



Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
1999

LEGISLATIVE ASSEMBLY

Wednesday, 24 November 1999

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 12 noon, and read prayers.

LEEWIN NATURALISTE NATIONAL PARK, VISITOR ENTRY FEES TO SURFING BEACHES

Petition

Dr Gallop (Leader of the Opposition) presented a petition signed by 119 petitioners requesting that the State Government reverse its decision to impose visitor entry fees for people accessing surfing beaches within Leeuwin Naturaliste National Park and further calling upon the Government to recognise that free access to our beaches is fundamental to our way of life.

[See petition No 67.]

ANTI-NUCLEAR WASTE

Petition

Mrs Hodson-Thomas presented a petition containing 278 signatures asking that the Government ensure that the company Pangea Resources Australia Pty Ltd or any other company in the future not be allowed to use Western Australia as a dumping ground for nuclear waste, to protect the people of our State for generations to come.

[See petition No 68.]

ROYAL STREET, KENWICK, RIGHT TURN VEHICLE ACCESS

Petition

Ms MacTiernan presented the following petition bearing the signatures of 176 persons -

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

We, the undersigned request that the government give consideration to the right turn vehicle access needs of local businesses along Royal Street in Kenwick by providing appropriately placed breaks in the proposed continuous traffic island that is to be constructed along Royal Street as part of the Kenwick Joint Project (Roe Stage Three).

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 69.]

LITERACY AND NUMERACY ASSESSMENTS

Statement by Minister for Education

MR BARNETT (Cottesloe - Minister for Education) [12.09 pm]: Earlier today I released the results of the literacy and numeracy assessments undertaken by more than 48 000 year 3 and year 5 students in August this year. The assessments are part of the State Government's response to the national literacy and numeracy plan that has been endorsed by the Commonwealth Government and all State and Territory Governments. They form an important part of ongoing strategies employed in schools to identify and cater for students needing extra help in literacy and numeracy, and provide parents and teachers with an additional measure of the performance of individual children.

I am pleased to advise that, overall, around 86 per cent of all year 3 students met or exceeded expected literacy levels, and 87 per cent met or exceeded required numeracy levels. Around 84 per cent of all year 5 students met or exceeded required literacy levels and 87 per cent met or exceeded expected numeracy levels. The results indicate very little difference in achievement between students in government and non-government schools. Last year, assessments were held only for year 3 students in the area of literacy. Around 80 per cent of students then met or exceeded the achievement levels expected.

Teacher responses to the 1998 program resulted in some changes to the administration and content of the assessments this year. For example, a greater range and sequencing of questions ensured all students had an opportunity to achieve. Also, rather than completing them in a single day, schools administered the assessments over one week, even completing components on different days. Because of these and other changes, this year's assessments provide a more accurate picture of student achievement. The results showed that a great majority of students are achieving to acceptable levels in both literacy and numeracy, and that there has been a particular improvement in the area of writing. However, a proportion of students continues to need extra attention in literacy and numeracy.

I am particularly pleased at the improvement evident this year in the performance of Aboriginal students. However, I am conscious that despite this, only around 56 per cent of Aboriginal students meet the required literacy levels, a figure which is still significantly lower than that for other students. More work continues to be needed in this area.

Principals and teachers will soon receive detailed information on school and class results, and parents will receive information about their child's individual achievements with the end of year school reports. In 1999, as in 1998, Western Australia is the only State to report results to parents. The results also show that year 3 students this year may be benefiting

from the Government's emphasis on early childhood education. Since 1997, the Government has channelled more than \$110m into specific education initiatives from preprimary to year 3, and improvements in literacy and numeracy are a likely result. These initiatives included extending preprimary and kindergarten programs to all five and four year olds around the State for the first time. I expect to see further improvements from this strong investment in early childhood education in the years to come.

Next year, following on from the very successful First Steps literacy program in schools, a First Steps in mathematics program will also be available, which will provide additional support to teachers in the early childhood years, new intervention strategies to identify students experiencing numeracy difficulties and checkpoints to measure students' progress.

Programs focusing specifically on the special needs and circumstances of Aboriginal students seem also to be resulting in some improvements but again, results for these children need to get better.

I encourage parents to discuss their child's results with their teacher and school. The Education Department will also open a phone line for any queries. During the first term in 2000, schools will look at the performance of individual students and develop targeted strategies for those who need extra help.

HUMAN REPRODUCTIVE TECHNOLOGY ACT 1991, REVIEW

Statement by Minister for Health

MR DAY (Darling Range - Minister for Health) [12.12 pm]: The Human Reproductive Technology Act 1991 was the result of a long process of policy development over six years, involving extensive deliberation by two eminent committees and a parliamentary select committee, as well as intensive community consultation. It came into effect in April 1993.

Section 61 of the Act required the Minister for Health to carry out a review of the Act as soon as practicable after five years. On 15 May 1997 the then minister moved to establish a select committee to carry out this review and the terms of reference were later expanded to include surrogacy. The committee was chaired by the member for Greenough, and the other members were the members for Carine, Joondalup, Kalgoorlie and Thornlie. It consulted widely - locally, nationally and internationally - over two years. I commend the members for the conscientious manner in which they carried out their deliberations and for the comprehensiveness of their report. The report was tabled in April this year, with the direction that the Ministers for Health and Family and Children's Services report to the House on what actions will be taken by the Government in response to the report. I am therefore responding on behalf of the Government.

It is appropriate to note that it is now 21 years since a new and challenging era began with the birth in the United Kingdom of Louise Brown, the world's first in-vitro fertilisation baby. It is clear that medical treatment involving the use of human reproductive technology, such as IVF, is still rapidly evolving, with new ethical, moral and legal difficulties still being encountered.

The select committee recommended a number of amendments to the Act in response to some difficulties in its interpretation and implementation, and significant evolution of both technology and community views. Also recommended was the drafting of legislation on surrogacy, to allow some regulated surrogacy arrangements to proceed in this State and address the legal status of children born as a result. The response I am tabling is generally supportive of the recommendations of the committee.

Of the 95 recommendations, 86 have full or qualified support of the Government and five are not supported. Another four recommendations will require further consideration prior to the drafting of amending legislation. Work will commence on the urgent development of amendments to the Act to allow for the Reproductive Technology Council to approve the testing of embryos to detect genetic diseases before implantation, as recommended in chapter 7 of the report. Work will also commence on development of legislation to give effect to the other proposed changes to the Act necessitated by this response. Policy development regarding the regulation of surrogacy will occur to inform the subsequent development of legislation. Changes to the Artificial Conception Act 1985 and the Freedom of Information Act 1992 will be undertaken as required.

Among other recommendations, six relate to commonwealth or national issues, such as promoting the development of consistent uniform or national legislation on reproductive technology, and 22 relate to matters to be referred to the Reproductive Technology Council for attention. I will refer these recommendations to the appropriate authorities. It is my pleasure to table the Government's response.

[See paper No 430.]

ACTS AMENDMENT (CONTINUING LOTTERIES) BILL 1999

Introduction and First Reading

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

Second Reading

MR COWAN (Merredin - Deputy Premier) [12.16 pm]: I move -

That the Bill be now read a second time.

The main purpose of the Acts Amendment (Continuing Lotteries) Bill 1999 is to make the Gaming Commission of Western Australia the sole agency responsible for the licensing and regulation of continuing lotteries in Western Australia. A continuing lottery, or what is generally known as break-open bingo tickets, is a lottery in which the holders of tickets expose concealed pictures, figures, letters or other symbols to ascertain whether a prize has been won.

The Gaming Commission issues permits to charitable and sporting organisations to conduct continuing lotteries. However, while the Gaming Commission Act 1987 provides for the licensing of suppliers of bingo, standard lottery tickets, table games and video lottery terminals, it is the Stamp Act 1921 that provides for the licensing of suppliers of continuing lottery tickets and prescribes the maximum number of tickets in a lottery series. Consequently, suppliers of continuing lottery tickets are required to deal with two government agencies and to be licensed under two separate Acts of Parliament. When this Bill comes into operation, only the Gaming Commission of Western Australia will be responsible for the licensing and regulation of continuing lotteries in Western Australia.

The Bill repeals the continuing lottery provisions in the Stamp Act and amends the Gaming Commission Act to provide for the licensing of suppliers; the termination of licences; the cancellation or suspension of a licence in certain circumstances; appeals to the minister when a licence is cancelled or suspended; the lodgement of returns; the payment of the continuing lottery levy; and offence provisions.

Section 111B of the Stamp Act, which presently authorises the collection of the 5 per cent stamp duty on the face value of continuing lottery tickets, will be repealed by clause 5 of this Bill. However, the Gaming Commission (Continuing Lotteries Levy) Bill 1999, which complements this Bill, provides for a prescribed levy to be imposed on continuing lottery tickets.

Clause 15 of this Bill provides for the allocation of the proposed levy between the consolidated fund and the Gaming Commission of Western Australia. The proposed levy will be sufficient to compensate for the 5 per cent stamp duty that is currently collected under the Stamp Act, and will meet the Gaming Commission's costs of licensing and regulating continuing lotteries.

The opportunity has also been taken in the Bill to clarify and strengthen the provisions of the Gaming Commission Act that relate to trade promotion lotteries and the prohibition on the possession and playing of gaming machines. The Bill amends the definition of "lottery" and "trade promotion lottery" to ensure that the Gaming Commission regulates game shows and competitions that require persons to register in order to have a chance of participating in a game show or competition that offers participants the chance to win prizes. The proposed amendments will enable the Gaming Commission to regulate the cost of telephone calls needed to participate in a game show or competition.

The Bill extends the definition of a trade promotion lottery to include a lottery conducted to promote the sale of goods or the use of services, in which every participant takes part by reason of the purchase of goods or the use of services, the cost of which is no more than the maximum total cost per entry as stipulated in a permit issued by the Gaming Commission. The Bill also amends sections 102 and 104 of the Gaming Commission Act to clarify the Gaming Commission's authority to allow trade promotion lotteries to be conducted without the necessity of having to obtain a permit if all prescribed conditions are met. This amendment will ensure that the many trade promotion lotteries conducted in Western Australia which comply with the prescribed conditions can continue to do so without having to first obtain a permit from the Gaming Commission.

In relation to the prohibition on the possession and playing of gaming machines, the Crown Solicitor's Office is of the view that reference in paragraph (a) in section 85(1) of the Gaming Commission Act to any gaming machine "used, at any public place to which the public have or are permitted to have access, for the playing of a game" could limit the ability of the Gaming Commission to achieve a successful prosecution for the possession of a gaming machine in, for example, a club which is not a place to which the public has access. Accordingly, the Bill proposes to delete the "public place" references in section 85(1)(a) so as to make the possession and/or use of a gaming machine, whether or not in a public place, illegal. I commend the Bill to the House and table for the benefit of members an explanatory memorandum for the Bill.

[See paper No 431.]

Debate adjourned, on motion by Mr Cunningham.

GAMING COMMISSION (CONTINUING LOTTERIES LEVY) BILL 1999

Introduction and First Reading

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

Second Reading

MR COWAN (Merredin - Deputy Premier) [12.22 pm]: I move -

That the Bill be now read a second time.

This Bill complements the Acts Amendment (Continuing Lotteries) Bill 1999. The Acts Amendment (Continuing Lotteries) Bill transfers responsibility for the licensing and regulation of suppliers of continuing lottery tickets from the Commissioner of State Revenue to the Gaming Commission so that only one government agency is responsible for the licensing and regulation of continuing lotteries in Western Australia.

Presently, under the Stamp Act, the Commissioner for State Revenue collects 5 per cent in stamp duty on the face value of continuing lottery tickets. However, as the Acts Amendment (Continuing Lotteries) Bill repeals section 111B of the Stamp

Act which authorises the collection of the 5 per cent stamp duty, this Bill provides for a prescribed levy to be imposed on continuing lottery tickets. The proposed levy will be sufficient to compensate for the 5 per cent in stamp duty which is currently collected under the Stamp Act, plus meet the Gaming Commission's costs of licensing and regulating continuing lotteries. I commend the Bill to the House and table an explanatory memorandum for the benefit of members.

[See paper No 432.]

Debate adjourned, on motion by Mr Cunningham.

STATE RECORDS BILL

Introduction and First Reading

Bill introduced, on motion by Mrs Edwardes (Minister for the Environment), and read a first time.

Second Reading

MRS EDWARDES (Kingsley - Minister for the Environment) [12.24 pm]: I move -

That the Bill be now read a second time.

Members will recall that this Bill was introduced on 22 October last year. At that time I gave some detail about the circumstances leading to its development, referring inter alia to the events of the WA Inc royal commission and its significance in exposing deficiencies in record keeping matters. I referred also to the discussion paper put out by the Minister for the Arts and the consultative process that followed. The discussion paper proposed the establishment of an independent records commission with standards setting, auditing and reporting responsibilities separate from the present Public Records Office. A clear division between the regulatory and operational roles in the record keeping regime was to be inherent in a new Act and the commission would be accountable directly to Parliament.

Since the Bill was presented to this House last year, the Minister for the Arts has received constructive suggestions for strengthening it and, as a result of the changes which he has accepted, it has been reprinted in the form now before the House. The Bill now recognises many of the suggested amendments by the member for South Perth including the need to provide for electronic scanning of documents, allowing for community input if an archive is to be destroyed, establishing standards to cover the outsourcing of record-keeping functions, and the necessity for the Director of State Records to report any breach or suspected breach to the State Records Commission.

The Records Management Association of Australia has been anxious to ensure that membership of the State Records Commission will be at a level commensurate with the high degree of accountability and transparency which are hallmarks of the legislation and changes have been introduced to that end. Finally, to meet the concerns of the presiding officers of the two Houses, I have ensured that the traditional Westminster independence of the Legislature is kept separate from the executive arm without removing the need for Parliament to meet its record-keeping obligations in a transparent way. I will say more about that later.

As the need for an independent record keeping authority had been raised in the report of the Royal Commission into Commercial Activities of Government and Other Matters, it became a specified matter for consideration by the Commission on Government. The general thrust of the Commission on Government's report, report No 2, part 2, chapter 7, had the effect of supporting the principles and specifications for a new public records Act as outlined in the discussion paper. COG's findings differed fundamentally from the Government's proposals in its model of a public records authority combining both regulatory and functional operations into a single unit - headed by one full-time commissioner - which would be fixed in the legislation under the Minister for Public Sector Management. These proposals were rejected by the Government as they would compromise the independence of both the State Records Commission and the Minister for Public Sector Management. The Government's preferred model is exponentially stronger in terms of accountability and transparency of process.

For administrative and resourcing purposes, the operational arm of the record-keeping functions - to be vested in a State Records Office - will remain in the structure of whatever ministry or department is the most appropriate. Those functions are aimed at supporting agencies in the continued improvement of their records and archives management activities. The allocation of ministerial responsibility for the State Records Office is not stipulated in the Bill, as this may be determined by administrative edict according to circumstances. The Library and Information Service of Western Australia is ideally suited for the purpose, as placement within that service agency of the Ministry for Culture and the Arts will enable the State Records Office to take advantage of existing support services such as conservation, microfilming, corporate support services, accommodation and storage facilities, and to benefit from the synergy associated with other services in that information network.

There has been a wish among some government records professionals for this bureaucracy to be part of the commission and therefore free of accountability to a minister. Not only is this likely to lead to another group which cannot be forced to be efficient but it is also bad in theory - the bureaucracy would supervise its own work. It would be as if the financial activities of Treasury were performed by the Auditor General. The Government's preferred model ensures that there is no need for an additional bureaucracy to be created, other than a basic secretarial support structure for the work of the proposed commission, to be called the State Records Commission.

The Bill reflects both the accountability and heritage factors that I mentioned earlier. That is to say it provides for the whole continuum of record keeping from the creation and current management of a record to its eventual destruction or preservation as an archive.

I will now outline for members some of the Bill's main features. The State Records Commission will consist of four members to be appointed by the Governor. They will be the Auditor General, the Information Commissioner, the Ombudsman, and a person with record keeping experience from outside government. The commission's functions will be to establish principles and standards by which organisations will manage their records, and for selecting those records which should be preserved for their archival value. By publishing those standards in the *Government Gazette*, no organisation will have an excuse for not complying with them.

A cornerstone of the ongoing implementation of the legislation is an instrument of accountability called the record keeping plan, a document to be formulated by every government organisation. This is a plan which must set out the matters about which records are to be created by an agency, how those records are to be managed in the context of the agency's functions, and for how long records are to be kept. The plans will be submitted to the State Records Commission for approval. Organisations must report periodically to the commission about their compliance with the plan. The commission will monitor compliance by government organisations with those plans. It will also inquire into breaches of the legislation.

The commission provides Parliament with an annual report about the operation of the legislation. As well, the commission can at any time submit a written report to Parliament about contraventions by a government organisation.

These mechanisms will address the need for government record keeping to be monitored, and for the process to be done in a transparent way. The commission will be in a position to ensure that government record keeping is of the highest standard and that practical expression is given to the public's right to access government records. To ensure that government accountability is achieved, the range of state organisations that must comply with the Bill is wide. As well as public sector agencies and local governments, it includes royal commissions, the parliamentary departments, Cabinet and ministers.

The concept of a record keeping plan provides considerable flexibility within the parameters of the Bill. It will enable the commission to ensure that the principles and standards it sets can address the impact of changing technologies and be adapted to changing administrative policies and practices. For example, government is operating in an environment where competitive tendering and contracting can lead to the outsourcing of certain functions. The commercial contractor may need to hold the records of that function so that it can operate the service in question. It is important to ensure that the records which reflect the outsourced activity performed on behalf of the government agency are subject to the accountability demanded in the Act. The record keeping plan concept enables that to happen. Factors of this sort will be taken into account in the scope and content of the record keeping plans.

In western democracy it is taken for granted that the public will have access to the records of its Government. In the case of current records, freedom of information legislation is a fundamental way of achieving this. As far as older records are concerned, it is up to archival legislation to provide the necessary empowerment for people to be able to consult records for all manner of purposes. The State Records Bill has interesting features to allow this to happen. After 25 years, a government organisation must transfer its records to the state archives collection unless it has received a dispensation from the State Records Commission. Generally speaking, state archives will be available to the public when they are 25 years old, but with the concurrence of the commission, some confidential records may be restricted for up to 75 years. The exceptions to this are patients' medical records where that restriction is extended to 100 years; and also archives that are adjudged by the commission to contain exceptionally sensitive information, in which case terms longer than 75 years can be set. In the latter category, such terms must be reviewed at five yearly intervals, and it would be up to the agency to adduce good reasons as to why a particular series of records should be hidden from the public view for an inordinately long period.

The Bill also makes complementary links with the Freedom of Information Act 1992 so that a member of the public will not be given the runaround when seeking access to a record whose location and status are unknown.

Heavy penalties are provided for organisations that do not keep a record in accordance with the record keeping plan or illegally destroy a record, and for anyone who has illegal possession of a government record.

The Bill addresses changing technologies by ensuring that the definition of a record reflects electronic media. If authorised by the commission to do so, an organisation may manage its own archival records in terms of its record keeping plan, according to the prescribed principles and standards set by the commission. Public access provisions will apply to such archives as if they were physically in the State Records Office.

I mentioned special arrangements applicable to Parliament. In the Westminster system it has been usual for the records of Parliament to be treated differently from those of government agencies per se. In this Bill I have been anxious to ensure that parliamentary records are nonetheless subject to an equally accountable process. For that reason, parliamentary records, while being a class of state records, are to be the subject of a record keeping plan that will be developed in consultation with the State Records Commission. The draft record keeping plan of each of the parliamentary departments will be submitted to the appropriate presiding officer for approval. As with the records of government organisations, these record keeping plans will have to be reviewed at least once every five years; in this case after such review the appropriate presiding officers may approve the revised plan. Just as penalties are provided for government organisations that do not abide by the legislation, the Bill provides for a contempt charge to be made against a person who does not comply with the record keeping plan of a parliamentary department.

The establishment of a State Records Commission will require resourcing to support its work. The estimated costs of the activities of the commission are expected to be \$210 000 for the 2000-01 year and \$175 000 per annum after that. These figures allow for sitting fees for the fourth commissioner, two full-time equivalents to supply executive support, renting of office accommodation, a communication network, and the provision of furniture and equipment.

The State Records Bill 1998 is eloquent testimony to the Government's commitment to improve the standard of record

keeping across the public sector and to ensure the continued preservation of government archives for the people of Western Australia. I commend the Bill to the House and table an explanatory memorandum of the Bill.

[See paper No 433.]

Debate adjourned, on motion by Mr McGowan.

STATE RECORDS (CONSEQUENTIAL PROVISIONS) BILL 1999

Introduction and First Reading

Bill introduced, on motion by Mrs Edwardes (Minister for the Environment), and read a first time.

Second Reading

MRS EDWARDES (Kingsley - Minister for the Environment) [12.35 pm]: I move -

That the Bill be now read a second time.

Until now, the State's record keeping legislation has been embodied in the Library Board of Western Australia Act 1951-1983. In a number of other state Acts, in which reference is made to records and their implications in an archival context, the wording is specific to relevant sections of the Library Board Act. Examples are the various Acts governing the administration of Local and District Courts, and of Courts of Petty Sessions. Certain sections of these Acts provide for the retention and disposal of court records. There are a number of other Acts that I shall mention in a moment.

The State Records Bill, already placed before this House, has been drafted to replace the record keeping aspects of the Library Board Act and provides for the establishment of an independent State Records Commission with standard-setting, regulatory and monitoring functions. The State Records (Consequential Provisions) Bill 1999 ensures that those other state Acts which make reference to record keeping are amended to conform with the provisions of the State Records Act.

