direction in wanting to extend in every way it can the protection of children in our society. However, that does not necessarily mean that the methods employed by the Government in every case should be accepted by the Parliament. I have concerns and I will express them at the appropriate time. I am worried about the provisions of proposed section 120F dealing with the level of detail - the names, sex, dates of birth and addresses of children - which will be entered on the register. The critics of that provision have a valid argument when they say that misused - and records can be misused - the information would play into the hands of people who are capable of the worst sorts of perversions. We will deal with that in due course.

The member for Willagee made a valid observation in expressing a general fear of this notion of accumulating a heap of data about victims and offenders, both convicted and suspected, around and within Family and Children's Services. My response to that issue is slightly different. The information should not be accreted to a centre in Family and Children's Services. Who should hold that sort of information? My immediate and considered response is that in the past, the information has been held by the Police Service and should continue to be held by it in the future. Does that mean that police officers are incapable of abusing the trust society places in them when providing that information? No, it does not mean that at all. Members should look at the shocking case where the police all but identified the alleged Claremont serial killer. Nothing was more desired than the removal of a man's fundamental rights in the leaking to the media of the police having everything they needed against this man except the evidence. It is an abomination that a police officer, whoever it was, should do that. Notwithstanding that lapse, the police are at least trained. Police officers have a culture in which they store away and add to information. In the main, police work for the day when that information can be turned into a successful prosecution. That is the best I can do in five minutes. I know the Government is seeking to do the right thing in the main, but I have some reservations in one or two areas which I will pursue in the committee debate.

Mrs PARKER: I intended to wait for all members to make their introductory comments, but I will address comments as they are made and deal with issues as they arise. The purpose of the Bill is to coordinate the services provided to children when it has been established that harm has occurred. This register does not seek to be a central database of people against whom allegations of abuse have been established through the court process or otherwise. The Government is committed to the principle of the establishment of a central database of people who have been convicted of offences against children. However, it has also said that such a database is best set up nationally. For the information of members, I have here the federal coalition's commitment to such a database. The Prime Minister is committed to the establishment of a national paedophile database and, through the Minister for Police in this State, this Government will be supporting national efforts in this area. Like the member for Willagee, a number of child protection groups have called for a focus on the establishment of a central database of people with convictions for child abuse. However, when that issue is raised, another issue consistently raised is that these people, by their nature, are mobile. The establishment of a state database will not be as effective as a national database. The Government is committed to a central database and it will support the Federal Government's initiative through the Minister for Police.

The member for Willagee said he was disappointed that I had not re-examined the objectives of the register, but it is important for all members to look at those objectives. This register does not take the place of the investigative role that, by statute, the Police Service and Family and Children's Services have in the protection of children at risk. What is needed in the Government's response to those children is a process across government to better coordinate the services provided where harm has been established to ensure that children do not fall through the gaps. The lack of coordination was confirmed by

the Wood royal commission report and in child protection literature. That is the essence of this register. As we proceed through this debate, it is important for members not to try to take issue with this legislation being all things to all people. The register is not attempting to fill the role of a central database of paedophiles. In principle, the Government believes that that must occur but it is far better for it to occur nationally. Last week, I announced that this State's Family and Children's Services was the first child welfare agency in Australia to establish a memorandum of understanding with the National Exchange of Police Information. That shows that this Government is committed to ensuring it has the best information with which to protect our children. However, this register and its objectives are clearly focused on the coordination of services across government to children who have been abused.

Mr CARPENTER: Several points have been raised by the minister. The objective of the Bill is to enhance the protection of children. Nobody would take issue with that. However, it is a matter of how that objective should be advanced and whether this legislation achieves that aim. The argument comes down to several categories. There are the offenders and those who have been offended against. The debate about the nature of the offence tends to divide into two categories, physical and/or emotional abuse and sexual abuse. The arguments in each category are somewhat different. A good case has been put to me by people who fear that this legislation will not enhance the protection of children when it comes to sexual abuse. They make the good point that we are opening up the possibility of the protection of children from sexual abuse being jeopardised by the establishment of this register.

I understand what the minister said about the Federal Government supporting a national database of paedophiles. Currently, no national database of paedophiles exists. Perhaps we should first deal with legislation along those lines so that some of the concerns about various aspects of this legislation can be dealt with in advance. However, what this legislation will do is to establish a database of children who have been the victims of sexual abuse by paedophiles. Although I do not know the statistics, I accept that a great deal of sexual abuse, perhaps even the majority, happens within the family and the home and is probably not of the predatory nature that we read about so often in the national Press. A substantial amount of paedophilia is not committed by members of the family but by other people on innocent children whom they do not know. The great fear that has been expressed to me is that, if a register of children who have already been the victims of sexual abuse is established, the details contained therein could find their way into the hands of people who are sexual abusers.

Without wanting to continually refer to the experience that was uncovered by the Wood royal commission, some substantiation exists for that fear, as outlined during the process of that inquiry. Why should the name of a child who has been the victim of abuse by somebody who is not a member of the family go on a register, including other personal details such as address and so on? In many cases, the offender is not prosecuted or convicted because of a variety of circumstances. Therefore, although there would be a register of children who have been abused, there would be no register of people against whom allegations of abuse have been sustained but against whom perhaps there has been no conviction. None of the amendments that I have seen adequately deals with that aspect of this legislation. I would not like to be part of a process which established a register, the details of which found their way into the hands of people who misused the information.

As we deal with this argument, I will turn to the inherent dangers for people who are given the information and the allegations that can be made against them. That is another area of concern. However, I want to focus at this stage on that problem with the register.

Mrs PARKER: Firstly, I will provide the member for South Perth with the proportions of the nature of the abuse that we are dealing with. Abuse is classified into four categories: Sexual abuse, physical abuse, emotional abuse and neglect. Thirty-five per cent of the current registrations are for sexual abuse, 30 per cent for physical abuse, 15 per cent for emotional abuse, and 20 per cent for neglect. Those proportions also reflect national data and registrations in other States.

I respond to the issue raised by the member for Willagee about the security of the register and the problem of the material falling into the wrong hands. Firstly, no new information about children is created for the register. It is important that members know that that information already exists in some other agency. The arrangements for the security of the documents which are held on the register are equal to the best that I have seen. The material is kept in a locked room. Only the manager and two assistants are able to access the information inside that facility. Everything is coded and can be accessed only by going through the encrypted code. Therefore, I am confident that the material is far more secure on the register than in the agency that provided the information in the first place. It is important to understand that there is no new information. Because of the software and the security of the register, it is impossible to create a list of the children who are on the register.

As I stated, only the manager and two assistants are able to physically access the information on the register. Under the legislation, the information held on the register is submitted by an approved person from an agency. If there is a second registration of the same child, and the manager determines that it is in the best interests of the child, both agencies will be notified that a second agency is dealing with that child. This is the essence of this legislation. Members will vividly remember the tragic case of Daniel Valerio. He finally died at the hand of his mother's partner. He had received services from 17 agencies. However, not one agency had communicated with another that that child had been receiving services. There is an expressed need in both national and international literature, as well as an expressed recommendation of the Wood

royal commission, that the services being delivered to children must be coordinated in a better way when it has been established that they have been harmed. That information cannot be coordinated if it is not on file. However, no new information is created or held on the register that does not already exist in an agency elsewhere.

The DEPUTY CHAIRMAN: Before I give the call to the member for South Perth, I have allowed a great deal of latitude in the debate on the short title. I remind him that we are dealing with the short title of this Bill.

Mr PENDAL: The minister made a number of good points, one of which is that the need exists to coordinate information about offenders. However, my problem is a real life one. I will explain what it is. We will soon deal with some of the definitions, one of which, at page 3, is a reporting agency, and one of which, under paragraph (c)(ii), is a public hospital or a private hospital. My problem with the minister's concepts is summed up in this question: What if the information is wrong? What if the information that we already have on various databanks is incorrect? I give an example. For four years I have been pursuing a matter on behalf of a woman in my electorate, a grandmother, who was accused by her estranged daughter of sexually molesting her grandson. The woman came to me distressed that that information is held on file by the Princess Margaret Hospital for Children; in other words, that we will be legitimising the proposed definition of a "reporting agency" on page 3 of the Bill.

It seems to me that a person is unlikely to go to a member of Parliament and to open up her heart about a dreadful allegation if it is truthful. Her quest was that the information that she had molested her grandchild was wrong and was preferred against her by a daughter maliciously attempting to get back at her mother. No matter what I did in arguing the case with those involved at Princess Margaret Hospital, we could not get the woman's name removed from the records. If those at Princess Margaret Hospital believed the grandmother had sexually molested the grandson, they had an obligation to go to the police and, in turn, if there was evidence of the complaint, for the police to prosecute the grandmother. They did not do that because the evidence was insufficient. Our whole justice system relies on the presumption of innocence. That person should not have to go through what she has been doing with me, as her member of Parliament, in attempting to prove her innocence. This is a reversal of the onus of proof. It is repugnant to what we believe in. This grandmother, a woman probably in her seventies, is stuck with a dreadful allegation that she sexually molested her grandchild.

I come back to the point the minister related to the House. I agree that we must do all sorts of things to minimise the occasions on which children can be maltreated, whether it be sexually, physically, emotionally or by neglect. I thank the minister for providing the statistics because they help to put some perspective back into the debate. My fear is that this Bill is concentrating on the wrong people. A little later we will talk about the inclusion of the name, address, sex and date of the birth of the child involved. We are given an absolute assurance that that information is sacrosanct and could never be abused. I do not accept that because, human nature being what it is, somewhere, some day, some time, someone will have an axe to grind or will push the wrong button on a computer thereby downloading the identification of the victims, as in this case, rather than the perpetrators; however, I will pursue that at another time.

Mrs PARKER: I agree with the member entirely about vexatious allegations and the great degree of distress they cause to those against whom they have been made. I, too, have constituents who have experienced great distress in knowing an allegation of this sort has been made and is on record somewhere. For that very reason and also, very explicitly, because of the issues of natural justice, this legislation does not enable the name of the person against whom an allegation is made to be registered unless there is a conviction. In this real life situation in which the hospital believes the abuse has occurred and a person was the perpetrator, if the registration were to be made under this legislation, the name of the child, the nature of the abuse and the service that is being provided would be registered, but all identifying information as to whom the hospital believed was the perpetrator would be deleted, for the reasons the member explained.

I agree with the member. Those issues are very important. They go to the heart of the principle of natural justice and must be protected. At the same time, we must also ensure there is coordination of those services to the children. The member asked why the hospital did not notify the police. In years gone by there were no formal mechanisms or protocols for those reports to be made as a matter of process. That is why, by agreement, reciprocal child protection procedures have been established between a range of government agencies, including Princess Margaret Hospital, King Edward Memorial Hospital, the Disability Services Commission, the Education Department, the Alcohol and Drug Authority, the Health Department of Western Australia, the Western Australia Police Service, the Ministry of Justice, the Coroner's Court and Family and Children's Services. Those protocols were established in 1996, and I will seek leave to table them today for the information of members involved in this debate. They are very important in addressing the issues identified in the system by the member for South Perth. I trust my comments have answered some of the member's concerns. The identifying information and the names of people against whom allegations have been made will not be registered unless there is a conviction and the principle of natural justice is enshrined in this legislation.

Mr Pendal: Does the minister see my point that we are entrenching under the definition of "reporting agency" the hospital's right to keep on record that allegation against my constituent? It is wrong to keep information which has insufficient strength to justify passing it on to the police and having her prosecuted.

Mrs PARKER: Since 1996, and under the reciprocal child protection procedures, as signatory to those protocols, the

hospital has an obligation to report the case to Family and Children's Services, which, in turn, has a responsibility to follow it up, to substantiate the abuse. If a criminal activity is believed to have occurred, the information is then passed to the police to undertake their responsibility in the matter. Before the reciprocal procedures were in place that might not have happened, but it has now been formalised in those protocols. I will give members the figures relating to those who perpetrate the abuse. For abuse perpetrated by a family member or family friend, the figure is 65 per cent, and "stranger danger" represents 15 per cent -

Mr Carpenter: Is that sexual abuse?

Mrs PARKER: Yes. For abuse by a duty-of-care type person in contact with the child, the figure is 15 per cent; and by a paedophile, 5 per cent.

The DEPUTY CHAIRMAN: The minister can seek leave to table the document for the information of members; however, that must be done when we go back into the business of the House because documents cannot be tabled while we are in Committee. I also remind members we are still dealing with the short title of the Bill. I noted the member for South Perth referred to matters on page 3, which contains a subsequent clause.

Mr CARPENTER: As I said at the beginning of the debate, the Opposition opposes the legislation. In just the few moments the short title has been discussed, some of the reasons for that opposition have begun to surface. I appreciate that there are perhaps unresolvable questions that we will be addressing. Whatever action we take or program we implement, there will be criticism from some quarters. However, I return to the short title and the objects of the Bill, which the minister said are to protect children from abuse.

Mrs Parker: To coordinate services to children who have been abused.

Mr CARPENTER: Does it seek to protect children from abuse?

Mrs Parker: It seeks to provide a better mechanism for the coordination of services to children against whom it has been established harm has been done. Do you have a problem with the objective?

Mr CARPENTER: No, of course not. Our concerns are that some of the aspects of the Bill will not enhance that objective; in fact, they may well open up the possibilities for potential further abuse or new abuse of children. Before we proceed, I ask the minister if, when developing the legislation, the Government considered whether such a register would be better placed in a department or office independent of Family and Children's Services? I ask that because I flagged it in the first five minutes of debate when considering the objects of the Bill and the concerns that have been raised. The Labor Party is of the belief that if such a register were to be legitimised, some of the concerns that have arisen will be alleviated if the register itself were not held within the department that delivers services to children.

In the upper House of this Parliament a motion was moved for the establishment of an office for children. We support the establishment of such an office if it is independent of Family and Children's Services and any government department so that it is not staffed by people who are delivering services but rather by people who would act as an overseeing body. It would report and be responsible directly to the Parliament and not to the minister in the same way the Ombudsman and others report. I ask the minister: Was that concept considered seriously in relation to the establishment of the register? Was any concern raised with the minister or the department by groups within the community about the establishment of the register and its housing in Family and Children's Services. In particular, did Aboriginal groups specifically indicate their preference for such a proposed register to be independent of Family and Children's Services? If so, why were their concerns dismissed? Was a body independent of Family and Children's Services dismissed on purely economic grounds because it would cost money to establish an office for children, albeit a relatively small amount in the context of overall government expenditure? Did the Government make a decision, based primarily upon costs, that the creation of an office for children would not be supported? Will the minister answer those questions before we proceed to debate the other clauses of the Bill?

Mr NICHOLLS: I was not planning to speak on clause 1; however, I make two pertinent comments. First, I believe that, as members of a Parliament, we should be striving to implement legislation that provides the best possible outcomes for our community. In considering a register for child protection, I do not support the minister's comment that it can be a register of services only. The register should be a child protection register. I do not have a problem with services being part of the focus; however, I believe that the amendment to the Act is deficient in that it does not make provision for the names of alleged offenders. I do not have a strong feeling about where the register is located, even though I am aware of strong feeling in the community about such a database being located within Family and Children's Services.

The DEPUTY CHAIRMAN: The member for Mandurah is straying into discussion on future clauses. I ask him to restrict his comments to clause 1.

Mr NICHOLLS: I am responding to comments made in the debate thus far. The point I make is that the short title involves amendments to the Child Welfare Act. The debate is about legislation to support a child protection services register. It is clear that I do not believe that the focus being simply on services is adequate. The minister made specific comments about the notion of reciprocal protocols. Although they are good, in my view they do not provide accountability.

I stress that there are concerns in the community about where such a database will be located. That is not the fundamental debate but the minister should be able to answer the questions from the member for Willagee. In doing so, she may be able to provide an insight into the reasons for the location of the register before we start the debate on the other clauses.

Ms ANWYL: I will make a brief contribution to the debate, given that we are dealing with such an early part of the Bill. Although we are dealing with the Child Welfare Amendment Bill, we are waiting for a more complete amendment of the child welfare legislation which has been promised from the time the minister has held her position.

Mrs Parker: It is a major rewrite.

Ms ANWYL: Absolutely.

Mrs Parker: We are hoping it will be ready by the spring session.

Ms ANWYL: It is important for members to be aware that we are awaiting - and have been for some time now - an important rewrite, as the minister says, of a number of different pieces of legislation. This Bill is just one part of the legislation which deals with child welfare in this State. We know already that in the last budgetary year, approximately $208 000 was spent on the register and that there were 1 847 registrations of abused children for the period 1 July 1996 to May 1998. I believe there were only 37 adults' names recorded because the Police Service has difficulty in releasing details of convictions prior to this legislation being enacted. The Opposition has always made it clear that it endorses totally the concept of part of the register recording the names of convicted child abusers in this State. There is absolutely no issue between the parties on that point.

I listened with interest when the minister talked about natural justice because one of the Opposition's main concerns is that the Government is very careful in protecting the rights of adults when there have been substantiated allegations, but it will not record on the register the names of those adults, or indeed children who have abused other children; however, it will record the names of children who have been abused. I, as an adult and a resident of Western Australia, often wonder who exactly in this State advocates for children. We do not have a clear advocate for children in this State. Without straying into that area, I return to the question I ask of all members here: Who will advocate for children? How can we have been so careful about natural justice for adults but not for children? How can we have so many children's names but virtually no adults' names already recorded on the register? How is it that the recording of adults' names will not be retrospective? How can we set up a register of adults' names but not trawl through existing police records to make sure that we have a full record?

The other issue is resourcing. If the register is a tool for coordination, that is all very well, but we know that there are difficulties in coordination. Nobody would dispute that. Last year a report was leaked to Parliament from the Child Abuse Unit of the Police Service in which police officers talked about the need for more resources and the fact they could not even get a computer to run an undercover Internet pornography operation, notwithstanding that it is internationally accepted that Australia is one of the top three problem countries for Internet child pornography. There was a notable case recently which is under appeal in relation to sentence. How can we be so sure that Family and Children's Services is the right place to house the register? How can we be sure that the issue is not about increasing the department's existing parameters? Many people in Parliament and in the community would argue that the department is not fulfilling its role of child protection. Within the concept of natural justice, how can we have one rule for children and no rule for adults? How does the legislation fit into the planned overhaul of the Child Welfare Act?

Mrs PARKER: I shall respond to the member's question in regard to natural justice for children. Again we must refer to the purpose of the Bill: How can we coordinate services to children who have been harmed if we do not have their names?

Ms Anwyl: You have their names.

Mrs PARKER: We must have their names. We must find a way to coordinate across agencies so that children do not fall through the gaps in care. Unless we have the names we cannot do that. The member asks why we have so many children on the register and not so many adults. We have so few adults on the register because allegations must have gone through the court process and convictions must have been upheld in relation to the relevant children who are registered for an adult to be registered. The priority objective is to coordinate services to children who have been harmed. If we do not have their names we cannot coordinate, and we would then fly in the face of the Wood royal commission's recommendation that we must coordinate better. We would then fly in the face of all the literature on child protection which consistently says that we fall down repeatedly by being unable to coordinate services to children who have been harmed. It is now accepted child protection best practice that we have a multi-disciplinary response, that there might be a need for counselling, that there might be a need for a health follow-up and that there might be a need for a health professional to deal with emotional trauma.

How will we have a multi-disciplinary response if we do not coordinate? That question was raised in the Wood royal commission's recommendations. The register is a response to that critical need so that we do not have a recurrence of tragedies such as that of Daniel Valerio, because we will have a central database that holds the names only of the children against whom harm has been substantiated and, in addition to that, the names of adults against whom convictions have been

recorded as abusers of children. There are far more children's names on the register because they are the primary focus. We cannot achieve what the register sets out to achieve or satisfy the Wood royal commission and the literature on child protection if we do not have the information to enable us to coordinate.

Mr CARPENTER: I appreciate that the minister was directing her comments at the questions raised by the member for Kalgoorlie, but I asked a series of questions and she indicated that she could answer them. Will she answer them, please?

Mrs PARKER: The member for Willagee said that he would raise his questions during committee debate, so I assumed that he would raise them again. If he wants me to answer them while we are discussing the short title, I ask him to repeat them, but he indicated that he would raise them during debate when it would be normal to do so. We are still debating the short title. Should you direct me to do so, Madam Deputy Chairman, I shall answer them.

The DEPUTY CHAIRMAN (Ms McHale): We have had a wide-ranging debate so I will give the call to the member for Willagee to ask his questions and then I will call the minister to respond.

Mr CARPENTER: I might have misled the minister and said that she could address the questions as the debate proceeded, but I do not think that I did so. I commented on other matters, including the role of the manager and so on. I see no clause that addresses the points that I raised. I refer to the process by which the Government rejected the suggestion - if it were put to the Government, and I assume on good advice that it was - that the best place to house such a register would not be in Family and Children's Services, where service delivery to children is vested, but in an independent body such as an office of children. Such an office was suggested in the upper House. The Labor Party believes that some concerns would be alleviated if the information were held in an office which was independent of any department, such as an office of children, and which would report directly to Parliament. I specifically asked whether concerns along those lines had been put to the minister or the department by Aboriginal groups and whether their concerns were discounted. I asked also whether that was done on the basis of advice that to establish such an office would incur a financial cost to the State and whether it was rejected along those lines.

Mrs PARKER: In regard to resources, absolutely not. That was not part of the consideration. As to whether Aboriginal people raised concerns regarding the independence of the register, the matter was raised by the Aboriginal health section of the Health Department. It raised some concern about that matter. To my knowledge and in my time as the minister, that is the only time the matter has been raised. Issues were discussed that were raised by Health relating to concerns of the Aboriginal health section. Some wording in the register was changed to make it more acceptable. We had originally called the manager a custodian. The word "custodian" was offensive to Aboriginal people and I was quite happy to find another name. The issues that they raised were negotiated to the point at which they were satisfied with the final form of the register.

As to whether the register should be independent of Family and Children's Services, the manager of the register will be appointed and will report directly to the minister. As such, I am accountable to Parliament. Although the register is physically located within Family and Children's Services, staff at Family and Children's Services will have no more or no less access to information via the manager than approved persons in other agencies will have. The accountability of an independent person is a philosophical issue on which we will make up our minds. We have a great democracy here under the Westminster system. As the minister I am responsible to the Parliament. If at any time there is debate, the member for Willagee's role will be to scrutinise some of those issues. Some people have made easy passing shots at Family and Children's Services and its performance and trustworthiness. The member for Willagee should agree that irrespective of whether it is under this or the previous Government, Family and Children's Services in Western Australia performs well and professionally in a very difficult role.

The issue of independence was raised by people from Aboriginal health in discussions with the Health Department and changes were made to their satisfaction. I will appoint the manager, who will be accountable to me as the minister. As I said, persons within the Family and Children's Services will have no more or no less access than the approved persons in government agencies who are covered by this legislation.

The DEPUTY CHAIRMAN (Mrs Holmes): I remind members that we are discussing clause 1, which is to agree to the short title; namely, the Child Welfare Amendment Act 1998. We should not be having a general debate on the matter.

Mr CARPENTER: Many of the points that we are addressing do not easily fit into argument under any specific clause.

Mr Pendal: It has been four months since there was a substantive debate.

Mr CARPENTER: The history of the thinking behind the register and the Government's position on it should be clarified. The minister's position on ministers' responsibility to report to Parliament is good in theory. However, from watching both sides of politics in government it is only a theory. It is more often honoured in the breach. The history of politics in Western Australia in recent years demonstrates that ministers have been very reluctant to report to Parliament about problems that might arise in their portfolio areas. Some very famous historical examples come to mind of where that failure caused considerable political difficulties not only in politics but also in wider society.

It is not good enough for the general community to be reassured by a minister who says that the manager of the register will report to her and that she is answerable to the Parliament. That is the very reason people want this register to be kept separate from the responsibilities of a minister and left under the authority of an independent body that will report directly to Parliament. In my experience, ministers tend to minimise the importance of difficulties that occur within their departments. In this case we are dealing with the welfare of children. Whatever steps can be taken should be taken to maximise the protection of children and delivery of services and to ensure that associated issues are dealt with in the best possible way. Therefore I and others believe the establishment of this register, if it is to be approved - there are some very grave problems with it - should be considered only by an independent body that reports directly to the Parliament. I feel very sorry for the manager of this register under this legislation. I know what will happen. I will bet money that as sure as night follows day the manager and anyone else who has direct access to the information will become the subject of allegation and innuendo. That person will be drawn from a body of people who have worked in the area of service delivery to children, the very organisations to which people believe paedophiles are attracted. Some people believe that in almost every organisation that delivers services to children paedophiles or people who are inclined to abuse children will be found.

I guarantee that the sensitivity of this information will lead people to make serious allegations, irrespective of whether they are founded, about the people who control the register. I feel very sorry for them. It could be avoidable if it were done by an office independent of government departments.

The DEPUTY CHAIRMAN: Standing Order No 133 states that no member shall digress from the subject matter of any question under discussion. Clause 4 of this Bill will give latitude to members to have a broad debate on issues relating to this Bill. However, at present debate on clause 1 should be confined to the short title. Members have had latitude until now. Once that has been agreed it would be advantageous to move on.

Mrs PARKER: Although I accept your ruling, Madam Chairman, I must respond to the member for Willagee as he has requested. In referring to the independence of the register and its operation and how that can be best achieved, its accountability and the level of angst and concern in the community that people have about something so sensitive, I remind members that within Family and Children's Services people have access to the Case Review Board or the consumer advocate, who will advocate on behalf of consumers who have a grievance. Outside the department cases can be taken before the Ombudsman. Members should believe, as I do, in the parliamentary process and the process of scrutiny through question time, grievances and a range of other avenues.

With regard to the amount of angst and concern in the community, this register has been in operation for some time as a pilot project, and while it has not been in full operation because some agencies have not had the necessary legislative protection to provide the register with information - for example, the Police Service - a significant amount of information has been recorded on the register. It is important to note that 2 600 names are on the register, and to date only three complaints have been made. A number of informal comments have been made by the parents of children whose names are on the register that they are grateful that we now have a mechanism that will seek to coordinate services for their children to ensure a whole-of-government response to their difficulty. The fact that only three complaints have been made indicates to me that the level of angst is more a reflection of fear of the unknown and of some of the mischievous discussions that have taken place, particularly last year during the second reading debate on this Bill.

Mr CARPENTER: What is the nature and seriousness of those three complaints?

Mrs PARKER: One complaint was from a person who had demonstrated symptoms of mental illness with regard to a concern about the information being sold to intelligence agencies. One complaint was from a person who had a record with the department for having a continually vexatious attitude; and we must consider that the department has more than 30 000 client contacts per year and that the nature of its business provides opportunity for vexatious complaints. One complaint was from a person who was extremely angry and abusive about the fact that the registration was occurring.

Mr Carpenter: Why?

Mrs PARKER: That could not be determined, because the person did not leave a name and was just abusive; that was the beginning and the end of it.

Clause put and passed.

Clause 2: Commencement -

Mr CARPENTER: Given that the register is now almost three years old, how was it set up in the first place without legislation, and why is legislation required now?

Mrs PARKER: It was not necessary to enact legislation to establish the register as a pilot project, and it has been operating in a limited form since that time, because some of the agencies have not had the protection of this legislation to allow them to provide information to the register. A significant proportion of the registrations have come from Family and Children's Services.

Mr Carpenter: Legislation was not necessary to establish the trial register, but legislation is now required because we are seeking to extend the register to other reporting agencies?

Mrs PARKER: Yes. This legislation is required in order that the eight government agencies that are listed in the legislation can be involved completely, because without this legislative protection, agencies such as the Disability Services Commission and the Police Service will not give information to the register.

Ms ANWYL: We know the names of the children against whom substantiated allegations have been made. When is the recording of the names of convicted child abusers anticipated to commence?

Mrs PARKER: The commencement date will be when the legislation has passed through this Chamber and the other place, because the police will then have the legislative protection to provide information about people who have been convicted of crimes against children.

Ms Anwyl: That cannot be reported now?

Mrs PARKER: No, and that is a limitation of the current register, which does not have the protection of this legislation.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Part V111A inserted -

Mr NICHOLLS: I move -

Page 2, line 18 - To delete "Services".

The minister has referred to the fact that the name of this register will be the child protection services register and, therefore, will focus primarily on services to children who are the subject of a substantiated allegation. I clearly indicate that it should be a register of children who are victims of substantiated maltreatment, and also include the names of the alleged offenders where the maltreatment has been substantiated. That is separate from the inclusion of the names of people convicted of maltreatment. I shall deal with that issue in clause 4.

Suffice it to say, unless this amendment is supported, the minister will no doubt take the opportunity to reaffirm that it simply will be a register of services; that is, not one designed to provide a safety net or to provide better protection for children who may continue to be at risk of maltreatment, having been identified as victims in a previously substantiated maltreatment allegation. I ask members of the Committee to seriously consider whether as a Parliament we should try to provide better protection for children through this register creation and not simply, at best, to make a half-hearted attempt. The easy option is to identify the children who are substantiated victims and who have already been alleged victims. These children often do not have the ability to provide for their own protection.

On the other hand, if members support the exclusion of "services" in the title, I can only assume that they are not totally committed to the notion of providing the best possible register and function. Members would then not provide, wherever possible, assurance and further protection through the inclusion of the name of an alleged perpetrator.

Mrs PARKER: I do not support the amendment. In response to the member for Mandurah, this legislation and the register provide a safety net and better protection for children through far improved coordination of services to those in cases of established harm. Importantly, as we said from the beginning of this debate in response to issues raised by the member for Willagee, the Government is committed to supporting a central database of paedophiles; that is, convicted offenders. That would be best achieved by way of a national database. We will continue to pursue that matter through the Minister for Police. Essentially, this proposal is for a register. Again, at the recommendations of the Wood royal commission and child protection literature, we need a better coordination of services. It is important that this register have the full title of the "Child Protection Services Register".

Mr NICHOLLS: I note with interest the minister's reasons for objecting to the change; namely, that it is planned to set up a national database of paedophiles. The minister and I both know that maltreatment of children does not simply involve paedophiles preying on children. We refer to people in the home who may be in a defacto relationship, or family members in some cases, who are not necessarily preying on children because they have a sexual perversion, but nevertheless may pose a risk because they harm children through a lack of parenting skills, through neglect or by not caring for or respecting the children under their supervision.

I note the minister's comment that this proposal is for a register of services which will somehow provide better protection for children. How will we provide better protection for children when we specifically and purposely refuse to collate information about alleged offenders? If it is okay to record the name of the alleged victim, why, pray, is it unacceptable to then record the name of the alleged offender in the same process, given that the register will be totally confidential, we are trying to protect children and we are supposedly dinkum about agency coordination?

The big issue is as follows: I refer to cases in which previous alleged offenders are not known. If one has a case of alleged maltreatment of a child involving an alleged offender who has previously been the subject of allegations involving another child, why does one continue to put the children's names on a register, but not that of the person alleged to be offending, repeatedly in some cases? Do we find it unacceptable for some reason to place those names on a register to further protect children? Why not ensure that agencies can be notified when they report that the alleged perpetrator has been previously identified in a number of different cases?

The minister and I both know that if we are to provide an effective response to protect children at risk of being maltreated, the notion of a national database of alleged offenders is absolute nonsense. I fully support the idea of a national database of people convicted of crimes against children. The minister and I also know that a substantial number of adults and juveniles in our community who allegedly commit offences, maltreat children who are not old enough to attend court and provide evidence so a court can convict. Nevertheless, these children are still being harmed in the same way by the actions of those people. The minister says that we should have a register which only coordinates the services delivered to the children being harmed, but does nothing to collate information about people doing the harm. Minister, we are talking about taking the easy option because we do not want to confront the civil liberties issues, and the problems which may arise when a person is identified as an alleged offender. We need to bite the bullet, minister - and bite it now.

Mr PENDAL: We are dealing with the amendment by the member for Mandurah to delete "services" from the title to part VIIIA. I had some sympathy for his earlier explanations for that deletion. It seems that we are creating a register primarily to assist children who are being maltreated in one form or another. It seems that the purposes of the register did not necessary require that the word "services" be used in the title of the clause. I had some sympathy for that point.

However, with the best will in the world, I could not possibly accept the argument of the member for Mandurah that a case can be mounted for a register to contain the names of alleged offenders; that is, people against whom insufficient information was gathered to mount a prosecution. The member cannot use as a throw-away line that it is merely a civil liberties argument. Nothing is "merely" a civil liberties argument. We are arguing about something utterly fundamental to our system of law - namely, the presumption of innocence. Frustrating as it must be, it is not good enough for police officers and child protection agency officers, who have their deep suspicions about the guilt of a particular alleged perpetrator, to cross the line and do at the departmental level what the courts of law are unable to do; that is, convict of their own volition. The whole principle of presumption of innocence depends upon and revolves around that one issue. It cannot be crossed; it is the Rubicon. It gets into a legal ballpark that dispenses with my rights, the minister's rights and the rights of every Western Australian to be protected against unsubstantiated allegations. There is nothing new in that; but it is so old and so well entrenched - justifiably so - that it would be a tragedy if this Committee endorsed a principle that is wrong at law, ethically and morally. That is why I said earlier that I found offensive, and I was amazed that Western Australians in a better position than I am were not repelled by what the police did in all but naming the alleged Claremont serial killer. I am sure that in one television program I heard a detective say that the police had everything they needed to get this bloke, except the evidence. I am sorry, but I happen to be old fashioned enough to believe that that is the one thing needed. That is what separates us from countries in other parts of the world that have dispensed with the rule of law and have no regard or respect for - not some highfalutin term, which the member refers to rather disparagingly in terms of civil liberties - my rights and everyone's rights.

In relation to clause 1, I referred to a most unfortunate situation in which a constituent of mine was accused of sexually abusing her grandchild, and that allegation is still on the record at Princess Margaret Hospital. She objects to that and so do I. The member for Mandurah effectively wants to upgrade that allegation - that belief people have in the absence of evidence - in order to put that person's name on the very register whose detail I already fear. We will get to that matter later when we talk about the name, birth date, address and other details. That scares the living daylights out of me. I sometimes think it should be done by code but, above all else, the Committee cannot do what the member for Mandurah has suggested.

Mr NICHOLLS: I respect the views expressed by the member for South Perth. However, I wonder whether he would be so forceful in his objection if he were also to extend that notion to asking why the names of children who have not been identified through a court of law as a victim of crime should be placed on the register. It is done because usually this involves very young or young children. It also often involves people who betray the confidence of those children and harm them, even though in our court system there is not enough evidence to bring those people to trial and convict them. I concur with the notion that people should be innocent until proved guilty. However, like the current minister and the previous minister, I have been exposed to a large number of departmental files detailing the harm that is done to children. One of my concerns is that some adults in society understand the limitations of the justice system and use quite deliberate and deceptive means to prey on children. Unless we are willing to put the welfare of those children at the highest level in our community, we might as well not worry about the register. If we say that we should not in any way identify people who have allegedly harmed a child - even if that allegation has been investigated and substantiated by the investigating group - simply because there is not enough proof to convict the person in a court of law, I have serious reservations about whether this Parliament is serious about protecting children.

Mr Pendal: We agree on the objectives but not on the method. Your method is unacceptably dangerous.

Mr NICHOLLS: I am not advocating that any information go on this register that is not already contained on a file within a government agency.

Mr Pendal: That is my problem. That is why my elderly lady from South Perth is in that position - unjustly accused and a government agency in a hospital keeps on file information that she allegedly interfered with her grandchild. You want to go one step further by identifying her.

Mr NICHOLLS: The flip side is a case involving a man who moved from the metropolitan area, went to a country town, got involved in a youth group and allegedly was maltreating young boys. When the investigations were being carried out, there was no link with the activities of the man in other locations in Western Australia. The investigating authorities had the capacity to proceed only on the basis of the information in that country town. If a substantiated allegation had been on the register, together with the man's name as an alleged offender, when the allegations arose in the country town, there would have been an immediate link between the allegations in that country town and those in the other locations. That would give greater protection to young people in that area.

Mrs PARKER: Members must remember that placing a child's name on the register is not a punitive measure; it is a measure by which we can better serve that child. Members must remember that. The principles of natural justice and the very foundation that these principles provide to our system of justice in Western Australia are fundamental. Although I share with the member for Mandurah the frustration of not being able to bring perpetrators to court and convict them, often because of the age of the children and their ability to testify before a court, we cannot violate the principles upon which the law operates.

Secondly, it must be remembered that the register does not replace the functions of the police or Family and Children's Services and their role in investigating allegations of child abuse. The matter raised by the member for Mandurah is a policing matter. This register in no way replaces the investigative functions of the police and Family and Children's Services when they receive complaints. The child protection protocols ensure an across-government approach, so that allegations are passed to the appropriate government body for investigation. The member for Mandurah would be aware that Family and Children's Services does not require a court decision to determine that harm has occurred to a child before it will act in a protective capacity. Although that consideration is made after a detailed assessment and on the very best of evidence that can be gathered by the professionals involved, the decision is made without the scrutiny of a court. The department has a statutory responsibility to provide care and protection for children. However, transferring to the register information from case files of agencies which have not been tested in the court flies in the face of the principle of natural justice.

Mr NICHOLLS: I commend the minister for standing by the line that she has held throughout the debate. I am interested in the minister's notion of natural justice. The police regularly release the names of people charged with an offence before they have been convicted in a court of law.

Mr Pendal: The difference is that they have been charged, which is necessary before there can be an open court hearing. The member for Mandurah proposes to name them even though they have not been charged.

Mr NICHOLLS: I raised this issue because the member believes it is okay for the police to make public the name of those who have allegedly maltreated children before they have their day in court. However, if they are found not guilty, they still carry the stigma, because it has been published in the newspapers and on television. We say that is natural justice and is part of the information system in an open and democratic society. This is a confidential register that no-one can access, yet it is okay to record it on the agency file or the Princess Margaret Hospital for Children file.

Mr Pendal: I am not saying that. I am objecting to that.

Mr NICHOLLS: Is the member for South Perth advocating that we do not record their names?

Mr Pendal: I do not know what the answer is for my constituent - a woman. I know that the current situation is unsatisfactory.

Mr NICHOLLS: If a person's name was brought up regularly, would that flag a need for a thorough investigation?

Mr Pendal: The police do that.

Mr NICHOLLS: The police do not investigate every allegation of maltreatment. They investigate only those allegations which, firstly, are deemed to be serious enough to warrant investigation, secondly, where there is likely to be evidence that could bring somebody to trial, and, thirdly, when the case warrants investigation. In Western Australia the police do not investigate the majority of allegations of maltreatment. The member for South Perth says we should not worry about those cases; we should worry only about the ones that police investigate. I commend the proposal relating to the coordination of agencies. However, we are not providing the safety net and coordinating our information where an alleged offender is identified across agencies within government. The minister is suggesting that natural justice should prohibit us from doing that, even though that term does not apply to the police who can name a person who has been charged, but has not been convicted. We accept that, but the minister does not accept the situation in which that person who is alleged to have

committed the maltreatment can be recorded on a confidential register when he or she has been identified on a government file. Natural justice is not at issue here. It is just too hard, because the agencies do not want to provide the information for fear of their investigation techniques being held accountable.

Mrs PARKER: That is not the case. We have spent a great deal of time discussing these matters during and after the second reading debate and we have agreed to disagree. I appreciate the member's frustrations. Bringing to justice those who abuse our children is a vexed area. Members in this Chamber find child abuse abhorrent. The member for Mandurah said that nobody would have access to that confidential list. There will be an approved person who will have access to this information to coordinate the agencies' response to the child in need. The information will be transferred to other agencies, and that is where the issue of natural justice becomes a problem.

The member for South Perth referred to a constituent who is distressed about her name being on a file at Princess Margaret Hospital for Children. That lady's name would not appear on this register unless a conviction were upheld.

Mr Pendal: I acknowledge that, but she objects to Princess Margaret hospital refusing point blank to remove her name. The hospital has taken legal advice to that effect, but the woman feels aggrieved, and I can understand her sense of anger.

Mrs PARKER: It comes down to the difficulty a professional has when dealing with a case to make judgments on how best to protect a child and whether to record that information in the interests of protecting the child, as against charges being laid. The professional needs to gather information in the course of that case management. However, when we take that information, which has not been subject to the scrutiny of the court, and transfer it to another agency, we upgrade the status of that information. That is where the problem lies. This register does not in any way weaken the role of either Family and Children's Services or the police who have a statutory responsibility to investigate. Reciprocal procedures exist to ensure that allegations are reported to the agency that has the responsibility to investigate and follow up. Where there is criminal behaviour those allegations are referred to the police. Child protection literature recommends this as a mechanism to coordinate responses in cases of substantiated harm. The aim of the register is to provide a better level of care and protection for children.

Sitting suspended from 6.00 to 7.00 pm

Mr NICHOLLS: I have outlined the reasons that I believe the amendment to remove the word "services" from the title of the register should be passed. As a Parliament, we should endeavour to provide the maximum protection to children who may be at risk of being maltreated and take every opportunity to ensure that our legislation is as positive and workable as possible. I understand the minister's view that this register largely revolves around the provision of services to children who have been the subject of a substantiated allegation of maltreatment. However, while there might be cases that community members can recall in which someone felt aggrieved because an agency recorded them as being associated with allegations of maltreatment, we have a duty to every child in our community to take every step possible to protect him or her from potential maltreatment or harm. Part of that process is to have a system that provides a child protection register in all senses of the term, and such a register would include the name of alleged offenders when the allegation has been substantiated. The minister indicated that no new information would be created to be added to the register; in fact, it would contain only information in the files of a government agency providing services or investigating allegations of maltreatment of a child or children.

The minister stated that we would be abusing the principle of natural justice in that we would somehow be infringing a person's rights by identifying them. However, the police openly provide the media with the names of individuals who have been charged with criminal acts involving children. Even if they subsequently go to trial, they have still been publicly named. We are talking about a supposedly confidential register that will be accessed only by approved personnel, who will also have access to case conference files if they are participants in such a conference.

I do not accept the minister's argument that she cannot, or that we should not, support the removal of the word "services" and subsequently the flow-on effect of having a register that is truly a child protection register as opposed to a collation of services to those children who have been selectively placed on the register, unfortunately in the absence of the names of the alleged offenders.

Mr CARPENTER: This amendment and the debate on it highlight the weakness in the way in which the Government and the minister have approached this issue. First, the member for Mandurah's amendment is not on the list of amendments. Under other circumstances I would probably support it. However, in the context of what the Bill will achieve, it does not matter. The Bill is fundamentally flawed. The Labor Party will oppose it and I have given some of the reasons for that opposition.

It is hard to believe that the legislation introduced and debated in the Parliament in September should reappear in March along with the minister's amendments.

Mrs Parker: They were circulated.

Mr CARPENTER: When?

Mrs Parker: During the second reading debate.

Mr CARPENTER: These amendments appeared today.

Mrs Parker: They were circulated.

Mr CARPENTER: They are not on the Notice Paper. The minister presented the new amendments today, when we began dealing with the Bill in Committee. They are not on the Notice Paper.

Mrs Parker: You have had those amendments for months.

Mr CARPENTER: I received the amendments today.

Mrs Parker: They were circulated in this Chamber during the second reading debate in response to issues raised.

Mr CARPENTER: The minister has not handled this legislation well. The former minister has come forward with a whole raft of other amendments. This is a Parliament in which individual members are allowed to put forward their own amendments. However, when we collate the two sets of amendments we find that they are substantial and that they emanate from the government side of the House - one lot from the minister and one lot from the former minister. It is most regrettable that we should deal with the legislation in this way. We are dealing with legislation which is fundamentally flawed in any case, and we are presented with amendments which would substantially change the way in which the legislation would be enacted. When we deal with legislation that is so sensitive to a certain group of people, it would be preferable not to proceed in the way in which we apparently are proceeding. The debate on the amendment has projected to other amendments that the member for Mandurah has circulated today and it will probably be repeated when those amendments are dealt with point by point.

On my reading of the legislation and of the minister's amendments, the legislation is all about a register of abused children which will also include the names of people who have been convicted of abusing children. That is the thrust of the legislation. We are dealing not with the delivery of service and the purpose of the register but with the register itself. The mere existence of the register - not the delivery of services - is causing great anxiety. The amendments that have been presented today will do nothing to alleviate those concerns.

Mrs PARKER: The Opposition has had notice of the amendment since the second reading debate last year. It has had months to come forward with matters for discussion or amendment. When the member for Willagee was appointed the Opposition's spokesperson on Family and Children's Services I had my staff telephone his office and offer briefings by me, members of my staff or Family and Children's Services staff. The member's comments are completely without substance.

I am sorry that so much is being repeated, but I am happy to respond to new information. The member for Willagee said that people are distressed at the very existence of the register. The people who would give the clearest measure of distress in the community are the parents or carers of the people on the register - some 2 600 of them. In respect of those 2 600 people on the register, the manager can determine that notification be deferred when that is in the best interests of the child. I am advised that about 1 per cent of notifications are deferred, but out of the 2 600 people who have been notified that their child's name is on the register there have been three complaints.

Mr CARPENTER: I do not want to divulge what is passed on at confidential briefings, but the minister is right: She offered a briefing, I accepted the offer and I was briefed. I asked about the amendments and I was told there were some minor amendments which related to punctuation. The minister can confirm that that is correct.

I take the minister's point that of the 2 600 people on the register there have been three complaints, but I do not necessarily accept that as the end of the argument. The minister will agree that it is undeniable that among people who are affected by the existence of the register there is great concern about the information that will be kept on it, the security of the register and the purposes to which it may or may not be put. I accept that the minister has had three complaints, but my office has been contacted by far more than that number of people who are involved in the issue and who are deeply concerned about potential misuse of the register. Their concerns are legitimate. It may be that 2 600 families are also concerned about the existence of the register but have not sought to complain because, after all, what good would it do? The minister has categorised the three complaints as being one from a person with a mental illness and two others which were not worth consideration anyway. Every member of Parliament knows that a range of people who are concerned about and affected by the activities of Government do not complain to the Government because they think that there is no use in doing so. If the proposed register were to be kept in an office of children which was independent of the minister's office, she might be the receival point of a large number of complaints. I assure the minister - I probably need not do so, because I think she accepts it as a fact - that there is great concern about the register. I do not believe the amendments that have come forward today do anything to alleviate those concerns. It is possible to do that, but we will not do it by our actions tonight.

Ms ANWYL: For the record, I have searched through my file and I have had notice of some amendments. Some

amendments have been on the Notice Paper - that has led to confusion - since we resumed this year and there appears to have been an earlier range of amendments particularly relating to the reporting agency requirements. That might help to clarify the position. Certainly, the member for Willagee did not have those amendments prior to today. Indeed, I received notice only late on Friday that the matter was to proceed this week.

Given that there are 2 600 children's names on the register - there are only 37 adults' names or convicted abusers' names on the register - what evaluation has the department done since 1 July 1996 when children's names started to be collected? I for one would be convinced if I could hear from the department or the minister exactly how the collection of those 2 600 names has assisted the department and other agencies in service delivery and the coordination of service delivery that the minister claims the legislation will allow.

Mrs PARKER: The register has not been formally evaluated because it has operated in a limited framework as there is no legislative power, as I have said, for the police and the Disability Services Commission to be involved. However, the advice of the acting manager of the register is that there have been clear indications through anecdote and circumstance that improved coordination has provided a better response to a child and that, when another agency has dealt with a child, it has been able to re-evaluate the quality of the assessment of that child. I know of one instance, about which I have had discussions, in which the level of the protective requirement of the child has been upgraded. By experience, we certainly know this is achieving the goal of better protection through better coordination. A formal assessment has not been carried out in anticipation of being able to get a broader response from other agencies because of the legislation being in place.

Amendment put and negatived.

Mrs PARKER: I move -

Page 3, line 10 - To delete "and" and insert "or".

Point of Order

Ms ANWYL: I have a query on a matter prior to that part of the clause. I seek your guidance, Madam Deputy Chairman. It is a long clause, so we will have this difficulty.

The DEPUTY CHAIRMAN (Mrs Hodson-Thomas): The debate should be confined to the amendment. If the minister wants to discuss that now, she may do so.

Debate Resumed

Mrs PARKER: This amendment is to the definition of "maltreatment". Instead of having (a), (b) and (c) the clause will read "or (c)". The amendment is merely to make the definition clearer.

Amendment put and passed.

Ms ANWYL: This will be awkward because clause 4 is extremely long and pretty much the balance of this Bill. I had a query relating to the definition of "approved person" which falls at the beginning of proposed new section 120A, which is the interpretation clause. Within the context of who is to be an approved person, I am pleased that the definition of "reporting agency", which occurs later, will be greatly clarified by an amendment which the minister has yet to move. However, the concept of an approved person in that agency is still critical. The clause is incredibly vague. It states that an approved person "means a person who holds an office or position in the reporting agency that is prescribed, or belongs to a class that is prescribed, for the purposes of this definition". It is not acceptable that we must wait until further down the track for a regulation to set out who is prescribed. We are talking about the entire department with Family and Children's Services, the Police Service and a range of other government and non-government agencies, some of which are subject to the mandatory police clearance system. I know the minister will say that part of her mandate is to have that system strengthened through non-government agencies. A lot of work is going on in the Education Department as well as other agencies. Given that there is some concern about the access of people to the register, confidentiality and so forth, it would be desirable that there should be some clarification of an approved person. I would like to see a much clearer definition within this legislation rather than rely on some form of regulation. Given that we will not have that, I ask the minister to spend some time explaining exactly to whom it is expected that approved person status will be given.

Mrs PARKER: On the advice of parliamentary counsel this definition was left as it was and not made more specific. This was for the very reason that the class and title of such persons change. It is not usual when drafting legislation to be so specific as to give the names of the approved persons. This legislation was based on that advice and what is usual when drafting legislation. The regulations will be developed and will of course have the scrutiny of this Parliament. The member can look at who those persons will be because the regulations will prescribe the persons or class of persons to be approved. The decision on which class and which positions will make up the approved persons will be made in consultation with the departments and agencies involved. Until such time as those regulations are in place and this Parliament has had the opportunity to prescribe them, the reciprocal child protection procedures will be in place.

Ms ANWYL: That is not good enough. I have asked the minister, with respect, to give us some indication of the type of person. If I may refer to the clause notes, they read that an approved person will be the person who either makes the report to the register and/or receives information on behalf of the agency that he or she represents. Are the regulations drafted? Given the length of time surrounding this legislation, I expect that they have been drafted. Surely the minister can give some guidance as to the type of person who will be an approved person. She may take the examples of a school, a hospital and the Police Service. I would like some further clarification.

Mrs PARKER: I understand that I cannot table it during committee, but I have here a letter from the parliamentary counsel's office referring to the advice we have received regarding the definition of an approved person. Parliamentary counsel writes that he does not consider it to be an advisable course of action; that is, putting in the Act rather than the regulations the designation of many of the positions referred to bearing in mind the fact that they are liable to change over time and so on. I am quite happy to circulate that letter for the interest of the member for Kalgoorlie. The member will see on page 15 of the copy of the child protection service registered protocols document that she has in front of her the type of person who is listed as an approved officer. For example, she will see that in the Education Department school principals and district superintendents would be approved persons. In Family and Children's Services they would be senior social workers at level 5, district staff and above. In the Health Department there are a number of people and areas which would include the social work section, heads of teaching hospitals, senior social workers, clinical psychologists, the King Edward Memorial Hospital and the Princess Margaret Hospital for Children. All of those and the Ministry of Justice and the WA Police Service are listed. As I have said, they would be or would contain the anticipated approved officers. They will be confirmed in consultation after this legislation is passed in the writing of the regulations.

Mr CARPENTER: I do not want to labour the point too much but this highlights one of the difficulties people have with this legislation; that is, who we will be dealing with, who will have access to, information, who will be the reporting people, et cetera. I understand what the minister said about parliamentary counsel's advice but when dealing with legislation, a Government must take into consideration the sensitivities of people in the community who are affected and have a genuine interest in the community. I believe the minister accepts what I am saying about the concern held about the use to which this information will be put, the security of the information and the amount of access to the information. Leaving the strict definition or the prescribing of who is an approved person to regulations will further heighten community concern about the construction of this register. Given the nature of the legislation and the subject matter we are dealing with, it would have been advisable to include a clearer definition of an approved person. If I or a family member of mine were to be potentially directly affected by the construction of this register and the possible dissemination of information from it, I would like to know through legislation the kind of people who would have access to this information. I would not feel confident about the looseness of the definition and the leaving of a more specific definition of an approved person to the regulatory stage given the minister's explanation. It may well be that we have nothing to worry about but some people are very worried about this piece of legislation. It would have been simple to let people know who will be prescribed as an approved person.

Mrs PARKER: Parliamentary counsel has advised the Government not to do that. The titles of positions change and if that were to happen we would not have anyone at a suitable level of seniority in an agency who could be an approved person. Therefore, it is easier to follow the regulatory process. The regulations will come before this Parliament for scrutiny; it is not as if they will not be open to scrutiny. I will not go against the advice of parliamentary counsel in this regard.

The security of the information is a critical and serious issue. One needs to know that only authorised, approved persons can request information from the register and, on the decision of the manager, can be given information only for the case about which they inquire and which they are already managing. It is not as if an approved person can ask for information about any or all cases - he can only ask for information about the case of a child with whom he is working. There is great security. The data stored on the register are among the most securely kept government records in the country and access to the register is limited to a manager and two assistants who have been subjected to the most stringent police and departmental checks. The manager has the responsibility of determining whether an authorised official can have the material upon request.

The member for Willagee mentioned downloading information prior to the dinner break. It is not possible.

Mr Carpenter: No, I did not.

Mrs PARKER: I am sorry. Someone mentioned it.

Mr Carpenter: It was not me.

Mrs PARKER: I am sorry. A member mentioned downloading information and one should need a code. One cannot download information and it is encrypted.

Mr CARPENTER: I anticipate our being able to debate some of this in more detail when we deal with the amendments circulated by the member for Mandurah. I take the minister's point about the security of information and its being disseminated to an approved person. That is, an approved person does not obtain information about a raft of cases, only the

case he has reported or has a direct interest in. I understand that but even in that instance there are reasons for concern. What is the security screening of approved persons? We still have only a relatively loose definition of an approved person and little if any explanation of the amount of security screening of an approved person and how that person's access to information will be screened. I would like the minister to address those points.

Mrs PARKER: All approved persons will be screened through the new memorandum of understanding with the National Exchange of Police Information, which is the most rigorous test in the country. I believe some of the member for Willagee's concerns relate to some irresponsible claims made last year about a list of children being made available to just about any public servant. I trust that is not the foundation of his concerns because there is no list. I have explained that it is not possible to produce a list. The claims about this list being distributed are not true. There are approved persons and members can see in the list I have circulated that they are people with a high degree of seniority in their agency and they have been screened with one of the most rigorous safety screens in the country.

Mr Carpenter: Have been or will be?

Mrs PARKER: Family and Children's Services presently screens all its staff and has upgraded its screening processes. Everyone who is an approved person has already been screened. I will not speak for the Minister for Education, but the Education Department is upgrading its screening procedures. There is a significant commitment by the Government to improve the screening process. The fact that we are the first jurisdiction in the country to sign the memorandum of understanding with NEPI is indicative of our determination to ensure that we access the best security screening information in the country.

Mr CARPENTER: I understand what the minister is saying and I will raise a couple of points. I find it difficult to believe what the minister has just said about approved persons having already been screened. A problem we have been discussing is the loose definition of an approved person. The list in the file distributed by the minister categorises approved officers and I assume these officers will be approved persons under this legislation. Is the minister telling the Chamber that in the Disability Services Commission, all social work supervisors, senior clinical psychologists, program managers, supervisors, local area coordinators; in the Education Department, all school principals and district superintendents; in the Health Department, all social work section heads, senior social workers, doctors, advanced community health nurse managers, community nursing clinical psychologists, managers and directors of nursing have all been screened? If they have, what did that screening entail?

Mrs PARKER: As I explained, people in Disability Services, for example, have not been providing information because legislation has not been in place. As I said prior to the dinner adjournment, once it is in place and the regulations set out who are the approved persons to provide the majority of registrations, certainly in Family and Children's Services, they will be screened. The others will not be providing information yet. Once the regulations set out and confirm who they are, the legislation will be in place so that they will be required to make those registrations. That screening process will take place.

Mr CARPENTER: From that reply I take it that only people in Family and Children's Services have been screened?

Mrs PARKER: I am advised that approved persons in Family and Children's Services and the Police Service have been screened. As the member for Willagee will be aware, they will be screened using the National Exchange of Police Information. We signed the agreement with NEPI only last week; we did not have access to that rigorous level of screening before. Family and Children's Services uses Interpol and the WA Police Service as the information bank. Now that we have access to NEPI we will include that.

Mr CARPENTER: I do not want to be too pedantic but we have gone from a position in which all these people have been screened, to one where not all of them have been screened; only some have been screened.

Mrs Parker: The people who are providing information have been screened.

Mr CARPENTER: For our peace of mind, what constitutes screening?

Mrs PARKER: I am advised that before we had access to NEPI the criminal record checks were done through the WA Police Service, Interpol and some eastern states checks, depending on the jurisdictions.

Mr CARPENTER: We may be reaching a position which is controversial. If the minister is saying that screening means checking whether a person has a police record, is it to see who has a conviction for some form of child abuse or are we reaching the situation the member for Mandurah seeks with his amendments whereby we are also trying to screen people against whom allegations of child abuse may have been sustained or made? As the minister will agree, there is a substantial difference in the categorisation of those types.

Mrs PARKER: The record check is against convictions only.

Mr CARPENTER: There will be a fair degree of concern about the fact that we are legitimising a process by which certain people approve of people who, on the face of it, will have access to information of a sensitive nature about children and the

criteria for screening is whether they have a criminal conviction related to child abuse. We should consider that very seriously. As the minister and her officers will know, many instances of child abuse are sustained to a satisfactory level by departments such as that over which she presides; yet no criminal convictions are made. If we are to establish a screening process, which we must have, it should be more comprehensive than merely assessing whether a person has had a criminal conviction for child abuse. I urge the minister to consider that given the nature of this legislation.

Mrs PARKER: I do not have an issue with what the member is raising regarding the need for the most rigorous standard of screening. This State is the first State to have its child welfare agency sign a memorandum of understanding with the National Exchange of Police Information because of our commitment to safety screening. Western Australia led a working party from the National Ministers for Community Services Council that agreed that we must have access to a national database so that those checks were of the highest rigour. I want to see the highest test in the land applied to the people working not just with the register but also throughout the department. That is my commitment.

Mr CARPENTER: I do not consider the criteria for screening at the highest level to be on the basis that a criminal conviction will disqualify a person and nothing else will.

Mrs PARKER: The person we are talking about, whether he be in Disability Services, the Education Department or Family and Children's Services, already has information about the child. He cannot receive information -

Mr Carpenter: You are changing the subject.

Mrs PARKER: I am not. It is absolutely crucial. The person already has information because he cannot receive information from the manager about a child unless that child is a case with which he is dealing and the abuse against the child is substantiated. That person already has access. That is why this Government has sought an increase in the rigour of safety screening. It is far better now than it was seven years ago. I understand Education and Health have also increased the rigour of safety screening so that we can protect our children. We must remember that. Firstly, we are the only jurisdiction in the country that has an agreement between its NEPI and its child welfare agency. The others will follow. We have pursued access to NEPI with vigour because we believe it is important.

Mr Carpenter: What does "highest rigour" in the land mean?

Mrs PARKER: It means that the quality of the information against which we can check -

Mr Carpenter: Criminal record?

Mrs PARKER: That is what I understand. Secondly, those people are already in a position in a department or agency in which they are dealing with the child.

Mr CARPENTER: I understand the minister's desire to ensure that the highest possible rigour is applied. I am saying that if the minister is relying simply on the existence or non-existence of a criminal record for child abuse, then the highest rigour is not being applied. I believe that most of the people with criminal records would be precluded through the job screening process from gaining these positions anyway.

Mrs Parker: In the past they were not even checked for that.

Mr CARPENTER: I agree, but they should have been checked for that. In the past we did not have a register like this either. I return to the concern about who will have access to this information. Most of the debate in the public arena and tonight has been focused on the manager and the two assistants as being the only people who will have access to the information because they will need to collate it. A broader concern is who will have access to the information that is passed out by the manager. Potentially a very large number of people will have access to that information. The screening process should go a bit further than simply determining whether a prospective approved person has a criminal record.

Mrs PARKER: Firstly, the approved people will be people who have a level of seniority in an agency. Secondly, the member has said that a criminal record check with NEPI is not good enough. No other test is available. We cannot deal with hearsay information.

Mr NICHOLLS: The member for Willagee correctly identified the shortcomings of our system of checking whether people are suitable to be in these positions. The dilemma is that we do not have any other information about people who are alleged to have harmed a child and about how that allegation has been substantiated. The minister said that this is the only test that is available. It will be the only test that is available if the minister and the Government persist with their position of not recording on the register the names of alleged offenders and how those allegations have been substantiated. However, if the register were to contain the names of those people, Western Australia would have a very simple and effective means of identifying people against whom allegations of child abuse had been substantiated. The member for Willagee's point is clear. The current system of checking is deficient, because it will allow a large number of people to have access to sensitive and detailed information. The minister clearly outlined that the deficiency of the system is that the agency that is authorising an approved person may not have information on its files to substantiate whether alleged maltreatment has occurred because

it does not know what information is held by other agencies in Western Australia. Therefore, we will not only deprive this State of the opportunity of identifying people who may be a threat to children or may have maltreated children, but also create a situation where the only checks that are available are the police checks in Western Australia and nationally. I commend the Government for moving to set up the protocols to allow the checks to be made nationally, but it still does not go far enough to ensure that information about children who may have been abused is not passed to people who may themselves be the subject of a substantiated allegation of child abuse.

Mrs PARKER: When an approved person contacts the manager and registers a child against whom harm has been substantiated, the manager does not give any new information to that approved person. A person in a position of seniority and responsibility who has been advised about the other agencies that are dealing with that child is not given any extra information. Rather, that person must already have had some information on file about that child in order to have been able to substantiate the harm, and that person might then, after having been advised that another agency was dealing with that child, make contact with the approved person in that agency in order to get a better picture of what was happening to that child. The person is already in a position of trust. The member for Willagee said that in the past, we have not had a register. We have had a Department for Family and Children's Services, a Department of Health and a Department of Education, where any number of people hold positions of great responsibility and trust. I am sure that every member in this Chamber who has children has entrusted those children into the care of these professionals at some time, probably every day as they go to school, and then to other agencies as the need arises.

The member for Mandurah commended the Government on its agreement with NEPI but said that is not good enough. At the moment, Australia has nothing better. That is the highest, most sophisticated and best quality information that we can access. We were able to enter into NEPI only last week. It certainly was a great step forward, and we must not underestimate it. We are talking about continual improvement in the services to protect our children. We must add to that the Federal Government's commitment to CrimTrac and the national paedophile database. Information is now beginning to come through that will be beneficial. At the time this legislation is passed and the regulations are in place, we will have the highest standard of safety screening in this nation.

Mr CARPENTER: The minister has just highlighted one of the reasons that there is concern about the establishment of this register. That concern is about what tests will be available for people who will have access to this information. The minister has just said that the best information we have so far is whether the person has a criminal record. Many people believe that is not good enough and have great concern about who will have access to the register.

Mrs Parker: What do you want?

Mr CARPENTER: I do not want the register. That is the logical progression. I have just highlighted one of the reasons that I do not want the register, and the Minister has agreed with me; namely, that the best we can do is say that a person who has a criminal record cannot have access to the register.

Mrs PARKER: The senior executives in government agencies in this State have access to the information about the child in any case. Will the member not trust the professionalism of anyone?

Mr CARPENTER: That is another interesting point. I wonder how much the minister understands her legislation. The minister has said that the approved person already has information. The approved person does not have the information. If the minister thinks that the approved person has the information, I direct her attention to clause 120J, at page 10 of the Government's own legislation. It says -

> **Access for approved persons**
>
> (1) On receiving a report in respect of a child, the manager may, if the manager is satisfied that it is in the best interests of the child to do so -
>
> (a) notify the approved person who made the report of the existence of any other information . . .

Under the legislation, the approved person does not have the information. There are many problems with this legislation, and the Government has not come to grips with enough of them, as it should have done. The approved person does not have access to all the information. He can get it if the manager decrees that he should.

Mrs PARKER: I am advised by the acting manager that the information that might be held on file by another agency is not given out. The approved person is given the names of other agencies that he needs to contact regarding services to the child. That is how the coordination takes place.

Mr CARPENTER: The minister has told the Chamber that the approved person already has access to the information. The Bill states that the approved person does not have access to the information, but the manager can give the information to him. Either the Bill needs to be changed because it does not accord with the minister's understanding of its operation, or she needs to come to a different understanding of its operation. Clause 120J, on page 10, states -

(1) . . . if the manager is satisfied that it is in the best interests of the child to do so -

(a) notify the approved person who made the report of the existence of any other information in the register in respect of the child and permit the approved person to have access to it; . . .

It is quite clear. Therefore, the scenario could be that a principal of a school or an approved person notifies the manager that there is cause for concern about a particular child, and the manager, if he deems appropriate, can then pass on or give access to any other information about that child to that approved person. The Bill says that. That is one reason that so many people are concerned about who will gain access to this information. The focus has been on what the manager might do with all this information, whether he will sell it or something like that. However, another concern is how much information an approved person will receive and who are these approved people. What sort of screening is done on these people? We have had a loose definition of whom an approved person will be; we have been told that screening of that approved person will constitute whether that person has a criminal record of, I take it, child abuse; and because the words are already in the legislation, it has now been confirmed, contrary to the minister's earlier assertion, that that approved person can gain access to other information about a child.