Amendments to the Library Board of Western Australia Act 1951 ensure that those records held now by the Library Board as state archives will form the state archives collection. Control of the records in the state archives collection will transfer from the Library Board to the Director of State Records. Archives restricted under the Library Board Act will remain restricted for five years after commencement of the State Records Act. If an organisation wishes to extend the restriction, it must within that five-year period apply to the State Records Commission. Retention and disposal schedules in force through the Library Board Act will continue to apply until a record keeping plan for the agency in question has been approved by the State Records Commission.

Section 29(1) of the Public Sector Management Act 1994 lists the functions of chief executive officers and chief employees of state organisations. The keeping of proper records in terms of that Act is to be subject to the State Records Act.

Special arrangements have had to be made for the lawful disposal of the records of the Royal Commission into Commercial Activities of Government and Other Matters known as WA Inc. The effects of the State Records (Consequential Provisions) Bill are to repeal those provisions of the Royal Commission (Custody of Records) Act that are now spent and to amend other provisions in order to preserve the intent of that Act, once the State Records Act commences.

The Freedom of Information Act is amended to ensure that access to state archives that have been transferred to the state archives collection of the State Records Office is to be subject to the relevant part of the State Records Act. The combined effect of the FOI Act and the two records Bills is to ensure that members of the public will not be given the runaround when seeking access to records the location and status of which are unknown.

Amendments are made to the Children's Court of Western Australia Act 1988, the District Court of Western Australia Act 1969 and the Justices Act 1902 to provide for appropriate references in those Acts to take the place of existing references in the Library Board Act. The Financial Administration and Audit Act 1985 is similarly amended to refer to the State Records Commission. I commend the Bill to the House and table an explanatory memorandum for the Bill.

[See paper No 434.]

Debate adjourned, on motion by Mr McGowan.

ANIMAL WELFARE BILL 1999

Introduction and First Reading

Bill introduced, on motion by Mr Omodei (Minister for Local Government), and read a first time.

Second Reading

MR OMODEI (Warren-Blackwood - Minister for Local Government) [12.40 pm]: I move -

That the Bill be now read a second time.

It gives me great pleasure to introduce the Animal Welfare Bill 1999. The intent of the Bill is to provide for the protection of animals by -

- regulating the use of animals for scientific purposes; and
- prohibiting cruel, inhumane or improper treatment of animals.

The Bill intends to accomplish this by -

- promoting and protecting the welfare, safety and health of animals;
- ensuring the proper and humane care and management of animals in accordance with generally accepted standards; and
- reflecting the community's expectation that people who are in charge of animals will ensure that they are properly treated and cared for.

Members would be aware that a draft Animal Welfare Bill was tabled in the Parliament in October 1998 and members of the public and organisations were given six months to comment on it. Over 200 submissions were received, the majority of which were from the public. The Bill was revised following this consultation period and various improvements made. Many of the changes are minor technical improvements in response to public submissions while other alterations have been included by the drafters to improve the enforcement and other detailed requirements of the Bill.

The Bill represents the culmination of several years of legislative development. This originally began with the convening of an animal welfare advisory committee to develop proposals for new legislation. The development of the Bill has generated considerable community interest, reflecting the importance of animal welfare in our society.

The new legislation will replace the current Prevention of Cruelty to Animals Act that was passed in 1920. Since the introduction of that Act, enormous changes have taken place in the use and handling of animals which have significant implications for their wellbeing. In addition, in recent years there has been a considerable change in community attitudes and expectations relating to the care and humane treatment of animals.

Some of the more significant provisions in the Bill now before the House include -

- a substantial increase in the level of penalties for cruelty offences. They have been increased from a maximum of \$5 000 or 12 months' imprisonment to a maximum of \$20 000 - with a \$1 000 minimum - and 12 months' imprisonment;
- providing for a greater range of offences;
- provisions for the issuing of infringement notices;
- increased powers for inspectors to go onto property and apprehend offenders;
- new statutory requirements for establishments which use animals for scientific purposes to be licensed and have animal ethics committees; and
- regulating businesses which supply animals for scientific purposes.

The Bill is divided into seven parts including those dealing with definitions, scientific establishments, cruelty offences, the appointment of both general and scientific inspectors, enforcement and objection and appeal rights. The Bill also deals with amendments to other legislation such as the Fish Resources Management Act 1994 and the Wildlife Conservation Act 1950. For further details I refer members to the accompanying explanatory memorandum and clause notes which I have made available.

I conclude by saying that this new Animal Welfare Bill provides a total rewrite of the current legislation and is an opportunity to embrace new laws to deal with this important subject. I thank the various organisations and individuals which have assisted with the preparation of the Bill over the period of its development. Many people have given extensive amounts of their time to ensure a high degree of general acceptance for this new legislation. I commend the Bill to the House and for the information of members, table an explanatory memorandum for the Bill.

[See paper No 435.]

Debate adjourned, on motion by Mr McGowan.

ROAD TRAFFIC AMENDMENT BILL 1999

Introduction and First Reading

Bill introduced, on motion by Mr Omodei (Minister for Local Government), and read a first time.

Second Reading

MR OMODEI (Warren-Blackwood - Minister for Local Government) [12.44 pm]: I move -

That the Bill be now read a second time.

Between 1961 and 1998, 9 650 people died in crashes on our State's roads. In the past decade alone more than 30 000 people have been seriously injured. I am sure that members in this Chamber have been touched in various degrees by road trauma in their personal lives.

This Bill focuses on reducing the carnage on our roads. The Bill is also about fairness and equality for all road users in this State. This Bill will implement aspects of the driver licence module developed by the National Road Transport Commission reform package and Government's road safety objectives as outlined in our document, "The Way Ahead Road Safety

Directions for Western Australia". This will include the introduction of nationally agreed drivers licence classifications, a Graduated Driver Training and Licensing System, compulsory photographs and signatures on drivers licences and the storage of digital photographic images. It will also allow the service of demerit point suspension notices by mail.

The major gains to be made in road safety in Western Australia in the next decade will come about through changes in high risk road user behaviour. A key tool in the campaign to achieve those changes is the strengthening of the provisions requiring the owner of a vehicle to identify the driver of the vehicle which has been used in the commission of an offence. I will deal with this in detail later in this speech. The Bill will also amend the provisions relating to the type of equipment used to take blood and urine samples from drivers and allow registered nurses to take those samples.

The final element of the Bill is the repeal of the legislative requirement to conduct annual reviews of the random breath testing program, as provided in section 5 of the Road Traffic Amendment (Random Breath Tests) Act 1988.

I now turn to some of the specific provisions of the Bill. The first element of this Road Safety Package is the Graduated Driver Training and Licensing System. For the past 30 years in Western Australia, driver training and licensing has remained largely unchanged, despite constantly increasing pressures of more traffic and bigger, busier roads than ever before. In short, our system of training drivers has not kept pace with the changing traffic environments and the increased demands placed on new drivers. This extra pressure is reflected in the road toll and the huge over-representation of young people in those statistics. For example, while only 12 per cent of our population is aged between 17 and 24, the same group represents 28 per cent of all those killed or seriously injured on our State's roads. If we are to do something about this appalling waste of young lives, one of the things we must do is to ensure our learner driver training system reflects the best available practice throughout the world and, where possible, leads the world.

The graduated driver training and licensing system is designed to do just that. When learning to drive, our current approach focuses on knowledge of road rules and ability to control a motor vehicle. This is not enough. International research has shown that improved hazard perception skills and increased driving experience are important elements in achieving improved safety for young drivers. Research has also shown that young drivers are at their safest when they are learning under supervision. The graduated system will provide a four-phase program aimed at allowing learners to progressively acquire the skills they need to become competent drivers. Under the system, new drivers will be allowed to apply for a learner's permit at the earlier age of 16 by sitting a computerised learner's permit test, which consists of a series of randomly selected questions. After passing the learner's permit test, they will be allowed to drive under supervision to obtain practical experience of the road rules and basic vehicle control skills. From this point, new drivers will be encouraged to undertake a comprehensive program of driver skills assessment and supervision in varying conditions. Then they will be allowed to sit a computer-based hazard perception test for a probationary licence at the age of 17. If successful, new drivers will be granted a probationary licence for a two-year period during which time they will be subject to a blood-alcohol content of less than 0.02 per cent while driving.

One of the biggest contributors to the number of crashes among young people is their lack of experience, or the number of hours they have spent in control of a vehicle. This new system will allow drivers time to develop their practical skills and gain confidence and experience before they face the complex demands of the modern road system. Most importantly, the Bill provides the flexibility of regulations to allow the system to evolve over time to ensure it stays up to date with emerging best practice. The graduated driver training and licensing system is not about making life more difficult for new drivers. It is about making new drivers more confident and, just as importantly, more competent to handle the pressures on our roads.

Another very important element of this Bill is the introduction of the national driver licensing scheme. In December 1997, the Ministerial Council on Road Transport voted in favour of the driver licence module, which incorporates the adoption of national driver licence classifications. In accordance with the provisions of the intergovernmental agreement, Western Australia is required to implement the module as a matter of urgency. The national licence classes were developed by the States and Territories to reflect better the types of vehicles used on Australian roads, in accordance with the agreed National Road Transport Commission process.

The adoption of the national classes will contribute to road safety by linking driving skills more closely to the type of vehicle to be driven; improved efficiency by removing licensing differences between States; and ease of transfer for those licence holders moving between States and Territories. A number of existing classes convert easily to national classes. Where a straight conversion between classes is not possible, the driver licence module provides for the next highest class to be issued. For safety reasons, conversion of the existing B and C class licences will not automatically be converted to the highest national class of licence; however, licence holders who drive road trains and B-doubles will not be disadvantaged by the licence conversion process.

To alleviate any concerns that licence holders and the transport industry may have, drivers will be able to upgrade their converted licence class over a 12-month transitional period, provided they can prove that they have gained relevant experience in driving the vehicles that fall into a higher class. Where licence holders are able to supply evidence of relevant driving experience, their licence will be upgraded at no additional cost. Following the 12-month transitional period, licence holders who have not upgraded their licence classes will be limited to driving vehicles that fall within their original converted licence class.

The national driver licensing scheme also provides for a graduated licensing process which requires a person to hold a car licence for at least 12 months before being eligible to apply for a licence to drive a vehicle over 4.5 tonnes gross vehicle mass. Licence holders will no longer be eligible to apply for the highest class of licence immediately, without first gaining driving experience in vehicles of a lower class. Exemptions from eligibility requirements will be given where people are able to demonstrate exceptional circumstances or hardship.

Under the national driver licensing scheme, licence holders are required to have a photograph and signature on their licence. These requirements have been implemented in all States and Territories except Western Australia. Clause 20 of this Bill will make it compulsory for people to have their photograph and signature on their drivers licence. The adoption of compulsory photographs and signatures will lead to improved enforcement, diminished fraudulent use of licences and the reduced possibility of fraudulent licences being issued. It will also ensure that the NRTC reform package is not undermined, which would disadvantage Western Australian licence holders when travelling or moving interstate. The Bill provides for regulations to be made to exempt persons from the requirement to have a photograph or signature on a drivers licence in certain circumstances.

This leads me to the next important element of this Bill; that is, the provision for the storage, disposal and access to photographic images. Currently, the Road Traffic Act 1974 requires that all photographs and photographic negatives created for the purpose of a drivers licence be destroyed no later than three months after the photograph is taken. Western Australia will shortly be introducing a new system for producing photographic motor drivers licences, which encompasses digital imaging technology for portrait and data capture. To overcome customer service and operational difficulties, this Bill contains amendments that will provide for digital images to be retained and stored in a database for a five-year period.

Licences renewed or replaced within that period could be produced using the image stored in the database. Extending the image retention period will allow Transport to provide customers who require a new or replacement copy of a licence with a choice of payment options, without the need to attend a place where photographic equipment is available until five years have elapsed. The security and integrity of the database will be assured in that all images and textual data will be encrypted at point of capture for transmission to the image database and stored to eliminate the possibility of interception or access by any unauthorised person. Direct access to data stored on the image database will be restricted to authorised staff directly involved in the card production and quality control process.

All searches performed on the image database by these personnel will be tightly controlled and audited on a regular basis. Images will be retrieved only for the renewal or replacement of drivers licences. If a person employed in any aspect of the production of a drivers licence reproduces a photograph or signature, other than in the administration of the Act, that person will commit an offence and be liable to a penalty of \$2 000.

Earlier, I indicated that this Bill was also about matters of equality and fairness to all Western Australians. The driver identification responsibilities component of this Bill is exactly that. It is about delivering a fair and equitable system of justice to all members of our community. It is also about ensuring safety on our roads through the proved approach of education supported by enforcement. We know that for road safety education strategies to be effective, road users must also be aware that if they break the law, they are liable to be prosecuted.

One of the most effective tools we have to help reduce the number of drivers who speed on our roads is speed cameras. In Western Australia between 1992 and 1997 the percentage of vehicles speeding past speed cameras dropped from 68 per cent to 26 per cent. In States such as Victoria, where a comprehensive speed camera program has been in place for some time, only 2.5 per cent of vehicles travelling past speed cameras are recorded for speeding. Even more importantly, community attitudes to speeding have changed dramatically in that State and the majority of people no longer regard it as an acceptable practice. These changes can also be observed in this State. In fact, a recent survey of Western Australians has found that 76 per cent of people support the use of speed cameras to detect speeding drivers. Clearly then, speed cameras are having the desired effect on driver behaviour; yet under the present legislation, not all road users in Western Australia are prosecuted for speeding past a speed camera or for driving through a red light camera at intersections. This drastically reduces the effectiveness of what speed cameras are designed to do; that is, to get drivers to slow down. The clear message from this legislation is that speeding drivers will be caught for putting at risk not only their own lives and the lives of any passengers, but also the lives of other road users.

Driver identification legislation will require that owners of vehicles take more responsibility for identifying the driver of a vehicle alleged to have committed an offence. Driver identification responsibilities will revitalise and intensify the safety value of the speed cameras, and will bring Western Australia into line with most other jurisdictions where similar legislation already exists. The whole process of issuing fines will also be streamlined and drivers will be notified of speed camera offences quicker than ever before. This will result in drivers being far more likely to remember the incident and, consequently, far less likely to re-offend.

These changes are about enhancing and defending the right of Western Australians to travel on our roads, knowing that everything is being done to protect their safety. Ultimately, of course, road safety is in the hands of the community. It is up to all individuals to accept responsibility for their actions on the road.

This Bill also contains amendments which will provide power to make regulations to prescribe the manner in which demerit point suspension notices can be served. Presently demerit point suspension notices are served on the licence holder personally by either police officers or Transport officers. This method results in undue processing delays and also uses considerable Police and Transport resources. It is envisaged that the number of demerit point suspensions will increase significantly with the implementation of new processing and would require additional resources if personal service were to continue as a requirement. The intent of this amendment is to streamline the enforcement process for serving these notices to allow the service to be conducted by registered mail. Where the registered mail is returned unclaimed, Transport will instigate action to serve the notice personally.

This Bill also contains amendments which will allow registered nurses to take blood and urine samples for the purposes of determining whether a driver has contravened the provisions of the Road Traffic Act. Taking of blood and urine samples is a common medical procedure and is carried out by appropriately qualified medical personnel, including registered nurses.

The Road Traffic Act provides that only a medical practitioner may obtain blood and urine samples. In remote areas and many circumstances where breath analysis equipment or a medical practitioner is not available, police are unable to fulfil their evidential responsibilities or enforce drink-driving legislation effectively. On several occasions registered nurses have been available to take samples but have been precluded from doing so by the legislation. This amendment will overcome these operational and evidentiary difficulties.

The final element of this Bill will repeal the requirement for annual reviews of the random breath testing program which have been conducted since the introduction of the Road Traffic Amendment (Random Breath Tests) Act. Although it is felt that the program in Western Australia is highly effective, it is no longer considered necessary for formal reviews of this program to be conducted on an annual basis. Western Australia is the only State with legislation that specifies an annual RBT review must be conducted. In general, key road safety stakeholders in Western Australia have agreed that the current annual review is not necessary and prefer to have a less frequent process. In addition, it is considered that the resources used for the annual evaluation, approximately \$28 000, could be better used in other important areas of road safety, for example, road safety community education programs. The RBT reviews will be undertaken as required by the Road Safety Council. I commend the Bill to the House.

[See paper No 436.]

Debate adjourned, on motion by Mr Cunningham.

RAILWAY (NORTHERN AND SOUTHERN URBAN EXTENSIONS) BILL 1999

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Omodei (Minister for Local Government), read a first time.

Second Reading

MR OMODEI (Warren-Blackwood - Minister for Local Government) [1.02 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to implement the legislative authority for the construction of the Currambine to Butler railway and the Jandakot-Rockingham-Mandurah railway. The Government committed itself at the last state election to extend the northern suburbs railway from Currambine to Clarkson. The next major transit station planned for north of Clarkson is at Lukin Drive, Butler. This section of the railway will be located within a contiguous railway-freeway reservation. When completed, the railway will form part of the urban passenger network.

The Department of Transport will now commence the development of a master plan for extension of the railway from Clarkson to Lukin Drive, Butler. In March of this year, the Government released the master plan for the south west metropolitan railway. The route of the railway is Perth-Kenwick-Jandakot-Kwinana-Rockingham-Mandurah, over a distance of 82 kilometres.

Although the Bill simply authorises the construction of the railways, I will outline for the information of members the main features of the south west metropolitan railway proposal. A railway is already constructed between Perth, Kenwick and Jandakot. Accordingly, legislation is required for the construction of a railway from Jandakot to Kwinana, Rockingham and Mandurah. The principal feature of the planned system is a rapid transit regional railway supported by buses and private cars. These will link local communities to strategically spaced and individually purpose-designed transit stations. Extensive facilities will be provided at transit stations for pedestrians, cyclists, bus-rail transfers and parking for private cars.

The south west metropolitan railway will be integrated with existing urban rail and proposed bus transit services, which will permit an extensive choice of public transport journey options from the extremities of the Perth metropolitan region. This rapid transit system will provide a standard of travel comparable in transit time, convenience and cost with the private car. In doing so, it will contribute to the containment of investment in road infrastructure, and optimisation of its use. Combined with the existing urban rail system, it will make a significant positive contribution to maintenance of an acceptable level of air quality in the Perth metropolitan area.

Future rapid transit extensions in the northern suburbs will mean that the south west metropolitan area and the area to Yanchep and beyond will eventually be linked by a fast inter-regional rail service, in excess of 120 kilometres long. The anticipated patronage from the south west metropolitan area by the year 2006 is in excess of 30 000 passenger journeys a day. This is of the same order as current usage of the northern suburbs line.

By any measure, the south west metropolitan railway from Perth to Mandurah is a major project. It involves -

- new railway of 69 route kilometres;
- more than doubling the present electric railcar fleet with the introduction of faster, more modern trains;
- a significant increase in train services between Perth and Kenwick, and associated measures to accommodate this;
- initially, 10 new transit stations between Perth and Mandurah;
- links and coordination with a new rapid transit bus transitway between Rockingham and Fremantle;
- a railcar depot in the Rockingham-Kwinana area;

reservation for a future route through the Rockingham city centre; and

long overdue grade separation of selected, intensively-used level crossings between Perth and Kenwick.

Provision is made for three alternative routes through the Rockingham city area: Firstly, a direct route to Mandurah along the eastern outskirts of Rockingham, supplemented by dedicated transit link buses operating between rail transit stations and the Rockingham city centre; secondly, a route through the city with only the section through the central core below ground in a tunnel; and, thirdly, a route comparable to the foregoing, but with a longer tunnel. A typical rail journey time to Perth will be around 44 minutes from Rockingham and 60 minutes for limited express trains from Mandurah.

A realistic three-stage program to implement the proposed railway service has the following timetable: Commencement of services from Thomsons Lake to Perth within four years of inception; commencement of full services from Rockingham two years later; and services to commence from Mandurah 18 months after that.

The actual implementation program will be finally determined by such factors as development of a cashflow which is consistent with other government obligations; a realistic program for the delivery of rolling stock; and the need to establish and refine operational procedures for the new services and their integration with existing services. The total infrastructure cost from Perth to Mandurah will be nearly \$630m and the value of the railcars will be an additional \$312m in July 1998 dollar values. Work is ongoing to determine the extent to which the cost and risks associated within the infrastructure works can be shared with the private sector. It is necessary that alterations required at Perth station together with those works along the Armadale line to Kenwick be undertaken as part of the first stage.

There will be significant benefits for road users. Five intensively used railway level crossings between Perth station and Thomsons Lake are to be eliminated with bridges. In carrying out these works, particularly for the section from Perth to Kenwick, this project can be seen as the catalyst to initiate works which are long overdue. This plan is a major proposal for improving the long-term fabric of public transport facilities in the Perth metropolitan region. I table the Acting Director General of Transport's report on the construction of the two railways as required by section 18A of the Transport Co-ordination Act. I commend the Bill to the House.

[See paper No 437.]

Debate adjourned, on motion by Mr Cunningham.

RIGHTS IN WATER AND IRRIGATION AMENDMENT BILL 1999

Third Reading

Bill read a third time, on motion by Dr Hames (Minister for Water Resources), and transmitted to the Council.

NATIVE TITLE (STATE PROVISIONS) BILL 1999

Second Reading

Resumed from 17 November.