Mrs PARKER: To coordinate the services delivered to children, there must be an exchange of information. I am advised by the acting manager that in practice, for example, that principal, who is an approved person, is advised of what other agency is working with the child. He can have access to the name of that agency, make contact with it, and obtain the information about the child to make a better response to the child's needs.

Mr CARPENTER: If that is the intent of the legislation, it should say that. It does not say that. The legislation does not say that the approved person can have access to other departments which may have the information; it says that the approved person can be given other information. If the legislation does not mean that, it should be amended. I have a question on approved persons. In the period that the trial register has been in operation, which I think has been from some time in 1996 until now, approximately 2 600 children's names have been placed on the register.

Mrs Parker: As I am advised, yes.

Mr CARPENTER: Can the minister tell us how many people have been given access to the names of children on that register?

Mrs Parker: No, I cannot provide that information. I do not have it with me.

Mr CARPENTER: Could the minister give a rough estimation?

Mrs Parker: I am advised that the number is approximately 150 people. The great majority of those would be approved persons from within Family and Children's Services. The others would be from Princess Margaret Hospital for Children or the police.

Mr CARPENTER: I am trying to build a picture of why so many concerns exist. The focus has been on the manager. I am now dealing with the approved persons. We have been through a process which highlights the reason that people have concerns about who the approved persons may be. We are dealing with a register which, on the minister's own account, will be safer than Fort Knox; it will be harder to decipher than the nuclear missile codes for the United States. However, when I asked the minister how many people had access to the information, she did not know and could give only a rough estimation of about 150 people. If this information is being so carefully safeguarded, as it should be because it is so sensitive, there should be precise knowledge of how many people have been given access to it and who those people are. This underscores why people are worried about this issue. About 150 people have been given information about children on this register. Have all these people been screened by the police?

Mrs Parker: Yes, I am advised that Family and Children's Services staff, the police and the Princess Margaret Hospital staff have been. We can provide the member with information about the number of people.

Mr CARPENTER: It may or may not be the case. We do not know how many people have had access to the register; an estimation can be given. From the minister's comments, we cannot be certain that every one of those persons has a police clearance, which many people do not think is enough anyway.

Mrs Parker: They have a police clearance, absolutely.

Mr CARPENTER: Every single one of them?

Mrs Parker: Yes.

Mr CARPENTER: Is the minister certain that every person who has had access to any information from that register has a police clearance?

Mrs Parker: I am advised that the people from Family and Children's Services, the Health Department and police have, yes.

Mr CARPENTER: Is it only people from those three departments who have so far been given access to the information?

Mrs PARKER: Yes. I will reiterate that we have the register in response to the need to coordinate. The need to coordinate has been a consistent theme through the literature on child protection and recommendation from the Wood royal commission.

Mr Carpenter: Did the royal commission recommend a register like this?

Mrs PARKER: It recommended a mechanism whereby there could be a transfer of information. I can obtain a relevant quote for the member a little later, if he wishes.

Mr Carpenter: I don't think the minister has answered the question.

Mrs PARKER: It did not recommended a register per se; it recommended that more effective mechanisms be put in place to coordinate the delivery of services to children who have been abused.

Mr Carpenter: It didn't recommend the establishment of a register.

Mrs PARKER: No. I said that the recommendations from the commission and in the literature on child protection suggested a mechanism to coordinate services far better to children who have been abused.

Mr Carpenter: Did the Wood royal commission recommend a register?

Mrs PARKER: No, it did not. I did not say that it recommended the establishment of a register. I have said that, in the context of the literature and the consistent theme of better communication, the Wood royal commission said there must be better coordination.

Mr Carpenter: That is a far cry from this register.

Mrs PARKER: In the second reading speech I referred to the final report on paedophilia of the New South Wales royal commission which stated that it was necessary to establish a new commission - that is, a children's commission - with appropriate powers.

Mr Carpenter: Have you established a children's commission?

Mrs PARKER: No. We have not. We will have a register. The second reading speech continued that it was necessary to establish a children's commission with appropriate powers and the capacity to oversee and coordinate the delivery of services for the protection of children from abuse, including sexual, physical and emotional abuse and neglect. The report said that it should be set up in the context of a rationalisation of the roles of existing agencies and it should have more than a mere advisory role. That is exactly the function of the register. Under this legislation, the register will have the appropriate powers and capacity to oversee and coordinate the delivery of services for the protection of children from abuse. It certainly has more than an advisory role.

Mr CARPENTER: Without wanting to labour the point, what the minister has just read out is what we recommend. The minister is dealing with the establishment of a commission for children. That is quite contrary to what we have here. To justify what she is doing in terms of the recommendation of the Wood royal commission is a little - not totally - misleading. It is a pity the various models were not run past Wood to ask the commission whether it thought this model was satisfactory. There are all sorts of problems with the way in which the register is being established. It does not accord with those recommendations; far from it. It is a long way from it.

Mrs PARKER: Commissioner Wood would have been pleased with this improvement in the coordination, whether it is put within the framework of a commission or a mechanism on which the member and I agree, to coordinate the breakdowns that occurred in response to child abuse. They were a tragedy in the State on which Commissioner Wood was reporting. That is why we have said that we do not want the independent agency to be only a watchdog; that we want a positive, constructive mechanism to work within the Government and government agencies to improve the coordination between them, and that is what this register will do.

Mr CARPENTER: I refer to what the minister has quoted from Commissioner Wood. She is establishing something that does not accord with his recommendations. She has rejected the notion of a commission for children with an overall coordinating capacity. This register is not that. The minister's understanding of how this legislation will work is demonstrably deficient, from her own words. She has told the Chamber that the people who have access to the information, the approved persons, will not be given any information; yet this legislation quite categorically says they will. We can go on for two or three years pointing out problems with the legislation. As the night goes on, more problems will arise. A flawed system is being put in place. The objects under this legislation do not reach achievable status. That is why the minister is getting tripped up. The things the minister wants to do under this legislation will not be achieved. She wants to achieve what Wood recommended should be set up. The legislation does not do that. The minister wants a tightly regulated system where only specific information gets out to a very tiny number people. This legislation does not achieve that. It is too wide and too loose. There are many holes and potential problems in it. Eventually the minister's explanation of the legislation will demonstrate that that is the case.

Mrs PARKER: I move -

Page 3, lines 24 to 30 and page 4, lines 1 to 8 - To delete the lines and substitute the following -

(c) the department of the Public Service principally assisting with the administration of the *Education Act 1928*, or an Act that replaces that Act, in relation to government schools;

(d) the department of the Public Service principally assisting with the administration of the *Health Act 1911*;

(e) the department of the Public Service principally assisting with the administration of the *Young Offenders Act 1994*;

(f) the Disability Services Commission continued by the *Disability Services Act 1993*;

(g) the Western Australian Alcohol and Drug Authority established under the *Alcohol and Drug Authority Act 1974*; or

(h) a public hospital or private hospital (as those terms are defined in the *Hospitals and Health Services Act 1927*) that is prescribed for the purposes of this definition.

Mr NICHOLLS: I oppose this amendment and also foreshadow that should this amendment be lost, I will seek to move to delete the words on page 4, lines 6 to 8. I do so because I believe the amendment put forward by the minister substantially narrows the agencies that will be accountable for providing information and also limits their effectiveness if we are to have in place a true accountability mechanism across government for substantiated allegations of maltreatment to be reported to the register. In this context, again, if the minister truly believes this register will provide a coordinating function, I find it difficult to accept that the amendment she has put forward does not narrow the agencies that will be required to conform to this legislation. I suggest that this is because some agencies do not wish to participate, or the minister or the Parliament feels that the current clause is too wide and will hold the majority of agencies across government accountable for their actions in substantiated cases.

The only other reason I can think of for the minister moving such an amendment is that there is a degree of reluctance among government agencies to be required to conform with the legislation; and that concerns me greatly. The bottom line is if an agency is required to respond under this legislation but it is not an agency primarily involved in investigating or responding to child maltreatment allegations, it will not matter to the agency because it will not be required to respond if it never receives, or is never directly involved with, the disclosure of an allegation. There is no justifiable reason for amending this part of clause 4 to restrict it. I urge the minister to withdraw her amendment and support my foreshadowed amendment as a way of trying to resolve the issue of who will be responsible, who will be accountable and who will be required to act in concert should the amendment be passed.

The DEPUTY CHAIRMAN (Mr Baker): I will make a procedural ruling because there are essentially two proposed amendments which to a large extent overlap and to a certain extent conflict. There are two conflicting amendments to this part of the clause. In order to preserve the rights of both members, we will use the test vote. The amendment suggested by the minister proposes to delete certain words and substitute others. The amendment proposed by the member for Mandurah also proposes to delete certain words. In order to test the committee's view, I propose the deletion of the words that the minister wishes to delete up to the point where the amendment of the member for Mandurah starts. If that deletion is agreed to, the rest of the minister's deletion will be put to the committee. If the initial deletion is negatived, the member for Mandurah remains free to move his amendment. Therefore, as a test vote, the question now before the House is that the words from page 3, line 24 down to page 4, line 5 be deleted.

Ms ANWYL: The Government's amendment is better than the provision in the Bill. I have made representations previously to the minister in my capacity as Opposition spokeswoman for Family and Children's Services. The very wide definition of "reporting agency" was totally untenable. For that reason I am pleased that the amendment is proposed today.

I ask the minister how she views the legislation operating down the track. Subclause (g) refers to the Western Australian Alcohol and Drug Authority. As minister responsible for drug strategy, she is more than aware that community drug teams are by and large independent of government. They are contracted by government to provide drug and alcohol counselling services to the community. I would think they are not covered by this clause. Under the information relating to "approved persons", no drug and alcohol authority staff will be included in the drug service team. Will the expertise or information that may be needed to be accessed by community drug service teams be lost to the whole register system? Also, will the many community sector services which are contracted out these days fall outside the definition of "approved person"? Given that the minister has moved from the situation of prescribed classes, is she now satisfied that the full definition of "reporting agency" is likely to be static for some time?

Mrs PARKER: The member for Kalgoorlie will be aware that the community drug service teams are non-government agencies operating with funding out of the WA Drug Abuse Strategy Office. The register will reflect only the coordination

of services delivered by government agencies. Therefore, community drug service teams will not be included. They will be expected to report allegations of abuse to either Family and Children's Services or to the Police Service.

In answer to the member's question about the titles in the proposed new section remaining static, we have been careful to word it in this way in the event of agency name changes.

Ms Anwyl: Is that when the super ministry becomes accountable?

Mrs PARKER: Not necessarily. It was done in response to the issues raised by the member for Kalgoorlie. We drafted the amendment in this way so that the names of the agencies may change but they will still be covered by the legislation; whereas we would normally have put the agencies' names specifically into regulations. The amendment was drafted as broadly as possible in response to the member for Kalgoorlie's amendment so that the legislation does not need to be amended when there are title or name changes. This relates to the issue raised by the member for Kalgoorlie about the "approved person" being defined in regulation and not in legislation.

Mr NICHOLLS: I still have not heard the minister provide a reasonable explanation of why the current wording of the clause does not provide for that. I am also interested to know where the Opposition stands on the issue of agencies across government being required to conform with the legislation when they are contacted, are privy to a disclosure of maltreatment, or when they have information about the ongoing potential risk of harm to a child. I am sure that all members want any government agency that becomes aware of maltreatment to a child, or receives a disclosure of maltreatment, to be required to report that information either to the register or to an agency that can follow it up in an appropriate manner. When the minister looks at the previous wording of the clause under paragraph (c), she will see that it covers the majority of agencies and does not restrict or narrow itself to the major government departments listed in the minister's amendment. I reaffirm the view that we should be trying to ensure that children do not fall between the gaps of government agencies. I fear that going down the path of this amendment will simply set up the process for a lesser number of agencies being required to conform with the legislation due to the proposed amendment and other agencies that will be virtually unaccountable or not required to conform with the requirements of the legislation when it is proclaimed.

Mrs PARKER: What is a reporting agency? To be a reporting agency, it must have some involvement in child protection matters. Of course, we are reporting only substantiated cases of abuse. If other government agencies become aware of abuse, their responsibility is to report those allegations either to Family and Children's Services or to the Police Service, which would then become the reporting agency.

Mr Nicholls: What legislation requires those agencies to report that information to Family and Children's Services or to any other agency? I am unaware of any other legislation that requires those agencies to pass on that information.

Mrs PARKER: What sort of agency is the member talking about?

Mr NICHOLLS: The Bill refers to -

> (c) any -
>
> (i) department of the Public Service;
>
> (ii) public hospital or private hospital . . .
>
> (iii) agency, authority or instrumentality of the Crown in right of the State; or
>
> (iv) body, whether corporate or unincorporate, that provides medical, counselling, support or other services to the community under an arrangement with the State . . .

The minister proposes that we remove all that and list five or six agencies instead. The suggestion is a substantial narrowing of the number of agencies that will be held accountable. It also makes me wonder how the minister can provide a cross-government role with only a narrow band of agencies that are required to perform under the legislation.

Mrs PARKER: I have outlined the agencies that are part of the reciprocal child protection procedures. In the second reading debate the member for Kalgoorlie said that the definition was too broad and that we should clarify the intent of the legislation, and that was to coordinate service delivery across agencies that were directly or indirectly involved in child protection. The definition clarifies the intent of the legislation. As to other government agencies not having the legislative requirement to report, that is correct, but there is a moral duty to report. As I have said, a reporting agency is only an agency that has capacity to substantiate that harm has occurred to a child. I do not know what sort of agencies the member for Mandurah is talking about, but I suggest that they do not have capacity to substantiate that harm. Their responsibility is to refer their concerns to Family and Children's Services or the police so that substantiation can take place and a report can be made.

Dr TURNBULL: The vast majority of members on the government side of the House recognise that the Bill is an attempt to put in place across all departments a new system to register that a child is in danger. Mention is made of the departments

which might come into contact with such a child and, as the minister has said, have capacity to substantiate that the child is in danger. Although it could be viewed as a restrictive way of listing such matters, it is very wise to list the departments concerned. As the minister has said, the member for Kalgoorlie was concerned that the Bill should clearly define which departments have that responsibility. Parliament must consider that the laws that we set down are open to review at any time if someone considers that those laws might not be wide enough or that they do not fulfil their role. As we are considering a new process, it is wise to ensure that we define clearly which are the reporting agencies, just as it is important that we define clearly who are the approved persons. It is an important amendment and I support it.

Ms ANWYL: It is a difficult debate because we keep introducing other issues, but that is unavoidable; I am not criticising members. A moment ago I asked the minister about community drug service teams. The Alcohol and Drug Authority is a specified agency. It comprises community drug service teams which will have daily contact with children and adults when abuse may or may not be occurring. That opens a Pandora's box. The Bill was not designed to introduce a system of mandatory reporting across agencies. The fact that we do not openly discuss mandatory reporting makes the matter more complex.

Mrs Parker: It was raised by the member for Bassendean in the second reading debate.

Ms ANWYL: I understand the Government's position. Previous Governments have taken positions on mandatory reporting, which is a controversial issue, as the minister would agree.

Mrs Parker: There have been two reports in Western Australia in recent times. One was the family task force, and the other was chaired by a then member of the House, Carmen Lawrence. It recommended against mandatory reporting. The member for Thornlie was executive officer to that committee as well.

Ms ANWYL: The member for Thornlie might have been a committee member.

Mrs Parker: They recommended against mandatory reporting. As I have said, the member for Bassendean raised the matter during the second reading debate.

Ms ANWYL: Some comments by the member for Mandurah would extend beyond what appears to be the scope of the legislation and start to impose a statutory duty to report. I hope that if we witnessed something, were aware of something or received disclosures from children, as individuals, members of Parliament, or members of certain professions, we would take the necessary action and report the matter to the relevant authorities; namely, the Police Service or Family and Children's Services. We know that that does not always happen.

I want to be clear about the Opposition's position. It has concerns about the legislation and therefore does not support it as a whole. However, I am more comfortable with the narrower focus of the agencies. To that extent I support the amendment. Nevertheless, other interesting questions have been posed by the member for Mandurah. Given that the Government has a preoccupation with tendering out community sector services and that there is a tendency towards non-government agencies being increasingly involved in the delivery of community sector services, will the minister comment on how she envisages the issue progressing?

Mrs PARKER: For a long time non-government organisations have had a duty of care and daily responsibility for children in this State. The first examples that come to mind are private schools and child care. The community drug service team draws up a list of established activities that have care of children who are not part of the government system. That is a fine balance. Clearly, if there are concerns about the safety of a child, those agencies, whether they be private schools, child care centres or community drug service teams, have a responsibility to refer them to the statutory authorities that have responsibility for the investigation of that child abuse; that is, Family and Children's Services or the Police Service.

Mr NICHOLLS: I seek to create a process by which government agencies are required to report to the register disclosures, allegations or beliefs of children being maltreated. Mandatory reporting is not supported because in its true form, as was adopted mostly throughout the United States, it required large sections of the community to report any suggestion or belief they may hold that a child was at risk of or possibly being abused. It ties up a huge amount of resources to investigate the reports and overloads the system so that we cannot comprehensively and efficiently identify cases that need to be investigated and those that are child-concern reports.

The issue of mandatory reporting has created a dilemma in this sector whereby people apply that glib term to anything that may require agencies to report to a register. We already have a proposal to establish a register and the resources are available; therefore, I do not see that a requirement for government agencies to notify the register of child maltreatment allegations is an onerous task or something that will overload our investigatory system. It would provide a safety net to ensure that disclosures of children at risk of or possibly being harmed do not lie in the too-hard basket and that agencies, whether Main Roads or the Department of the Environment, have the responsibility of reporting a disclosure to the register. That does not mean they must undertake an investigation if they are not equipped to do so. It does not mean that every allegation must be formally investigated or that we must set up a huge infrastructure.

If on the other hand the minister suggests that by reporting all allegations to the register the system will be overloaded, then we have a problem within the Public Service because many of those allegations are not being reported, assessed or acted on. That is what I want to avoid with my efforts to extend the register to one of collated information of children who have been or are being harmed, when allegations have been substantiated, and of alleged offenders who have been identified in substantiated cases. If we do not have an across-government requirement, agencies will abrogate their responsibility because they do not come under the Act. That is the last thing we want.

Mrs PARKER: I said in my second reading speech -

> Mandatory reporting has resulted in frequent and unnecessary investigation and often has fuelled alienation of the child welfare agencey as coercive and intrusive. In Western Australia the reporting rate by education, health and welfare professionals is either equal to, or higher than, those in other States that have mandatory reporting. Those are interesting comparisons. No evidence is available to support the presumption that mandatory reporting reduces the incidence of child maltreatment.

Under the existing protocols the Government established in 1996 all relevant government departments and agencies are required to report all allegations of child abuse to Family and Children's Services or to the police for appropriate action. I said that all relevant government agencies are included in this legislation. The reporting agency must be able to provide a substantiated case of abuse. I am not sure how Main Roads could become a reporting agency. Clearly people both in government and in non-government agencies have a moral responsibility to report their concerns and allegations to those relevant departments - police and Family and Children's Services - for appropriate action.

Mr NICHOLLS: The minister can refer to her second reading speech as much as she likes. Mandatory reporting is not supported because of resourcing. I foreshadowed my argument because it is my intention to move that the register be notified of all child maltreatment allegations, irrespective of whether they are deemed to be substantiated, simply as a check and balance against the data held on the register so that a more comprehensive record can be kept and possibly far more effective protection given to the child. There is no doubt that if the legislation remains as it is a limited number of allegations will be notified to the register. A large majority of the allegations will be dismissed on the basis that they are not substantiated. There will be no check and balance and a narrow band of agencies will be authorised to report as opposed to having an obligation for all agencies across government to notify the register of any child maltreatment allegation.

Mrs PARKER: The member for Mandurah and I have a difference of opinion regarding whether we would put allegations onto this register. I made it clear at all stages in the debate that the Government would not support putting allegations onto the register. We had that debate earlier.

Mr Nicholls: I do not support that either.

Mrs PARKER: The member for Mandurah referred to all government agencies being able to report allegations to the register and referred particularly to Main Roads. We will agree to disagree on that. The Department of Family and Children's Services is the statutory body that has the responsibility for investigating all allegations. The register does not have a mandate to investigate allegations. It has a mandate to coordinate the service delivery to children when it has been established that harm has occurred. The investigation of allegations is the function of Family and Children's Services and the police.

Dr Turnbull: That explanation was clear and it has been my understanding also.

Amendment put and passed.

Mr NICHOLLS: I move -

> Page 5, line 13 - To delete the word "excluding" and substitute the word "including".

Proposed subparagraph (i) would then read -

> the maltreatment or suspected maltreatment of a child, including information that identifies or is likely to identify a person as a person suspected of being responsible for the maltreatment or suspected of maltreatment; or

This amendment will achieve what I believe should be a function of this register; namely, to contain information identifying the alleged perpetrator of maltreatment when that allegation has been substantiated. I have listened to the minister's explanation of why this should not happen, and to the debate about how this register will provide a safety net for children. I have contemplated the loss of opportunities should this function not be included. I do not support the minister's argument that natural justice will preclude the inclusion of information about alleged perpetrators. I do not support the notion that the register that is proposed in this legislation will provide a coordinated and centralised process for identifying children who may be at risk and also people who may be a threat to children, albeit that they have not been convicted of a criminal offence in respect of harming a child. A large number of children are harmed by people in our community who are not subsequently convicted of a criminal offence. A large number of people who move through our community and have a close liaison with

children may have been the subject of allegations of child abuse. This legislation provides no way of effectively identifying those alleged offenders.

This amendment is simple and straightforward. It will provide the legislative basis for the register to contain the names of alleged offenders when the maltreatment has been substantiated. It will also provide a remedy for the issue raised earlier about checks on people who may not be suitable to hold positions that are critical to the protection of children. It may also provide an effective way for the police to further their investigations if allegations of criminal activity have been made previously but no evidence is available to support a conviction.

Mrs PARKER: We had this discussion during the debate on the title of the Bill. The Government does not support the inclusion in this legislation of the names of alleged offenders. The member for Mandurah said that this is a simple amendment. It is a very significant and breathtaking amendment. We have already had a debate about whether we will challenge the principles of natural justice and the presumption of innocence. This amendment is not simple and will have a significant impact, and the Government does not support it.

Mr NICHOLLS: This amendment goes to the heart of my objection to this legislation. If we are genuine about protecting children in Western Australia against potential harm and about identifying individuals who are a risk to children, I suggest there is a strong case for arguing that natural justice should be infringed. If this register is to remain confidential, as the minister has said continually, and if the only information that will be contained on it is information that is already on government agency files, then the Minister's stance suggests that she is unwilling to go the next step of protecting children from risk of harm. The minister is refusing to accept the notion that the names of alleged perpetrators should be placed on the register. A number of children are maltreated in this State by people who move around the community and are quite proficient at circumventing the requirements for evidence with which the police are required to comply in order to obtain a conviction. The minister will know also that in many cases, the children who are maltreated are too young to provide credible evidence in a court of law, and in the absence of other evidence that will satisfy a court, the alleged offender will get off scot-free. The child who has been the subject of that maltreatment often lives with that for the rest of his or her life. The reason that a number of young adults seek a remedy in the courts some 10, 15 or 20 years after the maltreatment has occurred is that when that maltreatment occurred they were too young to give credible evidence to the court. The problem that we face is that the alleged perpetrator often remains unidentified within our community and is a risk to other children.

If the minister genuinely wants to protect children from harm, she should be arguing that the names of alleged offenders should be included, rather than steadfastly objecting to the identification of these people. Without the identification of an alleged offender, this register is very much a toothless tiger, and there is no avenue to coordinate that information across government. The minister's arguments that oppose the identification of an alleged offender are based on a weak premise and do not put the interests of children at the highest point of the argument. It simply gets back to putting it in the too-hard basket. It takes the easy route out, because the children who are the victims literally cannot take action to object or protect themselves, and they are often in a situation in which they cannot do anything to change their current living arrangements or environment.

Mr PENDAL: I reiterate something that I said earlier about this matter which is before the committee. I understand that the member is motivated by the best intentions. His view is that if any way can be found to entrap a suspected child molester, the ends justify the means. To some extent I understand that. However, in the final analysis, if that view were applied to our system of justice, innocent people would be entrapped. It has been said previously on countless occasions that it is better that 99 guilty men go free than one innocent person be wrongfully convicted. I take that stance.

The member's argument placed a great deal of store on the capacity of a court not to put too much emphasis on the evidence of a person of tender years. There are good reasons for that, which have been borne out in all sorts of appeals in this country and in liberal democracies around the world. By and large, a child can make assumptions and judgments against a person of a more mature background. Therefore, a court must take into account whether that is a mature view and judgment made by that child. I recall that several years ago in this Parliament we were considering a Bill which dealt with whether a child should be saved from the humiliation of appearing directly in front of an accused. The idea was to minimise trauma. Methods of hearing evidence by video were implemented. To this day, apparently, evidence is sometimes given behind a screen, thereby minimising the chance of trauma to a young witness by not being confronted by an accused. Many people find that a worrying trend as well, because one of our long-established principles of justice is that every accused is entitled to meet his or her accuser. That very meeting of two people in that admittedly traumatic circumstance is intended to put both of them to a test.

Similar to the member for Mandurah and, I suspect, every member in this Chamber, I have no desire to protect a guilty person, especially one who is involved in the maltreatment of a child. By the same token, this Chamber must be careful - I think the Government is being careful in this instance - to ensure that the tests that have been established over decades must be passed before a person's name is entered into, as in this case, a register. To do what the member for Mandurah desires would turn on its head everything that this Parliament stands for with respect to the onus being on the authorities to prove beyond a reasonable doubt in a court of law that a person is guilty. When that is done, that is the occasion on which a

person's name can properly be entered into a register. It should not be done simply because a frustrated policeman or child welfare officer feels in his or her bones that a person is guilty. That is not good enough. Other civilisations and countries have fallen on their knees with those reduced tests. It would be a grave error if this Chamber went down that path. I am pleased that the Government is resisting that.

Mr NICHOLLS: I respect the view of the member for South Perth and his attitude that all matters of guilt should be determined in a court of law. In a model society, we would all agree with that. However, children are currently removed from their parents and made wards of the State without the matter going through the court or guilt being proved -

Ms Anwyl: Without criminal charges.

Mrs Parker: It must go to court.

Mr NICHOLLS: Without criminal charges, thank you. A care and protection order goes to the Children's Court. However, we do not require a process of criminal charges against parents being brought before a court to identify whether they are a danger or a risk to the children. As members of Parliament, we can freely authorise a process in our society whereby a department can institute the law, remove children from their parents, in some cases permanently, without criminal charges being laid against those parents who have the potential to harm their children and who are deemed to be a risk to their welfare. The folly of the member's argument is that only people who commit criminal activities and who are found guilty in a court of law are a threat to children. That is not the case. We are dealing with people whose actions, or lack of action, can seriously jeopardise the welfare and safety of a child. If that is the case, they are a threat to other children, in some cases siblings, with whom they may come into contact. I am not referring simply to cases of sexual maltreatment, which is the normal understanding in the community when dealing with child abuse. I am talking about cases of neglect and physical maltreatment.

Mr Pendal interjected.

Mr NICHOLLS: Yes. Although I am aware of the need to have stringent controls on this information, the minister has clearly explained that only substantiated cases of maltreatment will be recorded on the register. We are not talking about a flippant process whereby a person says that because he is disenchanted, he will put somebody's name on the register. However, if this Chamber accepts that a child's name will be placed on the register because he has been identified as a victim of a substantiated child maltreatment allegation, why is it not acceptable to also include the name of the person who is alleged to have committed that maltreatment?

Mr Pendal: I refer to clause 120F. I and some other members take exception to the fact that the name, the sex, the date of birth and the address of the child is to be recorded.

Mr NICHOLLS: Therefore, we should seek to amend that clause to ensure only the bare essential information is recorded. If we want to provide a safety net, a process that coordinates across government all our efforts to protect children wherever possible against harm, this amendment should be supported by everybody. I intend to call for a division on this amendment should another member support my foreshadowed amendment. It is fundamental to the process across government of protecting children within Western Australia and to my objections to the Bill as it is drafted.

Ms ANWYL: I refer to what has been said by the previous couple of speakers. This information is already in the grasp of the department and/or whichever agency may be making the report of the substantiated allegation. The information on the identity of the alleged abuser is already there. That name is already in a file somewhere. I have difficulty with the idea that because all the information about the children is already within someone's knowledge, it is okay to put it on the list; yet for the adults we hesitate and have a different concept of natural justice or other reasons that that information about the alleged abuser, the substantiated abuser, or whatever language we might like to use, cannot be exchanged. The information on the child and the alleged abuser is already located somewhere within government files. As has been adverted to before, if that information exists in non-government agencies' files, it will not be part of this whole process, but it will be for government agencies. I seek the minister's clarification on why we have the separate rules in relation to the child and the alleged abuser.

Mrs PARKER: We have had this debate about the allegations from the very beginning of this committee stage. I have made the position of the Government clear. As to putting the name of the child on the register but not that of the alleged perpetrator, the child's name is not on the register for a punitive reason; it is there and can go on the register only when the abuse has been substantiated. It is so we can better coordinate the services to that child. The problem with recording the allegation - I will not repeat myself unnecessarily because I have said this previously when talking about the issues of natural justice - is that once we start to transfer that information, we give credibility to the accusation, and that is where there is a significant problem with issues of natural justice and the presumption of innocence. For that reason, the children's names go on the register, and only when an offender has been convicted in a court will that name go onto the register.

Mr NICHOLLS: My intention is to seek to amend this legislation so this information is not freely available, and the only information provided back to agencies is where there is a match, either of the alleged offender or the alleged victim of maltreatment. If I heard the minister correctly tonight, when we talk about protecting children against those people who have

made threats to them, she said that approximately 2 600 children are currently identified on the register, and I think she said that 37 people have been identified as being convicted of criminal offences. I suggest to the minister that if there are 2 600 substantiated cases of maltreatment in this State and only 37 people are identified as being a risk to children, we are extremely naive or the system is deficient.

The minister can argue until this Parliament falls down that natural justice is a process that should definitely be regarded as being of a higher value than protecting children from those who are a potential threat to them. Across the community most people would support the notion that we must do our utmost to protect children from those who may pose that threat. I understand the argument being put forward that these people have not been convicted; however, I reiterate - I am sure the advisers will confirm this - that a number of children are maltreated through processes that are not deemed to be criminal acts, as such, but nonetheless are a risk to their safety and their lives, in some cases, particularly when talking about neglect and young children. I reject the notion that natural justice is a barrier to record these names and the premises on which the minister is trying to defend this Bill. I object to the exclusion of alleged offenders in substantiated cases and to the notion that somehow we are providing a better child protection service and coordinating our efforts to protect children against risk when purposely we do not include possibly the greatest threat to children's safety, the alleged offenders.

Mrs PARKER: There are few convicted persons on the register because the police are not providing the information as they do not have the protection of this legislation.

Mr CARPENTER: We are focusing on the amendment that has been suggested by the member for Mandurah. In its raw form, the amendment would go in the direction that we indicated we thought the legislation should go in; that is, the focus should be more on the offender than on the person who has been offended against. The dilemma that arises is that this amendment would substantially change the nature of this legislation. If we are seriously to consider an amendment like this and the concepts and impacts that go with it, we need a much more sustained debate which should be the subject of legislation on its own, rather than an amendment that comes forward when very few members are in the Chamber. For that reason, we have a problem with the foreshadowed amendment. At the moment in the British Parliament, legislation is being introduced which will require a similar, although not exactly the same, recording of offenders against whom these sorts of allegations have been sustained without a conviction necessarily having been recorded.

The screening process we referred to earlier applies to those people applying for work involving contact with children. Everyone recognises there is a great difficulty in getting convictions in respect of crimes against children, especially very young children. A very intense debate is underway in Britain about the merits or otherwise of this development and the civil liberties issues. That relates to persons against whom allegations have been substantiated.

If this amendment were passed, we would be several steps past that. As the minister has said, the allegation of maltreatment must be substantiated in order to be recorded on the register. However, the allegation of maltreatment by a particular person does not need to be substantiated. It could be very easy to determine whether a three-year-old girl had been raped. Therefore, an allegation of maltreatment can be easily substantiated in that case. However, determining the person responsible for that act is a different matter. Four or five people might be under suspicion of having committed the offence. Under this amendment it would be possible for all four or five people to find themselves on the register because they are suspected - that is the wording - of being responsible for a confirmed case of maltreatment. We must be very careful in going that far.

We must debate the whole concept of offenders appearing on registers and at what point we draw the line. We cannot do that now while we are making amendments on the run.

The Opposition agrees that if there is a register it should focus on the offenders. It is the point to which we go in creating that register that becomes the critical question. That has been the nature of the debate between the member for Mandurah and the member for South Perth. There are good points on both sides and that is why we have this moral dilemma. The United States has faced the same dilemma.

We would be causing a huge shift by allowing people who are merely suspected of a confirmed case of maltreatment to appear on a register. Who has access to that information? Why do they have access and to whom can they pass that information without penalty? We have not touched on that issue in this debate. Some serious difficulties arise with an amendment of this nature.

Mr NICHOLLS: I am disappointed at what I believe the member for Willagee is foreshadowing; that is, that the Opposition will not support my amendment. I am also intrigued that the member makes reference to needing to debate the issue. That is exactly what we are doing, albeit I concur with his view that a substantial debate specifically on this issue would be helpful. However, when I look at this Bill I see that there are limited opportunities to move amendments that would effectively provide for something different and still be in line with the legislation before the Committee. I make no secret of the fact, and I have stated in the second reading debate and many times tonight, that I believe alleged offenders in cases of substantiated maltreatment of children should have their names recorded on the register. I understand the dilemma that that may pose in that people may feel aggrieved or that natural justice may not result. However, I stress that if allegations

were made to separate agencies over a period of, say, 12 or 24 months, and a particular name arose on a number of occasions, that would give rise to the agencies involved having a close look at the involvement of that individual or individuals.

I agree with the member that we must be very careful about the breadth of the net. However, I make it clear that we are talking about maltreatment of a child. If a child has been maltreated and if there is enough information to substantiate that that maltreatment occurred and to identify an alleged offender, I do not see the basis of the argument that that person's name should not be on the register because the name is on the departmental files and would remain there. Obviously without the Opposition's support this amendment will not be passed. This clause is fundamental to my objection and it is the reason that I oppose the legislation. I do not oppose the creation of a register but this legislation will not facilitate the establishment of the protections we are suggesting will be afforded by the creation of a register.

Mr CARPENTER: When reading legislation we must look at what the words say not what we think they should say. If we were to pass this amendment, it would have a profound effect on the legislation. I refer the minister to proposed new section 120D(1)(a)(i), which provides -

> (i) the maltreatment or suspected maltreatment of a child, excluding information that identifies or is likely to identify a person as a person suspected of being responsible for maltreatment or suspected maltreatment;

Are we dealing with substantiated maltreatment or suspected maltreatment?

Mrs PARKER: It refers to a situation in which maltreatment of a child has not yet occurred but there are historical reasons to suspect that it will occur. A woman might have had a number of children taken for care and protection reasons, give birth to another child and not indicate in any way that she has changed her capacity to provide care and protection. The definition clauses refer to "maltreatment" and the notes I provided explain that the definition of maltreatment includes acts which result in physical or emotional harm, but also circumstances in which there is strong evidence that the acts are likely to lead to physical or emotional harm; that is, where there is a history of previous abuse of a child or siblings. The guidelines to be developed after this legislation is passed will be devised in consultation with reporting agencies. They will include more detailed descriptions of child maltreatment. Although I do not think that the particular phrase the member referred to is relevant to the member for Mandurah's amendment, if the member wants to debate that, we can debate it outside the consideration of this amendment. I seek the Chair's ruling on that, so that we can progress the legislation. Certainly suspected maltreatment is where there is a grave risk, possibly because of historical evidence.

Mr CARPENTER: I am sorry that the clarity of my understanding is not perfect. The minister and I agree that this is a considerable amendment. It is a one-word amendment lodged in a paragraph.

Mrs Parker: Are you considering supporting the amendment?

Mr CARPENTER: I want to know what will be the impact of the amendment. There is a great deal of doubt about its impact. Part of that doubt is because of the paragraph of which the amendment will be part.

Mrs Parker: I understood you to say that the impact of this amendment would be profound. I do not know a lot about the debate that is going on in Britain at the moment, but I understand that debate is on lesser proposals than that which is being proposed by the member for Mandurah. That debate about those lesser proposals has caused very considerable community response. Whatever we talk about within this legislation, the fundamental change that is achieved by the member for Mandurah's amendment is to change "excluding" to "including" information that identifies or is likely to identify a person as a person suspected of being responsible for the maltreatment or suspected maltreatment. I understood you to say that would achieve a profound change in the legislation which would reverberate through the community. I am a little confused about where you are coming from now if from that position of profound change you are talking about some consideration of the adoption of that amendment. It may be because it is late at night, but I am a little confused.

Mr CARPENTER: Let me try to put it simply. My understanding of the proposed amendment is that it would have a profound impact.

Mrs Parker: That is right, and I clearly understood that you opposed that amendment.

Mr CARPENTER: What I am trying to determine is how profound. I want to know whether under that amendment a person who is suspected of being responsible for suspected maltreatment - and the minister has referred to potential maltreatment -

Mrs Parker: You are talking about including on the register -

Mr CARPENTER: I had better finish the sentence for the benefit of Hansard. If this amendment were to be accepted, would we have a situation in which a person who is suspected of being responsible for suspected maltreatment would have his or her name included on the register?

Mrs PARKER: I understood the member to have a very clear position on the member for Mandurah's amendment.

Mr Carpenter: It sounds as though you do not want to answer my question.

Mrs PARKER: Not at all. I just cannot work out why the member is asking the question and where is the point. Whether the inclusion of the information identifying the person relates to a person suspected of being responsible for the maltreatment or suspected maltreatment, the member is still talking about the inclusion of the name of a person against whom an allegation has been made and not tested in a court. We will go right through the debate that has been going on consistently throughout the evening. We have been talking about the principles of natural justice and the presumption of innocence. The member for Mandurah's amendment fundamentally changes the clause of the Bill and as a result the whole of the Bill. It would include information about persons as described to the member.

Mr CARPENTER: I am trying to determine whether only substantiated cases of maltreatment will be recorded on this register. If this amendment were put through, it would have an impact on the names on the register. Will it be suspected maltreatment cases, as is written in this paragraph, or only substantiated cases?

Mrs PARKER: I will refer the member for Willagee to the definition at the beginning of the Bill. The definition of "maltreatment" on page 3, line 5 reads -

> **"maltreatment"** means -
>
> (a) an act or course of conduct that results, or is likely to result, in significant physical or psychological harm to a child;

I have already been over that. The explanatory notes that have been provided to the member explain that the Bill defines the meaning of maltreatment to include not only acts which result in harm but also circumstances where there is strong evidence that the acts are likely to lead to physical or emotion harm; that is, where there is a history of previous abuse to the particular child or sibling. When the member raises the issue of maltreatment, I direct his attention to the definition of "maltreatment" as provided at the beginning of the Bill.

Ms ANWYL: The difficulty is that proposed section 120D(1)(a)(i) and (ii) refers to information that would be already held in the department immediately before the commencement of the Act. It is not so much about what will happen down the track but how the information that is already in the department will get onto this register. There are 2 600 children's names already recorded. Some of those children are recorded because of their suspected maltreatment, as the minister has already outlined, and some of them are not. The minister might agree with me that paragraph (a) refers to how information that is already within the domain of a department will be dealt with. It is confusing if we then talk about how people in the future may get onto the register because this paragraph deals with what is there now.

Mr Nicholls: My intention would be to change the legislation so that the same rules apply to future substantiated allegations.

Ms ANWYL: A further difficulty is created because, of course, as members have acknowledged, the member for Mandurah's amendment is significant. The first notice of it that many of us had was today. That is creating some difficulties in obtaining a position.

Mr Nicholls: This amendment has been foreshadowed since I spoke in the second reading debate by the strong stance I have taken on the identification of offenders. Therefore, this is not something that has just come out of the blue. Members have had a chance to think about it. I grant you that the wording is new.

Ms ANWYL: My difficulty is that the second reading debate was about six months ago. I do not know what everybody else's memory is like but I do not carry this information in my head.

Paragraph (a) relates to the 2 600 children already on the register. If the Act came into being tomorrow, I presume the minister would not be talking about a significant inclusion of other existing names of children onto the register.

Mrs Parker: I do not understand the point.

Ms ANWYL: I may be wrong; that is why I ask the minister if she agrees. Proposed section 120D(1)(a) states -

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

Subparagraphs (i) and (ii) state the types of information, but I am trying to clarify for the record whether we are discussing only information already on the register. We know of 2 600 on the register.

Mrs Parker: Yes, we are.

Ms ANWYL: It might assist if we realise that we are not looking to extend that class in paragraph (a) any further than that which is already contained in the register.

Mrs PARKER: The member for Kalgoorlie has now made herself clear. I am not sure if proposed section 120D(1)(a) is relevant to the amendment that we are discussing at the time, and I seek the ruling of the Chair on that matter. However, it states that any relevant information, as determined by the manager, held in the department immediately before the commencement of the Child Welfare Amendment Act relates to the information already on the register.

Mr CARPENTER: It is important to the debate on this amendment because we would be including the names of people suspected of being responsible for the suspected maltreatment of children. Is that correct?

Mrs Parker: Yes.

Mr CARPENTER: Suspected maltreatment to me does not read as substantiated maltreatment.

Mrs Parker: I have explained that by referring the member to the definition of "maltreatment", that there is that opportunity.

Mr CARPENTER: The definition of "suspected" is more the issue than the definition of "maltreatment".

Mrs Parker: If you are talking about the amendment, and if you are asking whether the proposed amendment will mean that alleged offenders of suspected historical abuse will be recorded on the register, the answer is yes, it would.

Mr CARPENTER: Will the minister read her notes again?

Mrs Parker: If you are asking whether the proposed amendment, and I trust that is the context in which you are asking the question -

Mr CARPENTER: Yes, it is.

Mrs Parker: - means that the names of alleged offenders of that suspected historical abuse and the allegations against those people would go on the register under the amendment proposed by the member for Mandurah, the answer is yes, they would.

Amendment put and negatived.

Mr NICHOLLS: I am very disappointed that the support was not forthcoming for the other amendment. However, I move -

Page 6, lines 10 to 20 - To delete the lines.

Effectively, subclause (4) allows for the names of a convicted minor to be removed from the register in its current form after a person has committed the offence on the basis that that offence may have been committed when the person was of young age, or at the request of the person to have that issue heard by a judge under the minister's foreshadowed amendment. The research clearly indicates that a person who commences abusive activity or behaviour towards other children at a young age is likely to continue that behaviour on into adulthood. While I understand that this provision is to try to assist those young people who may be caught up in offences, such as carnal knowledge whereby both parties are under legitimate age, or where a trivial offence has occurred, I do not accept the notion that carnal knowledge involving two consenting minors is a case of maltreatment when we are talking about substantiating maltreatment. However, I concur that if we are serious about identifying those people who may pose a risk to children in the future and who have been convicted of a criminal offence that involves harm to a child or children, their names should not be removed from the register. Further, the Bill provides for a situation whereby a person on spent convictions may have his conviction removed from the police record, but would remain on this register. I believe the same applies to a person irrespective of whether he committed the offence when he was under 18 years of age or over 18 years, and I therefore totally reject the notion that this provision would remain in this Bill. I trust that the Opposition may in its wisdom decide to support this amendment.

The DEPUTY CHAIRMAN (Mrs Hodson-Thomas): The Chair has noticed conflicting amendments to this part of the clause. We will use a test vote in order to preserve the rights of both members. The amendment of the member for Mandurah proposes to delete certain lines. The two amendments proposed by the minister commence part way through the lines proposed to be deleted by the member for Mandurah. In order to test the Committee's view, I will propose the deletion of the words the member for Mandurah wishes to delete up to the point where the minister's amendment starts. If that deletion is agreed to, the rest of the deletion of the member for Mandurah will be put to the Committee. If the initial deletion is negatived, the minister will be free to move her amendment.

Ms ANWYL: I speak to all three amendments - it does not make much difference - but the change from the manager having discretion to a judge of a Children's Court, effectively the presiding judge of the Children's Court, is clearly more appropriate. We are dealing with a complex balancing of competing interests because there are some general concepts in the law that a person under 18 years of age convicted of offences is to be treated differently from a person over 18 years, and effectively this whole section is about allowing removal from the register of an offender's name. Let us remember that we are talking about convicted offenders. This is the removal of the convicted offender's name from the register when the offence is committed while the person was under 18 years of age. Some discretion will be applied by the Children's Court judge. I for one have a great deal of faith in the ability of a Children Court's judge to make a proper decision on such matters. I find more satisfaction in the knowledge that a judge, rather than the register manager, will make the decision.

I am aware of the criminal law system for spent convictions; I am sure the minister is also aware of this system in the context of other debates. Adults can make application for a spent conviction, but they must wait 10 years before they can apply to a court. The level of the court to which they apply depends on the seriousness of the charge; that is, a magistrate may have some discretion on a minor matter, and a District Court judge would consider more serious matters like child maltreatment. That is the procedure for adults and convictions in general. Specific provisions of this Bill relate to the interaction with spent convictions. I note that the short title of the Bill indicates that it will consequentially amend the Spent Convictions Act. I make that comment as it is difficult to run together the various procedures in law relating to these provisions.

The member for Mandurah made some persuasive arguments that some convictions may be recorded for a juvenile which relate to the propensity for that juvenile to offend in adult life, and therefore to place children at risk. This matter relates to the difficulty in balancing the competing rights of individuals in our society. Although the declaration of the Bill is to protect and coordinate service delivery to children, some anomalies appear to be present. How is it anticipated that the system will operate? Will the department be represented at a court hearing? Will a legal representative of the department be before the judge of the court who must make the decision? Can we be told whether any of the 37 convictions now on the register relate to juveniles? So we can have some idea of the scope with which we are dealing, what percentage of offences recorded against children in the State are committed by juveniles?

Mrs PARKER: I will not respond to the spent convictions issues raised by the member for Kalgoorlie as they relate to proposed section 120E. In the interests of progressing the debate, we need to talk to the amendment before us. I take on board the comments of the member for Kalgoorlie regarding my proposed amendment to delete "manager" and insert "judge". The removal of a person's name as a convicted offender would be the exception rather than the rule. I have provided explanatory notes to members of the Opposition and the member for Mandurah. The anticipated examples in which a judge would consider deletion under this provision would be, for example, a carnal knowledge conviction in which the act occurred between youths of similar age, and with consent. However, the judge would clearly have regard to the person's age when he or she committed the offence, and the nature and seriousness of the offence. Where a significant age difference, serious assault or violence is involved, the record will remain. I concur with the comments of the member for Kalgoorlie that a judge will have criteria on which to exercise his or her assessment on the application by the person to have a name removed.

I do not support the amendment as proposed by the member for Mandurah. I urge support for my amendment to delete "manager" and insert "judge". In answer to the questions from the member for Kalgoorlie, the department will not be represented at a hearing; also, I am advised that none of the registrations of convicted perpetrators of child abuse involve a juvenile.

Mr NICHOLLS: I concur with the view of the member for Kalgoorlie that it would be far better for a judge to exercise the discretion than a manager. However, if we want to exercise some prerogative about young offenders being placed on the register, it should be exercised at the time the young person is convicted. If it were the view of the judge hearing the evidence of the case, I would not object to the judge indicating that the name of the young offender should not be placed on the register. The offence would not, in the judge's view, present any potential harm or risk of harm to a child.

However, a body of evidence clearly suggests that young people under the age of 18 years who engage in offences against other children continue that behaviour when they enter adulthood. Generally, the rate of successful rehabilitation with these people is not high. Therefore, the minister's argument is suspect about not supporting an amendment to delete the ability to remove from the register the names of people once they reach the age of 18 years. If one were to extend that view, following the natural justice argument, why would every person not have a chance to appear before a judge and appeal against his or her name appearing on the register? Why do we say that once a perpetrator attains the age of 18 years, he or she is no longer a risk? The purported reason is that the offence was committed at a young age, and the young person did not know what he or she was doing and upon reaching adulthood, the threat no longer exists. I would like the minister to contemplate research which indicates that the younger the age at which offenders start to offend, particularly with sexual maltreatment of other children, the greater their propensity to continue offending into adulthood. If the minister has evidence that that is not the case, I will gladly reconsider my amendment.

Mrs PARKER: In response to the comments by the member for Mandurah, I do not dispute that children who offend as juveniles may continue a pattern of offending into adulthood. For that reason, the names of convicted offenders will remain on the register unless an application is made on appeal to have the names removed. I explained a moment ago the conditions under which a judge might consider removing a name. The judge would take into account the nature and seriousness of the offence, and the person's age when the offence was committed. It was envisaged that a judge might consider removing a name from the register in the case of a carnal knowledge conviction when the act occurred between youths of like age with consent. In cases involving violence, an age difference or serious assault, the record would remain. In principle, this legislation provides that the successful conviction of a juvenile who has abused children will go on the register but, in some cases, an appeal can be made to a judge and the matter can be reconsidered.

Amendment put and negatived.

Mrs PARKER: I move -

Page 6, line 12 - To delete "the manager" and insert "a Judge".

Page 6, lines 13 to 20 - To delete the lines and substitute the following -

(a) on the application of the person; and

(b) having regard to -

(i) the person's age when the person committed the offence; and

(ii) the nature and seriousness of the offence,

order the removal of the information relating to the offence from the register; and the manager shall comply with any such order.

Amendments put and passed.

Progress reported.

House adjourned at 10.06 pm

For Legislation Committee proceedings on the Court Security and Custodial Services Bill, see page 6567.

QUESTIONS ON NOTICE

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

GOVERNMENT DEPARTMENTS AND AGENCIES - CREDIT CARD EXPENDITURE

1504. Mr CARPENTER to the Minister for Health:

(1) Will the Minister state the total expenditure on Government credit cards in the Minister's office for the following financial years -

(a) 1996-97; and
(b) 1997-98?

(2) For each individual credit card holder in the Minister's office, will the Minister advise -

(a) the name and position of the card-holder;
(b) the credit limit on the card; and
(c) the total expenditure on that card in -

(i) 1996-97; and
(ii) 1997-98?

Mr DAY replied:

(1) (a) 1996-97 $5,252.20
(b) 1997-98 $32,329.56

(2) (i) 1996-97
WESTPAC CREDIT CARDS

(a) Name and Position	(b) Credit Limit	(c) Total Expenditure
Hon.R Wiese, Minister	$5,000	$4,839.30
P Middleton, Chief of Staff	$5,000	$ 317.00
Hon. J Day, Minister	$5,000	$ 3.75
P Wren, Executive Officer	$5,000	$ 92.15

(ii) 1997-98
WESTPAC CREDIT CARDS

(a) Name and Position	(b) Credit Limit	(c) Total Expenditure
Hon.J Day, Minister	$5,000	$ 637.20
P Wren, Executive Officer	$5,000	$ 56.10
ANZ VISA CARDS		
Hon.J Day, Minister	$20,000	$ 2,641.30
R Guszka, Admin. Assistant	$ 5,000	$ 212.18
J Kennedy, Appointments Sec.	$ 5,000	$ 95.50
M Malarkey, Admin. Assistant	$ 5,000	$ 7,014.37
K Newman, Executive Officer	$10,000	$ 2,253.17
H Raykos, Liaison Officer	$ 5,000	Nil
R Reid, Chief of Staff	$10,000	$ 1,481.45
M Thompson, Media Secretary	$ 5,000	Nil
D Stratton, Liaison Officer	$ 5,000	Nil
P Wren, Executive Officer	$ 5,000	Nil
AMEX CORPORATE CARD		
Hon. J Day, Minister	$20,000	$ 5.00
J Kennedy, Appointments Sec.	$ 5,000	Nil
K Newman, Executive Officer	$10,000	$ 2,769.81
G Power, Policy Officer	$ 5,000	$ 294.22
R Reid, Chief of Staff	$10,000	$13,226.26
P Wren, Executive Officer	$10,000	$ 1,643.00

FOOD, GENETICALLY MODIFIED

1929. Dr CONSTABLE to the Minister for Health:

(1) What is the Department of Health's definition of "genetically modified food"?

(2) What is the Department of Health's definition of "genetically modified material"?

(3) What testing has been done in Australia to ensure that foods produced from genetically modified plants, but which themselves contain no genetic material, will not have a detrimental effect on consumers?

(4) What measures will be taken by the Australia New Zealand Food Standards Council (ANZFSC) to monitor and police their approved standards on food imported from countries whose standards and regulations are perceptibly less rigorous?

Mr DAY replied:

(1) For the purpose of the Standard the HDWA's definition is that included in the Standard A18 of the Food Standards Code. i.e. a 'food produced using gene technology' is a food which has been derived from an organism which has been modified by gene technology, but does not include any substance regulated as a food additive or a processing aid.

(2) An appropriate definition is being considered by the Australia New Zealand Food Authority (ANZFA) but has not been finalised. When finalised, Western Australia will consider its adoption.

(3) I am not aware of the results of any specific testing undertaken in Australia.

(4) Any policing role for imported foods will be undertaken by the Australian Quarantine and Inspection Service as part of its Imported Food Program.

HERBICIDE-TOLERANT AND INSECT-TOLERANT CROPS

1930. Dr CONSTABLE to the Minister for Health:

What studies by the Australia New Zealand Food Standards Council (ANZFSC) have been carried out on the effects of the herbicide-tolerant and insect-tolerant crops on biodiversity and the environment in -

(a) other countries; and
(b) Australia?

Mr DAY replied:

The Australia New Zealand Food Standards Council (ANZFSC) is the Council of Commonwealth, State and Territory and New Zealand Health Ministers. This Council receives recommendations from the Australia New Zealand Food Authority and is the statutory body responsible for the safety of foods and the development of standards for foods. The Council itself does not carry out such studies. Issues on the effects of herbicide tolerant and insect tolerant crops on biodiversity and the environment is the responsibility of the Genetic Manipulation Advisory Committee.

GRAYLANDS HOSPITAL, BED NUMBERS

1932. Dr CONSTABLE to the Minister for Health:

(1) What was the total number of beds available at Graylands Hospital in -

(a) 1994;
(b) 1995;
(c) 1996;
(d) 1997; and
(e) 1998?

(2) What is the projected number of beds at Graylands Hospital by the end of -

(a) 1999; and
(b) 2000?

(3) (a) What was the total number of beds available in Western Australia for use by psychiatric patients in -

(i) 1994;
(ii) 1995;
(iii) 1996;
(iv) 1997; and
(v) 1998, and

(b) what is the projected increase/decrease for 1999 and 2000?

(4) (a) What was the total number of beds available in Western Australia for adolescent psychiatric patients for -

(i) 1994;
(ii) 1995;

(iii) 1996;
(iv) 1997; and
(v) 1998, and

(b) where were those beds located?

Mr DAY replied:

(1) (a) 1994 257
(b) 1995 257
(c) 1996 257
(d) 1997 265
(e) 1998 250

(2) (a) 1999 235
(b) 2000 235

*Future planning may require relocation of some inpatient services to new inpatient facilities in Swan and Armadale but there is no planned relocation of beds.

(3) (a) (i) 1994 793
(ii) 1995 782
(iii) 1996 794
(iv) 1997 814
(v) 1998 818

(b) There is no projected decrease in beds in adult acute services.

(4) (a) (i) 1994 44
(ii) 1995 44
(iii) 1996 29
(iv) 1997 41
(v) 1998 41

(b) Princess Margaret Hospital, Stubbs Terrace, Mill Street Centre, Robinson Unit, Hillview Terrace Hospital.

MENTAL HEALTH BUDGET

1933. Dr CONSTABLE to the Minister for Health:

(1) What was the total amount spent on the Mental Health Budget for the financial years of -

(a) 1994-95;
(b) 1995-96;
(c) 1996-97; and
(d) 1997-98?

(2) What is the spending estimate for Mental Health care for the financial years of -

(a) 1998-99; and
(b) 1999-2000?

Mr DAY replied:

(1) (a) 1994-95; $103,326,000
(b) 1995-96; $113,640,000
(c) 1996-97; and $128,614.000
(d) 1997-98? $144,498,500

(2) (a) 1998-99; and $157,677,620
(b) 1999-2000? It is too early to estimate any figures as the budget has not yet been finalised.

MENTAL HEALTH EXPENDITURE

1934. Dr CONSTABLE to the Minister for Health:

With reference to the article in *The West Australian* on Tuesday, 9 February 1999, page 7, regarding spending on mental health -

(a) on which categories of expenditure was the extra $40 million directed; and
(b) on what projects were the quoted $47 million on capital works spent?

Mr DAY replied:

(a) Funds of $40 m over three years have been used to purchase:

Services for the Elderly
Aboriginal services
Adult Services
Child and Adolescent services
Workforce initiatives
Accommodation & Community support
University and Centre of Excellence
Other special initiatives

(b) The $47 million is an allocation to Mental Health Capital Works over at least a five year period. Specific projects for future years are still in the process of detailed planning. Of the $47 million allocated an amount of $ 7.78 million was projected to be spent up to 30 June 1999 on a range of over 20 projects. These projects include the upgrading of existing service facilities, such as the remodelling and additions to the Swan Clinic costing $0.625m dollars, and the rooming in unit costing $0.105m dollars built at Geraldton. They also include the expansion of Community based facilities such as that currently being planned at Kalgoorlie and the further extension of Mental Health Services, such as the Child and Adolescent Mental Health Service Clinic built at Bentley for $3.01m. A further $10.042 million is proposed to be spent in the 1999/2000 financial year in finalising current projects and in planning and implementing the many other projects which have been identified for the future consideration of the Mental Health Division in the provision of a comprehensive Mental Health Service. Decisions on the expenditure of the balance of the capital works program will be made over the coming months.

ARMADALE HEALTH SERVICE

2080. Ms MacTIERNAN to the Minister for Health:

(1) In respect to the Expression of Interest and request for proposed processes in relation to the proposed privatisation of the Armadale Health Service, will the Minister provide the costs for each of the following items -

(a) consultants fees;
(b) public relations management;
(c) legal fees;
(d) accounting fees;
(e) advertising costs; and
(f) administrative costs, including departmental salaries and expenses,

involved in all stages?

(2) Will the Minister list each consultant and other contracted party engaged in relation to this project from the time of its announcement in 1997 until the decision announced on 26 January 1999?

Mr DAY replied:

(1) The costs of the process to determine the extent to which the private sector would be involved in financing, ownership, building or operation of the new Armadale Health Service are not separate from the overall costs associated with the redevelopment program. The Armadale Health Service Redevelopment costs as at 25 February 1999 are as follows:

(a)	Consultants Fees	$1,716,706
(b)	Public Relations	$364,958
(c)	Legal Fees	$1,050,840
(d)	Accounting Fees	Probity Auditor -$34,758

(e) Advertising Costs - incorporated in (b) above.

(f) Not costed, as the process has involved people working across Government Departments in the HDWA, Treasury, Contract and Management Services, Ministry of the Premier and Cabinet. The specific redevelopment costs recouped to the Armadale Health Service up until 25 February 1999 are $130,000.

(2) Consultants engaged in the project between October 1997 until 26 January 1999 include:

Price Waterhouse
Prognosis Consulting
RHK Public Relations
Skea Nelson and Hager

HealthCraft Consulting
Marian Lin
John Stranger Partnership
Padgham and Partners
Lincolne Scott Australia Pty Ltd
Oceana Consulting Pty Ltd
Silver Thomas Hanley
South Australian Health Commission

ROCKINGHAM PARK AND SAFETY BAY, OPEN DRAINS

2187. Mr McGOWAN to the Minister for Water Resources:

(1) Is the Government aware of the open drains that run through Rockingham Park and Safety Bay?

(2) If so will the Government be able to assist in enclosing these drains in such a way as to minimize the appearance, danger and smell of these drains?

(3) Will the Government consult with the City of Rockingham in this regard?

(4) What is the estimated cost of such a project?

(5) What is the time frame of such a project?

Dr HAMES replied:

(1) Yes.

(2) The Water Corporation has no plans to 'pipe' the open stormwater drains in Rockingham because of technical difficulties associated with the area's topography. Generally, the Rockingham area is too flat for the effective operation of extensive 'piped' stormwater drains which rely on a gravity flow system. Open 'swale' drains consisting of a grassed floodway are, therefore, widely used by the Water Corporation and are largely favoured by the Water and Rivers Commission.

(3) The Water Corporation is available to discuss the status of stormwater drains in Rockingham with the City of Rockingham.

(4)-(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, ANNUAL REPORTS

2303. Mr RIEBELING to the Minister for Water Resources:

(1) Is the Minister aware that the public agencies under his responsibility must include in their Annual Reports a statement detailing expenditure incurred in relation to payment to advertising agencies, market research, polling, direct mail and media advertising under Section 175ZE of the Electoral Act 1907?

(2) If yes, will the Minister explain why this requirement was not met in the 1997-98 Annual Report of the Water Corporation?

Dr HAMES replied:

(1) Yes.

(2) This matter was brought to the Water Corporation's attention in September 1998 after the 1997/98 Annual Report had been printed. Details of payments to advertising agencies, market research, polling, direct mail and media agencies will be included in the 1998/99 and all future annual reports of the Water Corporation.

RESERVE 5506, MOSMAN PARK

2312. Dr EDWARDS to the Minister for Lands:

With respect to Reserve 5506 in the Town of Mosman Park -

(a) what is the Government's future intentions towards this land; and

(b) who is responsible for the maintenance and upkeep of Crown land in this area?

Mr SHAVE replied:

(a) DOLA is unaware of any future intentions at this stage.

(b) The Town of Mosman Park is responsible as the vested authority.

LANGFORD MENTAL HEALTH CLINIC

2353. Ms McHALE to the Minister for Health:

(1) How many patients are treated by the Langford Mental Health Clinic per week?

(2) Is there a waiting time for appointments?

(3) If so, what is the average waiting time?

Mr DAY replied:

(1) The Langford Clinic treats approximately 30 clients per week.

(2) No.

(3) Not applicable.

QUESTIONS WITHOUT NOTICE

JOB LOSSES, RESOURCES SECTOR

611. Dr GALLOP to the Premier:

I refer to yesterday's announcement of another 500 job losses in the resources sector in regional Western Australia.

(1) Which state government agency has been designated as the lead agency to help the communities affected by these job losses respond to this latest threat?

(2) What steps will the Government be taking to ensure the survival of these communities?

Mr COURT replied:

I thank the Leader of the Opposition for this question.

(1)-(2) The resources sector, without doubt, is the driving force of the Western Australian economy. In the current environment, low commodity prices put a lot of strain on that sector. Fortunately for people in Western Australia, our resources sector is very competitive internationally. When we have cyclical movements, particularly a big drop in commodity prices - as we have seen for oil and gas, for example - the high-cost operations close. Around the world we are seeing industries close in towns like Newcastle because they cannot compete. Only the efficient industries stay in business. In Kambalda, Western Mining Corporation has closed two high-cost mining operations. Its low-cost nickel comes out of projects like Mt Keith, and a number of new resource projects have come on stream over the past few years. A new generation of nickel projects have come on stream, and employment is created cyclically.

Dr Gallop: We know that. What will the Government do for those communities?

Mr COURT: We will try to convince members opposite to support some changes to the native title legislation.

Dr Gallop: Come on; the Premier is a joke. What about the communities which are there today? Working people are without work; communities are being destroyed; and the Premier is engaged in political rhetoric. We can see the colour of the Premier's money; he does not believe in these communities and he is doing nothing to support them.

Mr COURT: The Leader of the Opposition did not visit that area for over a year.

Dr Gallop: The Premier is wrong.

Mr COURT: When was the Leader of the Opposition last in Kalgoorlie?

Dr Gallop: Late last year, my friend. I was talking about your policies.

The SPEAKER: Order! I assume the Leader of the Opposition did not see that I was on my feet. We cannot have so many interjections. It is a rabble. I remind members that I allow whomever asks the question to interject and scrutinise what is being said. However, it is unacceptable, particularly for the government backbench, to have five members blurting out interjections at the one time.

Mr COURT: I would like to table a graph titled "Mining Lease Processing".

Dr Gallop: When are you going to talk about the people of Kambalda?

Mr COURT: Right now! I table a graph of mining lease applications and approvals, and I would like copies to be distributed.

[See paper No 787.]

Mr COURT: The graph shows the effect of the uncertainty surrounding the passage of the native title legislation. It shows that out of 2 000 applications for mining leases last year only 146 were approved. Most of those 146 approvals related to freehold land.

Ms MacTiernan: That has nothing to do with it.

Mr COURT: It has everything to do with it, and I will explain it to the member for Armadale. Western Australia has a tradition of approving mining applications within one year. However, the graph shows that very few new mining leases are being approved. The exploration activity taking place today will help us find the reserves that will give us the low-cost mines of the future. This year mining exploration was cut back by 25 per cent.

Mr Kobelke: The people ask for bread and the Premier tells them to eat cake.

Mr COURT: Welcome back, member for Nollamara.

The Opposition asked what the Government will do for the people working in the resources sector. The Government will make it easier for them to explore, so they can find new deposits for the next generation of development. The graph shows that an economic iceberg is about to hit us. If mining leases are not being granted, we will not have the next generation of mines to provide jobs.