DR GALLOP (Victoria Park - Leader of the Opposition) [1.08 pm]: I am not the lead speaker on this Bill. It is very sad to have to report that despite many hours of discussion of these issues not only in the Parliament but also within the community, the Government of Western Australia has proceeded with inadequate legislation on native title. There are three basic problems with the Government's legislation. The first major weakness is that the Government has still not consulted with the major stakeholders on the native title legislation. It is clearly an area of great complexity, but it is also an area of great importance to particular interests in our community. The first thing that any Government should do in considering a legislative approach is to consult widely with all of the stakeholders and to ensure that they are incorporated in the decision-making process. Yet again the Government has not engaged the major stakeholders in consideration of this legislation.

The second major weakness is that the Government has still not come to grips with what it needs to do to make the State native title regime acceptable, in terms of both procedural and substantive fairness. It is very important in setting up a state regime that the Government incorporate proper processes of fairness both in the procedures that are adopted and in the substantial content. Yet again the Government of Western Australia has failed to do that.

The third major weakness is that the Government is still obsessed with a legislative approach to the native title issue, rather than an agreement-based approach on the ground and in the regions. It has been obvious for many years now that the Government's only response to this complex issue of native title is a legislative one. The Government wants to significantly diminish the rights of native title holders, and by so doing it believes that it will solve the problem. The bottom line is that while the Government attempts to bring about that so-called legislative solution, the important matters that must be dealt with on the ground and in the communities in the regions are not tackled. The legacy of this is seen in the great backlog of claims in the regions where some of the preliminary work that needs to be done to get an agreement between the various stakeholders so that our State can continue to develop has not been done.

This Bill is yet another episode in the Government's sorry record on this issue. We can go back to the early days of the Government when it introduced and passed the Land (Titles and Traditional Usage) Act which purported to replace any remaining native title with the so-called rights of traditional usage. These rights were subject to other interests and could easily be extinguished. That was the first attempt the Government made to legislate away this problem of native title. That legislation was ruled out by the High Court in a 7:0 decision. The High Court found that the rights of traditional usage fell substantially short of the rights and entitlements of native title. Millions of dollars were spent and much time was wasted on this ill-fated attempt by the Government to extinguish native title in Western Australia.

Having failed to deliver its own state regime and being knocked out 7:0 by the High Court, the State Government went off to Canberra and sought to extinguish native title through what was then known as the 10-point plan. What resulted from the 10-point plan was the so-called Harradine compromise. This allowed the States to set up alternative procedures to the right to negotiate on pastoral leases. However, it made it absolutely clear that any state legislation would be subject to a review, first, by the federal minister and, second, by the Federal Parliament. A review by the Commonwealth both at the Executive level and at the parliamentary level was built into that legislation. Following some success with the Commonwealth on that issue, the State Government then brought into the Western Australian Parliament the Native Title (State Provisions) Bill. It did not bargain on a change in the composition of the Legislative Council from the time when the Government had rammed through the Land (Titles and Traditional Usage) Act. For the first time in the State's history the Legislative Council subjected native title matters to serious scrutiny. The Legislative Council passed a series of amendments to the Native Title (State Provisions) Bill. The Government then had a choice: Either it would reject the amendments by the Legislative Council designed to make the legislation acceptable, or it would agree to those amendments and start the process of establishing a state regime, and settling some of these contentious issues by agreement in the communities in the regions. I have to report that yet again the Government decided to adopt an adversarial approach to this matter. Rather than accept the amendments of the Legislative Council, the Government has come back with yet another Bill. The Opposition's problem is that the Government does not understand that for this legislation to be successful it must meet three tests: The test of the Commonwealth Government, of the Commonwealth Parliament, and of a potential legal challenge. The attitude of the Opposition all along has been that if we have state provisions they must be absolutely watertight against those three potential challenges.

During all of this effort by the State Government to try to legislate away native title, the Government, like other property holders in Australia, had to work within the framework of the federal Native Title Act. The way in which the Government has dealt with its responsibilities under that Act makes a very sorry history. Firstly, the Government took risks by issuing titles without going through the proper processes of the Native Title Act. The Opposition canvassed that matter when we discussed the Titles Validation Amendment Bill last year. Secondly, and this is a crucial issue, the State Government of Western Australia frustrated the working of the right-to-negotiate clause in the federal legislation.

I refer to an article published by the Australian Institute of Aboriginal and Torres Strait Islanders Studies, Issues Paper No 26, titled "Engineering Unworkability: The Western Australian State Government and the Right to Negotiate". This article shows clearly how the State of Western Australia had a strategy to frustrate the operation of the Native Title Act by relying on legal form rather than substance, particularly with respect to its obligations regarding the right to negotiate. This article by Anne De Soya outlines that clearly. Initially the State interpreted its compliance with the right to negotiate as merely holding itself ready and willing to participate and to sit out the negotiation period. It was prepared to convene meetings, but it was not prepared to actively engage in negotiations. As a matter of practice it applied for arbitral decisions by the Native Title Tribunal straight after the expiry of the six-month negotiation period. This minimalist strategy came under fire in the 1996 Federal Court case of *Walley v the Government of Western Australia*. The Federal Court found that Western Australia had generally ignored its duty to negotiate in good faith with respect to the granting of mining tenements. This forced the State to draw up a set of procedures by which it could fulfil its obligation to negotiate in good faith, although in a number of ways it still took a restricted approach. For example, the procedures limit the scope of negotiations to only matters relating to the grant of a tenement. The Government refuses to consider site protection issues. The procedures limit the authority of the Government's representative, the land access unit of the Department of Minerals and Energy, to only those matters falling within the jurisdiction of the department. In other words, by a variety of mechanisms the Government has been determined to frustrate the effective operation of the federal Native Title Act. This attitude is important, not only because of what it means for the legislative process but also because it sets the scene for reaching agreements in our community. The attitude of the State of Western Australia frustrates and makes difficult the achievement of agreements. I will conclude this section by quoting from the summary of the article, which states -

This article examines the operation of the RTN in Western Australia prior to the amendments, in relation to the grant of titles under the Mining Act 1978 (WA). It is argued that any unworkability of the RTN was the product of a deliberate strategy of the State government to frustrate the operation of the NTA. Further, had the State government approached negotiations with native title claimants in good faith, the NTA would have provided the opportunity for achieving certainty for resource developers and other interest holders, while also protecting the rights of Aboriginal people.

This Government's record in tackling this issue is on the record.

In looking at this Bill, we note a couple of points from earlier drafts that have been provided. It is very interesting to trace the history of this issue. When the Native Title (State Provisions) Bill was introduced in 1998 we were told that it was a compromise on a compromise; there could be no change or alteration and it had to be passed in the form it was presented to the Parliament. It was very interesting that on the very day we started to debate the Bill, a raft of amendments was introduced. We understand that that was a result of commonwealth intervention, indicating to the State that in certain respects the Bill was deficient. If we had gone along with the Government at that time - had we followed its advice and pushed it through the Parliament rapidly - the legislation would have been deficient.

Of course, other changes were introduced and passed during the debate on the Bill. I am not referring to the amendments moved by the Labor Party and other minor parties; I am referring to the Government's agreeing to changes. Now we find that the second major version of this legislation, which has been produced two years later, incorporates even more changes. The Opposition suspects that once again those changes are a result of commonwealth intervention.

What does this tell us? It tells us that this Government has not grasped the first principles involved in such legislation and

it has not consulted all the stakeholders. If it had done those two things it would have come up with legislation that did not require these continual changes.

Despite the changes made in 1997 and those made in 1998 in this Chamber - which were separate from the opposition-initiated changes - and despite the changes proposed in this Bill, the legislation still fails. It continues to fail because the Government continues to fail to consult. When will it learn? When will it get its act together on this issue, which is very important to significant industries in Western Australia and to indigenous people? Even with the changes that have been made, the Government has still fallen short of what is required.

The Government of Western Australia is engaged in its own internal processes of consideration. Significant people outside the government circle are urging it, pushing it, pulling it and encouraging it to change the legislation so that it crosses the line between what is acceptable and what is unacceptable. However, because of the Government's biases and prejudices, it cannot cross that line. It cannot come to grips with the issues posed by this very important question. We must go through the same process repeatedly; that is, to try to get the Government to see that its biases and prejudices mean it cannot provide a proper framework of certainty, principle and practicability in respect of this legislation.

I will provide one example of the Government's seemingly acknowledging that it has a problem but not being able to address it properly. I refer to the section in the Bill dealing with consultation. The alternative consultation right is provided for under the federal Native Title Act. The Opposition stated during the last parliamentary debate on this issue that the Government's definition was totally inadequate and that it would not satisfy the Federal Parliament. The Government seems to be acknowledging that there is some problem with its definition, because it has changed it. However, it cannot bring itself to fix the problem in a way that satisfies all the stakeholders. The fact that it has changed the definition seems to indicate that it knows it has a problem, but it cannot get itself to confront the issue properly and to provide a solution. We see that happening repeatedly with this native title issue. It must be very frustrating for the commonwealth public servants dealing with the State on this matter. The Premier cannot complain about that because he has accepted legislation that gives the Commonwealth a role in this matter.

I will now refer to the Labor Party's position. Members on this side will try again to make this legislation acceptable. We want to make it so watertight that it will be accepted by the Commonwealth Government and the Commonwealth Parliament and be free from the potential of legal challenge. That is the responsible thing for this Parliament to do. The Labor Party will pursue the amendments in the Legislative Assembly and again in the Legislative Council.

I will summarise the things that need to be done to make this Bill acceptable. First, the purposes of the legislation must be outlined and underlined so that no-one is under any misapprehension about its purpose. Second, members on this side want to extend the definition of current vacant crown land over which the right to negotiate applies by including tenures of non-exclusive possession that have ceased to have any effect on or before 23 November 1996. We want to do that for practical reasons - it will make it much easier to administer the Act - and for good, principled reasons. If these non-exclusive tenures are no longer current, why should they come into being as a constraint on the way the Act operates? Third, we want to improve and extend the notification procedures for intended acts that may affect native title. The Premier should understand that in the modern world, due process is a very important principle. It is used by courts to assess decision making by executives, ministers and departments. We must ensure that there is no loophole in respect of this question. Fourth, and very importantly, we want to give clarity and meaning to the concept of consultation. Yet again, the Government has failed in that area. Fifth, we want to provide better criteria for the commission when it is making its determinations. Members on this side have put extensive effort into dealing with this issue. We looked at the Queensland legislation and took on board many of the suggestions it made to guide the commission in making its determinations.

Sixthly, we will ensure that there is a scrutiny role for the Parliament of ministerial determinations. Is it not interesting that there are lots of areas on which the Executive is subject to parliamentary scrutiny? Any decision by the Executive on property rights in a whole range of areas can be disallowed by both Houses of the Parliament. However, the Government has consistently told us that it cannot be done on native title; native title is a different property right and when the Executive makes a decision on that area, it is not subject to parliamentary disallowance. The recommendations of the Commission on Government and the strong view of the community are that, when property is affected, executive decision making should be subject to parliamentary scrutiny.

Seventhly, we ensure that ministerial decision making is fully informed. Why do we do this? We are not doing this because we are trying to make it difficult for the legislation to work. We are trying to make it work so that there will not be litigation or problems in its administration. Everyone knows that if ministers make decisions and do not take into account all of the circumstances, or are not fully informed, those decisions are subject to judicial review. I again urge the Government to look seriously at our amendments.

Eighthly, we want to ensure that the appointment of the chief commissioner will be subject to consultation. Ninthly, we want to ensure that a review of the Act is done with as wide a consultation as possible.

In respect of some of the issues I mentioned, the Government has made some changes in this legislation. However, it has made the changes in a half-hearted way. The fact that the Government has acknowledged that there are problems in its original Bill should lead it to rethink its approach to what the Opposition is trying to do on this legislation. The Opposition is trying to assist the Government set up a state regime. The Government has agreed to restrict the range of matters under which a state regime will operate under this Bill compared with the earlier one. The Opposition is further trying to assist it to make it work better.

As I said in my introductory comments, it is sad to have to report that the Government yet again finds it extremely difficult

to come to grips with the issues posed by native title. There has been another failure to consult all of the stakeholders involved in this issue. The Government would not ignore major stakeholders in drawing up any other legislation; however, in this area it continually does that. It has not come to grips with what it needs to do to make this regime acceptable in procedural and substantive fairness; therefore, it is not watertight legislation from the point of view of the Commonwealth or from the point of view of any judicial review. Importantly - I know the member for Kalgoorlie will be speaking at length on this subject - the Government is still obsessed with this attempt to legislate away the issue of native title rather than move into the communities and regions and negotiate a settlement that will allow all parties to get on with their lives in Western Australia.

Let us shift the emphasis away from litigation to getting an agreement in the community to go ahead with it. I urge the Premier to read the report of the Legislative Council committee that looked at native title questions and which visited Canada. That report includes a wonderful section on British Columbia. In British Columbia they battled and fought and argued about native title year in, year out. A new Government was elected in the province and decided to settle the issue. It went into the community and got a province-wide settlement of the question that allows all of the parties to work within a clear framework of development. The Premier and I meet all officials in Western Australia who have diplomatic status. I had a very interesting discussion with the New Zealand High Commissioner and I urge the Premier to look at the experience in New Zealand. The High Commissioner previously worked in the New Zealand Prime Minister's office to settle the question of native title in New Zealand. The Prime Minister said that the issue had to be settled. A nationwide settlement of the issue from right around New Zealand was achieved.

Therefore, rather than adopting the strategy of litigation and frustration, let us adopt a strategy of agreement and negotiation.

Mr Court: Support the Bill and that will happen. We are in the middle of litigation now, my friend.

Dr GALLOP: The Premier's Bill invites litigation because it is unclear and unacceptable. Until the Premier understands that, he will never solve the issue of native title in our community. I urge the government parties to take seriously what the Opposition is doing on this Bill. They are well thought out amendments and they will make the legislation watertight in terms of Commonwealth -

Mr Court: These are the same amendments as you introduced last time. You will not accept that there can be anything different than a right to negotiate. That is all you have done with your amendments.

Dr GALLOP: The Premier will continue with his head in the sand attitude on this issue. His legislation will fail in the Commonwealth Parliament and we will have gone through this process, hour after hour, day after day, year after year, with a Government so biased and so prejudiced that it cannot accept that the time has come to get rid of that approach and move out into the communities and regions and solve the issue.

Mr Court: The Opposition must realise that we are in a climate of litigation with this legislation.

Dr GALLOP: I wonder why? Does the Premier want to read the article that I referred to earlier? We are in this environment because of the Government's attitude.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [1.36 pm]: The Parliament must look at this legislation in the context of the history of land rights and native title issues in this State. That history has a number of interesting features. In the mid 1980s, the coalition controlled upper House of this Parliament rejected land rights legislation proposed by the then state Labor Government. Had that legislation been accepted in this State, there might have been much less controversy, much less debate and much better outcomes with native title following the Mabo decision.

The second aspect of the history that we should look at is this State Government's campaign against the implications of the High Court's decision in the Mabo case. The State Government has politically exploited that issue. It has fomented community fear and opposition to that High Court decision.

The third aspect of the history we ought to look at is the State Government's purported attempts to solve native title issues. This Government introduced the Land (Titles and Traditional Usage) Act 1993. That Act extinguished native title and substituted it with statutory rights. Those statutory rights could be overridden by ministerial notice and the statutory rights were subject to other land titles. The Premier has been reminded many times that this legislation, this purported solution by the State Government to native title issues, was ruled unconstitutional and invalid by a High Court decision on a 7-0 basis. Nevertheless, three features of that purported State Government solution, which was no solution at all because it was ruled unconstitutional, persist in the State Government's attitude to these issues. The first is the State Government's hostility to federal legislation on this issue. This Government is very uncomfortable with the Native Title Act and uncomfortable with the amended federal native title Act which resulted from a compromise between Hon John Howard and Hon Brian Harradine.

Secondly, the State Government continues to hold out promises of state solutions to native title issues, solutions that in the end have proved to be illusory. That is one of the problems of the public debate on native title in this country and in this State. People participating in the debate, particularly on the conservative side of politics, seem to ignore many of the complexities of the issue. They ignore the difficulties that will be involved in seeking to amend or repeal the commonwealth Racial Discrimination Act, Australia's international treaty obligations and the fact that High Court decisions on constitutional matters cannot be overturned by Acts of Parliament. Conservative politicians, particularly in this State, often hold out what seem to be plausible, popular solutions to native title matters. The problem is that when those plausible and popular solutions are put to the test, they cannot survive the complexities of legislation, constitutional provisions and High Court decisions. People are being led up the garden path. They are being told that the State Government has a solution. However, in the end it is not a solution to the perceived problems with native title.

The third persisting feature of the State Government's approach is a belief in, and a reliance on, extinguishing as much native title as possible. Native title is a problem for this State Government. It does not see it as a right that indigenous people have, but as a problem for all other title holders. The Government feels that the best way to deal with the problem is to get rid of as much native title as possible. The Government then thinks it has dealt with "the native title problem". The best example of that attitude is the Premier's support for his original legislation. During the debate on native title matters late last year and early this year, the Premier repeatedly reaffirmed his belief that his original legislation - which the High Court ruled was unconstitutional - was good legislation and the best solution to native title. However, it was not a solution because it was invalid and unconstitutional.

This Government has continually claimed that the commonwealth Native Title Act is unworkable. Those claims ignore the State Government's own failure to act in good faith in accordance with the provisions of that legislation. The State Government has not resourced its own responsibilities for the application of the Native Title Act. It has failed to provide sufficient staff to handle the Department of Minerals and Energy's responsibility for matters requiring negotiation. The department has only five case managers, and it can deal with only 245 priority matters. More than 1 000 priority matters have been identified by mining companies and more than 3 000 matters need to be negotiated. If the State Government were dinkum about trying to make the commonwealth Native Title Act work in this State, it would provide sufficient resources in the Department of Minerals and Energy to meet its government responsibilities.

The Government's claims about the unworkability of the Native Title Act because of the Wik amendments are also spurious. The Premier's second reading speech constantly referred to the Labor Party's regime of native title legislation. We are not dealing with the Labor Party's legislation at a federal level; we are dealing with legislation that passed through the Federal Parliament on the votes of Brian Harradine and the coalition Government. We are dealing with the Howard-Harradine legislation. The Howard-Harradine legislation embodies a number of amendments which are having an impact on the way native title matters are handled. This State Government has set up a false comparison between its purported solution to native title and the Keating Government's legislation. It does not mention that since the Keating legislation there has been an intervening period and an intervening piece of legislation which was passed on the votes of the State Government's federal coalition colleagues and Brian Harradine. It does not mention that the federal legislation is altering the situation on the ground, particularly through amendments to the registration test and how it is applied retrospectively.

What are the choices for Western Australia now that we have seen the State Government lay aside its previous piece of legislation for a state native title regime? The first option is the one the Government is attempting to proceed with today; that is, state legislation to replace some or all of the provisions of the commonwealth Native Title Act. The second option is to retain the operation of the federal regime in Western Australia. It is not the case that there is no native title law in Western Australia. Federal law exists in Western Australia. It is a law that resulted from the votes of John Howard, his colleagues and Brian Harradine. That law could continue to operate in this State if the Government and the Parliament so chose. However, the Government has put forward a proposal for a state native title regime. Contrary to the Premier's assertions, the Opposition supported a state native title regime when this matter was last put before the Parliament. The Opposition believes administrative advantage can be gained from having the state authority which issues titles also handling native title matters. Integration between the State's other land management responsibilities and the management of native title issues is possible. There is also a moral opportunity for the Western Australian Parliament to legislate its own native title regime. The Western Australian Parliament has a deplorable tradition of legislation which is invidious to indigenous interests. The Western Australian Parliament has a long tradition of legislating against Aboriginal interests. We have the opportunity with this legislation, if we choose to take it, to break from that deplorable tradition and to promote reconciliation between indigenous and non-indigenous Western Australians. We could leave the matter entirely up to the Federal Parliament or, as a State Parliament, we could make a gesture towards Aboriginal reconciliation with fair and workable native title legislation.

If this Opposition is to support a state native title regime, that regime must be fair, workable and consistent with High Court judgments and the commonwealth Native Title Act. Technically, the legislation must be capable of surviving three possible disallowance mechanisms: Firstly, it must be capable of surviving a determination by the commonwealth Attorney General that it is consistent with the commonwealth Native Title Act provisions. Secondly, that determination must be capable of surviving judicial review. Thirdly, and most importantly, the legislation must be capable of surviving the possibility of disallowance by the Senate. Naturally, the Senate will make a broad political judgment, not simply a judgment on the technicalities of the legislation. When the Senate makes that judgment, this State Government's appalling political and administrative record on native title matters will influence the Senate against approving Western Australia's native title regime. If this Government had taken an approach of good faith toward its responsibilities to native title, and had taken a more consultative and less confrontational approach, this legislation would have a better chance of surviving the possibility of disallowance by the Senate.

The State Opposition moved a number of amendments the last time such legislation was before Parliament, a couple of the most significant of which I now mention. The Labor Opposition moved to include all current vacant crown land in land subject to the right to negotiate procedure. The Labor Party's view was that it was unfair to exclude current vacant crown land from the right to negotiate procedure simply because some expired historic tenure once applied to that land. We also had the view that putting all current crown land into the right to negotiate procedure would assist the workability of the legislation. It is not productive for people to litigate over whether land should be included in the right to negotiate procedure or in the alternative consultation procedure. That would be an unproductive and arid outcome. It would be better that everything which looks like current vacant crown land be included in the right to negotiate procedure. That was one of the most important amendments moved when a version of this legislation was last before us, and we intend to proceed with a similar amendment on this occasion.

Second, the Labor Party sought to amend the alternative consultation procedure for pastoral leasehold land by adding words to require the parties to consult in good faith with a view to reaching an agreement to minimise, and compensate for, the effect of the proposed act. That amendment again was about fairness and workability. Genuine consultation should occur in good faith when native title rights are to be impinged upon by a future act. The amendment was also about workability. The Senate will not approve this legislation if it is seen to be unfair to indigenous rights, in conflict with the federal Native Title Act and far too inferior to the right to negotiate procedure to apply under the federal legislation.

Also, the consultation procedure should be better defined by Parliament as a matter of workability. If Parliament does not give content to the concept of consultation, the courts will do so, which no doubt will add more complexity to the way in which the scheme is supposed to work than would be achieved by Parliament doing the job. In addition, the process of adding content to the consultation by way of a court decision will be much slower than the alternative of Parliament doing the job. The amendment moved by the Labor Party in that regard was about fairness and workability. I will talk further about Labor Party amendments when I discuss this Bill in more detail.

The Labor Party adopted a balanced position the last time the legislation was debated. A view may be found in the community that the Opposition simply came to Parliament and argued the indigenous position on native title legislation. We are certainly sympathetic to the support of indigenous rights in this State; however, we do not argue one point of view. I am sure that if the Premier and his Government consulted with the indigenous interests, they would discover that the Opposition's view last time, as adopted this time, does not represent the ideal, maximum position of indigenous interests. We attempt to put a point of view which is both balanced and fair.

Mr Court: You're implying that there is a uniform agreement with the indigenous position. That is insulting.

Mr RIPPER: Of course a spectrum of political opinion is found in the indigenous community which is comparable to, or broader than, the spectrum of political opinion found in the non-indigenous community. However, a body representing indigenous interests has negotiated with the Opposition on these matters. That body would have been available to negotiate with the Government if it had seen fit to engage in meaningful consultation in good faith on this issue.

This legislation will eventually go before the Senate, which will have to consider the technical aspects and deficiencies of the legislation. In particular, the Senate will consider its overall legal context in this State, and consider legislation which, although it is not subject to disallowance by the Senate, has an impact on the way the Native Title (State Provisions) Bill will work. The Senate will consider, for example, the impact of the Titles (Validation) and Native Title (Effect of Past Acts) Amendment Bill 1999, should it be passed, and the extinguishment of native title when it assesses whether the state native title regime should be adopted. The Senate will also consider the overall administrative context. The State Government is hostile to negotiations of agreement with indigenous people, is reluctant to get involved in any rigorous way in mediating disputes over native title matters and has failed to accept its responsibility for negotiations on native title issues. Those matters will be taken into account when the Senate decides what should happen with the state native title regime.

As I have said before, several options exist for the way ahead. We could continue with the federal native title regime which could be made to work in this State with state government goodwill, but that is not present. It could be made workable in this State if the State provided the resources to enable it to work, but that is not happening. The second option would be to proceed with the state native title regime embodied in this legislation. To do so successfully will require state government acceptance of amendments, to avoid the possibility of the Senate disallowing this legislation, if it finally passes this Parliament. I repeat the urgings of the Leader of the Opposition: The State Government should seriously consider the amendments proposed by the State Labor Party. The legislation requires change if it is to survive the possibility of commonwealth disallowance. If the State Government proceeds blindly and ignores the realities of this matter, and willfully dismisses the validity of the Opposition's amendments, the Premier's much-vaunted state solution to the native title issue will turn out to be no solution at all as it will not survive the possibility of Senate disallowance.

Had the State Government taken the Opposition's amendments more seriously last time and been more willing to negotiate with the Opposition and with indigenous interests, this State could by now have had a state regime. Instead, the State Government's obstinacy, prejudice and stubbornness have put off the possibility of a state native title regime by at least a year. Regrettably, that lack of consultation and refusal to be reasonable on native title issues and to give up long-held prejudices have shown themselves again in the development of this legislation.

Debate adjourned until a later stage, pursuant to standing orders.

[Questions without notice taken.]

SELECT COMMITTEE OF PRIVILEGE, ESTABLISHMENT

Standing Orders Suspension

MR KOBELKE (Nollamara) [2.40 pm]: I move -

That so much of the standing orders be suspended as is necessary to enable consideration forthwith of the following motion -

That this House establish a select committee of privilege to investigate and report on -

- (1) The authenticity and authorship of the handwritten note in the possession of the member for Nollamara.
- (2) Whether or not a member or members of the Public Accounts Committee have attempted to launder a report to the Parliament.

- (3) Whether or not a member or members of the Public Accounts Committee have attempted to manipulate the release of a report to the Parliament.
- (4) Whether or not the Premier or his Government are withholding reports by the Commissioner for Public Sector Standards and conspiring to manipulate the timing of their tabling in Parliament.

The handwritten note that I have with me came to my attention about an hour ago. This note causes me to be concerned that the proper processes of this Parliament are being put in jeopardy, that the Parliament is not working in the way that we expect it to work in a democratic society and that we are not following the standing orders and procedures.

The handwritten letter is addressed to "Max" and reads -

- Monica still hasn't read. Can we defer tabling until 21st, we promise adoption before then.
- Monica can't get to this meeting. 9.30 bushplan, 10.30 DAS briefing, pre-selection today.
- I think the report has been pretty well laundered - but there's every chance the Premier won't. You took on the Dep Prem, do I want to take on Prem? Please can we table 21st?
- Maybe the promotion decision will be finalised by then.
- Other reports being tabled that day give every hope that this report will be overshadowed.
 - Don Saunders report on Ian Fletcher
 - " " report on Novak
 - Ministers Travel Report
 - Market Research.

Mr Shave: Who wrote it?

Mr KOBELKE: The note is not signed, Mr Speaker.

Point of Order

Mr BARNETT: I ask that the member opposite make available copies of the unsigned note. I suggest also that if he is going to move to suspend standing orders, it is up to him to indicate who wrote the note and how he obtained a copy of it.

The SPEAKER: This is not strictly a point of order. It is a point of view or an opinion that is perhaps reasonable.

Debate Resumed

Mr KOBELKE: Within the guidelines for moving a motion to suspend standing orders, I will try to address the points raised by the Leader of the House as I make my brief remarks.

Anyone listening to my reading of that note may not be able to make much sense of it. However, for the purpose of the suspension of standing orders, I need to be able to give some understanding of the report. It is probably clear to anyone who was listening fairly carefully that the statement "I think the report has been pretty well laundered" would be a cause for grave concern. The letter drips of conspiracy, although it does perhaps have a splash of stupidity. It causes me grave concern that we could be dealing with the improper manipulation of the working of the Public Accounts Committee, which is a matter of the most serious gravity that must be dealt with expeditiously; it cannot be left until tomorrow or until we come back perhaps in a few weeks. I will outline briefly what I believe the note means to convince the House that this is a serious matter which requires the suspension of standing orders.

The letter is addressed to Max. There are several Maxes in this Parliament but it refers possibly to the member for Avon. Monica, again, could be several people but it refers possibly to the member for Southern River. On that basis, there is a lead in to it being the Public Accounts Committee that I am talking about. The middle part of the letter says -

I think the report has been pretty well laundered - but there's every chance the Premier won't. You took on the Dep Prem, do I want to take on Prem?

I assume that the words "You took on the Dep Prem" relate to the report on e-commerce in which there was a contentious issue in a very good report from the Public Accounts Committee, but one with which the Deputy Premier may not have been overly happy. What is the report then that will possibly take on the Premier?

The next part of the letter reveals that the author of the letter believes that if the report is left until the 21st, a promotion decision may be finalised. If this letter relates to the member of Parliament who I believe is the author, what type of promotion are we looking at, Mr Speaker? Is the author of this letter a potential member of the Cabinet after the reshuffle, which the Premier was to hold before the 21st, so that the author of this note does not want to be offside with the Premier?

Mr Court: I am sorry, 21st of what?

Mr KOBELKE: December. It was, therefore, to be before 21 December. I thank the Premier.

Mr Court: I don't know. You are the one making the speech.

Mr KOBELKE: I see the Premier nodding that that is the case. I thank the Premier for his interjection; it confirms what I believe this note is all about.

Who is the potential author of the note? Who is the government member of the Public Accounts Committee, if it is not the chairperson or the member for Southern River? The remaining government member is the member for Bunbury. Perhaps the member for Bunbury believes that he is a frontrunner for a Cabinet position and he does not want the release of a report of the Public Accounts Committee to put him offside with the Premier.

What could the report be about? The Public Accounts Committee investigates many matters. One of those matters is a pet project of the Premier: The Constitutional Centre. Is that right, Premier?

Mr Court: What did you say, a pet project?

Mr KOBELKE: The Premier has been involved with the Constitutional Centre in a similar way to his involvement with Global Dance, getting his hands burnt by putting in someone to manage it and finding a range of problems which he has to cover up. The Public Accounts Committee is actually investigating a project that is very close to the Premier.

The member for Bunbury is in the Chamber now. The member for Bunbury could be a possible aspirant to a ministerial vacancy and could be concerned, if the report comes down too early, that his chances of entering the ministry may be disadvantaged. I do not know whether the member for Bunbury wishes to confirm whether the document I am holding up for him to see is his handwritten note. I ask the member for Bunbury whether it is his handwritten note?

Mr Osborne: I will speak.

Mr KOBELKE: The member for Bunbury will speak to it?

Mr Barnett: I, the member for Bunbury and possibly some other members will have something to say.

The SPEAKER: Order! One of the difficulties with moving to suspend standing orders is that that is what the motion is about and there is a need to talk to that motion to indicate why we should treat it urgently. The difficulty for members is that they often stray onto fairly nitty-gritty parts of what they want to debate. There is always a bit of latitude from this Chair to allow members to have an understanding of why there is such an urgency and that the matter should be dealt with immediately. The member for Nollamara has got his message out fairly quickly about this matter but we are getting into an area in which members' names are being mentioned with no specific motion before the Chair. It is my duty to be fair to all members. I ask the member for Nollamara to try to draw his argument to a close and to avoid mentioning the names of members of Parliament. Ultimately, if there is a motion with the names of members of Parliament on it, the motion can be debated. However, I am finding this matter a little difficult at the moment.

Mr KOBELKE: Thank you for your guidance, Mr Speaker. I was simply giving the member for Bunbury an opportunity to either confirm or deny that the handwritten note is his. He has indicated that he will speak if he is given the opportunity and he can do that more appropriately through his speaking rights in this place than by interjection. The last point I wish to make with respect to the substance of the letter is that it indicates that other reports in the possession of the Premier are being held back; that is, Don Saunders' report on Ian Fletcher, Don Saunders' report on Vera Novak, the ministers' travel reports and a report on market research. That being the case, it indicates the Premier is trying to hide certain matters from the public. If he drops all those reports on this place on the last day of this sitting along with, perhaps, a controversial report from the Public Accounts Committee, those matters will not receive proper or adequate scrutiny. It seems to me that we have evidence in the note from a person who, I suggest quite strongly, is a member of Parliament, that the Government will bring in all its dirty linen on the last day of the sitting to make sure there is not proper scrutiny of a whole range of reports which show the inadequacies and the failings of this Government.

It seems to me that a Select Committee of Privilege is the proper way to investigate the authenticity of this note and who the author is, although that may be settled in a contribution from a government member. Given the use of the language in it, it also suggests that its writer thinks a report has been pretty well laundered. It calls into question the reports of committees of the Parliament. That matter should be investigated by a committee of privilege. Further, it would appear that there has been an attempt to manipulate the release of the report for political purposes.

The release of all reports is a matter of management for the committee and its members. Members, quite rightly, will have personal interests as to the best time for that to happen. If a member sets out for his or her own political purposes - that is, election into the Cabinet - to try to curry favour with the Premier by holding off the tabling of a report, I would judge that to be quite improper, and a matter that should go before a committee of privilege. Finally, by reference to such a committee, the Premier, and the Government in a broader sense, will be asked to account for whether he deliberately held up a whole range of reports which were meant to be presented in this Parliament, and brought them in at a time when proper scrutiny of them would be denied. I hope that brief introduction to the matter will convince members opposite that this is a matter of urgency and, on that basis, that we should suspend standing orders to allow debate to proceed for the establishment of a committee of privilege into this matter.

MR OSBORNE (Bunbury) [2.52 pm]: I advise the House that this note was handwritten by me, and it was not intended to be directed or delivered to the member for Avon, the chairman of the Public Accounts Committee. It was headed with the name "Max" simply to provide me with an introduction to the person to whom the remarks were intended to be made. The remarks were made verbally and, as I say, the note was an aide-mémoire to assist me to make points that I wished to make to the chairman of the Public Accounts Committee and to the rest of the committee at our meeting this morning, at which we adopted and resolved to table the report into the Constitutional Centre.

In this brief statement, I intend to go through some of the phrases and words I used in that note and to explain their meaning, keeping in mind always that they were notes which were personal to me and not written with the idea in mind that possibly they would be made public and, therefore, may have been somewhat incautious, especially in light of the fact that this

document has become public. The use of the word "laundered" is an expression which is personal to me. It is not to be misinterpreted to mean that the report has been doctored in any way. It simply reflects my view that the report ultimately had been made more fair than what I believe it was when it was originally drafted; that is, the report is now more fair than it was when first written. The report started out being unfair to some of the people named in it. As a member of Parliament, it was my role to do what I could in the committee to make the report as fair as it could possibly be, in my view.

Throughout the deliberations of the Public Accounts Committee on this matter, I have always worked to improve the report. I have made many comments during the deliberations of the committee that my objective was to make the report as fair as possible. I have not sought to pursue or defend a political position. I reiterate that my objective has always been to make the report fair to all of the people named. It is no secret, and I hope other members of the committee would privately concur with the comment that I now make, that that was always my intention. As I said in the committee meeting this morning, I remain dissatisfied with some aspects of the report, and I intended to make those points of view known when the report was tabled tomorrow.

I will conclude my remarks on the nature of the words I used and how I believe, unfortunately, they may be open to misinterpretation by people who have the objective of discomforting or embarrassing me and, in some sense, have taken the words out of context. As I said, they are personal comments of mine. A further example of that is the comment to the effect of "Max, you have taken on the Deputy Premier". That refers to the tabling of the online report by the Public Accounts Committee. The Deputy Premier was a little taken aback by some of the findings made by the committee. It was my intention to say to the chairman of the Public Accounts Committee that I did not want to be in a similar position when the Constitutional Centre report was brought down. Although in the committee we always work to make a report as balanced and fair as we can, other people reading it will not see it in the same way. I had a previous experience of this sort when the Public Accounts Committee brought down a report on the Global Dance Foundation. As a member of the committee, I worked on the preparation of the report, I supported it and I spoke in favour of it when it was tabled. I have continued to defend it, but the fact remains that others on my side of politics believe the report was unfair. All those notes were saying was that I was open in my mind to the possibility that, although I believe the Constitutional Centre report would be largely a fair document, it is possible that it could be misinterpreted or seen in a different way by members of the Government. That is all I wished to say.

Dr Gallop: How did you know the timetable of the Government on Fletcher, Novak and the travel report?

Mr OSBORNE: It is no great secret on this side of the House that those reports are about to be tabled, if not in the near future then at some time in the next couple of months. As I say, I was simply making notes for myself that those reports were about to be tabled. It had been my wish that the Constitutional Centre report be tabled at the same time.

The SPEAKER: Order! Before I give the call to the next speaker in this debate, I note that the member for Bunbury has given a de facto personal explanation which normally is made by seeking the leave of the House. When we are dealing with matters of privilege under Standing Order No 109, the Speaker must show a fair bit of discretion to determine matters and come to grips with what is going on. We are in that area, although I know the debate is to suspend standing orders. The member has given a personal explanation; however, the debate is about whether the standing orders should be suspended. Having heard two speeches on this motion, I now ask members to stick fairly closely to the matter at hand - the motion for the suspension of standing orders. I do not intend to allow members to progress to any depth into the details of what will come up in a subsequent motion.

MR BROWN (Bassendean) [3.00 pm]: We are talking about the Public Accounts Committee, which is seen as the premium accountability vehicle for this Parliament. We are dealing with a note that will potentially taint the processes of that committee. It will taint not only the processes of a report that is yet to come from that committee but also the whole process of the committee. That is why this matter is urgent. The Parliament cannot afford not to examine a matter that will potentially taint that committee. If the Parliament decides that it will not consider the issue at all, the Parliament will be turning its back on an issue that could potentially result in the tainting of the parliamentary process.

Why is it urgent that it be done now? Unless it is done immediately, future reports that come from the committee will be tainted. They will be looked at through particular glasses and called into question as a result of this note. It must be done urgently because if the note has an interpretation, as the member for Bunbury said it has, and that is accepted by a privileges committee, we can have confidence in the Public Accounts Committee. However, if it has a different interpretation, we cannot have confidence in it. If the Parliament and the people cannot have confidence in the Public Accounts Committee, we will have lost our premium accountability committee, the one standing committee that is supposed to investigate those matters on behalf of this Parliament.

The member for Bunbury said he used the word "laundered" in a particular way. That should be investigated, not in a month, or in three months, but now. If "laundered" means something other than money laundering or something else, that will pose a major integrity problem for the Public Accounts Committee now. If the Parliament refuses to examine this matter today and says it does not care and will not investigate whether the integrity of the Public Accounts Committee has been breached, we should forget about the Public Accounts Committee; it will mean absolutely zip. If the Parliament votes down this motion today, despite the fact that the member for Bunbury agreed that he wrote this handwritten note that calls into question the integrity of the committee, it will effectively say it does not care and the Parliament, not the Government, will be made to feel a joke.

There is an urgency about this matter because we all know that already the way in which the Parliament and politicians are viewed by the public is poor. Unless this matter is investigated immediately, the ordinary punter in the street will be saying that when these major issues of integrity are raised, particularly when it concerns not just a member but a whole committee

process, the Parliament does not even examine them; it is not interested in them. If the Government is about open and accountable government and wants a Parliament that has some integrity, it will support this motion because open and accountable government demands it. If the Government is about cover up and protection of one of its own and if it does not give a cuss about the standing and integrity of the Public Accounts Committee, it will vote this motion down. If it votes it down it will do immeasurable damage to this Parliament.

The acid is now on the Premier and the Leader of the House to make this decision. Do they have the courage to make it now? If at the end of the day a privileges committee agrees with the member for Bunbury, he will be vindicated by what he said today. He can walk tall and the processes will not have been breached. However, if there is no investigation and the Government uses its numbers to vote down this proposal, the circumstances surrounding the note of the member for Bunbury will remain unresolved, and the integrity of the Public Accounts Committee will be in question. That is why the acid is now on the Premier and the Leader of the House to determine whether they really support open and accountable government and the institution of the Parliament or whether their philosophy is based on crass politics and the protection of a mate.

MR BARNETT (Cottesloe - Leader of the House) [3.05 pm]: The Government does not support the motion to suspend standing orders. First, this matter relates to the proceedings of the Public Accounts Committee. It is a measure of the integrity of the member for Bunbury that he immediately informed me and the House that the unsigned, handwritten note was his. We must realise what has occurred in this instance. As the member for Bunbury said, he wrote a note to himself of some points he intended to raise and discuss with the chairman of the committee. He is entitled to do so. He inadvertently - I am sure to his personal embarrassment - left the note behind. Someone else, presumably another member of the committee, chose to pick up his private property and hand it to the member for Nollamara and bring it into this House. Indeed, Parliaments have conventions, one of which is that we are accountable for what we say in Parliament. However, when people inadvertently leave a private piece of paper on a table and it is gathered up by other members -

Mr Carpenter: You did that, you hypocrite.

Withdrawal of Remark

The SPEAKER: Order! I formally call to order the member for Willagee for the first time. When I am on my feet, members must not keep interjecting. I now require him to withdraw the imputation that the Leader of the House is a "hypocrite". That is not acceptable in this Parliament. There are other ways in which the member for Willagee can make his point.

Mr CARPENTER: I withdraw.

Points of Order

Mr GRAHAM: I was about to make a point of order before that outburst, because I seek from the Leader of the House a withdrawal of the imputation that the member for Armadale or I have had any involvement in passing this document or in fact collecting it from the committee meeting. He has absolutely no evidence of that and I am extremely certain the member for Armadale, as do I, absolutely rejects that allegation. The Leader of the House should withdraw the imputation.

The SPEAKER: Order! In fact that also applies to other members of the committee. No names were mentioned. Perhaps the Leader of the House will explain what he meant.

Mr BARNETT: The point is that this was a private personal note written by the member for Bunbury to himself.

Opposition members interjected.

Mr BARNETT: This is a piece of paper on which the member for Bunbury wrote some points he wishes to raise, presumably with the Chairman of the Public Accounts Committee. The member for Pilbara is a member of that committee, as is the member for Armadale. If they are prepared to say in this Chamber that they had no part in that document reaching the member for Nollamara, I am prepared to accept that. If they took any offence or imputation, I withdraw that.

Mr Graham interjected.

Mr BARNETT: I raised the question. I did not accuse them of it. I asked the member for Nollamara to explain why and how he came into possession of that note. That note is the private property of the member for Bunbury.

Mrs Roberts: You drew your own conclusion.

Mr BARNETT: I asked the member for Nollamara to explain to the House how he came upon a piece of paper, the property of the member for Bunbury, which was left in the room in which the Public Accounts Committee met. Now it is up to the member to explain it.

Mr Kobelke: Do you want me to do it by interjection?

Mr BARNETT: Yes.