Dr Gallop: You are like Richard Branson - you have come shattering to the earth. You have said nothing. You are hot air that collapses on confrontation.

Mr COURT: What we see opposite is an ivory tower leadership. It is all very academic. However, when it comes down to practicalities, the questions are: What drives the resources sector? Where will the next generation of mines come from? They will come from exploration and the granting of mining leases. The Opposition is prepared to stand by and allow a system to become totally log-jammed and unworkable. The most important thing that the Opposition can do to help the people of Kambalda and Kalgoorlie is to see commonsense and allow the implementation of workable native title legislation.

JOB LOSSES, KAMBALDA

612. Dr GALLOP to the Premier:

I have a supplementary question. I take it that the Premier will do absolutely nothing for the people of Kambalda?

Mr COURT replied:

This Government is absolutely committed to helping the people in the resources sector in Kambalda.

Dr Gallop: What about the community of Kambalda? What about the people? Bring people into the equation. They do not even register in your mind.

Mr COURT: Since when did the Labor Party worry about workers? It must be about 50 years ago. Mr Speaker, I am disappointed that those people have been laid off. Many of those people are contractors, as the member for Eyre knows. However, he would also know that there have been, and still are, a number of new mining operations opening. Therefore, even at a time of low commodity prices there is still investment in the industry, with new mines and new jobs being created. If members opposite were serious about wanting to help the resources sector, it is about time they put their feet on the ground and found out what is really happening.

HEALTH SERVICES, SOUTH WEST

613. Mr OSBORNE to the Minister for Health:

Will the minister advise what progress has been made recently in the provision of health services in the south west region?

Mr DAY replied:

I thank the member for some notice of this question.

I am very happy to say that yesterday was a historic day in the provision of health services in the south west region, particularly in the commencement of services being provided from the site of the magnificent new $68m South West Health

Campus. I had the pleasure of visiting the campus yesterday, together with my colleagues the member for Bunbury and the member for Mitchell.

Mr Court: It is an absolutely superb facility.

Mr DAY: It certainly is. I was delighted to see and feel the presence of a sense of commitment and excitement on the new campus. A tribute is due to all of the staff and volunteers who have been involved in establishing the service on the new site. The sense of excitement there is not surprising given that a magnificent new 130-bed public hospital is now established in Bunbury for the south west region. That is collocated with an 80-bed private hospital operated by St John of God Health Care. Together, those two new hospitals will result in a new and expanded range of services being provided for people in the south west region, including oncology, renal dialysis, palliative care and rehabilitation services together with more sophisticated emergency and obstetric services.

One of the most notable and welcome aspects of the new development is the establishment of a new 15-bed inpatient mental health facility together with extensive facilities for day patients in the mental health treatment facility. It is the first time that any facility of that nature has been established in the south west region. It means that for the first time patients who are in need of mental health treatment will be able to get that type of treatment at a higher level much closer to their home. An example of the benefits of the new service is the fact that a number of patients were transferred yesterday from Graylands Hospital to the South West Health Campus site.

Therefore, yesterday was the culmination of five years of planning, consultation, construction and commissioning of the new facility. It has been the result of a great deal of hard work on the part of everybody involved. I extend my congratulations and thanks on behalf of the Government to everybody who made that commitment. They have been led by the chair of the Bunbury Health Service and the project control group, Lui Tuia, and also the General Manager of the Bunbury Health Service, Anne Donaldson.

TRAVEL AND CONSULTANTS' REPORTS

614. Mr RIPPER to the Premier:

(1) Will the Premier confirm that the most recent "Overseas and Interstate Travel Report" tabled in this place was for the quarter ending 31 December 1997?

(2) Will the Premier confirm that the most recent consultants' report tabled in this place was for the six months ending 31 December 1997?

(3) Will the Premier explain why there have been such lengthy delays in tabling subsequent travel and consultants' reports?

(4) Will the Premier indicate when the next travel and consultants' reports are expected to be tabled?

Mr COURT replied:

(1)-(4) I cannot confirm the dates, but they should be tabled on a regular basis. I will find out the exact dates and when the next reports will be tabled. Importantly, this Government tables all these travel and consultants' reports. Under this Government these issues are public knowledge, unlike the procedure implemented by members opposite.

BLUE GUM LOGS, HAULAGE, DAMAGE TO RURAL ROADS

615. Mr MASTERS to the Minister for Local Government:

At a seminar last December aimed at opening communication channels between local government and the farm forestry industry, concern was expressed that minor roads in rural areas would be badly damaged by trucks carrying large volumes of blue gum logs over a very short time frame. Is the minister aware of the severe road cost implications for local government as a result of blue gum harvesting and is the Government investigating the options available to assist local government?

Mr OMODEI replied:

This is an issue, particularly when plantations are logged during the winter months. The summer harvesting of plantation timber is no different from harvesting a wheat crop. Usually local government authorities inspect the roads before the harvest and then after to assess the damage. In the main, local government's cooperation with industry has been a success.

The Government has provided significant new moneys for local roads under the 4¢ per litre fuel levy and the Transform WA program. My office has investigated the allocation of financial assistance moneys by local government to ascertain whether the funds are being spent on local roads, and in the main they are. In addition, local government authorities are also spending a large proportion of their rate revenue on road maintenance. This is a significant issue in country Western Australia, which

has extensive road networks. I have also made the Grants Commission aware of the issue. It is investigating ways of recognising the cost implications for local governments and is looking at its funding models to ascertain how funds should be allocated to areas that have significant plantations.

BELL TOWER AND CONVENTION CENTRE, DEPUTY PREMIER'S COMMENTS

616. Dr GALLOP to the Premier:

I refer to the Deputy Premier's claims in the *Sunday Times* last weekend that now is not the time for projects such as bell towers and convention centres, which he went on to describe as "not responsible". Do the Deputy Premier's comments represent a change in government policy or do they simply illustrate the point that opposition to these projects extends all the way into the Cabinet?

Mr COURT replied:

I am not aware of the precise comments. The Government is keen for both projects to proceed. It is no good our asking five years down the track why we are not attracting convention business if we do not have the facilities to attract it.

Mr Pendal interjected.

Mr COURT: Does the member not want a convention centre?

Mr Pendal: You cannot build facilities like that with public funds. This is supposed to be a Liberal Government.

Mr COURT: So the member for South Perth thinks that a soccer stadium should be built by -

Mr Pendal: I am not talking about that. You are talking about a convention centre - $100m.

Mr COURT: If members opposite, including the member for South Perth, who also has a strong interest in the arts, read the expressions of interest, they would see that we are keen to have several facilities in the complex - theatres, sports stadiums and so on. Before opposition members dig too deep a hole for themselves, I suggest that they wait and see what comes out of the process.

SCHOOL CADETS

617. Mr BAKER to the Minister for Youth:

Will the minister provide a brief report concerning any general trends in the number of secondary school children becoming involved in the State Government's school cadet program? Will he advise also who was responsible for abolishing school cadets in the mid - 1970s?

Mr BOARD replied:

I thank the member for some notice of this question. I am proud to say that nearly 5 000 young Western Australians have joined the cadet program over the past three years. I am proud also to say that more than 100 schools in Victoria have copied the Western Australian program. The program is growing extensively in Victoria. Trends with regard to the cadet program are interesting. Nearly 50 per cent of the Western Australian cadets are females. There are big winners in terms of the types of programs that have been established; for example, 36 emergency cadets programs, 16 bushrangers programs - that is, our environmental programs - and 16 police rangers programs.

Dr Gallop: Do you have a youth program in Kambalda and Meekatharra?

Mr BOARD: A youth advisory council is being established there. If possible, we will certainly fund any programs that come forward. Our program operates not only in the metropolitan area but also in other areas of Western Australia. About 85 per cent of cadets are year 8, 9 and 10 students. I recently had the opportunity to speak with the Chief Minister of the Northern Territory, the Premier of Victoria and the Minister for Youth in South Australia. There is a strong chance that in 2000 a cadet program based on the Western Australian model will be formed around Australia. We might even have an Australian cadet program based on community service cadets. It is a great initiative. Let us hope that we will be able to replace the 100 000 -

Ms MacTiernan: Marching along!

Mr BOARD: Those young people work in their communities. They are volunteers who work with the elderly, the disabled and the environment. If the member for Armadale can find a problem with that, obviously we are in the wrong business. We should support our young people and those who are involved in the cadet program. Let us hope that a national program will involve all young people around Australia.

FINANCE BROKERS SUPERVISORY BOARD, PARMELIA INVESTMENT

618. Ms MacTIERNAN to the Minister for Fair Trading:

On 16 March 1998 Mr Willers, the inspector for the Finance Brokers Supervisory Board, met with finance brokers Blackburne and Dixon to discuss a complaint concerning an investment in Parmelia.

(1) When was the complaint made?

(2) When was the investigation completed?

(3) What was the outcome of the investigation?

Mr SHAVE replied:

I thank my good friend the member for Armadale for some notice of this question.

(1) 4 March 1998.

(2)-(3) The investigation revealed that there was insufficient evidence to determine a prima facie case against the finance broker under the Finance Brokers Control Act, and the matter at issue related to a land valuer. Accordingly on 6 July 1998 the complaint was referred to the land valuers section of the Ministry of Fair Trading. It was then first considered by the Land Valuers Licensing Board when it next met, on 11 August 1998, and its investigation is continuing.

SOLID INDUSTRIAL WASTE DISPOSAL FACILITY, SOUTH WEST REGION

619. Mr BRADSHAW to the Minister for Resources Development:

(1) At what stage is the investigation into choosing the site of the proposed solid waste site, as identified in the report "Site Selection Study, Solid Industrial Waste Disposal Facility, South West Region" dated 21 April 1998?

(2) Have any of the proposed sites been eliminated during the investigation; and, if so, which sites?

(3) When will a decision be made on the proposed site?

(4) Has the Mt Walton site been considered for this waste storage?

Mr BARNETT replied:

(1)-(4) I thank the member for some notice of this question. With respect to the study into the site selection to which the member referred, the Department of Resources Development along with other agencies is currently reviewing the public submissions and analysing the information contained in them. A decision has not been made but it is anticipated that by the end of April a decision will be made to carry out some more detailed studies on some of those selected options. No site at this stage has been eliminated but two or three sites will perhaps have more detailed study. Mt Walton has not been considered as a site for storage. This facility is directed at class 4 waste. If any class 5 intractable waste were generated from any of the industries, it would, because of its nature, be transferred to the Mt Walton site. We are not looking at material with that degree of contamination.

BLACKBURNE AND DIXON PTY LTD, FINANCE BROKER'S LICENCE

620. Ms MacTIERNAN to the Minister for Fair Trading:

Given that it is publicly known that at least four pooled-mortgage investment schemes arranged by Blackburne and Dixon Pty Ltd are in default and that Blackburne and Dixon was persuading investors to lend to borrowers who were subsequently found to be kidnappers and multiple bankrupts, I ask -

(1) Has any action been taken by the Finance Brokers Supervisory Board to suspend Blackburne and Dixon's finance broker's licence pending a full inquiry?

(2) What action has the Commissioner for Fair Trading taken to name Blackburne and Dixon in a consumer warning?

Mr SHAVE replied:

(1)-(2) I do not have a list of all of the dates relating to Blackburne and Dixon for any particular complaint. If the member cares to put the question on notice and put down the particular date and the issue in question, I will be more than happy to answer it.

Ms MacTiernan: You would not. That is ridiculous.

Mr SHAVE: I have just answered the member's previous question.

Ms MacTiernan: Are you aware that this matter has been in the Press on a daily basis?

Mr SHAVE: The proof is in the pudding. For the previous question my good friend gave me notice and I got the detail. In this next question she asks me for specific detail without any notice. She is well aware that there are 40 Acts under the responsibility of the Minister for Fair Trading and there are 14 different boards. If she wants to know the detail of each of those investigations, all she need do is give me some notice and I will get the detail.

QUESTIONS WITHOUT NOTICE, CAPABILITY OF MINISTER TO ANSWER

621. Ms MacTIERNAN to the Minister for Fair Trading:

As a supplementary question, is the minister telling the House that he is incapable of answering a question without notice?

Mr SHAVE replied:

I was not inferring that. I was trying to say in a nice way that the member for Armadale should not be so stupid to expect that I have all of that detail in my head all of the time.

MINING INDUSTRY, REDUCTION OF INJURIES AND DEATHS

622. Dr TURNBULL to the Minister for Employment and Training:

From time to time reports are in the media of workers killed and injured in the mining industry. What steps are being taken in the training portfolio to reduce these injuries and the tragic loss of life?

Mr KIERATH replied:

The rate of injuries and fatalities in the mining industry has long been a cause for concern, especially for workers who daily face the reality of a hazardous industry. I am pleased to inform the House that in a first for Western Australia a new training centre opened last month near Perth which has a working quarry as a classroom. The centre is a unique extractive industries training centre which focuses on safety training for mining industry employees. It was jointly unveiled by the Minister for Mines and I at the Boral Quarries Orange Grove quarry.

Safety is a major focus and it will provide unique onsite experience for newcomers and workers in surface mining industries such as gold, mineral sands, bauxite and iron ore. An arrangement between Boral and the Central Metropolitan College of TAFE has brought the classroom to the quarry. It is extending the education to the rock-face of mining itself which is essential for employees if they are to be trained to the highest level of competency and we on this side of the House want mines to operate safely and productively. Thanks to this facility, students will be able to put into practice what they learn on site.

This indicates a growing emphasis on improving workplace safety where more employees are entering the mining workforce and where they will be equipped with the right attitude to safety for not only themselves, but also those around them. This centre is a positive start and demonstrates to the State's mining industry that educators and trainers are working together to improve safety in the most important sector of the State's economy. I hope all members of the Opposition will join me in congratulating all involved in implementing what we think is a wonderful initiative to improve working conditions for mining people in this State.

MINING INDUSTRY, TAX CONCESSIONS

623. Mr GRILL to the Minister for Resources Development:

I refer to the Ralph report recommendation to remove tax concessions heavily used by the mining industry and a study showing that such a change would lump the Australian mining industry with a tax regime worse than any of its competitors and ask -

(1) Has the minister had the opportunity to formally lobby his federal colleagues to reject such a change?

(2) If so, will the minister make that submission available to the Opposition?

(3) In that event will he let us know what was the response?

(4) If not, will the minister be raising the matter on an urgent basis with the Federal Government?

Mr BARNETT replied:

(1)-(4) The member for Eyre has raised an important issue, quite rightly, for the mining industry. The issue of replacing accelerated depreciation allowances and lowering the rate of company tax might have appeal to small to medium size businesses in Australia, but for large capital-intensive resource projects, which this State depends on, it would

be an undesirable move. I do not think the member for Eyre was at a petroleum industry dinner at which I expressed views publicly that are consistent with his views about that.

The matter has been placed on the agenda for a meeting of the Australian and New Zealand Minerals and Energy Council, of which I am the chair, to be held in Kalgoorlie during September. Out of that I expect all state ANZMEC ministers will adopt a formal position. The Department of Resources Development is preparing information. When it is completed I will make that available to the member for Eyre.

Much has been said about tax reform in recent years. Many arguments have been made about having a level playing field. If there were a level playing field, there would not be accelerated depreciation allowances. It is one thing to have a level playing field, which I support; in other words, a level playing field does not include little bits and pieces of policy being set to help individual firms - we do not try to pick winners or projects. However, if there is a level playing field -

Mr Graham interjected.

Mr BARNETT: The member for Pilbara does not understand the issue.

Mr Graham: I understand it much better more than you, minister.

Mr BARNETT: The member for Eyre, who may have some intelligence and understand the issue, is listening. A level playing field is desirable, but in a place like Australia, particularly for this State, the playing field should be tilted in favour of the investment this State needs; that is, large capital-intensive, export-oriented industries. That is why, like the member for Eyre, I support accelerated depreciations. I even support the investment allowance policy that was used at times.

Dr Gallop: What are you doing about it?

Mr BARNETT: I am doing a lot about it. The Ralph report has been released, but it will be some time before a decision is made. We will be having a big influence and I do not believe there will be a change. I believe accelerated depreciation will remain.

Dr Gallop: Support our motion tomorrow.

Mr BARNETT: I will read the wording of it but, in my view, accelerated depreciations will remain.

AUSTRALIND SENIOR HIGH SCHOOL, PARKING PROBLEMS

624. Mr BARRON-SULLIVAN to the Minister for Education:

What is being done to address the ongoing problems in recent years in the parking area of the Australind Senior High School?

Mr BARNETT replied:

I thank the member for some notice of this question. The member and I will be visiting Australind Senior High School next week. The problems of parking at the school have gone on for some time and the school population has continued to grow. The number of transportables is also a problem for that school. Last year the Education Department purchased an area of 4 700 square metres of land adjacent to the site of the school for an amount of $165 000. Work has begun on constructing a new parking area, a new set-down area for parents, and a new area for buses which will allow students to board and leave the bus safely. The cost of that is about $170 000 which has increased the price of the total project to $335 000. It is scheduled to be completed next month and I hope that will relieve the problems at that school.

VACATION SWIMMING CLASSES, CONTRACTING OUT

625. Mr RIPPER to the Minister for Education:

Does the minister stand by his decision to contract out vacation swimming classes in light of the Arthur Anderson report which states that there does not appear to be a sustainable business case for outsourcing Vacswim?

If so, can the minister explain why he has chosen to enter into negotiations with the Royal Life Saving Society when its bid of $397 000 is a massive $114 000 more expensive than the next highest bid?

Mr Barnett: Which was?

Mr RIPPER: A bid of $114 000 less than $397 000.

Mr Barnett: What was the company?

Mr RIPPER: I think it was Leisure Australia.

Mr BARNETT replied:

I thank the Deputy Leader of the Opposition for that question because so often members opposite say that members on this side are simply looking at dollar signs. A saving was to be made to the Government from outsourcing the management of Vacswim. Vacswim is not being privatised; if the contract is finally agreed to, it will be a joint Education Department-Royal Life Saving Association program managed by the Royal Life Saving Association. I do not have anything against the association, but members opposite do. One of the reasons that the Royal Life Saving Association succeeded in being the preferred tenderer is that although it may not have been the lowest bidder - indeed, even with it doing the project, the Government will save only about $80 000, so it is a relatively small amount in a $1.4b Education budget - it is about reversing the trend of declining enrolments and about taking vacation swimming to a higher level. Not only will a better program and reduced class sizes result from this, but there will be add-on programs which will provide attraction to royal life saving. It will attract water polo clubs, swimming clubs and all sorts of sporting groups and associations.

Dr Gallop: What a joke.

Mr BARNETT: What is a joke is that the Leader of the Opposition and the Deputy Leader of the Opposition are putting around petitions that have been stating publicly that the cost to parents will increase fourfold.

Mrs Roberts interjected.

Mr BARNETT: No, it is not increasing at all. If the member had taken the time to look at some of the agreements and public statements, she would realise that one of the conditions of the contract is that the price is fixed.

DAWESVILLE DEVIATION, COMMENCEMENT OF WORK

626. Mr MARSHALL to the minister representing the Minister for Transport:

Much speculation has been circulating about whether the Dawesville deviation will start on time.

(1) When will work on the Dawesville deviation commence?

(2) How long will it take to complete?

(3) What is the estimated cost?

Mr OMODEI replied:

Members must admire the member for Dawesville for his persistence.

(1)-(3) The Dawesville deviation is currently programmed to commence in mid-2000 and will take approximately 30 weeks to complete. The estimated project cost is $8.4m including the land.

GOVERNMENT CREDIT CARDS

627. Mr CARPENTER to the Premier:

Some notice of this question has been given.

(1) Has the Ministry of Premier and Cabinet contacted any minister's office seeking an explanation of the use of government credit cards by staff in that office? If so -

(2) On how many occasions has this occurred since January 1995?

(3) Which ministerial offices have been contacted?

(4) What was the outcome of these contacts?

Mr COURT replied:

I thank the member for some notice of this question.

(1)-(4) The Ministry of Premier and Cabinet assumed responsibility for expenditure on government corporate cards in ministerial offices on 1 July 1997. Since that date, on two occasions it has had cause to seek an explanation of the use of government credit cards by staff in ministerial offices. Those offices were the Office of the Minister for Housing; Aboriginal Affairs; Water Resources; and the Office of the Minister for Mines; Tourism; Sport and Recreation. The first matter was referred outside the ministry for further investigation. With regard to the second matter, an explanation was sought from the officer concerned and it was accepted that a mistake had been made in good faith.

QUESTIONS ON NOTICE, ANSWERS

628. Dr EDWARDS to the Minister for the Environment:

I ask this question under Standing Order No 110 with regard to late questions. When can I expect answers to questions 1175 and 1703 given that they were lodged four-and-a-half and three-and-a-half months ago, respectively?

Mrs EDWARDES replied:

I apologise to the member. I thought they had been answered earlier this week. I will follow up the matter and ensure that the member receives the answers.

The SPEAKER: Order! I advise members that last week when we came back, we had a large number of questions for which answers had been prepared and distributed. Our understanding is that five answers are still outstanding.

Legislative Assembly

Tuesday, 16 March 1999

LEGISLATION COMMITTEE

on the

COURT SECURITY AND CUSTODIAL SERVICES BILL

The Deputy Chairman of Committees (Mr Barron-Sullivan) in the Chair; Mr Prince (Minister for Police) in charge of the Bill.

Members: Mr Brown, Mr Marshall, Mr Riebeling, Mr Wiese.

Advisers: Inspector Kenneth Watkins, Police Service
Mr Jeffrey Crookes, Principal Project Officer
Mr David McDermont, Police-Justice Core Functions Contract Manager.

Clause 7: Court security services -

Mr RIEBELING: I understand there is a subtle change to the way we can speak in this committee. For instance, there is no restriction on time, and we can speak on a clause as many times as we like, as long as someone else speaks in the meantime.

The DEPUTY CHAIRMAN: Yes. This committee is different from the Committee of the Whole in that there is no five minutes' restriction. I also understand there will be a degree of latitude in that respect.

Mr RIEBELING: This clause deals with the responsibilities of the chief executive officer. How will the responsibilities listed in subclause (2) differ from the powers that now exist in relation to the services that it is envisaged this legislation will replace? Is there greater protection, less protection or similar protection or any alteration in, firstly, the protection that the community will be afforded? Have the police done an effective job in the part they have played? Have the prison officers been efficient in the job they have done until now? In relation to the maintenance of the courts and the property officers, a matter about which I had not thought previously, the safekeeping of property is a CEO responsibility. How many officers are involved in the security of property?

Mr PRINCE: Before I attempt to answer that, I have a piece of paper that has been prepared since we last sat. It gives wage comparisons between prison officers, police officers and Corrections Corporation of Australia intended wage rates. Members of the Opposition sought that information last week and I was unable to give any detail .

Within the courtroom, the presiding officer - whether he or she is a magistrate or a judge - has extensive powers in conducting the proceedings in the courtroom. Those are in part statutory, but are also in part common law powers. That is a great tradition. That includes security of the court wherever it is carried out - that is, in the prescribed courtroom or, as is often the case, in some other place. The presiding judicial officer who is responsible for the security of the court may request or demand assistance from someone else. That is probably the best way I can state it. Other than that, members will have to look at the Justices Act to see whether there is anything there. As far as I am aware, there is not; however, from memory, there are provisions that deal with courts being courts of record - the keeping of records and so on. That is not to do with the safekeeping of property for example, but it is rather more to do with the proper administration of the paper work associated with the court.

I think the answer to the question is that there is no statutory list of responsibilities anywhere in this State's jurisdiction of what should be in a court building, which is not only the courtroom but the totality of the building in which the court is located, to provide for the protection of people who work there, whether it be the clerk behind the counter, the clerk in the courtroom, the judicial officer or anyone else, including the people who come and go - whether that be lawyers or legal clerks, witnesses, or members of the public who have all sorts of business to transact in courthouses. So here we have for the first time in clause 7(2) a statement that the chief executive officer is responsible for those matters to which I have just alluded and others and also for the maintenance of order and the security of the buildings. That is important. I recall a number of occasions on which I, as a legal practitioner, appeared in a court which was not held in a courthouse. That went on for about a year because major damage had been done to the internal part of the court and as a result, the court sat in one of the major meeting rooms in the town hall. That was used for lengthy civil and criminal matters. While the presiding magistrate/judge had a power within that room, he had no power at all over the building in which that court was being conducted.

The same thing applies when the courts do as they often do - that is, go to the scene of a crime. Again the presiding officer has some powers for the protection and security of jurors and witnesses, but he has no other power there at all. Under this

clause, the responsibility is given to the CEO for the security of buildings "and other real property located within or comprising court premises and the management and safekeeping of personal property held on behalf of visitors to court premises". That is also important.

I have referred a couple of times to cases which involved that happening many times. The cases arose out of the Fremantle Prison riot. Many of the people who tried to enter the courtrooms in which those trials were conducted were searched and I think their property was taken from them. It was a check the bags or coats exercise. That probably should be available as a service anyway in this State so that people can put their personal belongings somewhere and know they will be safe while they go about their business in the courtroom. Obviously, that would be of interest to witnesses who could not take into the witness box a bag under their arms and also for jurors.

I am not in a position to tell the member for Burrup whether a list is kept somewhere of incidents of the security that we have at present failing. That information may be at hand. The only incident I can think of was one yesterday when a prisoner who was appearing in the Fremantle Court of Petty Sessions was left in the custody of his lawyer and he ran. He is still at large.

Mr RIEBELING: That was a situation that I alluded to last week and you said it never happened.

Mr PRINCE: To be fair, the member and I would agree that it happens rarely.

Mr RIEBELING: No, but you said it never happened.

Mr PRINCE: As far as I am aware, it has never happened.

Mr RIEBELING: It happens all the time.

Mr PRINCE: I cannot give the member any more detail.

Mr WATKINS: I agree with the minister that it is a very rare occasion. Escapes from courthouses are few and far between. Because of the inadequacies of the Fremantle courthouse building, there have been two or three escapes in the past two years that I am aware of.

Mr PRINCE: In relation to the last part of the question, the prison officers do not have a role in court security, other than when they bring in a prisoner for prosecution in the courtroom.

Mr RIEBELING: Transportation.

Mr PRINCE: Transportation after conviction is a matter of signing for the body from the police holding facility into a prison van and then moving off. To my knowledge, I do not know of anyone who has got out.

Mr RIEBELING: Transfers within prisons.

Mr PRINCE: I have not come to that. We are talking about courts. The officers tell me that, in their collective knowledge, no prisoner has got away from the prison officers on the rare occasions they are at the court.

Mr RIEBELING: I thank the minister for that answer. I disagree with what the minister said in relation to the presiding judicial officer having responsibility for providing protection for people in the court or attending the court. People may respond to the direction of the judicial officer -

Mr PRINCE: I was trying to say that the presiding officer's jurisdiction is over the courtroom and not over the rest of the building.

Mr RIEBELING: I asked whether the responsibility of the CEO of the now Ministry of Justice is altered in any way by what is described in this clause. In reading the clause it seems the CEO of the Ministry of Justice or the Crown Law Department or whatever we will call the creation, has not altered; that is, it has always been the responsibility of the CEO - call him what we will - to make sure that the people who enter court premises have some sort of protection. I want to go through all the points relating to people required to attend premises - including witnesses and jurors. I would have thought that the sheriff has responsibility for jurors and witnesses in the District Court and would report back to the CEO. The maintenance of the courts is the responsibility of the CEO of the department.

Mr PRINCE: I disagree with the member somewhat. I think we are arguing on the border to some extent. The sheriff is not responsible to the CEO. The sheriff is an independent officer. We have had that debate. With regard to a juror, at the moment, the law is that the juror has a responsibility to attend when summonsed. In the same way, a witness has a responsibility to attend when summonsed. What responsibility has a CEO to the people who work in the courthouse? Only that which is spelt out in occupational, safety and health legislation and common law with regard to a tortus duty of care and things of that nature. Other than that, there is no responsibility.

A list of responsibilities has not previously been laid out in a statute, and this will be the first one. Likewise, the

responsibility of jurors and witnesses, of which I am aware at the moment, is to be there. I do not think there is any responsibility on anybody else to look after them, other than the obvious desirability that witnesses on opposite sides of a dispute - criminal, civil or otherwise - should not be put in the same room together. Jurors should be kept separate from witnesses, counsel and everybody else. These are practice. They are the lore and not the law, and in that sense they are common law.

Mr RIEBELING: Does the minister agree that the primary responsibility of the administration of the courts is to run a court system that provides those things? If that is not the responsibility of the CEO, I do not know whose responsibility it is.

Mr PRINCE: It has never been spelt out.

Mr RIEBELING: It has been.

Mr PRINCE: Where?

Mr RIEBELING: As a lawyer, the minister would know perfectly well that one of the responsibilities is to have a court that is open and accountable. We have a system of law where justice must not only be done, but must also be seen to be done. They run on all those sorts of principles. Has the responsibility of the CEO altered in relation to the running of the courts? Under the old system, the responsibility of the CEO was to make sure that witnesses, of the Crown for instance, were protected. It is a basic responsibility.

Mr PRINCE: I disagree with you.

Mr RIEBELING: So the CEO had no responsibility for the administration of courts?

Mr PRINCE: Let us take the witnesses as an example. If the Crown, whether it be the police at petty sessions or the Director of Public Prosecutions at the District or Supreme Court, chooses to call a dozen witnesses, it is the responsibility of the police to ensure that those witnesses are kept safe until they give their evidence and afterwards. Within the courthouse structure, whether it be the Central Law Courts in Perth or the much more modest courts found elsewhere, it is not the responsibility of the court staff or the CEO. It has never been spelt out as their responsibility. The only responsibility that has existed is a responsibility on that witness to answer the summons to appear in court. The safety and security of the witnesses has been a matter for whoever calls them on the side of the Crown or the side of the defence in a criminal matter, or whoever calls them in a civil matter. No arrangements as such have ever been formalised; there is no structure in place, no group of people or organised third service to keep those witnesses secure within a court building. I think there should be. No doubt the member for Burrup agrees with me. I do not think this responsibility has ever existed before, although as a matter of practice the member and I would have argued for a long time that it should have been.

Mr RIEBELING: I thought it had been done.

Mr MARSHALL: On the same theme about the CEO being responsible for the protection of the witnesses and the jurors, does he have the power to search other people in the court?

Mr PRINCE: Under this legislation, yes he would. In order to provide for the protection, for example, of people who work on court premises, it is quite conceivable that the CEO - in this sense the delegated organisation that is providing the service, which may well be Corrections Corporation of Australia - would have the power to stop people and search their bags or them, in much the same way that people who enter Parliament House are liable to search, electronically and also physically. The same thing happens at airports and other places people go through. I am not suggesting that would happen to everybody who ever went into a court building, but it certainly would be the right thing to do when a particular trial is being held - more likely of a criminal nature than anything else - where there is good reason to suspect that people will come to the trial who may want to disrupt it in some way and may come armed to do that. Indeed, we have a charge at the moment against a member of an outlaw motorcycle gang who was said to have carried an offensive weapon into a courtroom. If this clause becomes a section of an Act, it will make the CEO responsible for providing that formal court security. The CEO is then contracted to CCA or some other organisation to provide that degree of security, and it is a matter of discretion as to what is provided, depending on the case. Obviously, there must always be a base level of security, particularly for the people behind the counter. Most of the public who come into the courthouse are quite reasonable to deal with and so on, but a few are not.

Mr MARSHALL: Does this also cover the court security service inside? What about when people move outside and a ruckus occurs?

Mr PRINCE: Perimeter security of the building must be provided under this responsibility. Where that happened on the street and a public thoroughfare, whether it be Hay Street near the Parliament, outside the Central Law Courts on St Georges Terrace, or somewhere else, it might be a problem for the police.

Mr RIEBELING: I mentioned a case last week involving an assault in a court and although those people were apprehended, once they got outside the building they said that they could not do anything anyway. Would this legislation allow the authorities to pursue people outside the court?

Mr PRINCE: No.

Mr RIEBELING: They can chase them to the front door.

Mr PRINCE: The two officers have just said no.

Mr WIESE: Surely, they are responsible for the car park under this legislation.

Mr RIEBELING: I am talking about the front door.

Mr WIESE: The car park is outside the front door.

Mr CROOKES: The legislation provides for security to stop at the front door in terms of apprehending people and would extend to areas such as the car park.

Mr RIEBELING: A car park underneath the building?

Mr CROOKES: Yes, in any area that is deemed to be part of the court premises, such as the car park, the garden of the Supreme Court or somewhere like that. It would extend to those areas. A security officer or a CCA officer - an authorised person - could apprehend someone in those circumstances if they had good reason to do so.

Mr PRINCE: It is a bit like the railway police. Their authority is within a certain geographically defined jurisdiction.

Mr RIEBELING: My concern is about what currently exists and what will be in place in future. It seems to me that to pursue someone and then stop at the door, if that person is just about hooked, is ridiculous.

Mr PRINCE: The problem is that a line must be drawn somewhere. If the security people were given extensive power to operate anywhere within Western Australia, which effectively is the power police officers have, they could charge out and chase a person down the street. It depends to some extent on the building involved. The Central Law Courts are a large complex with security organised in a way in which one assumes it will be organised. It will have the capacity to stop the doors so that people cannot get out and they will be apprehended inside the building. That does not happen at the moment. Indeed, I understand that Western Australian court buildings are the only such buildings in Australia that do not have an airport-type security system at the doors. I am talking about major courts, and not those at Cranbrook, Karratha and so on. Probably that is where we shall move to in the future, although at present there are only a few examples where it would have been used. Yesterday at Fremantle was one example.

Mr RIEBELING: In that situation a person under this legislation could have pursued that bloke to the front door.

Mr CROOKES: Schedule 3 at page 71 of the Bill, provides for an authorised person to apprehend a person who is escaping from custody, and clause 1(2) states that the power to apprehend a person under subclause (1)(a) is limited to apprehending the person immediately after the commission of the offence or the time when the commission of the offence is discovered by the authorised person, and at the custodial place where the offence was committed. Subclause (3) goes on to talk about the escape of the person and is designed to prevent the situation in which a contractor would be chasing someone through the streets of Perth. Quite clearly, we do not want that to occur. However, if someone is carrying out escort duties in the country, and a prisoner escapes from a vehicle in an escort situation, it allows the contractor to engage in hot pursuit because it is immediately after the committal of the offence of escaping. However, it does not allow the contractor to engage in police work in recapturing escaped criminals.

Mr RIEBELING: I thank the advisers for that answer but I get back to the point in relation to the responsibilities. What currently exists in relation to our court system where police officers are the main enforcers of security? They have the power to pursue and to arrest people, to do all this stuff and to provide security.

Mr PRINCE: It is very interesting that the member should say that because the police are there on an ad hoc basis, as a result of their estimate of whether or not there is a threat and they need to be there. They are not there all the time. Secondly, their power to stop people who want to go into a courtroom, and search and remove objects from them is no greater than the power they have on the street. Arguably, that is not enough.

Mr RIEBELING: It has been enough for a hundred years.

Mr PRINCE: Until somebody challenges it.

Mr RIEBELING: I thought the minister gave the example of how the system is currently working with the recent arrest of somebody who did exactly that.

Mr WATKINS: The weaknesses in the power that the police have in courts is that they have only the power they use on the street; that is, they must have reasonable suspicion that an offence has been committed or is about to be committed.

Mr RIEBELING: That is the power given under this.

Mr WATKINS: Yes. The police do not have any power beyond that in court so they cannot, on anything other than reasonable suspicion that an offence has been committed, stop and talk to anyone. This legislation goes beyond that. It actually permits the contractor, on less than reasonable suspicion of people committing an offence, to stop and search people, detain them and take property from them.

Mr PRINCE: It is similar to the situation in New South Wales, Victoria, South Australia and the Northern Territory, all of which have introduced law like this in recent times.

Mr RIEBELING: May I ask a question of the adviser?

The DEPUTY CHAIRMAN: It is getting a little messy. Each time reference is made to an adviser, I ask the minister to provide the adviser's name. It assists in recording. So that the committee will keep to its normal structure, the member for Burrup, instead of asking a question of the adviser directly, should ask the minister and he will direct the question if necessary.

Mr RIEBELING: Perhaps if the minister answered all the questions, there would not be a problem.

The DEPUTY CHAIRMAN: Questions are asked of the minister and if he requires the assistance of advisers, he will either get that advice directly or ask the adviser to answer the question.

Mr RIEBELING: In relation to the statement that was made that the powers the police currently have are not sufficient to provide proper security in the courts, my reading of the powers is that there must be a reasonable ground for suspicion. I have just read that and I want to know how the minister justifies allowing persons to have powers such as those set out in the schedules, without having reasonable grounds for suspicion. The inspector indicated that he was responding on the minister's behalf, and perhaps the minister will clarify that.

Mr PRINCE: I said that New South Wales, Victoria, South Australia and the Northern Territory all have enacted legislation like this in recent times, because of the perceived lack of law that should be in this area. I invite the inspector to respond to the balance of the member's question.

Mr WATKINS: The power that we use is largely common law. If we suspect that an offence has been committed, we can use the power in the Criminal Code and the Police Act, but it is largely common law. The contractors will not have that power and will require a clear-cut set of rules under which they can act and under which we can monitor their performance. What is suggested here is effectively what the police are doing at the moment; and the member is right: It is reasonable suspicion, and it goes beyond the commission of an offence.

Mr RIEBELING: With respect, that is not what the inspector said earlier. The inspector is inferring that under this Bill, they will no longer be required to have reasonable grounds. From my reading of the Bill, they will be required to have reasonable grounds to suspect that an offence will be committed or has been committed. What concerns me is that we will be giving people who are not trained to be police officers greater powers than the police. If that will be the case, why do we need to do that? The minister has said that has been done in New South Wales; therefore, we want to do it here. I want to know why the minister thinks we should give greater powers to people who are less trained than the police in the exercise of those powers.

Mr PRINCE: The police powers apply throughout this State, both inside and outside buildings. What we are talking about here is found in schedule 1 at page 55, the identification of persons in court premises, and is to be distinguished from police powers. It is the belief that an offence has been committed or is about to be committed that triggers a police officer's power. Clause 2(1) states that the power to ask a person who is about to enter, or who is already within, court premises can be used if the authorised person believes on reasonable grounds that the person is behaving, or is about to behave, in a disorderly manner. However, that is not an offence. There must be some reason for the security officer to ask the question, but not grounds to suspect that an offence is about to be committed. That is the difference. In order to empower the court security officers to do their job properly, they should have these powers. In a sense, they are greater than police powers, but they are to do with order and security, and are pre-emptive of wrongdoing, whereas police powers are mostly reactive to wrongdoing. Most of the security that exists in buildings, public and otherwise - and airports are a good case in point, as is this building - is pre-emptive and is the sort of thing where people must pass through a detection system and have a label put on them, or whatever the case may be, in order to prevent or deter people from committing a wrongdoing within the building to the detriment of people who are behaving lawfully. In a sense, it is those powers that are sought to be granted to the court security officers. I am not talking about transportation and so on.

Mr MARSHALL: Will protection be provided to witnesses or to the family of witnesses when they leave the court, because often they are physically attacked when they leave the court?

Mr PRINCE: If the police have reason to believe that a witness is likely to be threatened either before he gives his testimony or afterwards, the police have the power and responsibility, because usually that witness is a witness for the prosecution, to keep that witness in a secure place, in an extreme case sometimes under the witness protection plan, and to convey that

witness to and from the court safely, which may be in a secure vehicle. Under this legislation, outside the court it would remain the responsibility of the police to ensure that a witness was not intimidated in that way.

Mr MARSHALL: What about the family of the accused?

Mr PRINCE: The same would apply. However, within the court building, it would be the responsibility of the court security officer, under a delegated authority from the CEO. At the moment that is done by the police making an assessment of the threat that may occur to certain people. They mostly get it right, but sometimes they do not have enough officers there and those sorts of things do happen.

Mr RIEBELING: Does the minister have any concerns about the extent of the power that is described in clause 2(1)(f), which states, "the person wishes to enter, or remain in, the court premises for an inappropriate purpose"? I believe that a lawyer who was reading this schedule would consider that power to be excessive if the person wanted to go to the court to watch the proceedings. I might go to the court to watch a trial, and the security officer might ask me, "What are you doing here?", and I might say, "I just want to watch." What guidelines will be provided to assure the public that the courts will remain open to the public? It is proposed to give these persons, who will receive less training than the police, the power to remove certain people from the courts. I am not saying that power will be used, but on the face of it, if a person objected to going into the court and having some person from Chubb Protective Services, or whatever, ask him, "What is your name, address and date of birth?", that would be an offence under this legislation. If the same person wanted to enter the court, he must give a reason and produce some identification. What would happen if the person did not have a driver's licence? We should have great reluctance about giving these persons the authority to remove people from the courts. In order for me, and hopefully the Committee, to be satisfied, we want to know why in this case we are allowing these persons to determine who shall go into our courts and for how long. I believe that the judicial officer presiding over the court would be very upset by some of the powers that are proposed to be granted to these persons, and that the legal profession would also be extremely concerned. A private security firm might say it wants these powers, but that does not necessarily mean we should give it these powers, because the primary purpose of the courts is that justice can be seen to be done, as the minister would know, and for that to occur, we need to ensure that our court system is open and accountable. I am concerned that a person who is not a police officer will have the power to bar people from entering the court because he believes they do not have a valid reason for being there. Anyone should be able to watch the court proceedings.

Mr PRINCE: I understand the argument put by the member for Burrup. It arises from the presumption that a person can do only that which he is permitted to do. This law must be seen in the context of the general law; namely, that any person can go into a court of law, other than the Children's Court or the Family Court, simply on a whim. A person does not need to have a reason or a connection with the case. I have no doubt that the current litigation in the Supreme Court between Mrs Rinehart and Mrs Porteous is attracting many people who simply have an interest in seeing those two ladies help those lawyers to make a lot of money by litigating their dispute. I doubt whether the people who are watching that case from the public gallery are related to either of the parties, or even have a direct interest in the case, but it is the sort of case that will attract people who are curious, in the same sense that criminal trials attract people who are curious. I recall a number of murder trials where the gallery was full of people who had an interest in the case, although they were not related to the victim, the offender or anyone else involved.

The same thing occurs in the whole of the court structure. Members of the media are usually also there, because they want to judge whether the trial is worthy of being reported. That is the law that exists, and it has not changed. Any person has the right to be in the court, so long as that person does not misbehave or interrupt. However, to provide for proper security, we are empowering the court security officer to ask, "What is your name, and why are you here?" A perfectly valid reason is, "I want to see what is going on." It must be seen in the context of the law that provides that any person can come into the court. We are empowering a court security officer to keep individuals out of the court in order to provide for security, not in a capricious or random way, and not in a way that is intended to close the courts to the ordinary members of the public, but when it is necessary to do so.

Mr RIEBELING: The difference between the current situation and the situation the minister has outlined is that if the security officer asked, "Why do you want to go into the court?" and the person replied, "None of your business", under this legislation, it would be the business of the person who had been given the authority to ask that question and to make a decision, and under this legislation, that answer would be unacceptable.

Mr PRINCE: How will the court security officer be able to determine on reasonable grounds that it is an inappropriate purpose? If the person just says, "It is none of your business", he will not be able to determine that it is an inappropriate purpose. However, if the persons says -

Mr RIEBELING: I am going to bomb the place -

Mr PRINCE: No. That is too extreme, and that is irrational. The inspector has just come up with an example.

Mr WATKINS: Had the police had this level of power, the two bikies who got into the Central Law Courts and caused all that trouble probably would not have been able to get in, but the police had no authority to stop them and to ask them for

any of this information. As it happened, there were no police there anyway, but despite that, we would not have been able to stop those people, and that could have blown up into anything.

Mr RIEBELING: How does that take this further?

Mr WATKINS: Had we had this power, we might have been able to stop them at the door and ask them, "Who are you and what are you here for?"

Mr RIEBELING: If you had been aware of those bikies, you would have arrested them before that.

Mr PRINCE: How? There were no grounds to suspect that an offence had been committed or would be committed.

Mr RIEBELING: What question would they have asked to give the police the ability to apprehend them?

Mr PRINCE: I am trying to think of one, and I am drawn to the area of sexual offences, where a person who has a perverted view of the world says, "I am coming in here to listen to this rape trial of a child because I believe that the love between an adult and a child is perfectly acceptable." I am aware that that was one of the reasons put by the chap, whose name escapes me at the moment, about why he had that succession of young boys at his flat. In those circumstances, that sort of response should be enough for the court security officer to say, "That is an inappropriate purpose for you to be in the court." That is the only example I can think of.

Mr RIEBELING: That is clearly the wrong example to give, because the morals of the person is a different matter from the security in the court.

Mr PRINCE: I am sorry. I should have explained that further. A person who came into a court wearing a long mackintosh and who intended to masturbate in a public court as a result of hearing evidence in a rape case would be there for an inappropriate purpose.

Mr RIEBELING: I am sure that if that person were asked, "What are you coming in for?" he would not have said, "I am here to listen to this case and masturbate in the back of the court."

Mr PRINCE: That has happened.

Mr RIEBELING: That may well be an offence, but the person may believe he has a good reason to be in the court, yet the person who asked the question believes that it is an inappropriate reason to be there.

Mr PRINCE: It is not a matter of morality. It is a matter of criminal law. Sodomy of a boy is a crime.

Mr RIEBELING: Absolutely, but if the person wished to listen to evidence with regard to that, for whatever reason, that would not be a good enough reason to expel that person. If the minister is saying that an answer such as, "I want to listen to this rape trial because it excites me", is sufficient reason to expel that person, that is of great concern.

Mr PRINCE: Only if it will lead to some sort of disorder in the court.

Mr RIEBELING: That is not what the minister said.

Mr PRINCE: It was in the context of that.

Mr RIEBELING: It was not. It was an example of where this could be used.

Mr PRINCE: I was trying to think of an example.

Mr RIEBELING: The minister should have thought of one that was a bit clearer. I cannot think of an example of the type of question that could be asked to determine whether a person was about to commit an offence or cause some disruption to the conduct of the court. In my view, that is what this is clearly directed to. I cannot think of how a person would respond to that. A person might say, "I am going into the court to protest."

Mr PRINCE: "I am going to protest", or, "I want to get the names and addresses of the witnesses because I am for the accused and I think these people are lying" - that sort of thing.

Mr RIEBELING: The protest argument also raises some concerns for me. Some people might say that there are two places where one should be able to protest - an open court of law, and the front steps of Parliament House. We have barracks at the front, so we are cutting that one out, but a court -

Mr PRINCE: No. A court is not a place of protest at all. The area outside a court may be, but not the inside.

Mr RIEBELING: It is an open court, and some people may think that -

Mr PRINCE: They are wrong.

Mr RIEBELING: They may well be wrong; however, that is the sort of question I expected the minister to say would be appropriate.

Mr PRINCE: That is an obvious example. I was searching for something less obvious.

Mr RIEBELING: That is the only example I have been able to come up. Does the minister have another example, now that he has had time to think about it?

Mr PRINCE: The bikies are the obvious example that has occurred in recent times.

Mr RIEBELING: What questions, for instance, would they be asked?

Mr PRINCE: "Who are you?", "Where do you live?", and "Why are you here?"

Mr RIEBELING: If they said, "Bill Bloggs, such and such. I am here to watch the case", in they would go.

Mr PRINCE: There would be a search, and they would be asked, "What are you carrying?" We have Bill Bloggs from one gang here, and the next guy is Fred Smith from another gang, and we know what the case is about, so we can say, "Hang on a minute. It is highly inappropriate to sit these two people next to each other in there."

Mr RIEBELING: The answer the minister gave with regard to the search flows on to clause 4 of schedule 1. The responsibility of the chief executive officer and the maintenance of order in the courts is dealt with in clause 2. This new person will receive less training than a police officer but will have more power than a police officer to prevent people from going into a court on that ground. I also have some concerns about the power to search, but I will get to that. At the moment I am talking about those three questions that we are authorising the person to ask. I am concerned that that will give those persons a lot of power to stop people from going into the court when they probably should be allowed to go into the court. The answers to the questions might suggest that a person should not go into the court because he will commit an offence - he will abuse the magistrate, or whatever. However, if a person said that he wanted to protest by abusing a magistrate, that would not become an offence until the words had been spoken.

Points of Order

Mr WIESE: Mr Deputy Chairman, it seems to me that we are now discussing schedule 1. We should be discussing clause 7. While there is a degree of relevance, it seems to me that we need to return to clause 7, because what the member for Burrup is talking about will be dealt with when we get to the schedule.

Mr PRINCE: I had hoped that the member for Burrup would agree to all the clauses in between!

The DEPUTY CHAIRMAN: This point of order comes up from time to time in the committee stage. Obviously the member for Burrup, or any other member, will be able to discuss the detail of those schedules later if he needs to. The counter argument to that is that if we discuss it now, there may be less discussion of it later. The Chair usually allows a fair amount of latitude.

Mr WIESE: I understand that, but we have had one hour and five minutes.

The DEPUTY CHAIRMAN: If members are particularly keen to take a firmer approach to this, I am happy to ask the member for Burrup to try to relate his points more directly to clause 7, although I do appreciate there is an indirect relationship between the two.

Committee Resumed

Mr RIEBELING: Clauses 6 and 7 relate to the CEO's responsibilities. I thought there was a direct correlation between the responsibilities of the CEO with regard to services provided to courts and the protection of courts. How more direct can we get? I will ask no further questions about schedule 1, but I still wish to know what the minister will say about the safekeeping of personal property, which I presume is property that has been confiscated from visitors to court premises.

Mr PRINCE: It is not confiscated.

Mr RIEBELING: Property that they are asked to surrender.

Mr PRINCE: I have no doubt that some people will put it into safekeeping on the basis that they do not require it in the court room. Some of the property may well be taken from people because they should not take it into the court room; for example, a bag containing a flask and some sandwiches. A court is not the sort of place where a person should have his morning tea while a trial is taking place. Would the member agree with that?

Mr RIEBELING: It would not worry me if someone had a cup of tea at the back of the court.

Mr PRINCE: I do not think many court officers would agree with that.

Mr RIEBELING: They would confiscate the flask of tea -

Mr PRINCE: It is not confiscation, because confiscation means it is taken permanently. The property is kept in custody

for the period the people are in the courtroom and then returned to them. However, if a person had a loaded nine-millimetre pistol, that would be confiscated.

Mr RIEBELING: What sort of devices will be set up in the courts? I presume this will allow the procedures which we have at an airport, where people walk through some sort of metal detector and a device checks what is inside bags. The minister states that property can be held until a person leaves the courtroom. The minister's comment that it is inappropriate to have a 9 mm gun in one's possession might explain why debate on this Bill will take a long time. Will there be some sort of public education program on the appropriateness of items? For instance, I know that courts object to tape recorders in courts. Most people would not know that until they were told off by the magistrate or a judicial officer. What items are appropriate to take into a court?

Mr PRINCE: I would expect that as part of this there will be signs that will indicate that one is not permitted to take a camera or tape recorder into the courtroom; mobile phones and pagers would probably be allowed as long as they were not set to beep, but set in some other way. Metal objects like extendable batons and so on will not be allowed. Food and drink and items of that nature will not be allowed. They are the sort of things that are not permitted in the courtrooms now. It is up to management to say what personal property they will hold on behalf of a person. Those sort of things are usually voluntarily checked in, in much the same way as a cloakroom at a theatre; or they will be taken from the person while in the courtroom and will be returned when they leave.

Mr RIEBELING: Will the Central Law Courts have a metal detector at, say, the Hay Street entrance?

Mr PRINCE: Not as matter of course. However, I would expect that sort of equipment would be used when an estimation has been made that it will be necessary.

Mr RIEBELING: It is not envisaged to have that sort of security system?

Mr PRINCE: I imagine that sort of equipment will be used as and when it is deemed necessary to use it. There would be a cost involved if it were used for everyone who came and went out of the building, although it may come to that in due course. Many people go to the counter of the court on a daily basis to lodge papers, pick up papers, pay fees or get a birth certificate. Those people pose no particular threat to court security, because they are not going into a courtroom although they are within the courthouse. Having said that, it may be the appropriate thing to do in relation to some trials. The Fremantle Prison riot trial is a classic example of where that was done, although there was no authority to do it. At present the police have no statutory authority to do that.

Mr RIEBELING: The CEO is equally responsible for the people at the inquiry counter as he is for those in the courtrooms. I would have thought there would be just as many nutters at the public counter as in the court.

Mr PRINCE: I doubt it, but I do not know. My experience is that there are not, but your experience might be greater than mine.

Mr RIEBELING: I would have thought you would get more at the inquiry counter.

Mr PRINCE: Not in terms of volume.

Mr RIEBELING: This legislation puts equal responsibility on the CEO to protect the public, not just witnesses and the like.

Mr PRINCE: I do not know the figures for the Central Law Courts, but I would guess that on a daily basis more people come and go out of that building to go to the counters to do the paperwork, than go into the courts. I might be wrong in that guess for the courthouse in my home town, but presumably in yours that is the case.

Mr RIEBELING: Clearly that is the case. I do not intend to pursue that. Another point in the recommendation to subclause (2) that would alleviate some of my concerns would be to include a paragraph (e) which would require the CEO to be responsible for making sure that the court is open to the public. In relation to these responsibilities - I understand they are all security concerns - if a clause is put in, which states that along with these security concerns there is an overriding concern and responsibility for the CEO to ensure the courts are conducted in an open manner, it would put back onto the operators the powers under the schedule within a court environment. In that way, their prime purpose is to have the administration of the courts in an open manner.

Mr PRINCE: The member has raised this issue a number of times. The law is clear and has been for centuries. The courts are open and accessible to members of the public.

Mr RIEBELING: Except where they are refused access and are not given a reason.

Mr PRINCE: The member is drawing an awfully long bow. He is saying that a private contractor's security officer, on a capricious basis and unanswerable and unattackable, will stop people from going into a courtroom because he will get a kick out of it. I think that is so farcical as to take the debate beyond the boundaries of logic

Mr RIEBELING: The minister may think that, but he is giving this person that power. That is why I am trying to moderate the powers the minister is giving. Has the minister an objection to making it the responsibility of the CEO of the Ministry of Justice? We are supposed to be dealing with the area of justice. His primary responsibility is to ensure the courts operate in an open manner.

Mr PRINCE: It is not the responsibility of the CEO; it is the responsibility of the State. If we are to have a statement to that effect, it should be the statement of common law as it is at present, and it should be written at the beginning of a piece of legislation and say that the following courts shall exist in this State - the Supreme Court, District Court, Magistrates Courts and so on. It should have as a preamble to subclause (2) that all courts shall be open to and able to be used by members of the public whenever they are open in the normal course of business. That is the law now. It is not in a statute, but that is law now. It is in that context that this legislation is put forward. The member seems to be ignoring that

Mr RIEBELING: No, I am not. The minister seems to fail to understand that for the past week he has been telling me that none of these provisions is in the statutes.

Mr PRINCE: They are not.

Mr RIEBELING: How does what I am suggesting in any way differ from what the minister has been arguing? I am suggesting that the responsibilities of the CEO should be clearly stated, so that it will not give people who operate under the legislation excessive powers to remove people from open courts under the schedule. How is it not the CEO's responsibility to make sure those powers are exercised in accordance with the functioning of our court system?

Mr PRINCE: They are. It is clearly his responsibility to do that.

Mr RIEBELING: It is not in here.

Mr PRINCE: It does not need to be there because it is already in the law.

Mr RIEBELING: The minister sees the need to write all these others matters into the legislation

Mr PRINCE: We are giving express responsibility. We are imposing an express responsibility that does not presently exist, and then you want to empower these people with powers that do not presently exist.

Mr RIEBELING: They are far in excess of the present powers.

Mr PRINCE: Nonsense. The law says that the courts are open and accessible by the public.

Mr RIEBELING: It does not say that in any statute though.

Mr PRINCE: No, it does not. That is the way in which the common law has always worked. We are a common law jurisdiction. The member wants everything to be confined in a statute. In debating the question of a bill of rights, we must start from the basis that no-one has any rights at all, other than those given by statute. That is the basis of not only our judicial system but of the society in which we live. The basis from which we come is this: People may do that which they please, except that which they are not permitted to do. This is not a totalitarian regime, and never has been.

Mr RIEBELING: Until this Bill goes through.

Mr PRINCE: I was going to say since William the Conqueror, but it is probably earlier than that.

Mr RIEBELING: The powers that were previously exercised were common law as well.

Mr PRINCE: No; they were not. We are dealing with clause 7. Some responsibilities exist at the moment. They are largely in the common law area of torts, but are also found under the Occupational Safety and Health Act, and to some extent the workers compensation legislation which started its life as common law from the English judges of the High Court and subsequently became the workman's compensation Act of Britain, and subsequently the workers' compensation Act of Western Australia. There have been statutory modifications to some of those responsibilities, but largely in the area of responsibility to people in a workplace it is common law.

Mr RIEBELING: It has been the minister's argument for the past week that these powers vested in the security services are not necessarily statute powers. They are powers that were developed under common law.

Mr PRINCE: The police do not have these powers.

Mr RIEBELING: The minister has been telling me that for the past week and a half, and I understand the problem; however, the minister has now decided that these powers must be put in the statute. All I am saying is that the powers to restrict people going into the court under these schedules are such that it does substantially alter the power to stop people going into a court.

Mr PRINCE: I disagree with the member quite strongly because the only power to stop is exercised in relation to the matter of security of the court, and the officer must have reasonable grounds to the effect that some sort of disorderly conduct will take place - some sort of disruption of the court, some sort of inappropriate behaviour.

Mr BAKER: Is it the case that the persons concerned will receive training in the use of their power?

Mr PRINCE: Yes; of course they will be trained.

Mr RIEBELING: Did the minister say last week that they would not be trained?

Mr PRINCE: I explicitly said they would be trained. I was not able to provide the member with the training manual for that module because it does not start until 1 July, and it is presently 16 March.

Mr RIEBELING: How can the minister tell this Committee that they will be trained if it has not been designed?

Mr PRINCE: It is self-evident that there must be training, otherwise they would not be competent to do the job

Mr BROWN: Some matters concerning the core functions of the police and the Ministry of Justice referred to in the second reading speech have not been examined in that report because it has not been made available to us.

Mr PRINCE: The question was asked that the report be released. The information I had shortly before we started is that I am not in a position to put the report on the table. I may be, but I am not prepared to.

Mr BROWN: I foreshadow that if the Government [inaudible]. This report is the genesis of this Bill. When it is put on the table, I will want to read the report. [Inaudible] At this point we cannot go over some matters because that report has not been provided. I simply flag that. If we can deal with this clause. The other matter which we asked for, and which has been filed today, is the wage comparisons of prison officers, police officers and CCA employees under the designation of supervisor. Clause 7(2) states that the CEO is responsible for providing for the protection of people who work at court premises.

With your approval, Mr Deputy Chairman, I will examine the document provided to us because it relates to people who may work at the premises. The document contains a number of columns. The first column under the heading of CCA has a subheading "supervisor" and a series of years including second year, third year, fourth year and fifth year which I understand relate to employees' years of service. Under a subheading of CCA, it has a wage range from the high twenty thousands to the low forty thousands. Were the wage rates set by CCA?

Mr PRINCE: I understand they are just indicative. I am informed by my adviser that CCA is not prepared to release the wage rates other than in this indicative form because of a requirement for commercial confidentiality. We could say that the high twenties to low forties would be $25 000 to $45 000.

Mr BROWN: But the Government knows the rates that are proposed to be paid?

Mr PRINCE: I do not. My advisers say not. We have a range, but not precise numbers.

Mr BROWN: I would be grateful if you could tell me how you can do the calculations that are provided for in the documentation you gave us the other day. That documentation proposes there should be full transparency in relation to the calculations of base-costs and on-costs and so on. How can those calculations be done if the figures are not known?

Mr McDERMONT: CCA obviously used indicative salary rates to establish its price. However, having done that it will undertake agreements with staff when recruiting and the wage rates will be decided at that stage. They have priced their contract on a staffing and wages regime which we deem is realistic. However, the actual salaries will depend on the agreements they undertake with the staff at that time. Obviously, they will make those rates known when they reach the recruitment stage.

Mr BROWN: I understand the contractor will have a set price when it starts. Apart from building costs, improvement costs of lockups and costs of vehicles, etc, the bulk of the contract is staff related costs are they not?

Mr PRINCE: They are probably about 60 per cent.

Mr BROWN: With a contract that contains staff related costs as high as 60 per cent, surely these figures being used by the contractor should be pretty much the amounts that will be paid.

Mr PRINCE: Yes; I have inferred from those figures that they will be paid somewhere between $20 000 and $45 000.

Mr BROWN: Somewhere between $25 000 and $45 000 is somewhere between 100 per cent and 180 per cent. How are the costings being done if that is the basis?

Mr PRINCE: Given an indicative cost with regard to salary scales, rates and ranges - and the department is satisfied that is realistic - that is not necessarily what it will pay because it has not started to try to recruit anybody yet. That starts on 1 July.

Mr BROWN: Presumably the contract will be signed before 1 July with those figures.

Mr PRINCE: Yes, but that is a contract to provide particular services at a certain price to the taxpayer. The CCA in the course of justifying its price said that this is what it, in an indicative way, expects to pay; but that is not exactly necessarily what it will pay. It may not be because it has not tried to recruit anybody yet.

Mr BROWN: So the question of transparency which is referred to in this document is not really there.

Mr PRINCE: For the purposes of Hansard, you are looking at the request for proposal documents which I put on the Table last week.

Mr BROWN: That is right. This is the document referring to the Ministry of Justice and the Western Australia Police Service request for proposal No 1 of 1998. There are four volumes and this is volume 1 dealing with requirements. I can find the precise section for the minister if he wishes, if he gives me a moment, but I am sure he understands what it is.

Mr PRINCE: I understand entirely what the member is saying.

Mr BROWN: There are different pricing structures, a base structure and an overall structure. The minister knows that better than I, although I have read them. These are very detailed pricing arrangements. It looks at the base cost, adds on a margin and takes other factors into account. It is not merely a contractor coming in and saying, "I will do this for $10m and put it on the table. If I make a quid, I am there." This is pretty precise costing, as I understand it. If the words in this document mean anything, they talk about transparency. Maybe transparency does not mean to the minister what it means to me, but to me transparency means that I can see the costs under which the contractor is operating and know the margins. The document refers to this. It refers to the fact that a contractor will get a better margin if it performs well and a lower margin if its performance is lousy, and it refers to the imposition of penalties.

Mr McDERMONT: It does, but in the particular issue we are talking about transparency operates this way: When putting in a price, the contractor or respondent must indicate the kinds of salaries it might pay and how many staff it might employ, so we can assess whether it has a realistic wage and salary approach to applying those services. Once we make a decision, if we think it is realistic, precisely what it pays is up to the contractor. When we sign the contract, it will not be part of that contract that the contractor should pay X dollars to a specific person. It will not stipulate exactly what the contractor must pay. We will understand that it has sufficient resources to employ the sort of people to do the sort of tasks that are required. There is no lack of transparency, it is just that with this sort of contract we do not stipulate what the pay rate will be for each class of employee.

Mr MARSHALL: I am interested in the sums too. Am I right in saying that the security legislation that we are talking about is to get police back into the game they know best in the community and to do the job for which they have been trained, taking into consideration the enormous amount of money spent training them? Instead of that, at the moment there is a small wastage of ability when they are in the courts. When we look at these rates we can see that the rate for a police officer is up to nearly $50 000 a year and the CCA rate for a security officer is $20 000 to $45 000. With all the money that has gone into training a police officer as against a security officer, a good economic investment is to train people and employ them as security officers at a fair and sound income. Because they do not need the professionalism that police officers need, the police officers will get out into the community to do what they do best and we will save money. It seems pretty good to me.

Mr PRINCE: The points made by the member for Dawesville are quite correct. Of course, those are the aspects that underpin the whole exercise. There are 200 police FTEs. I wish I could express it in terms of man hours or people hours because it might make more sense.

Mr RIEBELING: You did that last week.

Mr McDERMONT: It is something like 370 000.

Mr PRINCE: I thank my adviser very much. I could not remember the number of hours. Those police FTEs are tied up not only in the function of court security but also in transporting people and in looking after them in lockups and police stations. If the member looks at the paper which has been handed around showing the wage comparisons, for a supervisor at sergeant level - of course a sergeant gets more than is shown because a sergeant is on shift work which is probably worth another $4 000 or $5 000 a year, and he gets overtime, which of course is double time - I am informed by the inspector on my left that that takes it up to very nearly the amount that inspectors get paid, or more. The heading of Other Staff of course refers to constables and senior constables whose pay rates are less, but again that is a base rate. There is more for shifts and so on. As the inspector said last week and I have said on record, police officers are not trained to do these jobs, whether it be court security, the transportation of prisoners or the custody of prisoners in a lock-up. They get some on- the-job training which obviously is more intense in some places than others because there is more of it to do. It is the sort of work that these security people who are to be employed by a private contractor, which is to be empowered and given the job of doing this work, will in fact be better trained to do it than police officers. Police officers are there fundamentally to keep public order, to detect the wrongdoers and arrest them. I summarise what police officers do That is what their training is designed to do. It is not to transport people around in the back of a wagon from one place to another, sometimes over long distances. It is not on an ad hoc basis to provide security for courts or necessarily to look after people who are held for a

few hours or perhaps overnight in a police lockup. Those functions should really be carried out by a third force, or whatever one likes to call it, which is something we debated last week. I rather hope that we have come to the stage at which everybody agrees we should have a third force. What we are disagreeing on is whether it should be a private contractor or somebody directly employed in the Public Service.