Mr Kobelke: It was handed in to the Leader of the Opposition's office by someone who is not a member of this House, who is not a member of the Public Accounts Committee and who found it on the floor in the corridor.

Mr BARNETT: All right, I accept that.

Ms MacTIERNAN: As a point of order, I want to ensure that it is on record that I had absolutely no knowledge of this note. I did not see this note during or after the committee. It was later brought to my attention by members of our staff. It certainly had nothing whatsoever to do with me as a member of that committee. I make that absolutely clear.

The SPEAKER: I indicate to the House that technically it is not a point of order. Both the member for Pilbara and the member for Armadale have indicated clearly to the House that they had no part in it. I believe that the Leader of the House was going to take some action if they indicated that.

Debate Resumed

Mr BARNETT: I did not name any member, but I asked the question.

Mr Thomas interjected.

Mr BARNETT: If members feel impugned, I withdraw.

Mr Thomas interjected.

The SPEAKER: Order! The Leader of the House has withdrawn. On three occasions, the member for Cockburn has interjected across the Chamber trying to skirt around the use of the word "hypocrite". In fact, he is getting close to the mark for me to formally call him to order. There is absolutely no reason for him to interject in outbursts like that. We have a very serious debate in front of us and we should be listening carefully and giving people who are speaking the opportunity to be heard properly.

Mr BARNETT: The piece of paper is a note by the member for Bunbury for his own purposes. He left it on the table and - I accept the explanation - it found its way, by some unknown person, to the members opposite. It has now been brought into this Parliament. Even that issue I question. This was the private property - a personal note - by the member which was left in a committee room.

Mr Kobelke: It was left on the floor.

Mr BARNETT: I do not care how members opposite got hold of it; they have chosen to bring it into this Chamber. The member for Bunbury has explained why he wrote that note; he has explained his interpretation of that. It was not a note to be communicated in any way whatsoever. He has made the point in this Chamber this afternoon that he had a concern about the content of the report. He obviously had a view that it needed some further refinement before it was concluded. From his comments I take it that the report would be tabled before the end of the year. As a member of the committee, he has a right, indeed a responsibility, to be satisfied before he puts his name to a committee report which is then to be aired and publicly tabled in this Parliament. It is not a case for suspending standing orders. To suggest that this somehow destroys the credibility of the Public Accounts Committee is absolute nonsense. All of us have views on all sorts of issues. The member for Bunbury had his views, he kept them to himself and he wrote them down on a piece of paper in the committee - that is the totality of it. It is embarrassing for him. I think it is unfortunate that the members of the Opposition have brought it to the Parliament. It does not reflect well on them as an Opposition. They should deal with real issues. The Public Accounts Committee will decide - whether it has or not, I am not sure - when it will present that report. All members of that committee will need to be satisfied with that report, otherwise they have the option of producing a minority report if they so choose. We should wait until the report is tabled, look at the report on its merits and allow the members of that committee to speak on the report if they so wish. If they wish to deliver a minority report, they can do so. That is the proper process. It is not for this Parliament to spend its time going through private correspondence from one member to himself as a note of points he wanted to raise and bring it in here to try to impugn his reputation and clearly damage his standing. That is inappropriate and, therefore, the Government does not support it.

Mr Carpenter: Have you ever done anything like that?

Mr BARNETT: I was handed a piece of paper by the Clerk.

Mr Carpenter: Did you stand up in Parliament and read it out?

Mr BARNETT: I did, because I asked for it to be tabled.

Mr Carpenter: Exactly what you are accusing us of doing.

Mr BARNETT: I asked for it to be tabled; it was and I read it out.

MR COURT (Nedlands - Premier) [3.14 pm]: The member for Nollamara implied that I was holding back in my office reports for tabling.

Mr Kobelke: The member for Bunbury did. I read out what he said.

Mr COURT: No, the member for Nollamara did. He said that I was holding back reports for tabling from the Commissioner for Public Sector Standards.

Mr Kobelke: You should read the note of the member for Bunbury.

Mr COURT: While this debate has been going on, I have checked with my office. We have not received any reports from the Commissioner for Public Sector Standards. It is up to the commissioner to table those reports in Parliament when he decides to do so. My office has nothing to do with that process. It is usually a courtesy that a report is provided a day or two prior to its being tabled. No reports have been given to my office, so the imputation that the member made in this House in relation to my office is incorrect.

MR TRENORDEN (Avon) [3.15 pm]: The first point I will make is that I have never seen the note. The second point is that I object to what the member for Nollamara has done. If he had gone to the Clerk of the House or to me, he would know

that that report will be tabled tomorrow morning. He would also know that it was unanimously voted on by the committee. He would also know that the result of the vote as to when to table the report was 3:2 - two Labor Party members and I voted to table the report tomorrow. What the member has done is highly objectionable as far as I am concerned. I have no doubt at all that the explanation given by the member for Bunbury is correct. That report will be tabled tomorrow morning. The minutes of the meeting are available to all members of this Parliament whenever they like.

Mrs Roberts: Have they been laundered at all?

Mr TRENORDEN: The word "laundered" has been used by the member for Bunbury from day one in this report. He has used that word in other reports in the past. It is one of his favourite lines.

Dr Gallop: Who needs friends like that?

Mr TRENORDEN: Members might work out that I am pretty annoyed by this because, as far as I am concerned, the Public Accounts Committee has given this House a very good service. I have absolutely no doubt that the two members opposite had nothing to do with handing over this paper. I would have sworn that on a stack of Bibles before the debate started, because it is that type of committee. It has been a good committee. I do not want to speak for anyone, but no-one could accuse the member for Bunbury of what he is being accused of. If the members had checked the facts, gone through the processes and asked what happened to the report, they would have been told before this debacle today. They have lowered the standard of the Parliament and of the Public Accounts Committee, and I do not appreciate it.

Mr Kobelke: You should have read the letter of the member for Bunbury.

Mr TRENORDEN: I assure members that that report will be tabled tomorrow. It will be done without prejudice, like all other reports in this place. Members can say what they like about the report, but it will be tabled tomorrow.

Question put and a division taken with the following result -

Ayes (19)

Ms Anwyl	Dr Gallop	Mr McGinty	Mrs Roberts
Mr Brown	Mr Graham	Mr McGowan	Mr Thomas
Mr Carpenter	Mr Kobelke	Ms McHale	Ms Warnock
Dr Constable	Ms MacTiernan	Mr Pendal	Mr Cunningham (<i>Teller</i>)
Dr Edwards	Mr Marlborough	Mr Ripper	

Noes (30)

Mr Ainsworth	Mr Day	Mr Masters	Mr Shave
Mr Barnett	Mrs Edwardes	Mr McNee	Mr Trenorden
Mr Barron-Sullivan	Dr Hames	Mr Minson	Mr Tubby
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Nicholls	Dr Turnbull
Mr Board	Mrs Holmes	Mr Omodei	Mrs van de Klashorst
Mr Bradshaw	Mr House	Mrs Parker	Mr Wiese
Mr Court	Mr Johnson	Mr Prince	Mr Osborne (<i>Teller</i>)
Mr Cowan	Mr Kierath		

Pairs

Mr Grill	Mr Marshall
Mr Riebeling	Mr Sweetman

Question thus negatived.

LICENSED FINANCE BROKERS

Matter of Public Interest

THE SPEAKER (Mr Strickland): Today I received a letter from the member for Fremantle seeking to debate as a matter of public interest the following motion -

That this House calls upon the Minister for Fair Trading to explain to the House what action he has taken to protect the funds invested through licensed finance brokers in Western Australia.

Further the House calls for a judicial inquiry into the conduct of finance brokers, valuers and the Ministry of Fair Trading.

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 now detailed in the trial standing orders.

MR MCGINTY (Fremantle) [3.23 pm]: I move the motion.

As all members know, thousands of investors have funds at risk or have lost funds as a result of the operations of finance

brokers. At the best estimate, hundreds of millions of dollars are at risk or have been lost as a result of the operations of finance brokers and because the Ministry of Fair Trading and the Finance Brokers Supervisory Board have not done their job in acting in the interests of these, generally speaking, self-funded retirees and mature-aged investors.

We are all familiar with the names Grubb Finance, Global Finance and Blackburne and Dixon, which have gone to the wall or been placed in some form of receivership. It is a major scandal that the Minister for Fair Trading is sitting on his hands, seemingly more interested in protecting the interests of the finance brokers, whose practices have been found severely wanting, rather than in going into bat for the investors.

Last week in this place I raised the issue of MFA Finance Pty Ltd, of which the Premier's brother, Mr Ken Court, is a director, and a loan that it brokered for a company controlled by Mr Greg Kennedy for the purchase of the Peppermint Park Holiday Chalets. The response from the minister the following day was to table a letter from MFA Finance disputing some of the conclusions drawn by me during the debate but confirming the accuracy of the facts presented.

I will take this opportunity to deal with the two key issues relating to the Peppermint Park Holiday Chalets loan: First, the inflated valuation; and, second, the lack of security for the investors' funds. An offer of \$1.5m was made in December 1997 to buy the property, but that offer lapsed - whether through lack of application for planning approval or lack of finance is not relevant. The first key date is 22 April 1998, when a company controlled by Mr Greg Kennedy offered to purchase the property for \$1.52m. On 20 July, in facilitating the purchase of the property, Mr Stephen Olifent of South West Valuations valued the property at \$3.33m.

Mr Marlborough: The value doubled in a month!

Mr McGINTY: Yes, the value more than doubled in a month or two. Relying on that valuation, in September 1998 a loan of \$2.3m was raised, representing a loan to valuation ratio of 69 per cent. On 12 November 1998, settlement was made and the property was transferred from the previous owners - Mr and Mrs Neesom - to the new owner, a company controlled by Greg Kennedy, for \$1.52m. The property is located at Lot 3, Caves Road, Busselton, on the left just past the Margaret River turnoff - it is not on the beach side of the road. It consists of 7.87 hectares - or approximately 20 acres in the old language - a house, a backpacker cottage and 20 furnished motel units. The hotel was put on the market by its owner-operator throughout 1997, but there were no offers above \$1.3m. Therefore, this property has been tested in the market.

Mr Shave: Do you have a breakdown of the valuers' report?

Mr McGINTY: No.

Mr Shave: So you do not know what is in the valuation report.

Mr McGINTY: I know the valuation was \$3.33m.

The property was on the market throughout 1997 and no offer above \$1.3m was made until Mr Greg Kennedy, on behalf of his company, offered \$1.52 million in December 1997. As I have already pointed out, that offer fell through. On 22 April 1998, Mr Kennedy made an updated offer of \$1.52m, which was accepted with settlement on 1 October 1998. In fact, late settlement occurred on 12 November 1998 with approximately \$10 000 in compensation being paid to the vendor for late settlement.

As I have indicated, in order to obtain finance for the purchase, the property was valued by Stephen Olifent of South West Valuations at \$3.3m. MFA Finance Pty Ltd arranged for 37 investors to invest \$2.3m, with security of a first mortgage over Peppermint Park. As I have already indicated, that was a 69 per cent loan to value ratio.

I have viewed the prospectus, if one wants to call it that, or the letter asking people if they want to invest in this project, in which MFA Finance has pointed out the details of the proposed investment. What the investors were never told by MFA Finance was, first, that the purchase of this property would be 100 per cent funded from the loan. In fact, the letter from MFA Finance designed to induce people to invest in this project is misleading because it suggests that the price paid was \$3.3m, but the loan to value ratio was 69 per cent. These matters are all stated in the prospectus. However, it was never stated that the entire purchase price for this project would come out of this loan.

Mr Court: You are questioning the valuation of the property. Was that property rezoned?

Mr McGINTY: No. I will come to that in a minute. The Premier's brother said on the television last Friday that it was, but it was not.

Mr Court: Has it been rezoned?

Mr McGINTY: A new town plan was made two months ago, some 18 months after the valuation was done. I will deal with that in a minute.

Mr Court: I think that is the question the minister was asking. Do you have the break-up of the valuation?

Mr McGINTY: I will deal with that matter, because it is not as simple as that. It was asked that the valuation be done on a limited basis, which is in itself misleading. However, I will deal with that in a minute.

Mr Shave: If you are questioning the valuation, you must provide some figures.

Mr McGINTY: Okay. I will come to that. Perhaps the minister can put any questions towards the end of my speech. I have spent a lot of time over the past few days getting to the bottom of the detail of this matter.

My point is that if MFA was a company that had integrity, it would have made a full and true disclosure of all the facts. However, it did not disclose that the purchase price would be 100 per cent funded from this loan. In fact, it intimated something radically different. That is grossly misleading and deceptive.

The second thing that the investors in this project were not told was that the purchase price was \$1.52m. In the prospectus that went out from MFA, no mention was made of the amount for which the property was purchased. There was a hint in the prospectus that it was purchased for value; that is, \$3.3m. There was no mention of the \$1.52m which was about to be paid as the purchase price for the property. At this stage the property was under a contract of sale. An offer and acceptance had been signed. This all happened at about the same time in the middle of last year. There was no mention of the \$1.52m purchase price. All that was said was that the value was \$3.3m. There was also no mention that the total loan that was being raised of \$2.3m was \$800 000 more than the property was being purchased for. If the true market value was revealed by the purchase price that was being paid at the same time as the valuation was being done, it would have disclosed that the investors in this project lacked security to the extent of \$800 000. What MFA Finance did in its prospectus was to link the valuation to the purchase when it said to the investors in the prospectus that the property that he, Kennedy, was then purchasing at Lot 3 Caves Road, Busselton, was valued at a similar figure to Wattle Grove - actually \$3.33m. Therefore, it is strongly suggested in this letter that the property was bought for value. In fact, it was bought for less than half this supposed sworn valuation. Again, that is grossly misleading and deceptive, and if the company had integrity it would have made full disclosure of the purchase price, given that that was contemporaneous with the valuation. It could well have trumpeted the fact that it had a valuation for \$3.3m and only \$1.52m was being paid. Given that the property had been on the market for about 12 months and the best the market could do was \$1.5m, what investor would believe such an inflated valuation?

The third thing that the investors in this project were not told, which again constitutes grossly misleading and deceptive behaviour on the part of MFA, was that the first interest payment - interest was paid 12 months in advance on this proposal - of approximately \$200 000 was being paid out of the loan. None of these investors was told that part of the money that they were lending would be paid back to them by way of interest; therefore, they were getting their interest from their own money. No-one was told that. That is highly misleading and deceptive. Who would lend someone money to finance not only the capital but also the interest repayments? Therefore, the first interest payment for the first 12 months in advance of some \$200 000 was paid out of the investors' own money, but they did not know that was happening. They thought this was a good property being bought for \$3.3m.

The prospectus or the proposal that went out to the potential investors stated that he, Kennedy, proposed to pay interest 12 months in advance and expected to be able to repay this loan from part sale of the property within 12 months. The 12 months is up, he is in default, and he has not repaid any of the money that was expected in the prospectus. Therefore, what was said in the prospectus has not come to pass. The prospectus said that he proposed to pay interest 12 months in advance, but it should have said that the investors would be paying themselves interest 12 months in advance. In other words, they were no further ahead in the whole deal; it is a sham. As I said, the words used by MFA Finance were grossly misleading and deceptive.

The fourth thing about which the investors in this proposal were not told and about which they were kept in the dark was that after the purchase price and the \$200 000 interest in advance was taken out, approximately \$600 000 of the loan was spare money for Mr Kennedy to apply to his fees, and he paid himself \$207 000 to cover work done on the property prior to settlement. He did not have possession of the property prior to settlement. He did no work whatsoever on the property prior to settlement, but paid himself \$207 000 of investors' funds for fees for that purpose. Therefore, Mr Kennedy took \$207 000 for work done on the property prior to settlement, which constituted no work whatsoever, even though he did not have possession of the property prior to settlement. One must ask what the payment was for. Any reading of the documentation associated with this matter will quickly reveal that it was to prop up another failing investment of his at Wattle Grove. MFA Finance, the company of which the Premier's brother is a director, received brokerage fees of \$38 750 for arranging for these 37 elderly, self-funded retiree investors to put their money into a proposal out of which they will certainly lose. That is the fourth matter about which these people were not told.

The fifth matter which I believe constitutes grossly misleading and deceptive behaviour, to put it in trade practices terms, is that no credit check was done on the person who was borrowing the money. MFA wrote in glowing terms about Gregory Kennedy. I will come to the extent to which MFA described this man as a thoroughly worthwhile investor. However, if one goes to Credit Reference Limited, as I did today, and does a credit check on Gregory James Kennedy, what shows up is that no credit check on Gregory James Kennedy was done by MFA Finance or anyone else at about the time this loan was taken out.

Mr Shave: Have you done a Dun and Bradstreet check as well?

Mr McGINTY: Yes. The check with Credit Reference shows everyone who has made an inquiry about Gregory James Kennedy. No inquiry has ever been made by MFA Finance, yet it wrote in such glowing terms about his financial backing. I will deal with that matter in a minute. Therefore, what was not told to the investors was that no credit search was done through Credit Reference Limited, which is a fairly standard thing that one would have expected to be done. The importance of this is had MFA Finance done that check, it would have realised that a writ was taken out by the Taxation Department some months prior to MFA Finance writing to these people saying what a great investment Greg Kennedy was, how he was a reliable citizen and how people would be safe investing their money with him. The Deputy Commissioner of Taxation took out a writ against Gregory James Kennedy for unpaid taxes. That is a no-no of enormous proportions. If there is one person people do not dare not pay, it is the Deputy Commissioner of Taxation. Had MFA Finance used due diligence and done credit checks, it would have found that a writ had been issued against Gregory Kennedy by the Deputy Commissioner

of Taxation early in 1998 for unpaid taxes. It seems that that constitutes at least negligent behaviour on the part of MFA Finance Pty Ltd.

Another matter I want to touch on is the property and this comes to the question raised by the Premier in his interjection a few minutes ago. This property is zoned tourism and conservation. The half of the property closest to the road is zoned tourism and the rear half is zoned conservation. No development can take place on the part of the property which is zoned conservation. This is the zoning under the town planning scheme gazetted by the Minister for Planning on 7 September 1999 - a few months ago. The new town planning scheme for the entire Busselton shire specifically deals with this property and places a limitation on lot 3 Caves Road, the Peppermint Park Chalets. The town planning scheme states that the chalets are to be used only for short stay purposes. In other words, the shire did not want anyone living there permanently. That is consistent with the medium-term use of the property. The property was rezoned in 1992 from general farming to restricted use short stay accommodation. It was zoned for a tourism purpose, for short-term tourist accommodation in the area, in 1992. By the time the valuer came in 1998 to deal with the property it was already zoned for a tourism purpose. The Busselton Shire Council planner, Mr Robert Hutchison, advised that the council had considered the site as tourist use for many years and that the new town planning scheme - which was only gazetted a month or two ago - was in the making for a great number of years. Members know that is the case with new town planning schemes. The only significance of the September 1999 town planning scheme is it could allow for greater density on the part of the property zoned tourism. However, that zoning was put in place some 15 to 18 months after the valuation was done. Contrary to a claim by MFA Finance director Mr Ken Court on ABC television last Friday night, there was no change in zoning and no application to rezone the land about the time of the July 1998 valuation by Stephen Olifent which would have increased the value of the land in any significant way. There was no rezoning, no application to rezone or anything that would have affected the value of the land about the time of the purchase for \$1.5m and the valuation for \$3.3m. Two senior real estate agents in Busselton to whom I have spoken reckon the property is worth between \$1m and \$1.5m today. The price paid is in the range which experienced and senior estate agents in Busselton think the property is worth. It is a far cry from the valuation of \$3.3m.

Mr Marlborough interjected.

Mr McGINTY: It is a scam and if the estate agents' estimation is correct, significant losses will be incurred by the lenders now that the loan is in default and Mr Kennedy - who has multi-million dollar claims and judgments against him in respect of other dealings - is facing bankruptcy proceedings in the near future. The question of why the valuation was allowed to jump so significantly is very important. In an article in *The Australian* on 18 November, Mr Ken Court stated in talking about Mr Greg Kennedy that -

"He must have done a lot of work on the property between the sale contract and the independent valuation.

"What it is really worth can only be tested if it goes to sale, which it will if we need to.

The suggestion from Mr Court is much work was done between the time the contract to sell the property was entered into and the time the valuation was done. Mr Kennedy did not have possession of the property and not one thing was done to improve it in that time. That is a barefaced lie. No work done on the property would have increased its value in any sense because, among other things, Mr Kennedy did not have possession of the property to do that work.

The second comment Mr Ken Court made was on ABC television last Friday night. Guy Bevilacqua from ABC television said, "As for the rapid increase in the value of the land \$1.5m to \$3.3m, Mr Court says the property was rezoned." Mr Ken Court then said, "It has gone from rural land to tourism or something of that nature, so there has been a significant change in the property." A barefaced lie. There was no application and no change of zoning about the time that valuation was done. That statement is completely untrue. A third story is circulating today. Apparently the valuer is now saying that he was asked to value the property on the basis that it would be strata titled. Let us put to one side the prohibition of certain forms of strata titling of this specific property under the Busselton town planning scheme and ask these questions: If that was the basis of the valuation, why was that not disclosed to the investors? Why has no application ever been made to the Busselton Shire Council to strata title this property? If that was the basis of the valuation and the intention was to proceed with that - we are talking about September of last year when the loan was entered into and July of last year, nearly 18 months ago, when the valuation was done - why has no-one ever applied to strata title the property? They are now talking about a mortgagee auction, so the property will certainly not be strata titled for the benefit of the investors in it. The three reasons given for the increase in value are all untrue; that is, work done on the property, rezoning and now strata titling. Not one of those things has happened and not one of them was ever intended to happen. This was always a scheme designed to fleece money from innocent investors. Those three reasons have been given and not one of them stacks up.

I will now deal with the security of investor funds. In the proposal to investors dated 15 September 1998 MFA Finance Pty Ltd said that Mr Greg Kennedy was "a valued client of MFA Finance over the past 3 years" and "Amongst his ownership and management are the Vasse Motel in Busselton, Dunsborough Resort Motel and Margaret River Motel". It did not mention that the last two had gone belly up as financial deals. MFA Finance did not disclose that to the investors and that is where the fraudulent behaviour on the part of MFA Finance comes in. MFA Finance went on to state -

Mr Kennedy's current statement of assets and liabilities reveals gross assets of \$12,153,000, liabilities of \$6,605,000 for a net surplus of \$5,548,000 . . . Mr Kennedy has proved a reliable borrower with us in the past . . .

Mr Kennedy was not a good investment. The facts are that Mr Kennedy has claims and judgments against him for several million dollars. Some of his companies are in receivership. Bankruptcy proceedings have been initiated against him and he has been in default on loans through MFA Finance in the past. As I have indicated, MFA Finance did not even do a credit check of this man through the accepted sources before it enticed these people to invest in the project.

I will briefly touch on some of the well-known properties in the south west which were not revealed to the investors in this project as having involved Mr Kennedy, and Mr Olifent as the valuer, and having incurred massive losses to investors. The Kennedy company Shannon Equity Pty Ltd borrowed \$2.1m from Terrace Counsellors Pty Ltd for the Margaret River motel. The loan went into default in December 1996, well before Mr Kennedy was trumpeted as the man who had the ownership and management of the motel. It was never reported to the potential investors that Mr Kennedy was in default of that loan. It was simply reported that it was a loan and that he was a reliable person. The mortgagees have taken possession of the property and Mr Kennedy is being sued for the large loss suffered - something in excess of \$1m.

I refer to the Dunsborough Beach Resort Motel: In 1996-97 Shannon Equity Pty Ltd borrowed \$1.88m from 29 predominantly elderly investors against 24 motel units representing approximately 60 per cent of a valuation by Stephen Olifent. The loan was in default by September 1997 and Kennedy is being sued by Bunbury Finance Pty Ltd. Supreme Court judgments have been obtained against Kennedy, including one for \$319,033.36 in favour of Ronald Robert. The total judgment, including supporting creditors, is greater than \$1m. Bankruptcy proceedings have been initiated and adjourned until 6 December when it is expected that Mr Kennedy will be declared bankrupt. The receiver sold the 24 motel units for \$1.25m and the total shortfall for these 29 investors is between \$800 000 and \$1m. Mr Greg Kennedy will become bankrupt unless he can find this money forthwith. Although I have not seen that valuation, it was obviously dramatically inflated when the property realised \$1.25m at mortgagee auction and the \$1.88m borrowed represented 60 per cent of the valuation. On that basis, the valuation would have been \$3m against a market price of \$1.25m.

I will briefly touch on the Arcadia Units in Margaret River. The Vasse River Resort, again involving valuer Stephen Olifent and developer Greg Kennedy, has incurred significant losses and is currently the subject of a mortgagee sale. Yallingup Park Estate has the same type of arrangement.

There are other defaults by Mr Kennedy of MFA Finance Pty Ltd. Members should bear in mind that MFA said that no investor had ever lost any capital or interest through it. I have two with me that I want to mention to the Parliament. Wattle Grove Motel was in default prior to this loan being arranged in 1997. The Kennedy company in that case was Marnoo Holdings, which is facing a claim by the liquidators of Shannon Equity in respect of funds that came from Shannon Equity into Marnoo Holdings from one Kennedy company to another. MFA organised a loan of \$505 000 for the Bubbling Billy restaurant in Capel in 1997 based on an Olifent valuation of \$760 000, which loan is currently five months in default. This is a radically different proposition from that claimed by MFA Finance in a letter to the Minister for Fair Trading dated 17 November 1999 and tabled in Parliament which stated that no investors who have mortgage funds managed by MFA Finance Pty Ltd have ever lost money by way of principle or interest. They have in respect of Wattle Grove and they have in respect of the Bubbling Billy restaurant. It was a lie, Madam Acting Speaker.

The minister should call an urgent judicial inquiry to deal with finance brokers generally and to deal with this matter in particular. There should be a proper departmental inquiry initiated by strong ministerial action. The Finance Brokers Supervisory Board should be sacked and replaced with a "can do" board without vested interests that will pursue finance brokers who behave improperly, and there should be a reference to relevant authorities, including the Australian Securities and Investment Commission, the police and anyone else who can investigate this matter and pursue it to its end conclusion.

Dr Gallop: What did the minister do?

Mr McGINTY: The minister sat on his hands, defended the interests of the finance broking companies and did nothing to lift a finger to help those investors - the thousands of old people in Western Australia who are losing money. When I said six weeks ago that Blackburne and Dixon Pty Ltd would go to the wall, he said there was no evidence of that.

MR SHAVE (Alfred Cove - Minister for Fair Trading) [3.53 pm]: I prefer to talk to the motion which asks me to explain what actions have been taken to protect the funds invested through licensed finance brokers, and I want to run through a few issues. When allegations were made by the member for Fremantle about MFA Finance, I wrote to the Commissioner of Police.

Dr Gallop: No, you didn't.

Mr SHAVE: In fact, the Commissioner of Police may have received my correspondence before he received the letter from the member for Fremantle. If the member for Fremantle cares to contact the commissioner, he can verify that.

Mr McGinty: It should have been your duty to send it straight off anyway but you challenged me to do it, so I sent it. Obviously, a couple of days later you had a flea in your ear and decided to write to him.

Mr SHAVE: No, I think the member for Fremantle will find that I sent my letter off before he sent his.

Dr Gallop: Hang on, minister, you came in here and used the platform of this Parliament to articulate the interests of a private company.

Mr SHAVE: No.

Dr Gallop: Yes, you did.

Mr SHAVE: What I did was ask the member for Fremantle to go outside this place -

Mr McGinty: And I did it.

Mr SHAVE: No, the member for Fremantle has not. He has not accused MFA of conspiracy to defraud outside this place and I now see that he is tempering his words somewhat in this place. He may find that proving such serious allegations may be more difficult than what he is pretending is possible.

Mr Kobelke: It may be difficult to prove, but it does not mean it is not true.

Mr SHAVE: If it is true, it will be proved.

Dr Gallop interjected.

The ACTING SPEAKER: Order members!

Dr Gallop: You sat on your hands and did nothing and then came in to this Parliament and represented the interests of the company.

Mr SHAVE: I am doing exactly what I should do. I have referred the member for Fremantle's serious -

Dr Gallop: No, you didn't, you did that after he did.

Mr SHAVE: No, I am sorry, if the Leader of the Opposition checks with the Commissioner of Police he may well find -

Dr Gallop: Read the *Hansard*.

Mr SHAVE: I have read the *Hansard*.

Dr Gallop: You came in here with a letter from the company.

Mr SHAVE: No. What I did was challenge the member for Fremantle to refer his allegations to the Minister for Police. That does not mean that I did not take action myself.

Mr McGinty: My letter went on 17 November 1999. On what date did yours go?

Mr SHAVE: I would be interested to see when it was received. What does the member for Fremantle's letter say? It states that he attaches copies of *Hansard* in which he raises the question of a fraud having been committed and asks the Commissioner of Police to have the fraud squad investigate whether an offence has been committed. That hardly constitutes additional information.

Mr McGinty: Don't stop halfway through - read the next part states that.

Mr SHAVE: The next part states that documents can be provided if so desired. Has the member for Fremantle provided them?

Mr McGinty: They haven't asked for them.

Mr SHAVE: Why would the member for Fremantle not have sent them straightaway?

The ACTING SPEAKER: Order members! The minister should direct his comments through the Chair.

Mr SHAVE: Does the member for Fremantle want to know what my letter says?

Mr McGinty: No; what is the date of it?

Mr SHAVE: It has the same date as when the member for Fremantle raised the matter in Parliament.

Mr McGinty: No, it wasn't; it was some time later.

Mr SHAVE: It is dated 18 November.

Mr McGinty: It was the day after I sent my letter.

Dr Gallop: He sent his letter before yours.

Mr SHAVE: That is being semantic.

Ms MacTiernan: Forget the police. What has the Finance Brokers Supervisory Board done?

Mr SHAVE: It has also been sent a copy of the letter.

Dr Gallop: Oh yes!

Mr SHAVE: The member should hang on. It is that board's job. It has been sent a copy of the letter and I expect it to look into the matter.

Ms MacTiernan: Have you asked Mr Fisher to stand down from that board while these serious matters involving him are investigated? Will you allow this man to stay on the board which is supposed to be investigating this matter?

Mr SHAVE: I would expect that, if the issue regarding Mr Fisher is discussed by the Finance Brokers Supervisory Board, Mr Fisher will not investigate his own problem. I do not have any doubt at all that the chairman of the board, when looking into this matter, will not include Mr Fisher.

Ms MacTiernan: But this raises grave concerns about Mr Fisher's suitability to remain on that board. He should be stood down until this matter is resolved.

Mr SHAVE: If the member for Armadale constantly interjects right through my addressing the motion, it will be very difficult for us to get anywhere.

I now propose to go through some of the issues raised by the member for Fremantle in his speech. In the speech he made the other day he asked whether I had referred anyone to MFA Finance. The answer to that is no. He suggested in his comments that perhaps I was involved and that I discussed the affairs of MFA Finance with Mr Ken Court. The answer to that is no. I have never discussed any of the affairs of clients with MFA Finance Pty Ltd. The member for Fremantle threw that comment in as a sort of an afterthought and I do not think he was sincere because he knows that I would not involve myself in that sort of activity.

The member for Fremantle alleged that the Real Estate and Business Agents Supervisory Board, the Settlement Agents Supervisory Board and the Minister for Fair Trading had done nothing and they had been neglectful. I will give a quick chronology of what has happened. The allegations that the board and the Ministry of Fair Trading have been neglectful, disinterested and inactive are not based on fact. The Government has stepped up its commitment to protect the public. In the past four months, 68 charges have been laid by the ministry against real estate agents and settlement agents. The board has conducted hearings on 47 occasions.

Mr McGinty: Any finance brokers?

Ms MacTiernan: They will all be on trust accounts. That is all they will be. They have gone through and found technical problems in the trust accounts.

Mr SHAVE: The member for Armadale is not letting me discuss the facts. She should have made a speech when the Opposition had its time. The member is sitting there as the so-called hit lady. She should have said something when she had the opportunity.

Since the enactment of the legislation in 1996, the board has increased the allocation of resources for compliance activities threefold. There has been a threefold increase in the number of people looking into these activities. There are eight financial compliance staff, six of whom possess formal accounting qualifications, and of 13 general compliance staff, three possess law degrees. With the large increase in resources which has taken place in the past three or four years, there is a clear commitment by the Government to improve the resources in these areas. The allegations made by the member for Fremantle are not supported by the facts. The member for Fremantle made certain allegations about the Sure Sale Systems Property Limited investigation. The member for Armadale said nothing was being done about that and there was inactivity and the minister was sitting on his backside. The fact of the matter is that the Crown Solicitor's Office has acted on Sure Sale. Sixteen charges have been laid.

Ms MacTiernan: When did that happen?

Mr SHAVE: I do not have the exact date. However, I assure the member that it has not happened in the past couple of days. I will get the date later from my staff. The Court of Petty Sessions has set a hearing date for the middle of next year. It would not have happened in the past two days. I am not a legal person but if a hearing date has been set -

Ms MacTiernan: Do you know who was charged? You do not know anything about it. Was it Mr Miller?

Mr SHAVE: I will get that information for the member if it is in the file. When the member spoke, she spoke about the company.

Ms MacTiernan: I spoke about Mr Miller as well.

Mr SHAVE: The members for Armadale and Fremantle have said that the Government has no concerns for the victims in these cases. That is not true. The Government is sympathetic to all those elderly people, particularly those self-funded retirees who may have lost money. The Opposition is well aware that the Government approved in excess of \$750 000 to enable the appointment of supervisors under the Acts to assist with these matters. To say that the Government has no commitment to these people and is not concerned with their welfare or what might happen to them is not supported by the facts.

Ms MacTiernan: It is! You come into this Parliament after serious allegations and all you can do is defend the guilty.

The DEPUTY SPEAKER: I call the member for Armadale to order for the first time.

Mr SHAVE: The Labor Party placed a lot of emphasis on the fact that I would not speak first on this issue in the third reading debate. Members opposite know very well that they had the opportunity to speak. However, they wanted to get me on my feet in the third reading debate to continue with their attack, without giving me the opportunity to respond in the third reading debate. They knew what the game was. The Deputy Premier came to me and asked me whether I would speak first on the Bill. I explained to the Deputy Premier that the line members opposite were taking was not in the spirit of the Bill, which was to support people who may have been disadvantaged and without the right to claim. I said that I would convey that information to them. I was also approached by the member for Fremantle and I told him the same thing. I told him that if he wanted to speak, he should. Let us get that on the record so that people understand it.

I want to address some of the other issues that the member for Fremantle and others raised about Blackburne and Dixon being one. I am not in a position to comment on Blackburne and Dixon because the Australian Securities and Investment Commission is in the middle of an investigation and the advice I have is that any queries relating to Blackburne and Dixon should be referred to ASIC.

Dr Gallop: Do you think ASIC should investigate MFA?

Mr SHAVE: The Commissioner of Police -

Dr Gallop: Answer the question.

Mr SHAVE: I am.

Dr Gallop: No, you are not.

Mr SHAVE: Yes, I am. The Leader of the Opposition has not even given me the chance to finish the sentence so how can I be deliberately avoiding it? It has been referred to the Commissioner of Police and the Finance Brokers Supervisory Board and if when Mr Urquhart looks at that issue, evaluates it and says that it should be looked at by ASIC, of course it will be referred to ASIC. If the Opposition feels that it is appropriate, there is an opportunity to do that.

Dr Gallop: What do you think of the evidence produced by the member for Fremantle?

Mr SHAVE: There is the difference.

The DEPUTY SPEAKER: Order!

Mr SHAVE: The Opposition is asking me to make a judgment. I have asked where is the valuation so that I can look at the figures because as a former hotel operator, I was trying to get a general feel for things. If I had the figures in front of me, perhaps I could form a judgment. I think it would be inappropriate for me to make a judgment on this issue while an investigation is going on. It would be totally improper.

Dr Gallop: The Premier of Western Australia made a judgment last Friday. What do you say to him? He accused the Opposition of spreading mud against his brother. What do you say to him?

Mr SHAVE: Let us see whether the proof of the pudding is in the eating. Does the Leader of the Opposition want to wait for the truth? No, he does not! He just wants to spread mud. Let us see whether the allegations made by the member for Fremantle are proved to be true at the end of the day. Then we will see whether the Premier should apologise to the Leader of the Opposition, or his friend should step down.

I was asked about the Sure Sale Systems Property Ltd charges. Members of my staff have gone through the file and I am told that the charges were laid against Mr O'Leary. Their note does not refer to Mr Miller at all. My understanding of that issue is that when anything regarding Sure Sale came up, Mr Miller was removed from any discussion or participation.

Ms MacTiernan: He remained on the board. It is disgraceful. Anyone who had any integrity would have removed Fisher from that board immediately.

The DEPUTY SPEAKER: Order! I call the member for Armadale to order!

Mr SHAVE: Members opposite also raised an issue that concerned Mr O'Connor as a land valuer. The advice I have received on that is that matters relating to Mr O'Connor are currently under investigation and it is inappropriate for me to make any comment.

Mr McGinty: He was convicted of a stealing from a trust fund.

Mr SHAVE: An investigation is underway. The Leader of the Opposition asked me whether that is right or wrong. If I answered, I would prejudice the outcome of those investigations. I am not in a position to comment until those investigations have been completed. It would be irresponsible of me to comment.

Ms MacTiernan: That is a good out.

Mr SHAVE: It is not an out.

In debate the other day members opposite indicated that the Government was proposing to reduce controls over finance brokers. That is false. Last year the Government reviewed the Finance Brokers Control Act. Earlier this year Cabinet endorsed a range of recommendations, which included amending the Finance Brokers Supervisory Board code of practice to clarify the definition of clients, strengthening pre- and post-contractual information, approving more frequent audits of trust accounts, and recommending that finance brokers have compulsory professional indemnity insurance for applications. The Government is endeavouring to tighten up these areas. In the longer term the Government will propose a code of practice under the Fair Trading Act and will repeal the Finance Brokers Control Act. However, contrary to the proposition put forward by the member for Armadale, the Act is being repealed so that the Government can put in place a code that will give us greater control. The member for Armadale's comment was that the Government would get rid of the Act and is not interested in controlling finance brokers. The member for Willagee is smiling, because he knows that when the member for Armadale says that, it is not the truth, and the fact is the Government is looking at stricter controls not fewer controls.

The authority of the State Government and the Federal Government crosses boundaries. This has always been one of the problems with the legislation. Major reforms are taking place at a national level. The Australian Securities and Investment Commission has introduced changes. In 1997 ASIC reviewed its policy on the regulation of industry. On 1 July 1998, a comprehensive new framework for the managed fund industry became law. This new regime covers all finance brokers who manage pooled investments in excess of \$5m. Those with less than that amount will not be regulated by ASIC. The new regime imposed tight regulations on brokers who manage pooled schemes. They must be licensed by ASIC. They must provide a net tangible asset on a sliding scale of \$50 000 to \$5m. They must have indemnity insurance, which the Western Australian Government has introduced, and their schemes must be registered. Considerable changes are taking place at both a federal and state level. RECA and Mr Doug Solomon put out a press release.

Ms MacTiernan: Are you referring to the Real Estate Consumer Association?

Mr SHAVE: Yes, to RECA and the de facto member for Armadale.

Mr Carpenter: Is that the group that does the job you should be doing?

Mr SHAVE: That is what the member for Willagee says. Members are very good at coming in after the event and saying that someone else should take responsibility for someone else's behaviour. I want to know whether the Leader of the Opposition is prepared to do what Mr Solomon wants the Government to do. The Leader of the Opposition has entered into this debate. Mr Solomon wants the State of Western Australia to take responsibility for all of these loans, to return the money to all of the people who invested, and for the State of Western Australia to try to recover any losses that those people made in their private transaction with various borrowers. Does the Leader of the Opposition support that proposal?

Dr Gallop: We support a lot of things. We support trying to get you to do your job.

Mr SHAVE: Does the Leader of the Opposition support Mr Solomon, or does that remind the Leader of the Opposition of companies like Rothwells and that he has learnt his lesson? The Leader of the Opposition should say categorically that he does not see it as a fair or reasonable proposition for the Government to take responsibility for all of those loans made by people in the private sector and to reimburse them at the expense of taxpayers.

Mr Thomas: That is what should happen.

Mr SHAVE: At least the member for Cockburn is on the record and has the guts to answer that question that the Leader of the Opposition does not have the guts to answer. In this debate the member for Armadale, the member for Fremantle and the Leader of the Opposition have created a false expectation for these people by not going on the record and saying, "We will not do that."

Dr Gallop: We are defending their rights. That is something you would not know anything about. You defend the rights of those who are ripping people off.

Mr SHAVE: We know that the Leader of the Opposition has his fingers, toes and legs crossed, because he will not give that commitment. If he were a reasonable person he would say, "We are not going to do that; that is not reasonable."

Ms MacTiernan: Why not have a judicial inquiry?

Mr SHAVE: Does the member for Armadale think it is reasonable?

Ms MacTiernan: The inquiry will tell us whether that is warranted.

Mr SHAVE: Of course, the member for Armadale does not. The member for Fremantle touched on the subject of land valuers. Property valuations are central to many of the problems.

Mr Carpenter: It is part of it.

Mr SHAVE: It is a big part of the problem. If the valuation is \$3.2m, and \$2m could be realised from the property, they would have a chance of getting their money back. I was given some information by the Land Valuers Licensing Board, because it was concerned that valuers' reputations may be impugned. If one listened to the Opposition, one would think there was a wave of dishonest land valuers who are totally out of control and behaving in an improper manner.

Mr McGinty: Olifent seems to be dubious on the basis of what I said today. His wife runs a brothel in Busselton.

Mr SHAVE: I do not know that. I am sure that is the sort of thing that the member for Fremantle would look into. However, I cannot see the relevance -

Mr McGinty: She is also a licensed real estate agent.

Mr SHAVE: I bet the member would not go outside this Parliament and say that she runs a brothel in Busselton. He will not, will he?

Dr Gallop: Why do you always try to change the subject?

Mr SHAVE: All I want the member for Fremantle to do is substantiate his statement. He has made a statement under the privileges of this House. All he needs to do is go outside and say it, if it is the truth.

Dr Gallop: You do not know how parliamentary privilege works!

Mr SHAVE: I know how it works, and I know how some people use it! Do not worry, my friend! Ask Penny Easton's son what he thinks about this place!

Dr Gallop: Rubbish! You are a disgrace!

Mr SHAVE: The Leader of the Opposition is a disgrace, not I, because he will not pull his people into gear.

The DEPUTY SPEAKER: Order! I would like the minister to direct all his remarks to the Chair and not engage the Opposition.

Mr SHAVE: I am sorry, Mr Deputy Speaker; I digressed slightly. I now want to talk about the Land Valuers Licensing Board, because I have only a couple of minutes left within which to complete my remarks in this debate.