Mr BROWN: Has the CCA given any indication as to whether, like the Police Service and the Prison Service, this service will have increments or are these figures those that will be arrived at?

Mr PRINCE: There is no set contract price at this stage. It is subject to adjustment prior to the contract being signed. The phasing in approach is yet to be discussed and that will certainly affect the price. It really is a matter whereby one would expect that they will have increments over the years.

Mr McDERMONT: It may be. It has not indicated clearly to us.

Mr BROWN: My problem with this is the whole issue of accountability. When the workplace agreements legislation was put in place, we in the Opposition said that people would be given exactly the same job and some would be paid a lot less, particularly because the Workplace Agreements Act allows them to be paid a lot less. That has happened. To take school cleaning, when cleaners were employed by the Education Department they were paid a proper rate of pay. That job has now gone to contractors and a lot of cleaners are now employed under workplace agreements and paid the minimum wage. That group of people as a class has actually gone backwards. The Government says that it is not its responsibility to set wages and conditions for employees, but it used to be because this State used to have an industrial relations system with awards. We now have lower minimums and people who are employed on very poor wages. These issues concern me. A lot of people could not give a cuss about others. They do not worry about them and do not have a social conscience. I understand that the world has changed to a live-and die world and a cut-throat world; that we do not give a cuss; that we walk out the-front door and live and die by the sword and do not worry about it. That is the way some people see it. That is their value system but it is not my value system. My value system says that if we provide a minimum standard of living that is fine but if people want to work 100 hours a week whatever else they have in the bank, that is fine. They can do that, but there must be a reasonable minimum standard. That is my value system. It is not the Government's value system.

The reason that I test it here and the reason that we tested it in the other place is that this is about a process of negotiation with these workers. We all know what the situation is now with these workers; that is, the contract will be drawn up by the CCA and it will be a standard contract with a standard rate. People who apply for the job will be shown the contract and told the rate. They will be told, "That is the rate and that is the contract. If you accept the rate, you accept the contract or you do not have a job." It is important that people understand why I feel strongly about this. I am keen to know what are these rates because what the schedule you have provided tells me is this, and I take "other staff" to mean ordinary staff and not supervisory staff: It is intended to put all of these responsibilities on people and pay them a rate of $25 000 to $35 000 a year, including shift allowances and all those other sorts of things. To take prison officer rates and police officer rates - and the police officer rates do not include shifts - as I work it out, these people are about $10 000 worse off than police officers. There might be a skill differential, but have a look at the responsibilities. The minister should read the schedule in the Bill.

The DEPUTY CHAIRMAN: If I may interrupt, I do not want to labour this particular point but we are dealing with clause 7 and the responsibility issue in clause 7 relates to the chief executive officer. I can see the issues that the member is raising. I am just querying whether they relate directly to clause 7. We seem to be going around in circles. There may be an opportunity at another time to raise these issues of pay rates and so on and the general trends in industrial relations in this State over the past 30 years.

Mr BROWN: I am happy to do it now rather than later. If you wish me to do it later, Mr Deputy Chairman, I will move on to other matters that I have on clause 7. If you want me to discuss these matters after the dinner break, I am happy to do that. There are a couple of clauses further on under which I can repeat the argument. I am happy to have the argument now.

The DEPUTY CHAIRMAN: We will continue with your line of argument on these general matters.

Mr BROWN: Thank you, Mr Deputy Chairman. How has the minister arrived at the view that these rates are reasonable?

Mr PRINCE: I will invite Mr McDermont to answer that.

Mr McDERMONT: The way we have done this is that all the major companies which put in proposals operate some of these services in other States, so we already had some comparative basis as to the sorts of rates they might pay. The second issue is that there is a skill difference between a fully fledged prison officer or police officer, so we take some notice of that. It is not an exact science on how we might relate one to the other.

The other approach would be to look at other States and ask whether they are paying similar wages and what is the rate of staff turnover; that is, is the pay rate such that it allows them to maintain a reasonable work force with a reasonable turnover given that these are sensitive services. The answer is that the turnover rate of about 10 per cent is not vastly different from

the rate in many other industries. They are the issues that must be considered when determining whether the proposed rate is realistic.

Mr PRINCE: The scheme differential issue can be understated. The level of expertise and training of police officers is in many respects different from that which is expected of the security officers. In some respects the security officers, whether they work in the courts or elsewhere, will be better trained in their specific, relatively narrow area than are police officers. Police officers have extensive training in many different areas and, of course, as a matter of duty are required to go into some situations that are potentially extremely dangerous without knowing how dangerous. In these circumstances, the security officers are dealing with people who are already in custody. In that sense, those people who are potentially dangerous are already restrained physically in some way, and that is a notable difference.

The other aspect of the task is dealing with members of the public who want to resort to a court. It is granted that there might be some potential danger, but it is likely to be relatively minimal by comparison with the duty of police officers to go to crime scenes, to seek out the wrongdoers and to arrest them without harming them, which of itself is a completely different body of skills.

Mr WIESE: We are not talking about reducing the salary and status of police officers. We are talking about police officers using the skills that they have attained. The example cited is a fifth-year supervisor, who has been in the service for at least 15 years and has undergone additional training. We are talking about highly-skilled operators who are sitting around in a court performing the tasks of a court officer. That is a total waste of police resources and it is not what the community expects of police officers. There is no intention to decrease the wages of police officers. This will involve employing new people, perhaps even those currently unemployed, and paying a wage of between $20 000 and $40 000. This is not a strategy to decrease wages or to lower people's standards of living.

Mr PRINCE: I understand the point the member for Bassendean is making. We are using taxpayers' dollars to contract for a service to be provided without dictating how much the employees of the company will be paid to perform any part of that service. The information we will have is an indication of the amount that is likely to be paid for any level of expertise that may be employed, whether the task is being performed by the most junior or the most senior supervisory staff. That said, this is not an award system and, with the greatest respect, while I understand what the member has said, we are gradually moving away from the award system in Australia. It is not a system that operates in any other part of the world. Whether that is right or wrong, I simply make the statement.

In respect of the member's personal beliefs, I hope he does not find any lack of compassion and care for human beings among my fellow members of Parliament. If there were such a lack, I hope we would not be here. However, we might have differences of degree in our opinions of how those issues are resolved in the public interest.

Mr MARSHALL: I respect the way the member for Bassendean is going about this. He mentioned the cleaners, and private contracting has not been good for them. When I was about 20 years old, I worked in a fireworks factory in England for six weeks while waiting for a ship to take me and my playing partner on the Indian tennis circuit. The factory employed about 92 people and the arrangement was that we earnt our wage by doing 20 batches a day and then we earnt one shilling and sixpence for each extra batch. In so doing, we could double our earnings. The arrangement had to changed because at 3.30 pm everyone in the factory knocked off. They had made enough money to live and play darts. The owner of the company was in trouble. Instead of doing 20 batches a day, my doubles partner did 50 by midday. The other workers labelled him a scab and that told him to slow down - he was ruining it for them. There are problems with a unionised factory in which the employees are not working to their capacity. That is the only time I have worked for a boss, apart from now, and I was intrigued about the way these people worked. Not everything is perfect.

The DEPUTY CHAIRMAN: Is the member asking whether the minister agrees with that?

Mr MARSHALL: The minister has already explained it.

Mr BROWN: I raise the question of transparency because the minister said in his second reading speech that this Bill would improve accountability. I do not know how it will do that when we do not know the rate of pay for the people employed to carry out a task. I do not know how that can improve the accountability arrangements, but perhaps the minister can explain.

Mr PRINCE: The chief executive officer has a set of responsibilities imposed upon him or her. As I said earlier, this is the first time that has been done. The concomitant powers have been debated at some length. A contract is let for the provision of the service, first, to satisfy those responsibilities and, secondly, through the use of powers. The contract as such, when finally signed, is open and accountable. The amount then paid to the contractor will be known down to the last cent. The provision of the service and its effectiveness and efficiency again will be the subject of regular reporting and monitoring by those delegated to do that by the CEO in the discharge of his or her responsibilities. The member may well not find out exactly what each individual is being paid by the contractor, but why should he know? With the exception of members of Parliament and CEOs, the amount that public sector workers are paid is confidential. Their pay rates are well known, but the amount an individual receives is confidential to them.

Mr BROWN: But their classification and whether they are employed under a workplace agreement or an award is open to public scrutiny.

Mr PRINCE: The classification covers a salary range, but some people receive additional remuneration and some do not. Therefore, the actual amount a person is paid is not known and that will also be the case under this arrangement. Contract negotiations have not been completed, no contract price has been set and final adjustments prior to signing and phasing in are yet to be worked out. Because we do not have that information, we cannot release the contract price. We will not jeopardise those negotiations by releasing that information.

Sitting suspended from 6.00 to 7.00 pm

Mr PRINCE: Before the Committee suspended at six o'clock, the member for Bassendean made a number of points about transparency, wage rates and so on. At the time I conferred with one of my advisers. For the sake of the record, I was told that once the contract has been determined and signed, more accurate information will be known.

Mr McDERMONT: Once CCA has agreement with its work force, the wage rates will be known.

Mr BROWN: By whom?

Mr McDERMONT: When the agreement is known, it will be available. Every organisation will have whatever agreements they are using and salaries scales. I assume they will be known by people who can make that inquiry.

Mr BROWN: We never make that assumption unless we are told. The history of this place is that we ask ministers for information, particularly when it relates to pay rates and contracts, the answer almost inevitably is that it is none of our business. So, you are saying they will be made available to us.

Mr McDERMONT: I say that they will be available, I assume, under any organisation which has an agreement.

Mr BROWN: I understand the workplace agreement will be the case. That is the way it is. A question was asked whether the individuals would be included. I take it from what you say that there will be no guarantee that it will be available.

Mr PRINCE: I do not think one can give a guarantee when talking about the pay rates between a private organisation and its employees. When one thinks about it, it does not matter whether one is talking about recent times or history when considering any organisation which has been contracted by government to do something. I use Clough Engineering as an example as I was listening to an interview on radio this morning with Harold Clough, who for 60 or 70 years has been engaged in building public works for various Governments. For example, when the Narrows Bridge was built, I do not know whether it was publicly known what was paid by Clough to contractors to subcontractors, by subcontractors to sub-subcontractors and so on. I doubt that it was known. I make a point: The observation the member is making is relevant to recent times but has not always been the case with regard to a person entering into a contract with government to provide goods and/or services. The member is seeking something which has not been historically available. This is the new area into which the Government has moved; that is, the contracting for the provision of services as opposed to goods, construction or something of that nature. That is the new aspect. The member wants to know pay rates. I do not know that I can tell him whether I will give them to him. I know that the contract itself, when it has been signed, should in my view be able to be laid on the Table of the House with whatever is commercially sensitive deleted. That is the practice I have followed so far in various portfolios. That does not mean that the amount paid to employees will be deleted; rather, it is other information which would advantage a commercial competitor. The rate of pay, about which we have been talking, would be available, rather than the individual amount paid to a person. However, I cannot give the member a guarantee until the contract is signed.

Mr RIEBELING: I thank the minister for his explanation. I recognise that it is an ongoing service compared with a contract which is to build -

Mr PRINCE: I would distinguish them. This is a contract to provide a service for a period of time.

Mr RIEBELING: The minister's second reading speech said that he wanted to put in place a more accountable system. That comment was on page 1, paragraph 4. Paragraph 3 on page 5 includes the following sentence -

> It is proposed to be effected in a way which does not shroud arrangements for service delivery in commercial confidentiality provisions that in other places have prevented public access to operational information which should be freely available.

How does the minister justify what he says when he clearly stated in his second reading speech that it is the ongoing provision of that service? The minister is saying in effect that the commercial confidentiality which normally applies with contracts will not be the case in this instance. Am I misreading it?

Mr PRINCE: I understand what should be made publicly available. I take the view that the whole thing should be out there - bang! - and the member and everybody else should be able to see it. It is then up for people to persuade me otherwise; that

is, what is there which should not be made publicly available. It may be that the portion of the calculation of the profit margins is the proper part which the CCA and everybody else would not expect to be made public. That is something which is personal, private and confidential to its operation. Otherwise, everything else should be available. We should be able to see who it will employ - I mean the numbers, levels of training, expertise and so on - the rates they are being paid, how many are in a particular place at any time, the arrangement to move people from places at times and various contingencies. That is what I meant by "transparency".

Mr BROWN: I take it that that is the minister's view, but is that the Government's view?

Mr PRINCE: Yes.

Mr BROWN: When we get to the appropriate part of the Bill, we will see whether we can produce an amendment to make sure that happens.

The DEPUTY CHAIRMAN: I remind members, although I have joined the debate recently, that we are dealing with clause 7, which deals with the chief executive officer and his responsibilities. I am unclear how we ended up discussing pay rates and such matters. I suggest that we put clause 7 and wait until we reach the relevant provision for that debate.

Mr BROWN: I will not argue the point until we reach the amendments to the provision dealing with these matters. However, there are a couple of problems.

Mr PRINCE: Are the amendments on the Notice Paper?

The DEPUTY CHAIRMAN: They must be provided in writing.

Mr PRINCE: I will have to refer them to the Attorney. I handle this legislation on his behalf in this House. The sooner the member provides the amendments, the quicker they can be dealt with.

Mr BROWN: The Opposition drafts amendments, and even if the Government accepts them in principle, many times the Government applies its drafting to the legislation. Basically, it is stated that the change should not be to that clause or whatever. That is fine. Generally speaking, the Opposition says that if the Government accepts the amendment, it does not care whether it goes into clause 5 or clause 83, or is applied in the Government's words, as long as it provides the approximate outcome sought. It does not matter whether it is in the Government's words or ours. I am happy to draft something that the Government can consider. In effect, it is the essence of the process here to accept what is intended, as opposed to the precise words.

Mr RIEBELING: Did the minister agree to the second reading speech?

Mr PRINCE: The Attorney General did - yes.

Mr BROWN: This document, under the subheading of "CCA", reads -

> The wages to be paid under this contract will meet all Western Australian industrial requirements. These wage ranges are exclusive of overtime and other similar benefits but inclusive of shift and penalty allowances where appropriate.

That is fine. Is it intended to pay overtime rates? I know some only receive a flat rate.

Mr McDERMONT: CCA has indicated that to us. It will pay overtime rates.

Mr BROWN: Has it indicated what those rates will be?

Mr McDERMONT: Yes. In discussion of justifying price - I cannot quote them here - it indicated overtime rates and the payments.

Mr BROWN: Will you be in a positions after today - tomorrow or whenever - to discuss that?

Mr McDERMONT: I hesitate because in discussions with CCA, the reason for not giving a precise figure is that it does not want all its pay rates known before it negotiates with the work force. I think that that is a reasonable request. It has expressed rates. I cannot answer precisely whether we can make them available at this time.

Mr BROWN: Are you talking about a 40-hour week?

Mr McDERMONT: There are a whole range of combinations, 40-hour weeks, 42-hour weeks.

Mr BROWN: Are you talking about a 40-hour week for ordinary time?

Mr McDERMONT: Yes, and a 42-hour week; there are two categories.

Mr BROWN: And a 42-hour week (inaudible)

Mr McDERMONT: I cannot answer that. I suspect not, in that the supervisor positions are mainly according to our knowledge 42 hour positions.

Mr CROOKES: My understanding is that because of the split nature of some of the shifts, the 40-hour or 42-hour week works back when it is recorded over a period. Therefore, the two hours is not necessarily at overtime rates.

Mr RIEBELING: Would a worker be expected to work, say, 40 hours in one week and 42 hours in another week on a roster-type basis?

Mr CROOKES: That is my understanding. It depends on the nature of the work they are doing.

Mr RIEBELING: What about if it is the same person?

Mr CROOKES: Some of the shifts are split.

Mr BROWN: I refer to the subparagraphs in subclause (2), which provide -

> The CEO is responsible for -
>
> (a) providing for the protection of -
>
> (i) people who work at court premises;

Is that a new obligation on the chief executive officer?

Mr PRINCE: Yes. In a civil law sense under the law of tort there is an obligation on the employer, assuming the CEO is the employer of people such as the clerk of courts, the court orderly and the other office staff in the courthouse, to provide a form of protection, but it is a civil exercise. The precise nature of it would vary according to whatever is the tortious law of the day and the circumstances of the case. This Bill will state in statute law that the CEO is responsible for providing for the protection of people who work at court premises. That is not a statement that, to my knowledge, is currently in the civil law.

Mr BROWN: Therefore, that is a new responsibility on the CEO?

Mr PRINCE: Yes. To some extent it probably encompasses some of the responsibility that the CEO has presently, for example, in the areas of occupational safety and health and workers' compensation, which are largely common law areas anyway. There is probably an overlap. To some extent it is probably also covered under occupiers' liability. However, I know of no other statement like it in the law; therefore, it is a new one.

Mr BROWN: Subparagraph (ii) states -

> people who are required to attend court premises as a witness or juror or in the course of work;

Mr PRINCE: It should be "their work".

Mr BROWN: Is that a new obligation?

Mr PRINCE: Yes. I will give an example. The clerk, male or female, from a legal firm who trips in and out of Central Law Courts every day to file papers and so on is currently a member of the public who is permitted onto the premises by licence to do something. The responsibility of the occupier to that individual is limited according to the law relating to occupiers' liability, which is a statute of this Parliament passed about 10 years ago. This Bill says that the CEO is responsible to protect those individuals on the premises because they are there in the course of work. That is a different form of responsibility from that which that person presently "enjoys" by reason of the common law or occupiers' liability.

Mr BROWN: How can a solicitor's clerk be included in subparagraph (ii)?

Mr PRINCE: The subparagraph refers to people who are required to attend court premises as a witness or juror or in the course of work.

Mr BROWN: Therefore, subparagraph (ii) is substantially a new obligation. Is subparagraph (iii), which refers to other people in a courtroom, also a new obligation?

Mr PRINCE: Yes.

Mr BROWN: Paragraph (b) states that the CEO is responsible for providing for the maintenance of order in court premises. Is that a new responsibility?

Mr PRINCE: Yes, it is. The member for Burrup and I debated backwards and forwards what happens in the courtroom as opposed to what happens in the rest of the building. The court has some, if not absolute, control over what happens in the courtroom while the court is sitting. However, in the rest of the building what power and responsibility is there other than

the responsibility not to have something there which is a positive danger? The Bill will provide for the CEO to be responsible in a positive sense for the maintenance of order in the court premises.

Mr BROWN: Likewise, is that a new responsibility on the CEO?

Mr PRINCE: That is debateable because it would vary from place to place. In some places the CEO already has that responsibility. It is not currently codified and this Bill will codify it.

Mr BROWN: Presumably paragraph (d) refers to a similar position.

Mr PRINCE: Exactly.

Mr BROWN: How does the CEO discharge that responsibility?

Mr PRINCE: By contracting with a suitably qualified authority to be able to perform the service that would discharge the responsibility.

Mr BROWN: So, the CEO is responsible for the contract on its own?

Mr PRINCE: The CEO is responsible.

Mr RIEBELING: Despite its being codified, is it still not considered core business? In the second reading speech the minister indicated the contracting out work that is not core business

Mr PRINCE: Please point out the passage.

Mr RIEBELING: Even though it is the CEO's responsibility, is it not considered core business?

Mr PRINCE: Of whom?

Mr RIEBELING: Of the Ministry of Justice or the Police Service? "CEO" presumably refers to the CEO of the Ministry of Justice, does it not?

Mr PRINCE: It is certainly not the core responsibility of the prison service.

Mr RIEBELING: I am talking about the Ministry of Justice.

Mr PRINCE: I am talking about it not being the core responsibility of the prison service to ensure the security of buildings and other real property located in or comprising court premises. It is not the core function of the police. Fundamentally, that is not their function. Traditionally, the police have done some of this work, in the same way that police traditionally have done a great many things in this State from colonial days because it has been one of the most widespread organisations across the face of the State. It has done things by default, for example police acting as Local Court bailiffs. That is something that one would say strongly is not the core business of a police officer; yet to this day police officers performed that function in some of the much smaller places around the countryside because there is nobody else to do it. However, in the city it is done by bailiffs, as it should be, because it is not core police work. In the same sense, court orderly work relates to the security of the courtroom. The security of a building in which courts are located is not core work of police officers or a police service; it should be done by a third organisation. Is it part of the core business of the Ministry of Justice? I say it is. The Ministry of Justice has a responsibility for the safety and security of our courts. However, I doubt that it has ever been spelt out in that way; it may have been assumed.

Mr RIEBELING: Perhaps the minister can explain why in the second reading speech he said that the review was to relieve the Ministry of Justice of non-core duties relevant to the delivery of the four services of court security, court custody management, police custody management - which is the responsibility of the Police Force - and prisoner movement.

Mr PRINCE: Yes.

Mr RIEBELING: Did the minister not just say it was core business?

Mr PRINCE: It is a core responsibility, but the way in which it has been discharged so far has been by the police for the most part and to a limited extent by court staff.

Mr RIEBELING: There is no argument about the police core business.

Mr PRINCE: However, the member has given the example of the bench clerk and to a tiny extent the prison service.

Mr RIEBELING: I think what the minister said a minute ago was correct until he remembered he referred in the second reading speech to the services provided in the courts. I would have thought that also included transportation. However, we are talking about the new CEO's responsibilities, which are clearly that of the Ministry of Justice. I presume we are talking about the CEO of the Ministry of Justice. It goes without saying that that is the person we are talking about?

Mr PRINCE: Yes.

Mr RIEBELING: The minister proposing to say in a statute that that is his responsibility.

Mr PRINCE: That is right. I would have thought that was fairly obvious.

Mr RIEBELING: Are there any other responsibilities described like this that the minister considers non-core responsibilities?

Mr PRINCE: I am sorry, I cannot answer that question. There may be but I have not addressed my mind to it. If the member for Burrup looks at page 4 of the second reading speech, he will find that I said -

> The overall purpose of the review was to relieve the Western Australia Police Service and Ministry of Justice of non-core duties relevant to the delivery of the four services of court security, court custody management, police custody management, and prisoner movement.

It could be said that the core business of the Ministry of Justice in this area is the provision of court service. Court security, prisoner custody and transfer and so on are adjuncts to that court service.

Mr RIEBELING: Is the provision of justice not the core function? I would have thought that it is clearly part of what the minister says is required.

Mr PRINCE: No, the Ministry of Justice exists to provide a system that will deliver justice.

Mr RIEBELING: And a court system that provides access to justice. That is what we are talking about.

Mr BROWN: The next few provisions also provide obligations on the chief executive officer. Is it up to the discretion of the CEO whether to have services carried out by way of contract? Clause 17(1) states -

> For the purposes of providing any court security or custodial services, the CEO -

The DEPUTY CHAIRMAN: Order! We are dealing not with clause 17 but with clause 7.

Mr BROWN: That is right. In respect of court security services, under clause 7 the CEO is responsible for certain things.

Mr PRINCE: The CEO may contract; he is not told to.

Mr BROWN: That is right. So, does the CEO exercise that discretion?

Mr PRINCE: It is a judgment.

Mr BROWN: Yes, but not the Government? There is a very important distinction: Does the CEO make the decision as a CEO running an organisation or as a CEO does under the Public Sector Management Act, in which it is the CEO's decision to do certain things? Under the Public Sector Management Act the CEO, not the minister, has certain responsibilities.

Mr PRINCE: We are discussing the CEO's responsibility under clause 7 to discharge those responsibilities. As the member knows, under clause 17 he may contract - not "shall", "may".

Mr BROWN: So there is no obligation on him?

Mr PRINCE: There is no obligation in the sense of a lawful direction or a statutory direction to contract with the private sector. No, there is not; the CEO may contract out.

Mr BROWN: That is right; it is his discretion.

Mr PRINCE: It is his judgment, yes.

Mr BROWN: It is not an instruction from government?

Mr PRINCE: He is part of government.

Mr BROWN: May we draw an analogy? Under the Public Sector Management Act the CEO is responsible for the control of staff - not the minister, but the CEO. The CEO determines who gets what job, the allocation and so on. He determines those things very specifically under the Public Sector Management Act, and ministers should not intervene. We have seen some bad breaches of that. As I have said, that is the intent of the Public Sector Management Act.

Mr PRINCE: Yes.

Mr BROWN: The CEO, not the minister or the Government, makes the decision. Is it the intention, in terms of making a decision as to whether a contract will be entered into, that it is the CEO's discretion once and for all? If the CEO thinks it is a good idea, the CEO can do it; if the CEO thinks it is not a good idea, the CEO does not have to do it; and it is not a

matter in respect of which the minister or the Government can direct or a matter of government policy, it is a matter of discretion for the CEO.

Mr PRINCE: First, with respect to persons employed under the Public Sector Management Act, the CEO makes the decisions. The Government does not intervene or interfere, because of the history of the recent past in this State and elsewhere where that has been the case and it is thought generally, I think, by most reasoned and dispassionate observers to be core public policy for that to be the case. Does the member agree? We brought in the law to do that because of what happened when we were not the Government. In this area we are talking about something that is completely different - the discharge of a responsibility that is created by statute on a CEO. It is far more akin to the responsibility that may or may not be on the Commissioner of Main Roads to provide safe roads. I do not know whether there is one, but I postulate in a very general sense that there could be. The Commissioner of Main Roads, to discharge that responsibility, may employ a day-labour force or he may employ contractors. Historically, he has employed contractors, and nobody really objects to that.

The DEPUTY CHAIRMAN: I remind members that we are talking not about clause 17 but the responsibilities that are laid down in clause 7. Let us not generalise and discuss other clauses, let us deal with the clause in front of us.

Mr PRINCE: The answer is that the CEO has a judgment to exercise, and the minister, under clause 7, may give directions.

Mr RIEBELING: In regard to that responsibility?

Mr PRINCE: The Deputy Chairman is trying to keep me to the point of clause 7.

The DEPUTY CHAIRMAN: We must keep to the point. We are dealing in committee.

Mr BROWN: Under clause 7(2) the CEO is given certain responsibilities. The CEO may have a view about the best way of discharging those responsibilities. I do not know whether it is his or her view or whatever, but he or she may well have a view that the best way of discharging those responsibilities is by employing somebody. The CEO might well have a view, but it is his responsibility under the legislation. Even though he has responsibility, even though it is his neck and even though he is the one who is looking up at the guillotine, because he has the responsibility if something goes wrong, he will still be instructed by others as to the way -

Mr PRINCE: Under clause 27 the minister may give directions. Under clause 17 the CEO may contract.

Mr WIESE: He applies for the job knowing damn well what he is applying for.

The DEPUTY CHAIRMAN: Let us deal with that when we discuss clauses 27 or 17. We are dealing with the responsibilities that are set out in clause 7(2).

Mr BROWN: It is the CEO of the Ministry of Justice. It is not a small, two-bob department. It is a major agency with a significant budget and significant issues to deal with in the public interest. There are major problems if this goes wrong. If someone is slashed up in the court, it will be the CEO's responsibility.

Mr PRINCE: That is right.

Mr BROWN: The CEO may well have a disagreement in terms of the way the service is provided. So the minister gives a responsibility on the one hand, but on the other hand he tells him how to deliver.

Mr PRINCE: I do not find anything objectionable in that.

Mr BROWN: Frankly, I consider that to be absolutely unreasonable.

Mr PRINCE: No doubt the member would prefer to have a direction that people shall be employed in the public sector to discharge that responsibility.

Mr BROWN: No. I think everyone is saying that if it is the CEO's decision, the legislation should make that clear.

Mr PRINCE: It states "may".

Mr BROWN: Of course it is "may"; it does not mean that the minister shall give directions. Everything is "may". Of course it is permissible. He may do it or he might not do it. All I am saying is that he is setting out a range of responsibilities in clause 7 and in following clauses. He is saying to that person, "You are on $180 000 or $200 000, and these are your responsibilities. If you do not do them, we will chop off your head legislatively." Now, we say to him, "Yes, in other parts you may do it this way or that way." However, that is not the end of the matter. The CEO does not determine.

Mr PRINCE: But the Government of the day always has the right, after election, to say, "This is the policy and this is the way in which we think things should be done." That, after all, is what the people have elected us to do - it is called governing.

Mr BROWN: I do not dispute the right. Here we have a board of directors - that is, Cabinet - telling the chief executive -

Mr MARSHALL: A board of directors and the manager. It is the same -

Mr BROWN: No.

Mr MARSHALL: Boards of directors do that all the time.

Mr BROWN: They set policy.

Mr MARSHALL: No, they do not.

Mr WIESE: Get into the real world.

Mr BROWN: I ask members to look at the Corporations Law.

Mr WIESE: Does that absolve the minister from ministerial responsibility?

Mr PRINCE: No.

Mr RIEBELING: Does a direction from the minister absolve the CEO from his responsibilities if he disagrees with that direction, or does he, like four others, resign? There have been four CEOs of the department in the past five years.

Mr PRINCE: It is an interesting question. It could modify the degree of responsibility that the CEO might have if the direction is of such an explicit nature and addressed as to function, which is implied by clause 27(1). I would need to look at the Public Sector Management Act. I am truly not sure of the answer, but I think that the CEO would not be absolved of responsibility by reason of a ministerial direction.

Clause put and passed.

Clause 8: Management etc. of court custody centres -

Mr RIEBELING: My question relates to the management and control of our court system throughout the State. My question is not necessarily in relation to the bits that are going away from the direct supervision of the minister, because, presumably, those bits are going into a contract for which he will then be responsible. I refer to those bits that are not so included. What time frame does the minister envisage for the taking over of the entire service, if that is ever feasible? What plans are there for expansion? How many police officers are involved in the so-called non-economic part of court custodial centres? I cannot recall the definition of "court custodial sentence" but I understand that it includes police lockups as well. Is that right?

Mr PRINCE: That provision refers only to court custody centres.

Mr RIEBELING: Does that definition include lockups?

Mr PRINCE: No.

Mr RIEBELING: What are they called?

The DEPUTY CHAIRMAN: That matter relates to a further clause.

Mr PRINCE: For example, in the Central Law Courts there is a "lockup" which is a court custody centre. At East Perth Police Station there is a police lockup. Clause 8 refers only to court custody centres. It is defined in clause 3 on page 3.

Mr RIEBELING: I wonder what the plans for expansion are, if that has been considered, and where the line was drawn on numbers of people through the centre.

Mr PRINCE: With regard to court custody centres, the largest would be Central Law Courts. There is the Supreme Court, Central Law Courts, the May Holman Centre, National Mutual Centre, Geraldton, Carnarvon, Port Hedland, Broome, Bunbury, Albany, Perth Children's Court, Armadale, Kalgoorlie, Midland, Joondalup and Fremantle. Is that not the answer?

Mr BROWN: We have those.

Mr RIEBELING: I was aware of that. With regard to those which are not on the list, will it be expanded to include others and what was the criteria for choosing these centres?

Mr PRINCE: It will depend upon the numbers.

Mr BROWN: It will depend on size and volume.

Mr PRINCE: It will depend upon the activity.

Mr RIEBELING: I understand that. What is the cut-off for volume?

Mr PRINCE: My adviser has suggested Mandurah. Its volume could rise.

Mr BROWN: Mandurah is marginal.

Mr PRINCE: Because of the way Mandurah is growing in size, it is probable that in the not too distant future enough people will be flowing through there to justify this.

Clause put and passed.

Clause 9: Responsibilities as to persons in custody at court premises -

Mr RIEBELING: When considering clause 9, we return to the area of responsibility of the chief executive officer. I am concerned about giving the CEO the responsibility for persons in custody at court premises and in the next breath deciding that it is non-core and that all those non-core functions should be contracted out. Why does the minister consider that this is not a core function?

Mr PRINCE: It is part of the responsibility of the CEO to provide for the security, control, safety, care and welfare of people in custody in the courts, full stop. It has never been said before; it is now being said. The CEO is responsible for this. He must discharge that responsibility.

Mr RIEBELING: As to clause 9(b), do not the sheriffs and bailiffs have the statutory obligation to bring the people before a court?

Mr PRINCE: I am pretty sure that the sheriff and the bailiff exercise powers that can be found in the Supreme Court Act, the District Court of Western Australia Act, possibly the Justices Act, the fisheries Act, and a few others.

Mr RIEBELING: They have the power to arrest and take a person before a court. Why is it necessary to include that in the Bill?

Mr PRINCE: Clause 9(b) refers to a person in custody who is within any other part of the court, not in the court custody centre. Therefore, when a person is out of the court custody centre in the Central Law Courts and is taken along a corridor, in a lift, or whatever the case may be, the CEO is responsible for the security, control, safety, care and welfare of that individual as he is being moved around the place or sitting in the courtroom itself, except those people who are, under other Statutes, in the custody of either a sheriff or bailiff.

Mr RIEBELING: The sheriffs or bailiffs would not let go of Joe Bloggs, the absconding debtor, so to speak. They, or their agent, would move that debtor through the court system.

Mr PRINCE: I have asked the inspector to explain.

Mr WATKINS: In the majority of cases, the person will surrender to the bailiff or the sheriff, who will keep that person in his office and then escort him into the court. That person is treated quite separately from a person in the custody centre.