Dr Gallop: You always run out of time!

Mr SHAVE: I cannot win! The other day the Leader of the Opposition said I would not speak; now I am speaking and he says I always run out of time!

Dr Gallop: You are not worth a ministership! You have no interest, you have no commitment, you have no passion and you have no ability.

Mr SHAVE: To have an educated dope like that tell me I am not worth being a minister is actually a compliment! It is like when his former mate Brian Burke used to say I had an unfortunate manner about me when I was running the Australian Hotels Association. I used to go home every night and say to my wife, "Is there something wrong with me? Every time this bloke says that about me, I feel a bit better."

I now turn to the Land Valuers Licensing Board. Since 1987, the ministry has received only 15 complaints about land valuations, nine of which have been against a single agent, of which seven complaints are currently under investigation.

Dr Gallop: How many complaints have you given us about your deputy leader, which you wanted us to investigate and ask questions about in the Parliament?

Mr SHAVE: What the Leader of the Opposition is saying is untrue. If I have something to say to the deputy leader, I will say it to him. That is fine. The Leader of the Opposition can use the divide and conquer tactic as much as he likes, but it will not work with me.

The Land Valuers Licensing Act requires the Land Valuers Licensing Board to check all complaints. Any complaints that are raised with the ministry are referred to the board if the ministry believes an appropriate investigation should take place. There are 100 land valuers in the community. It is possible that five or six of them are not up to the mark. That does not mean that the other 95 land valuers are not decent people.

Question put and a division taken with the following result -

Ayes (18)

Ms Anwyl
Mr Brown
Mr Carpenter
Dr Constable
Dr Edwards

Dr Gallop
Mr Graham
Mr Kobelke
Ms MacTiernan
Mr Marlborough

Mr McGinty
Mr McGowan
Ms McHale
Mr Pental

Mr Ripper
Mrs Roberts
Mr Thomas
Mr Cunningham (*Teller*)

Noes (30)

Mr Ainsworth
Mr Baker
Mr Barnett
Mr Barron-Sullivan
Mr Board
Mr Bradshaw
Mr Court
Mr Cowan

Mr Day
Mrs Edwardes
Dr Hames
Mrs Hodson-Thomas
Mrs Holmes
Mr House
Mr Johnson
Mr Kierath

Mr Masters
Mr McNee
Mr Minson
Mr Nicholls
Mr Omodei
Mrs Parker
Mr Prince

Mr Shave
Mr Trenorden
Mr Tubby
Dr Turnbull
Mrs van de Klashorst
Mr Wiese
Mr Osborne (*Teller*)

Pairs

Mr Grill
Mr Riebeling
Ms Warnock

Mr Marshall
Mr Sweetman
Mr MacLean

Question thus negatived.

THERAPEUTIC GOODS (WESTERN AUSTRALIA) BILL 1999

Introduction and First Reading

Bill introduced, on motion by Ms McHale, and read a first time.

Second Reading

MS McHALE (Thornlie) [4.30 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to provide Western Australia with legislation complementary to the commonwealth Therapeutic Goods Act, which provided in about 1993 for state jurisdictions to enact their own complementary legislation to enable trade through each State. The Bill will ensure the development of a national system of controls relating to quality, safety, efficacy and timely availability of therapeutic goods.

The Opposition introduces this Bill as a result of a lack of action on the part of the Government, which has had the opportunity to facilitate the process of national uniformity and to encourage business in Western Australia; however, it has been very tardy in its deliberations. Hence the Labor Party decided to use private members' time to introduce this Bill.

Many members on both sides of the House were briefed by the Western Australian company Lawley Pharmaceuticals about

the need for legislation to control therapeutic goods in Western Australia. Members on this side of the House, if not those opposite, are aware of the frustrations experienced by this company in its efforts to expand its business being thwarted because no complementary legislation exists in this State. The disappointment that a small businessman feels as a result of the tardy and unresponsive State Government is well felt on this side of the House. The Premier indicated that legislation would be introduced into the House when he wrote 12 months ago that Cabinet had approved the drafting of a new therapeutic goods Bill as complementary legislation. The Minister for Health fully expected that the Bill would be made available in Parliament's spring session of 1999. No action has been seen on complementary legislation and we are in the penultimate day of Parliament for 1999. That is not good enough. Every opportunity was available to introduce legislation. We had a week in which we were unable to sit because insufficient legislation was before us. That would have been a prime opportunity for the Government to introduce such legislation, but no action was seen on that side of the House. In fact, the Minister for Health appears to have backed right away from facilitating this legislation. Rather than being specific about introducing the legislation, he is equivocating about when the legislation may come before the House.

That leaves frustrated a small business person in Western Australia who believes he has significant potential to increase his market share, subject to proper registration, a matter to which I will refer in due course. The potential of this business also includes revenue generation for the State, increased employment and increased research and development facilities - all positive potential outcomes - to say nothing of the increased therapeutic goods available for women with a range of illnesses and complaints.

The Opposition has seen fit to introduce this Bill to start the process of ensuring that uniform legislation is in place, which is complementary to the federal Therapeutic Goods Act. We hope that this measure will enable a well-intentioned and well-thought out product to be expanded and provided throughout the nation. However, the Opposition is not being driven solely by the intentions of one businessman, as it is in the interests of the State to have complementary legislation in place to encourage uniformity. I have an explanatory memorandum with me which I am happy to provide to members, although I understand that I am not required to table it.

The DEPUTY SPEAKER: Under the trial standing orders, the member is required to provide an explanatory memorandum when introducing a Bill.

Ms McHALE: I understand that that is not the case when one is not a minister. I am happy to take your counsel, Mr Deputy Speaker.

The DEPUTY SPEAKER: It must be provided, but it need not be tabled.

Ms McHALE: This Bill is modelled to a large extent on Victorian legislation. However, it has been scrutinised carefully to ensure it is consistent with Western Australian legislation and our environment.

The Bill essentially defines therapeutic goods and therapeutic use in part 1, clause 3. Therapeutic goods are those represented in any way to be, or likely to be taken, for therapeutic use. Obviously, therapeutic use is material used in the diagnosis of disease, ailment and injury.

The second part of the Bill deals with the standards to be imposed on producers and suppliers of therapeutic goods in Western Australia, and part 3 sets out the requirements for the registration of therapeutic goods. Anyone supplying therapeutic goods will still need to register those goods. Therefore, in no way can this be seen to circumvent the existing commonwealth registration requirements. It is complementary to them and it is a Bill which reflects what has been happening in New South Wales and Victoria for many years. In fact, it will enable Western Australia to catch up with what is happening elsewhere. It was incumbent on members on this side of the House to introduce the Bill because of the unwillingness on the part of the Government to even try.

Mr Bradshaw: Slowness, not unwillingness.

Ms McHALE: It is so slow that it has almost stopped, but I accept the interjection. As I have said previously, the Minister for Health in the most recent correspondence has not been willing to indicate when the Bill will be drafted. It has slowed down to a snail's pace. Part 3 of the Bill deals with the registration of therapeutic goods, and part 4, likewise, deals with the manufacture of therapeutic goods for human use. Part 5 deals with the licence to supply by wholesale therapeutic goods for use in humans. Obviously, underpinning this Bill is the prerequisite of ensuring a registration process that protects the safety of Western Australians. It is also important to say that. The latter part of the Bill deals with payment, charges, and miscellaneous and transitional arrangements which I bring to the attention of the House in part 8.

There are three aspects in determining whether a product is acceptable for use; that is, quality, safety and efficacy. This Bill makes provision for a rigorous set of controls to ensure that therapeutic goods manufactured and supplied in Western Australia fit those protocols for the safety of the community.

I wanted to be brief and make the second reading speech on this Bill so that it is in the parliamentary process. The Opposition has used its time because the Government has been slow - in my view, unwilling - to facilitate the Bill, notwithstanding correspondence going back 18 months or more. It was a small effort on the part of the Opposition. The Opposition worked hard to get the Bill together, but with effort and willingness legislation can be developed which serves a good, practical and social purpose. I am disappointed that the Government has not been more speedy in introducing this legislation. There is no opposition to the Bill, as far as the Opposition understands, so there was clear passage for the Government to bring the Bill forward to facilitate national uniform standards, yet it has been remiss in so doing. I commend the Bill to the House.

Debate adjourned, on motion by Mr Bradshaw.

INDEC CONSULTING CONTRACTS

Motion

MS MacTIERNAN (Armadale) [4.44 pm]: I move -

That pursuant to Standing Order No 300, this House directs the Public Accounts Committee to -

- (a) investigate the circumstances whereby Indec Consulting was awarded 23 contracts by Westrail and 10 contracts by Main Roads WA without tenders or quotations;
- (b) investigate whether any department, agency or person breached State Supply Commission, Westrail or MRWA purchasing guidelines in awarding these contracts worth approximately \$1.2m; and
- (c) whether there is evidence of any breaches of any laws that would warrant the matter being referred to any other agency.

It is a very serious matter when a consulting company has been granted a total of 33 contracts without any tender, any quotations or any open process whatsoever. The total value of these contracts is \$1.2m. Whatever the explanation is, it is a matter that requires proper investigation. It is not possible in this place to go into the sort of detail that is necessary to fully expose what has happened in these 33 situations. All we can do in this place is give a brief overview, and we very seriously ask the Government to support the Opposition in this matter. I hope we will indeed get the Government's support on this matter today.

I have raised the issue of Indec Consulting in this House previously, and a month or two ago I set out information on 10 contracts that had been granted by Main Roads Western Australia, to the value of \$624 000. Main Roads' requirements in relation to contracts are quite clear. A contract valued at under \$5 000 requires a verbal quotation; a contract between \$5 000 and \$10 000 requires three written quotes; and a contract above \$10 000 and below \$50 000 requires three tenders under tender box conditions. That means they can be selective tenders. Contracts above \$50 000 require a public tender. The vast bulk of these contracts is valued at more than \$5 000, many are in excess of \$10 000, and many are in excess of \$50 000. Not one has been the subject of any quotation, verbal or written. Not one has been the subject of a selective tender, and not one has been the subject of a public tender. The State Supply Commission guidelines have been completely abandoned in respect of all these contracts.

Last time the Opposition gave detailed examples of contract splitting; that is, how a contract that was in reality one contract was divided into four stages. Indec Consulting was granted the first stage of the contract, without any justification for that, and then got the second, third and fourth stages on the argument that it had completed the first stage. It was awarded the first stage without any tender or quotations, and then built on that and piggy-backed all the other contracts onto the first contract. The Opposition demonstrated the last time it set this out that companies could get contracts worth hundreds of millions of dollars in that way through artificial contract splitting. We also note that the sorts of excuses used in the documents to justify this contain the same nonsense. One contract involved an assessment of road data required to satisfy business needs. The justification for waiving the requirement for tenders was that in view of the knowledge that Indec Consulting had gained through its work on the Integrated Assessment Management Project and Team Asset Contract (Electrical) and it was not believed that there was any advantage in calling tenders.

They are two completely unrelated matters: One relates to road data and the other relates to electrical contracting. There is no connection whatsoever in respect to the subject matters, yet the fact that Indec Consulting has done an electrical contract is seen to be justification for giving it without tender a contract worth some tens of thousands of dollars on business needs assessment. I could spend my time going chapter and verse through some of those contracts. I will go into some detail from a different aspect a little later on.

Another favourite excuse that has been given is that this company must be considered to be the sole supplier because of its unique knowledge of Main Roads' conditions. That is absolute nonsense. That justification needs to be investigated in great detail. That is why we are asking for the matter to be taken to the Public Accounts Committee. We need to look at each of the contracts in detail and cross-examine parties involved in Main Roads as to why they gave that contract and why they consider this one consulting firm to be the sole possible source of supply on a whole raft of different contracts. Some involved a feasibility study in traffic control infrastructure; others involved integrated asset management, performance based agreements between Main Roads and local government, a review of outcome-based performance measurement framework, development of a business case for road data requirements, review of directorate organisational development projects, an asset management bench marking survey and developing a community-based service. We are asked by Main Roads to believe that only one consulting firm in Perth is able to offer anything in relation to any of those diverse matters. Palpably, that is nonsense; there is absolutely no way in which we can believe that without some evidence being adduced by Main Roads.

Many consultancy firms have management, engineering and procurement experience, yet we are being asked to believe that Main Roads could find only one company over a period of three years that was able and capable of delivering those sorts of consultancy services. It does indeed defy belief. This matter has become more serious since we raised it last in Parliament. There seems to be no action on the part of the Government to investigate this matter since we raised it last time. Since then we have completed a freedom of information inquiry on Indec contracts which have been granted by Westrail. What do we find? We find that since 1995 Indec has been granted some 23 contracts. Guess what? Once again we find that with 22 of the 23 contracts there have been no tenders. Once again, there have been no verbal quotations, no written quotations, and no selected and public tender, notwithstanding the fact that these 22 contracts total some \$500 000. In total

in the order of \$1.1m to \$1.2m worth of contracts have been given to Indec without any due process - without public tender, selective tender, written quote or verbal quote.

We have gone through the Westrail documents. They are not very explanatory as there is not a great deal of detail. Presuming that we have had a reasonable response to our freedom of information inquiry, there does not appear to be any formal approval process. It seems that all of these contracts bar one were based on a verbal brief. Basically, the modus operandi appears to be this: Westrail rings up Indec and asks if its staff can come in and have a meeting. Westrail then has a little chat with Indec staff about the sorts of things it might want them to comment on or provide some consultancy on. Indec staff then hop away and prepare a proposal. Indec presents its proposal and is then awarded a consultancy on that basis. No-one else gets a look in.

Let me run through quickly the diverse range of contracts that this applies to. The first is the review of supply function, Right Track; the second is the review of maintenance and construction activities, as is the third; the fourth is the preparation of workload and timetable, locomotive depot Forrestfield; the next two are the preparation of depot and yard operations; then we have the optimisation of depot inventory; the review of procurement of diesel fuel - a small contract for which there was some tender process; a review of the depot structure, an urban security review; a review of electrical services; the next involves steel sleeper procurement; the implementation of depot and yard review; a review of train drivers; a yard lighting evaluation; a review of the Hunter Valley business plan; the review of the Leigh Creek coal train operation; the review of track access charges; the procurement of steel sleepers; a Y2K evaluation project; a review of electrical assets; and process mapping. These cover an enormously diverse range of activities within the Westrail field from the operation of train drivers to the procurement of sleepers to Y2K compliance to evaluating lighting and electrical operations to putting forward a business case for submitting a contract for business at Hunter Valley and Leigh Creek. Again, we are being asked to believe that only one company in Perth was capable of having any meaningful input on any of those subjects. That is an extraordinary proposition. If it is true, if we have only one management company, one engineering company and one consulting outfit that is capable of having anything meaningful to say on that diverse range of topics, something is profoundly wrong with business in Western Australia.

I will take members through what might be some sort of explanation for what has been going on. I do not believe that any member in this place would accept the explanations of Westrail or Main Roads that no other company in this State was capable of having any input on those subjects. I do not believe that any member in this House would believe that it is acceptable for organisations of the sophistication of Westrail and Main Roads to do business in the way that they have been in complete and utter abrogation of their responsibilities and the guidelines that have been set down to regulate the process and provide some fairness.

This issue was first brought to my attention a year or so ago by a staff member in Main Roads who was absolutely horrified by what was going on in that department. The person felt that what was happening was completely immoral. I understand that staff member felt that was the general view in that department. I suppose we could now have a witch-hunt. That would not be of much use, because it would not be able to determine who gave me that important information and alerted this Parliament to a scam that was going on.

From my research, it seems that the fortunes of Indec Consulting have followed those of Mr Ross Drabble very closely. As many members know, he was appointed as Commissioner for Railways in late 1994. Up to that time, Indec - suddenly it is the expert in absolutely everything and the only company that knows anything about anything - had never had a contract with Westrail. Along comes Mr Drabble and suddenly we see the great flowering of the competence and activity of this company.

It starts to get contracts in 1995. Shortly after Mr Drabble arrives at Westrail, Indec Consulting starts to get a whole raft of contracts. We do not have very detailed information from Westrail; however, one document shows that there were meetings which Indec Consulting was invited to attend. It is told what is required and goes away and writes a proposal, and then Wayne James tells it that it has the job. We do not know the process whereby those jobs were authorised. We know there are a few records of Mr Drabble being actively involved in the meetings with this company.

Then we get to Main Roads Western Australia. It is interesting to note that Mr Drabble was appointed to Main Roads on 1 September 1997. Until that stage this wonderful company, Indec Consulting - it is so good that no-one else could possibly compete with it, according to Main Roads - had only one job, in 1996. It was a small job, worth about \$13 000. Indec Consulting was part of a panel which comprised organisations that were rated as being roughly equal and which would get jobs on rotation. As I say, until 1997 Indec Consulting had only one job. In February 1997 Indec Consulting did what it used to do with Westrail. It put up a proposal. It said that it had an idea for something it could do for Main Roads. It had a meeting with Main Roads - representatives from Westrail came along to help smooth the way for it - to discuss the possibility of a facilities management contract to include Main Roads traffic management functions and Westrail flashing lights.

In February 1997 Main Roads asked it to prepare a scoping document. No money or contract was involved. It was left up to Indec Consulting. It was told that if it wanted Main Roads to look at the proposal, it should just do a scoping document. Subsequently that document was prepared. Main Roads did not appear to be very enthusiastic about it, because nothing happened. There were various notes where people asked each other whether it should be done after they received the documents. Lo and behold, on 11 September - just 11 days after he arrived at Main Roads; and after he has just announced that he would sack 1 600 people and totally dismantle Main Roads - out of all of the areas in Main Roads, Mr Drabble finds the Indec Consulting proposal that was received in April 1997. He plucks it out of oblivion and writes a note on it to Mr D. Fitzpatrick which says, "I have asked Indec to proceed with this project. We will need to determine an interface".

On 15 September, three or four days later, a staff member acknowledged that the acting commissioner had asked Indec Consulting to proceed with this project. In summary, Mr Drabble comes into Main Roads, gets a proposal and says, "This job will cost \$72 000; no sweat". There is not even an attempt to discuss who else might be prepared to do it. I reiterate, Mr Drabble had been there 11 days. The same fabulous company, the only one that has been able to do work for Westrail, suddenly becomes the only one that can do work for Main Roads. I do not know how Main Roads managed to find consultants until Mr Drabble got there! Suddenly within 11 days, he had the answer to all the problems at Main Roads, and the Indec Consulting document that had been lying around since April was plucked from obscurity, and he signed off on it. From there on in we had a veritable El Dorado. Indec Consulting had found the Lasseter's Reef of Main Roads, and it mined it for every cent it could. At every step, whose paw prints were on each of these contracts? None other than those of Mr Drabble.

He was quite clearly involved in the first job for \$72 000. The next job occurred in September and was for \$62 000. Indec Consulting moved pretty quickly. Once Mr Drabble approved this contract. In September Indec put in another proposal. This time it was another grouse idea - integrated asset management. Obviously Mr Drabble liked the way Indec Consulting did business. Again, we find a handwritten note from Mr Drabble saying that this proposal was a goer, too, that Main Roads would go with it, and that Indec Consulting could do the job. There is no explanation for why this company was to be given the job, without reference to anyone else, or why Main Roads' requirements would not be complied with. Indec Consulting had given a proposal to Mr Drabble and he had signed off on it.

We are up to the third contract. This one is for \$51 000 on 7 November. Mr Drabble is not letting the grass grow under his feet. He requested Mr Peter Waugh, the acting executive director of road strategies, to contact Indec Consulting to prepare a proposal for a project using performance-based arrangements between Main Roads and local government. Obviously Indec Consulting was very skilled. This is completely different subject matter; however, Mr Drabble is very comfortable with this company and has requested another proposal from it. It is more than happy to mine the reef and produces a one-page outline. On 25 November - he moved very quickly - Mr Drabble advised Indec Consulting to commence work in accordance with its proposal. Again, it was approved by Mr Drabble and again there is no explanation of why the public sector requirements were so studiously ignored.

We cannot see Mr Drabble's name on a contract worth \$2 000. We know Indec Consulting had been invited to make a submission, although the documents do not say by whom. On the basis of the other documents, one would presume that person was Mr Drabble. Let us look at stage 2 of the project. The next contract was for \$85 000. Mr Drabble approved it on the basis that this company had done stage 1 of the project. The next contract is worth \$116 000. The reason for giving this \$116 000 contract for integrated asset management, which Mr Drabble signed off on, was that Indec Consulting was the proved sole source of supply, and it had a detailed knowledge of Main Roads' systems and procedures. We should bear in mind that the company got the first contract only six months previously. Suddenly it was a proved sole source of supply. We must ask what Main Roads did before 11 September 1997 when Mr Drabble came to work there.

The next contract is \$130 000. Due to Indec's background knowledge it would not be feasible to call tenders to complete stage 2B approved by Drabble.

I could detail each of these projects but all of them have exactly the same history. They are all projects in which Indec Consulting has either offered to provide a proposal or has been the only company invited to submit one. On all of these occasions, Mr Drabble signed the contracts on the basis that the company was the proven sole source of supply. That is incredible in the true sense of the word.

Mr Drabble departed the scene in February 1999. Since then, Indec has been awarded one further contract and that was subject to tender. I believe that since then it has unsuccessfully tendered for a number of contracts.

It is clear, therefore, that there is a suspiciously close association between Mr Drabble and the awarding of these contracts to Indec Consulting. I am not asking the Government to accept that at face value. However, I am saying that these are serious matters that simply cannot be swept under the carpet. Members opposite might argue that Mr Drabble is no longer the Commissioner for Main Roads or Westrail. However, two things can be said about that: First, Mr Drabble is now occupying another very senior position and, secondly, he did not do this by himself. A large number of officers were involved in the processes.