Clause put and passed.

Clause 10: Property management at court custody centres -

Mr RIEBELING: I understand this is a new responsibility. It relates to the added security of courts. The reason for this new core function is to provide increased ability to secure a court.

Mr PRINCE: The position at the moment is that, say, someone may be arrested at East Perth Police Station, held in the lockup there overnight and brought to Central Law Courts in the morning with his personal property. That personal property is in the custody of the police. At the present time, the police discharge responsibility for the safekeeping of a prisoner's property. Members will be familiar with the property book and the careful recording of the notes, coins, watches and so on. The police do that for people who are effectively within their custody, up to the court hearing and thereafter. The person is then sentenced to a period of imprisonment. A transfer of that responsibility over to the prisons service then occurs. If the person is released, either on bail or whatever the case may be, the property is released back to the individual, apart from that which might be housebreaking tools, weapons or whatever. That is done at the moment, but it is done by police. Therefore, this is a transfer of that responsibility from police to the CEO. The police would basically say that visitors to court custody centres are not allowed to take anything in with them. Basically the police are telling visitors to court custody centres to go away. In my experience, lawyers get in to talk to their clients, but that is not easy; it is difficult. The inspector just told me that it is an extremely secure area, and anyone who brings anything into that area that could in any way be deemed to be a threat to the security of the area is turned away.

Mr RIEBELING: Will that remain?

Mr CROOKES: Although it is an extremely secure area, the purpose of that clause is to cater for a situation in which visitors who come into that area at various times might be carrying items which should not be brought in there. The most obvious case would be a lawyer. However, there may also be circumstances in which visitors may be permitted in the court custody centre. Generally speaking, that would not be done. However, the clause is included as a safeguard in the event that is done,

but it is also because of a desire to take custody of the person's property. Again, this is codifying something that does not exist. If a person visited the Central Law Courts detention centre today, the police officers there have no power to take property away from him. This codifies that.

Mr PRINCE: I can think of a couple of examples, one of which is the Aboriginal visitors scheme, under which Aboriginal visitors are rostered to visit Aboriginal people who are in custody when there is some suggestion that the person may be at risk.

Mr RIEBELING: That would operate in court cells, obviously.

Mr PRINCE: Yes, it does. It operates at police lockups, court cells and the prison. Another example is when someone perhaps has no command of English, which is not that uncommon in our courts. It may well be desirable, for example, for someone who has interpretation skills to visit. In the present day, it would not only assist the police - in the new world it would assist the court custody officers - but it would also assist people, such as the duty counsel, and ultimately obviously the court. Therefore, it is people of that ilk -

Mr RIEBELING: I understand who the people are. We are dealing with the property. Under this clause, I cannot see how we are increasing the ability of visitors to -

Mr PRINCE: At the moment they are being turned away.

Mr RIEBELING: That may be. However, that is not contained in this clause.

Mr PRINCE: This clause is enabling the court custody centre's staff to take from a visitor of that nature his personal belongings and to keep them safe while he is visiting the prisoner.

Mr RIEBELING: As to the numbers of police, how many full-time equivalents are involved in property management?

Mr PRINCE: We do not know, because they turn them away. At Central Law Courts, one officer is designated as the prisoners' property officer. In all the other areas there is no designated person. By and large, they turn away all visitors and they look only after the prisoners' property.

Mr RIEBELING: This is not being privatised because it is ineffective.

Mr PRINCE: It is a responsibility that has been spelt out for the first time. It is a part of the custody function. It is not being privatised. It is a service which is better than that which we are presently providing, and it will probably be provided by contract labour.

Mr RIEBELING: Are you telling us that a decision has not been made yet?

Mr PRINCE: Obviously the decision has been made that it would be desirable to have these orders. We would not be seeking to make new law to say it is a responsibility that should be discharged.

Clause put and passed.

Clause 11: Management etc. of lock-ups -

Mr BROWN: Clause 11 provides that the CEO is responsible for the management, control and security of lockups. Lockups are described in the definition as a place prescribed by the regulations to be a lockup for the purposes of this Act. The minister has said that this service would not operate lockups. Is it intended that the regulations will prescribe those lockups where this new Act will apply?

Mr PRINCE: In order to bring this into effect in the progressive sense, it is the intention not to prescribe places to be lockups for the purposes of the Act until the funding is available; so the references to lockups will have no effect because no places will be so prescribed. It is important that the reasons for not prescribing places as lockups until funding is available is explained. The new law does not effect the status quo in relation to the management of lockups until regulations are made for the definition of lockup.

Mr CROOKES: Under clause 3, lockups must be prescribed in regulations. Because of the phasing in of the contract over a period of time, those lockups may not be prescribed in the regulations from the outset. Later, when the ministry is in a position to include the lockups in the contract, it will then seek the minister or the Attorney to table regulations to include lockups. That allows us to then include as many or as few lockups as the minister chooses at the time. Initially lockups may not be prescribed at the time of proclamation.

Mr BROWN: Even when they are prescribed there will presumably be a list stating that these are the lockups where this Act applies so if people want to know which Act applies in which lockup, they must have recourse to the regulations stating that in this lockup this Act applies, or in this lockup this Act does not apply?

Mr CROOKES: Yes, bearing in mind that the ideal situation is for this law to apply in all lockups across the State. It must

be remembered that the Bill gives the same power to police as it does to contractors or anyone else who is engaged in the delivery of these services, so even though lockups might be managed by a contractor, other lockups will continue to be managed by police and the police managing those lockups will have the same powers as described in the Bill. As we progressively prescribe lockups, those are the lockups that will be handed to a contractor.

Mr RIEBELING: If this Bill enables police officers to have greater power in relation to lockups, it will affect police officers, who on the face of it in relation to that lockup, are not covered by it under the general powers of police officers. They will be acting under the operations of this Act. Is the CEO in any way responsible for the acts of the people who are applying powers under this Act?

Mr PRINCE: Of course the CEO has the responsibility; the CEO seeks to discharge that by contract, for example.

Mr RIEBELING: We are talking about police officers.

Mr PRINCE: The CEO is responsible for the police officers who are discharging their responsibilities.

Mr RIEBELING: Those lockups in which a police officer attracts greater powers under this legislation and from which that person operates are not gazetted, but they still have those increased powers. Is the CEO of the Ministry of Justice under this Bill responsible for those actions above and beyond the police officers' normal functions?

Mr CROOKES: The short answer to that is yes. You must look at clause 18, Arrangements with Commissioner of Police and public sector, which sets out provisions whereby he can be responsible for those lockups under whatever arrangements that the CEO enters into with the Commissioner of Police. It allows a selective approach to taking on board those lockups and give them the coverage under this Act. Obviously it would be in the words of the prescription that goes into the regulation because a distinction is made between a lockup that is managed by a contractor and a lockup that is still managed by police albeit subject to the provisions of this Bill.

Mr RIEBELING: They all have the same powers.

Mr CROOKES: They would all have the same powers once they have been prescribed.

Mr RIEBELING: So the actual CEO must gazette that police station with that officer operating for him to have the powers incurred under this Act.

Mr CROOKES: Correct; the lockup.

Mr WIESE: Are you saying that you know that not often but on occasions a person will be taken out of the court and into the lockup for safekeeping prior to being transported to wherever? Are you saying that the delegation has gone to the Commissioner of Police and yet as I would understand your explanation, the CEO of the Justice Department would have the responsibility for the Commissioner of Police and for the police officer in Narrogin who has that responsibility in that custodial centre?

Mr CROOKES: It might be useful to answer it this way: The legislation brings together many common law provisions that do not exist in practice anywhere in any written law, so it provides many common law provisions and practice and puts all those responsibilities under the CEO of the ministry. It allows the CEO to determine how he wants to discharge that responsibility or those duties either by entering into a contract with the private sector, retaining some of those responsibilities under the charge of the public servants or alternatively entering into an agreement with the Commissioner of Police. He asks the Commissioner of Police to operate the lockup on a day-to-day basis, but the CEO retains the statutory responsibility for anything that happens in that lockup. However, the commissioner who has staff on the ground in the remote areas continues to manage those lockups and files whatever sorts of reports that are agreed to be filed as part of that arrangement which he has with the CEO. That happens once that lockup has been gazetted, so if the Leonora lockup is gazetted as a lockup in the regulations under this Bill, that is one of the lockups. If it is not gazetted, it still continues to be the responsibility of the Commissioner of Police. Ideally, that would all happen at some stage in the implementation of these services when everyone is comfortable with all of the lockups coming under the control of the CEO, and ultimately that will be the point that is reached.

Mr RIEBELING: I must clarify a point about police officers who are not subject to a gazetted police station, such as Karratha. I presume, and I may be incorrect, that the police officers who operate within the court system that is not taken up by private contractors would get the powers to control unruly people. For instance, in Karratha when this legislation is enacted, the police officer will be able to ask the person's name and address, proof of identity and reasons for entering.

Mr WIESE: We are now talking about the lockup, not the court.

Mr RIEBELING: I am talking about the whole Act.

Mr CROOKES: Once both the CEO and the commissioner are satisfied that the arrangements are in place for the lockups to come under police control, obviously that lockup would be gazetted and the officers at that lockup would have the powers prescribed in the Act.

Mr RIEBELING: What about the court security?

Mr CROOKES: There is no requirement to prescribe that; it is only lockups. For the purpose of managing the lockups, they must be lockups prescribed in the regulations.

Mr PRINCE: "Lockup" is defined in clause 3 as a place prescribed -

Mr RIEBELING: I understand the lockups; I am simply trying to work out the court security side of it and the minister is trying to tell me that the police did not have those powers to ask questions of the bikies.

Mr PRINCE: No, the police do not presently have those powers. If this is passed, the police will have those powers when they are acting as, for example, the court orderly.

Mr CROOKES: That is why the powers in schedules 1, 2 and 3 have been constructed that way because schedule 1 refers to powers in relation to court security and schedule 2 refers to powers in relation to custody - custody meaning either lockups or court custody centres. It is very conveniently packaged so that the CEO can say to the police officer at Roebourne who might be running the security in the court, "You have the powers under schedule 1 or schedule 2 if you are required to exercise those." He gives that power in writing to the police officer or however he chooses to do it.

Mr RIEBELING: If that part of the police officer's work happened at Roebourne, which would presumably become the responsibility of the Chief Executive Officer of the Ministry of Justice, would the Ministry of Justice then be responsible for the police officer's wages while he is operating within that service?

Mr PRINCE: No, you are looking at clause 18. It is an arrangement made with the Commissioner of Police to provide court security or custodial services. It would be cumbersome. The administrative tail that would follow on from that would be taking police officers out of operational duty and filling out a lot of paperwork that goes to a different department in order to have an across-government departmental transfer of funds. It defeats the object of the exercise. We are referring to courts which do not have a court session or have people in custody on a daily basis; it may be happening fortnightly or monthly and usually for only a few hours.

Mr MARSHALL: This Bill spells out many definitive responsibilities for the CEO. What allowances have been made if he or she is sick or on leave? Who has the training to take over as a replacement?

Mr PRINCE: The person who, for the time being, is the Chief Executive Officer of the Ministry of Justice, whether that be Mr Piper who has just been confirmed in that position or, when he is on leave, the acting CEO as appointed under the Public Sector Management Act.

Clause put and passed.

Clause 12: Responsibilities as to persons in lock-ups -

Mr RIEBELING: Once again, this is the responsibility of the CEO. Are lockups the police-run ones in relation to this legislation?

Mr PRINCE: Lockups are what are prescribed.

Mr RIEBELING: Were they the old police lockups?

Mr PRINCE: In a general sense, yes.

Mr RIEBELING: They used to be the responsibility largely of the police department. Is this a new responsibility of the CEO other than those lockups which the Ministry of Justice used to run?

Mr PRINCE: The Ministry of Justice does not run any at all.

Mr RIEBELING: Do the central lockups have any involvement with the Ministry of Justice at all; for example, the East Perth lockup?

Mr PRINCE: No.

Mr RIEBELING: Is it a new responsibility entirely?

Mr PRINCE: It is a shifting and an enlargement of the responsibilities from the police to the Ministry of Justice.

Mr RIEBELING: Is it an entirely new responsibility for the CEO of the Ministry of Justice?

Mr PRINCE: Yes.

Mr RIEBELING: Does the lockup management portion of savings on the sheet the minister gave us last week relate to clause 12?

Mr PRINCE: I am informed by Inspector Watkins that the answer is yes.

Mr RIEBELING: Is the wording of that clause about the progressive gazetting of lockups as we progress through the process? Is the CEO not responsible for all lockups, or just those that have been assigned?

Mr PRINCE: Effectively, yes.

Mr RIEBELING: What training will be given to the people who must deal with intoxicated detainees? Will they be specialists in dealing with intoxicated people? Will there be one person on each shift or will all of them have training that enables them to deal with intoxicated people?

Mr PRINCE: The police do not receive a great deal of training in custodial management. Most of it is on the job, which varies from place to place depending on the number and frequency of people in custody. They receive some training during recruitment in dealing with people who are intoxicated, but not a lot. Again mostly it is on the job. The people whom it is envisaged will do this job will be trained in the custodial management of people who are intoxicated, whether it be due to drugs or alcohol or a combination of both. In that sense it is anticipated that they will be better trained than police officers. It will be custodial management of people who are intoxicated.

Mr RIEBELING: Will all of them receive that training?

Mr PRINCE: All of the contractors, yes.

Mr RIEBELING: In relation to clause 12(2)(a), does the training take into account the recommendations of the Royal Commission into Aboriginal Deaths in Custody?

Mr PRINCE: It certainly does.

Mr RIEBELING: Is that all of the recommendations?

Mr PRINCE: I cannot tell the member for Burrup whether it will be all of the recommendations. In this sense, I hark back to when I was Minister for Aboriginal Affairs when the Aboriginal Affairs Department had a method of working out whether or not the recommendations were being actioned, which has since been adopted nationwide. It is not a question of a tick or a cross, but a question of are we achieving the object. Some of the objects intended by the recommendations are difficult and some of them are impossible, but most of them are able to be achieved. Insofar as some recommendations can be dealt with in that way - it is almost an algorithm that we have prepared in this State - those are the aspects that will be followed for the purpose of training people and their management of lockups with regard to Aboriginal people who are intoxicated.

Mr RIEBELING: One of my concerns about the transfer of responsibilities is where the police department, in cooperation with the Ministry of Justice, does a very good job of lowering and almost taking out altogether deaths in custody in relation to the police and the lockup system. Even though these people do not receive training, a huge effort has been put in by the police to make sure that we did not have another John Pat style incident. They are to be commended for that.

Mr PRINCE: Or any of the others.

Mr RIEBELING: Intoxicated people are at special risk. If the minister is satisfied, I am happy not to take it further. The minister knows my concerns and I am sure the police department is proud of its record since the major effort has been put into place. What type of emphasis will be put on the contractors to ensure that those standards are kept?

Mr PRINCE: The risk assessment processes and procedures that have been developed within the police will be used and amplified by the contractor and the employees. We are talking about people who will be trained specifically in doing this type of work rather than the much broader training that police officers receive. Obviously the object of the exercise is to prevent any death in custody because that is what we should be aiming for.

Mr WIESE: I am aware that the police department and the Government went through a very expensive and extensive modification of all of the lockups to make them accident and suicide proof and to make them safe. Will there need to be any further upgrading of those lockups before we hand over this responsibility to the external agent?

Mr PRINCE: Some of the lockups have been upgraded and I have seen a number of them. The more modern lockups I have seen in the past seven or eight months are in Mirrabooka and Cannington. There are special cells which are seamless and padded. A person could actually kill himself if he tried very hard, but it would be difficult. Other cells have perspex and so on in which people can be held while they are demented as a result of intoxication. These are the more modern aspects that have come into effect in the past year or so. In the older police stations, where possible, cells have been made as suicide proof as possible. Closed circuit television cameras have been put in corners and mesh has been put up and so on. A good deal of capital outlay still needs to be done in a number of lockups.

Mr WATKINS: The police department has a list of all of the lockups in the State. It has spent some money to upgrade every lockup either completely or partially. When I say partially, it has upgraded enough cells to cater for the number of prisoners

going through the lockup. That is the case in almost every lockup in the State, except in the metropolitan area. Albany is a classic example of where there is indecision on what to do about the lockup. Because it is heritage listed, a decision has not yet been made about what to do with the building, so nothing will be happening in that regard albeit there are some safe cells. This contract will realise the upgrading of six lockups in particular; four in the metropolitan area and two in country areas at Kalgoorlie and South Hedland. What will also happen is that a contractor will take over in the lockups. Considerable effort will be put into upgrading the surveillance of prisoners. It is not the safe building that will keep the prisoner alive, it is the surveillance of the prisoner and I am an advocate of that. With the combination of an improved building and improved surveillance, which the contractor is very keen on, as are we, a considerable effort will be made to keep people alive and well.

Mr RIEBELING: There was a concern in country areas, rightly or wrongly, that people were being held in custody for too long. I do not think that is the case anymore. The police department and the officers, especially in remote areas, are keen to get people out of their custody into an appropriate facility, especially those who are intoxicated. Most people who die in custody due to intoxication do not try to kill themselves, they just choke to death. It is appropriate to put them in a different facility. There is also a problem with the allocation of meals which used to be blamed for exceptionally high incarceration rates. Whether it was right or wrong, that was the suggestion. Is there an incentive for private individuals who are in charge of lockups to process people through to bail, or whatever the process, at the same rate as the police to get them out of custody?

Mr PRINCE: The Bail Act was passed in 1983 and was amended around 1988. It effectively said one has a right to bail and the police have bailed people from police stations. As a result of the death of an aged gentleman, a grandfather, last year which was caused by a young man on bail going the wrong way up an off ramp, the Government amended the Bail Act so the police are no longer under an obligation to bail people. The police officer in charge, generally a sergeant, must make a judgment and a court makes the decision the following day in most cases. That change in the bail process may result in more people being held overnight than before but that is not related to meals. The number of people being kept longer than that relates to bail and the ability of a court comprised of a justice of the peace or a stipendiary magistrate to grant bail. I accept that in some very remote areas it is difficult to quickly get together a court comprising a justice of the peace but as this is a fixed price contract, there is no incentive for the contractor to hold people longer.

Mr RIEBELING: Other than individuals perhaps. The question was not about the corporate body but individuals.

Mr PRINCE: I do not see an incentive there either especially as the small stations - which are really the problem we are talking about - will remain under the control of the police. The contractors will be introduced only in the larger centres with a volume of people flowing through. The meal allowance was discontinued in the past five years.

Mr RIEBELING: Yes, that was a good move. I think the member for Wagin might have had something to do with it and he is to be commended for that.

Mr PRINCE: I think the member for Wagin would give acknowledgment to the Commissioner of Police.

Mr WIESE: I give huge acknowledgment to him.

Mr RIEBELING: I would give him that too if he were here. I understand about the Bail Act and I do not think it would happen in the bigger centres although they are subject to the same economic pressures as others but it could definitely happen in Port Hedland and other areas. My understanding is that, and the minister can tell me if this is so, under the Bail Act a justice can set bail. Is an officer authorised under this legislation authorised to process people to bail?

Mr PRINCE: No. The bail decision is made under the Bail Act by a police officer or a judicial officer. The decision, whatever it is, flows from the police or judicial officer and directs the authorised person in what to do with the individual. The authorised officer has no function in the bail process other than to be told what to do by one of two authorities.

Mr RIEBELING: To be more specific, if a justice determines that bail will be $300 with a surety of $500, that is the judicial decision. Often the process is to release that person to bail ex-prison. Will these authorised officers be able to release people from custody after the completion of the forms?

Mr PRINCE: No. In the instance that you have given of a relatively small place -

Mr RIEBELING: Let us talk about a big place.

Mr PRINCE: All right. The police must be satisfied that the bail conditions have been granted before they direct that a person be released. However, sometimes the actual bail sureties are signed in court and the court staff will direct the authorised officer to release the person.

Mr RIEBELING: Therefore these people have no role in the Bail Act process other than receiving a completed bail form which authorises them to release the individual from custody. Their role will be to receive a completed form such as a surety form. Presumably they will then be authorised to witness the defendant's signature on his part of the bail but not to authorise that surety.

Mr PRINCE: Their function will be in part to help. For example, if a person is remanded for six weeks on bail of $10 000 by $10 000 and is returned to custody, the custody officer would ask who the prisoner wanted notified and would facilitate the making of telephone calls or contact, whatever the case may be, for the appropriate surety. That is simply a facilitation exercise and nothing more. It is then for either the court officer or police officer, depending on who is the appropriate authority, to be satisfied that the conditions of bail have been complied with before the authorised custody officer releases the individual.

Mr RIEBELING: There has been a problem with bail for people in custody around Christmas. If I were the court clerk in Perth, I might sign a surety and have it approved. However, the person might be in prison in Albany and quite often prisoners are not released on a fax of the surety. People have suggested that an authorised officer of bail be positioned in the prisons or the lockups to process forms in those cases. Has that been raised in discussions?

Mr PRINCE: I understand the problem; I have struck it a couple of times myself. It probably needs to be addressed in the Bail Act but I agree. It should be accepted that a facsimile is the original.

Clause put and passed.

Clause 13: Property management at lock-ups -

Mr RIEBELING: Once again we have the ever-increasing responsibilities of the chief executive officer of the Ministry of Justice.

Mr BROWN: He is up for re-grading.

Mr RIEBELING: Yes and he will probably get it hands down if we can retain one officer long enough for him to apply.

Mr PRINCE: The member for Burrup could always apply for the job.

Mr BROWN: It is even more insecure than here.

Mr RIEBELING: It is the only job in the Public Service which is less secure than a politician's.

Mr BROWN: A four year term would be remarkable. A person should get an attendance bonus after that, a survival kit.

Mr RIEBELING: The only less secure job is that of the press secretary for that minister.

The function contained in this clause is very similar to the one involving court custody centres except it includes the intoxicated detainee. The inspector will probably be able to tell me more. When an intoxicated detainee is no longer intoxicated and is released from custody, there might be an argument that they might have had more money in their pockets at one stage than on release. There might be all sorts of allegations. By virtue of their responsibility to be of a certain nature, police officers' dealings with intoxicated people are more recognised or accepted. Will any special processes be put in place for dealing with the property of intoxicated detainees? Will two sober people observe the process?

Mr PRINCE: A person in custody, intoxicated or otherwise, does not encounter the authorised officer - the contractor - until the police have him arrested. Take a classic example, a person who is picked up over 0.15 drink driving. He is intoxicated and by reason of preliminary test at the side of the road is compelled to come to the police station. He has bloodshot eyes, slurred speech, is unsteady on his feet and blows 0.25 at the station. He is then promptly arrested because he has a history of this sort of thing. As I understand it, a police officer, usually with another in attendance, searches the prisoner and removes items of value, money, wristwatch or whatever. The officer carefully labels the items and puts the property in plastic or paper bags, seals it in an envelope and, if possible, gets people to sign across the envelope. The removal of the property is handled by the police. That intoxicated individual is then handed over to the authorised officer and the property follows him. Subsequently that individual is taken to court, returns and is released and given his property.

Mr RIEBELING: I have might misunderstood what is meant by "intoxicated detainees". I did not think it would always mean an arrested person. The police often take people who are intoxicated and not able to look after themselves into custody and transmit them to a sobering up shop, hospital or whatever. I doubt they go through the property cycle in those cases. Presumably the people they hand them to may come under the CEO's responsibility. If I am wrong, I will stop this line now.

Mr WATKINS: If the police pick up an intoxicated detainee and take him to a lockout, there being no sobering up shelter in the town or area, the person will be admitted to the lockup, searched and go into the books. He will be put into a cell with special care and will remain there until he is sober. He will then be released. In the case of a contractor taking over the management of a lockup, the police officer will present the intoxicated person to the counter of the lockup and in every case, arrest or detention, the police officer will assist the contractor in risk identification, taking the property and logging it into the book and help sign for it. That is how it works. The member is right that in locations with sobering up shelters the police may take people directly to such a centre possibly via the lockup.

Mr RIEBELING: Will sobering up shelters be the responsibility of the CEO?

Mr PRINCE: No.

Mr RIEBELING: I noticed the transfer provisions.

Mr PRINCE: The shelters were under the control of the Alcohol and Drug Authority and they have passed to the Western Australian Drug Strategy Office.

Mr RIEBELING: A later clause deals with the transfer of intoxicated persons from lockups to sobering up centres. I received the impression that that will be another institution under the control of the CEO of the Ministry of Justice.

Mr PRINCE: Clause 80 states -

> A police officer who has the custody of an intoxicated detainee may request an authorised person -
>
> (a) to move the intoxicated detainee between . . .
>
> (i) a police station;
>
> (ii) a lock-up . . . ; or
>
> (iii) an approved hospital . . . ;
>
> and
>
> (b) to take charge . . . .

Mr RIEBELING: Where would one take them?

Mr PRINCE: When the police pick up somebody in the streets of Broome, they run them out to the sobering up shelter if they cannot find the Aboriginal patrol which picks up most of these people. It does not matter whether they are Aboriginal.

Mr RIEBELING: Unfortunately a number of these shelters are closing down.

Mr PRINCE: I think one in Roebourne.

Mr RIEBELING: The one in Roebourne is the one I am worried about.

Mr PRINCE: That is the only one.

Mr BROWN: Clause 13(b) refers to visitors to lockups. I assume that the authorised officers of the lockup will be responsible for visitors. I also think under other parts of the Bill, the visitor can be searched. Therefore, presumably, under the power of search the visitor can volunteer up or be found to have material, for the sake of a better word, that he or she is not permitted to take into the lockup. The authorised person would have to record that and would have to ensure that that material, including money and other possessions, went back to the visitor.

Mr PRINCE: Yes.

Mr BROWN: In many ways, the authorised person is doing that aspect of the job in the same way it is done by a police officer or a prison officer who is getting material and recording it in the same way.

Mr PRINCE: The police take property from the people they have arrested or detained. They have no power to take it from a person who has not been arrested. For example, when as a lawyer I go to see a client in the lockup, the police have no power to search me. As a matter of practice, they nearly always ask whether I have anything that could be used as a weapon against me or things of that nature. That is sensible practice, obviously. Another example could be when the male of the family is in the lockup and the female wishes to visit. We know that women are often used to convey quantities of drugs to people in custody. At the present time, the police deal with that by saying no, because there is no power necessarily to search a woman, apart from which it will take having a female police officer present, etc. They should not be involved in doing this sort of thing. They should be out catching more criminals. Therefore, if we give to the CEO not only the responsibility for management and safekeeping of property, but also the power by delegation to employ people to do it, visitors will be able to see people in lockups, which is not happening presently.

Mr BROWN: I am talking about the ability as I read the Bill for the authorised officers to frisk people, and there is an ability to make sure that unauthorised items do not go into lockups both in respect to people being detained and in respect of visitors. That job is presently carried out by police officers and will continue to be carried out by police officers. When they arrest people they search them to find out whether they are carrying a weapon. In that respect, the searching, the frisking, the detection of whether people have materials on them that they should not have on them is the same responsibility that will be carried out by authorised officers under this Bill.

Mr PRINCE: The point I am making - I am subject to correction by Mr Watkins - is that while the police will search and take possession of property from the person they have arrested, by and large they will simply refuse access to visitors

because it will be too much trouble. They do not have the power anyway. Under this arrangement, the authorised officer will have the power to permit a visitor access but subject to being searched.

Mr BROWN: Sure. It is the same power that exists in relation to prisons, as I understand it.

Mr PRINCE: Probably.

Mr BROWN: Prison officers have the power to search a visitor -

Mr PRINCE: Yes, that is what I am told. The regulations require specification on how property will be managed.

Clause put and passed.

Clause 14: Responsibilities as to persons in custody at certain other custodial places -

Mr RIEBELING: In relation to the moving of people from one secure area to another, the CEO will have responsibility for the "security, control, safety, care and welfare of a person". That also applies to moving them to a hospital under a court order. Under subclause (3) a medical practitioner will also authorise that movement. In relation to "other place", will this clause allow for the transportation of prisoners to a funeral?

Mr PRINCE: Clause 3(1)(c) of schedule 2 refers specifically to medical treatment. It refers to a hospital or other place for medical treatment - that is, a physiotherapist or some other medical facility. That is certainly the intention of subclause 2(a) of the Bill. Section 28 of the Prisons Act deals with taking someone from prison to court and section 83 of the same Act refers to taking someone to a funeral.

Mr RIEBELING: That is the section to which I am referring. One of the major problems for police in regional areas relates to someone being released under section 83 and being dropped off at the local lockup at Tom Price. It is then the responsibility of the police to look after that detainee for the duration of the funeral and then to take him back. That comes out of the police station's budget and the police are unhappy about that. Does this allow for the Ministry of Justice to pay for that service? I know it may create some sort of administrative problem; however, we are now regionalised - we have regional police stations and police officers who are presumably expert on accounting. I would not have thought that it would take too much to work out what it cost to send the CEO, who is responsible for that service, the bill for that.

Mr CROOKES: Currently, when prisoners are approved under section 83 of the Prisons Act to attend a funeral, the transport arrangements to the funeral are carried out in the most cost effective manner - or at least cost. Sometimes the families pay for a charter aircraft. There are occasions when police are called upon to provide some assistance -

Mr RIEBELING: All the time.

Mr CROOKES: - especially in a remote area in which a prisoner may have to be detained in a lockup overnight and taken to the funeral. The purpose of clause 14(2)(c) is not to extend the coverage. It only relates to prisoners who are prisoners for the purposes of the Prisons Act. The contractor is responsible for providing the transporting and the custody of those people on every occasion they are approved for attendance at a funeral.

Mr RIEBELING: Okay. Therefore, from now on if there is a funeral in Tom Price, will the contractor do it?

Mr CROOKES: The contractor will take them to Tom Price. He may house them overnight in a lockup if an overnight stay is required. He will then take them to the cemetery and return them.

Mr RIEBELING: Is that definite?

Mr PRINCE: It is certainly what we intend, yes.

Mr RIEBELING: I would like to tell the police in my area that that is the case.

Mr BROWN: I take it that this means that the authorised officers will be doing hospital guards.

Mr PRINCE: Yes. That will have some variation in it. Mostly, the prisoner who needs to go to the hospital for an x-ray or a procedure will be taken by a prison officer who will hang around while it is done. Occasionally, there are people who are inherently dangerous or whose relatives, friends and others are likely to try to intervene. I have in mind the young lady with the double-barrel shotgun at Fremantle Hospital a couple of years ago. The police will also be involved with the transport of those people because there is a possibility of an offence occurring.

Mr BROWN: Will they be guarding the prisoner also?

Mr PRINCE: I imagine they will mount an operation to ensure that there is no way that anybody will be able to take this person away. I have been advised by Mr Crookes that anybody who is on the Ministry of Justice high security list is also likely to be supervised by the Ministry of Justice's specialist prison officers.

Mr BROWN: Therefore, in terms of very high security, not maximum security -

Mr PRINCE: I have no doubt that Mr Crookes will explain this better than I, but with regard to somebody about whom the police have intelligence that there is a possibility that the prisoner's associates might try to break the person out while he is in hospital, the police will mount an operation to ensure that that does not happen. They can intervene with the contractor if that is deemed to be necessary from a tactical point of view.

Mr CROOKES: The member would be aware that there are some high-profile, notorious people who are on a high security list which is reviewed regularly. At any one time there could be 60 people on the list who are generally held in maximum security prisons and are generally held in the most secure part of those prisons. When they leave the prison they are taken out under escort of two, three or four officers, depending on the risk of outside assistance and depending on the personal risk to the officers involved. Those people will continue to be managed by the ministry because we have not allowed the contractor to use firearms. We have not made any provision in the legislation for a contract company to use firearms. That will continue to be the role of the ministry, and where necessary assisted by armed police.

Mr PRINCE: Say, for example, someone in the lockup after having been charged has an injury - probably a minor laceration. The contractor is empowered to take that person to the emergency department of the local hospital to have that injury attended to. In like fashion, the contractor will take a prisoner who needs to go to the hospital for a medical procedure to the hospital. In the special cases involving a perceived threat from associates of the prisoner and because of the nature of the prisoner being on the high security list, the police and/or prison officers take over or work in conjunction with the authorised people.

Mr BROWN: In terms of those functions, does that mean that some of these authorised officers will be employed by the contractor as part-time casual employees?

Mr PRINCE: In the same way that we have a number of part-time prison officers at the present time.

Mr BROWN: We have part-time prison officers who come back to do hospital watches, I understand. Some of their skills might be a bit rusty, but they are officers with 30 years' experience and will not be conned by the first person who approaches them as opposed to someone who is employed for three hours to do a job. That raises all sorts of questions about training and experience and where these people work. I would not like to be a CEO with those responsibilities under this legislation.

Clause put and passed.

Clauses 15 and 16 put and passed.

Committee adjourned at 9.03 pm