These matters must be addressed in order to restore confidence in the probity of those officers who were involved in the administration of the contracts. As I said, I find it very difficult to see how the Government can justify contracts of this order being granted without any attempt whatsoever to let any other company become involved.

In many instances, no attempt was made to justify why Indec Consulting was awarded the contracts. In other instances the awarding was based on the fact that Indec was the sole source of supply. As I demonstrated, that justification lacks any credibility whatsoever. The Opposition is simply asking the Government to acknowledge that a problem has been raised and to direct the Public Accounts Committee to examine this issue, as we are entitled to do as a Parliament.

The minister could argue that I can always take it to the Public Accounts Committee. I certainly can; nonetheless, it is my experience that referral from the Parliament has much greater standing than a request from a single member of the committee. Indeed, a request from Parliament would obviously be taken very seriously and acted on. There is no guarantee that a request from a single member of the committee would be considered in that same light. I am asking the Government to support this motion which contains nothing controversial. It does not require the Government to commit to any judgment on the agencies or individuals who have been involved. However, it will ensure that the matter will be properly examined.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [5.13 pm]: By her own words, the member for

Armada went through the papers provided to her by Main Roads and Westrail and quoted the number of contracts and, in some cases, the value of the contracts. She also said that action had been taken.

Ms MacTiernan: What action?

Mr OMODEI: I am referring to action taken by the Acting Commissioner of Main Roads on his appointment in February 1999. He acted decisively to ensure that the tendering processes were further enhanced, including compliance auditing and training and the establishment of a tenders committee with half its members being externally appointed and totally independent of Main Roads. The member would have us believe that Westrail deals with only 23 tenders and Main Roads with only 10. In fact, Main Roads awards approximately 1 000 contracts, valued at a total of \$350m a year. It is a busy organisation indeed. At the same time it has been re-organising itself to reflect the new methods of contractual arrangements so that matters are transparent.

In February, Main Roads established a tenders committee that meets weekly. The role of the committee is to review procurement actions to ensure the procurement of goods, works and services are in accordance with Main Roads' procurement policy.

Ms MacTiernan: Is the minister acknowledging that those contracts were not done properly?

Mr OMODEI: I am saying that I must rely on the advice of Main Roads and Westrail about events. I will also cover advice I received from Westrail. My advice is that since February 1999 a comprehensive process has been implemented to deal with these matters. I will deal with the other matters later.

Ms MacTiernan: I am not arguing that.

Mr OMODEI: I know the member likes to have banter across the Chamber. That is probably in keeping with her former profession, but I am not a lawyer. My job is to represent the Minister for Transport, which I am trying very hard to do.

Ms MacTiernan: I am asking the minister to turn his mind to the subject matter of the debate.

Mr OMODEI: I am asking the member to allow me to refer to the notes given to me and then I will listen to her comment. The membership of that committee consisted of the Main Roads executive director of finance and services, executive director of planning and practice, the acting chief executive officer of the State Supply Commission, until recently, and the director of asset management of the Police Service. Additional measures include review by a senior Supply officer who reviewed all the contract payments exceeding \$10 000. All contracts exceeding \$50 000 are endorsed by the manager, supply and transport or the executive director of finance and services.

Ms MacTiernan: That was the rule during the entire period.

Mr OMODEI: That is occurring now. Since the awarding of the above contracts - the contracts that the member read out, which I will table rather than read out - one further contract has been awarded to Indec Consulting. As the estimated value of the contract was less than \$50 000, tenders were invited from four organisations for services under contract. They are being funded by Ausroads which is paying Indec directly.

With reference to the Auditor General's report tabled on 5 November the excerpt in relation to contracting by Main Roads WA reads -

In 1998-99 the Commissioner for Main Roads, (MRWA) awarded approximately 1000 contracts worth a total value of approximately \$351 million, making it one of the major contracting agencies of the Western Australian Government. As part of the annual audit of MRWA, an assessment was undertaken of controls across the standard contracting phases of budgeting/funding, tendering, evaluation of tenders, contract award and contract management.

The assessment concluded that generally a satisfactory level of control was in place during 1998-99 and whilst some variances were observed, these were not considered to affect the operational integrity of MRWA's contracting process. In addition, new procedures being adopted should further limit the risk of inappropriate contracting practices that occurring.

The audit also included a preliminary assessment of several specific contracts that have recently attracted public attention in regard to possible exceptions and anomalies. The preliminary assessment concluded that whilst warranting further review, the impact of these matters was not sufficient to warrant qualifying the opinion on controls in the annual financial statement context. Further work has commenced on these contracts and issues arising will, if significant, be reported to Parliament.

Those are the notes I have in relation to Main Roads, which I will table. They refer to the 10 contracts mentioned by the member for Armadale, comments on the sole-supplier status and the reasons for appointing Indec.

The member for Armadale indicated that Indec had been active only in the past few years. In fact it was established in 1982. In 1985 it became involved with the transport industry, specifically rail, trams and buses, including strategic and business planning in the transport industry. The company has significant management experience and expertise in the area of asset management, engineering, marketing and related disciplines.

Ms MacTiernan: When did it get its first contract in Westrail?

Mr OMODEI: It does not say that here. I think the member mentioned 1985.

Ms MacTiernan: I can tell you; I have the answer. In 1995 it got its first Westrail contract, just after Mr Drabble was appointed.

Mr OMODEI: If the member thinks it is relevant, I will check it. From the notes with which I have been provided, I do not see any justification for the Government supporting the member's motion. As the member said, Indec Consulting was awarded a total of 23 contracts from 1995 to 1998, with a total value of \$529 104. Again, I will table the list of those 23 contracts. In all except two of those contracts, the value of the work was less than \$50 000 and public tenders were not required. For the two assignments that exceeded the public tender threshold, it was considered that Indec was of a sole supplier status, given its previous involvement with the knowledge of the specific task to be undertaken. I think the member mentioned that.

Ms MacTiernan: Can you repeat that? How many contracts did you say did not exceed \$50 000?

Mr OMODEI: All except two of those contracts were below \$50 000.

Ms MacTiernan: Is this Main Roads or Westrail?

Mr OMODEI: This is Westrail. The initial engagements were based on the knowledge that Indec was a firm of experienced consultants, which had a reputation for performing organisational reviews.

Ms MacTiernan: However, it had never worked for Westrail before.

Mr OMODEI: This experience included the relevant analytical expertise necessary to deliver a timely and value for money outcome. Indec's proposal in each assignment was deemed to be value for money given the capacity and the experience of the personnel nominated, and the rates proposed were considered competitive against other management consultancy firms entered into at the time. Indec's previous involvement with assignments related to the Right Track program established the firm's credentials to undertake the flow-on work resulting from this program. Having demonstrated its capabilities, Indec was subsequently re-engaged as the firm had developed an understanding of the Westrail organisation and there was a need to preserve future continuity.

The majority of the work carried out by Indec involved a review of the organisation at a time when it was about to undergo significant structural and cultural change and there was a need to maintain confidentiality as well as continuity. A lot of the work was highly sensitive and required detailed understanding of the operation and the development of a high degree of trust in the consultant. This was the case and proved to be a successful strategy in achieving the objectives. In all except one of the assignments, a verbal briefing indicating the scope of the works was given via the respective manager seeking the work. Indec responded with a written proposal and a formal letter of engagement was issued. In one case, public tenders were called under a formal consultancy agreement. This contract was for work that was for less than \$50 000 but resulted in additional work that exceeded the \$50 000 threshold.

Ms MacTiernan: Even if it is less than \$50 000, it is supposed to have selected tender.

Mr OMODEI: With respect to contracts entered into which are valued at between \$5 000 and \$50 000, State Supply Commission policy requires a sufficient number of written quotations to be obtained. In such instances, formal request for quotation documents should be issued including appropriate specifications, selection criteria and relevant supply policies. For all except one of those assignments, only a verbal briefing was provided. State Supply Commission policy also requires the waiver of public tenders to be sought from the accountable officer of the public authority. For the contracts entered into which were valued above \$50 000, such approval was not provided. In one of the assignments - depot and yard review - the person entering into the contract was the accountable officer and, in the other - procurement of diesel fuel - the market had recently been tested through a public tender process for the initial review stage. In March 1998, the Acting Commissioner of Railways introduced a contract and supply policy manual which embodies all of the principles of the State Supply Commission policies and guidelines in relation to procurement and contracting activities. Westrail's standard directorate contracts' function achieved quality assurance certification in December 1997. It is acknowledged that, from the manner in which the Indec contracts were awarded, the perceptions now are that there was insufficient regard to the relevant policies. This was not the case as Westrail, as a commercial organisation, strives at all times to achieve value for money. Westrail will now review the practical application of its procurement and contracting policies. That is being done with Main Roads as well and new processes are being put in place. On that basis, we are not supporting the member's motion. I table the list of the 23 contracts and the nature of the assignment and how they were engaged.

[See papers Nos 439 and 440.]

MR KOBELKE (Nollamara) [5.25 pm]: I thought that the Minister for Works would be contributing to the debate. It seems to me that the member for Armadale has laid out sufficient information with respect to Indec Consulting to cause one to be gravely concerned about whether there is a clear example of corruption with respect to Indec Consulting.

Mr Omodei: Rubbish!

Mr KOBELKE: Does the minister take it as normal practice that a company can take contract after contract which fails to meet the basic guidelines of the Government's contracting procedure; yet he simply ducks the issue? He does not answer the questions raised by the member for Armadale about why one after another of these contracts have been let to Indec Consulting without going through the proper procedures for contracting.

Mr Omodei: Obviously it had prior experience.

Mr KOBELKE: That is a nonsense argument.

Ms MacTiernan: That is not even the excuse that was used. It was using "proven sole supplier" as an excuse. How do you justify that? How did it get the \$72 000 contract when it had never done any work for Westrail before?

Mr KOBELKE: Can the minister answer by interjection? How did it get the first contract?

Mr Omodei: You will have to ask the Department of Transport.

Ms MacTiernan: You are the minister, you hopeless dud!

Mr Omodei: It was regarded as a suitable contractor to do the job.

Withdrawal of Remark

The ACTING SPEAKER (Mr Baker): Order, members! I ask that the member for Armadale withdraw that comment. She used the term "hopeless dud" and it is unparliamentary in my determination.

Ms MacTIERNAN: If it is unparliamentary, I withdraw it, but I find that surprising.

Debate Resumed

Mr KOBELKE: The minister is using the excuse that because he is not the Minister for Transport and these contracts fall within the Transport portfolio, he does not have to answer the questions. I understand that it places a difficulty on the minister because it is not his portfolio. However, the fact is that notice of this motion was given. The Government knew that there would be a motion seeking referral to the Public Accounts Committee of contract matters involving Indec Consulting. Because there has been debate on that company in this place previously, one would hope that the minister would have been more adequately briefed and that he would be able to defend the Government. If no-one on the other side can provide any decent, rational defence of the Government, that amounts to corruption. It is corrupt to give out millions of dollars to a firm outside the clear requirements for contracting of a government agency. Then, to come into this place and simply give those half-baked, stupid answers, which do not address the issue, simply smacks of total incompetence or corruption. There is no other way it can be taken. Either the minister does not take his job seriously and he and other ministers collectively are totally incompetent on this matter or he is covering up corruption. Can he give us a better answer about why the first contract was let to Indec Consulting?

Mr Omodei: Obviously it had the capacity to do the work.

Mr KOBELKE: It had a capacity to do the work; however, capacity to do the work is not the fundamental criterion with which we are dealing on government contracting.

Ms MacTiernan: Because it wins a tender.

Mr Omodei: However, if it is under \$50 000, it does not go out to tender.

Ms MacTiernan: You have not even read the guidelines. The guidelines say that for contracts valued at between \$10 000 and \$50 000, it is required to have a selected tender. You have not even read it. In any event, its first contract was \$72 000.

Mr KOBELKE: I thank the member for Armadale for the interjection. As the minister representing the Minister for Transport in this place, has the minister had the time or made the effort to check for himself whether the contracts involving Indec Consulting meet government contracting requirements and is he happy with his findings, or is it too hard and outside his portfolio area?

Mr Omodei: I have tried very hard to obtain all the information necessary to respond to this debate.

Mr KOBELKE: Does the minister feel that he has been well briefed?

Mr Omodei: Pass.

Mr KOBELKE: I am willing to accept as an excuse that, because it is not his portfolio and he is busy with other matters, he has perhaps not been able to delve into this matter to the extent he might have wished. Therefore, he cannot be certain that the matters have been dealt with properly. If the minister gives me that excuse, I will accept it and move on.

Mr Omodei: I do not need to give you any excuses. I know from the notes provided to me by the Department of Transport and Main Roads WA that mechanisms have been put in place by Main Roads to address the issues raised. They have been in place since February 1999. I will not question information provided to me by Main Roads; I accept it on face value and believe it should be adequate.

Mr KOBELKE: If in six months, 12 months, two years or five years, there is a finding of major corruption in respect of this contract, I want it on the record that this minister's alibi was that he was too busy to do the job and it was not his portfolio responsibility, or that he checked this contract and the contracting arrangements thoroughly and he had no reason to be concerned.

Mr Omodei: That is a leading question. This is not an inquisition; I do not have to accept your questions across the Chamber.

Mr KOBELKE: The minister must answer to this Parliament for the waste of millions of taxpayers' dollars. If he will not, he should resign and get out of this House.

Mr Omodei: You should justify that and show where there has been this waste.

Ms MacTiernan: We have.

Mr Omodei: Where?

Mr KOBELKE: Is the minister satisfied that there is no reason for concern about anything improper with the Indec Consulting contracts or that they have resulted in any loss of taxpayers' money?

Mr Omodei: I am satisfied that the information given to me by the Department of Transport and Main Roads WA was appropriate to respond in this debate.

Mr KOBELKE: The minister represents the Minister for Transport in this place.

Mr Omodei: If you are unhappy with those responses, you should raise the matter directly with the Minister for Transport. You know you can do that in the other place by way of question on notice.

Mr KOBELKE: That is nonsense.

Mr Omodei: Is it?

Mr KOBELKE: Questions on notice provide half truths and are often misleading. They do not provide factual information when we know the Government has made a mistake.

Mr Omodei: Raise it with the minister!

Mr KOBELKE: The answers duck the issue. The minister has the sworn responsibility to perform his duties as a minister and, in this case, to represent the Minister for Transport in this Chamber. It would appear from his answer that he has not fulfilled his duty. He has given us a load of nonsense; he has mouthed answers given to him that duck the issue.

Mr Omodei: I have seen your performance in the Parliament over the past few years and I am not very impressed.

Mr KOBELKE: If we find in months or years hence that our concerns are well founded and that there has been major misappropriation of money or corruption, this minister will stand condemned for failing to uphold his duty as a minister of the Crown.

Mr Omodei: I have heard you make false allegations in this Parliament. I dare say you will not stop.

Mr KOBELKE: You have been given the opportunity in this debate to provide some explanation.

The ACTING SPEAKER (Mr Baker): I ask the member for Nollamara to direct his remarks to the Chair.

Mr KOBELKE: I am happy to do so, but I do not need your protection Mr Acting Speaker; I can deal with this minister very easily.

Mr Omodei: I am absolutely terrified, you little upstart!

Mr KOBELKE: This minister has not been able to provide any answers of substance to the questions raised by the member for Armadale.

The Minister for Works has certain responsibilities, but not for Transport, which is the portfolio area in which these contracts arise. Is the minister satisfied that these contracts do not contain a range of major improprieties or potential corruption?

Mr Board: I will say a few words in response to this issue.

Mr KOBELKE: I am sure the member for Armadale will hold the minister to that, and I will give him the opportunity to respond.

The member for Armadale has laid the facts before the House. This is a matter of such seriousness that the Opposition will not accept the tripe we heard from the minister representing the Minister for Transport. He totally avoided the issue and gave answers that do not match the facts. I hope this minister will be more forthcoming and not waste the time of this House talking about a range of contractual arrangements on which I and the member for Armadale are reasonably well informed, if not very well informed. We simply want to know why Indec Consulting has not been required to comply with government guidelines. In those cases in which it has not complied, what excuses can the minister give for that failure?

MR BOARD (Murdoch - Minister for Works) [5.37 pm]: It is with some pleasure that I respond to this motion. I will not go into detail about the responsibilities of the Department of Contract and Management Services or the State Supply Commission. Members know those responsibilities and those of agencies that have total devolution, such as Westrail and Main Roads WA. Given the responsibilities vested in chief executive officers, they must comply with State Supply Commission policy and the Public Works Act, and they must also use their discretion in the public interest.

Ms MacTiernan: Is it not true that the State Supply Commission has given Main Roads an exemption from seeking commission approval?

Mr BOARD: Main Roads and Westrail have total devolution, so they do not have a capping.

Ms MacTiernan: Structurally it is an exemption.

Mr BOARD: They have the authority to undertake all purchasing and contracting out in their own right.

Ms MacTiernan: By way of an exemption granted by the State Supply Commission.

Mr BOARD: That is correct. All ministers have responsibilities under the Public Works Act. This is a public work. The member might not want to hear this, but technically, under the State Supply Commission Act, this is not a requirement. The commission deals with goods and services.

Ms MacTiernan: These are services.

Mr BOARD: It is a contract for a public work, and contracting is generally required for a public work. The principles behind this have nothing to do with those technicalities.

Ms MacTiernan: They are not design contracts.

Mr BOARD: These agencies have total devolution. Therefore, CEOs have a responsibility to conform with the government guidelines, both under the Public Works Act and the State Supply Commission Act. They also have discretion to make decisions in the public interest.

Ms MacTiernan: Would you refer this matter to the State Supply Commission?

Mr BOARD: I find it very interesting that there has been no approach either to CAMS or the State Supply Commission by any aggrieved person. If there had been, the matter would have been investigated. If someone felt that the guidelines had not been complied with, he or she would have approached the relevant authority.

Ms MacTiernan: What do you think we are doing here today? We approached you.

Mr BOARD: The member wants to use the Parliament to raise issues that should be investigated through the normal process. Before the member makes accusations of corruption when there has not been a request for any investigation -

Ms MacTiernan: We raised the issue in the Parliament a month or so ago.

Mr BOARD: I raised this yesterday with the State Supply Commission and CAMS. I asked whether there had been any approach by an aggrieved person or -

Ms MacTiernan: You can refer it to them.

Mr BOARD: On what basis?

Ms MacTiernan: On the basis that these issues have been raised in Parliament. This involves serious concerns about \$1.2m in contracts being awarded without tendering process compliance.

Mr BOARD: I can testify to the way in which CAMS and the State Supply Commission go about their work. However, there is a discretion for agencies to consider whether the decisions they make in regard to contracting are in the public interest. The member asked me why we have not been involved. We have not been involved because no concerns have been brought to our attention. I brought to the House's attention in the not too distant past the fact that the new CEO for Main Roads asked CAMS to review its tendering processes because some issues that were referred to in this House had been raised by the media. CAMS conducted a review into the tendering and contracting procedures in Main Roads and it found, as did the Auditor General, that there had been general compliance with policies and guidelines, but there needed to be more consistency throughout. That has been dealt with. I can assure members that if they look at some of the dates since the review, all of those discretionary areas now err on the side of using probity auditors and making sure that every decision is checked by management and stands up to public accountability and scrutiny. From the point of view of the Minister for Works, I have ensured that the State Supply Commission and CAMS have complied with our policies. The issues of discretion in the public interest still lie with the CEO.

MS MacTIERNAN (Armadale) [5.42 pm]: I am surprised by the response of the Government because it seems to me that the breaches of standards are so flagrant that the Government would have accepted that, at the very least, this matter should be referred to the Public Accounts Committee. I deliberately framed the motion in such a way to not involve any conclusions about the circumstances under which these contracts had been given because I understand that it is difficult to come to final conclusions on matters as complex as this in the forums we have in this place. I believe that we have once again demonstrated that there is an extraordinarily strong prima facie case for, at the very least, reckless disregard for the contracting procedures of Main Roads, the contracting procedures by Westrail and the contracting procedures mandated by the State Supply Commission. We have heard the most flimsy of arguments in response and those arguments, by and large, are factually wrong. I will take up a few of them. The document has been tabled. Contract No 387/97 was the first golden egg that was laid by Indec in Main Roads. The minister claimed that it got this contract on the basis of a proven past record. We then pointed out that this was Indec's first contract. The minister said that the contract was under \$50 000. It is for \$72 000! The story given in the document on this contract tabled by the minister states-

Sole supplier approved by the Commissioner on September 11 1997 to accelerate an urgent requirement for a feasibility study on Private Sector Participation Model for Traffic Control Infrastructure Management.

We have done an FOI on that contract; we have sought all the memoranda and all the documents and we have a full list of documentation on that. Absolutely nothing in that documentation would give any support whatsoever to that claim. That phrase is not referred to in any of the documents as far as we can see. What makes it more laughable, as I said earlier, is that the proposal was submitted in April 1997. All of a sudden, five months later, it becomes so urgent that it has to be given without tender to this outfit. What is more, once that proposal was finally delivered, nothing was done on it for about 18 months. There is no factual basis for arguing, as the minister does in this tabled document, that it had something to do with urgency.

The next excuse given was for contract No 513/97, worth \$32 000. It was claimed that Indec had expertise not readily available elsewhere. We have looked through the documentation on that contract and I do not believe that there is anything in the documentation that would support the allegation that that was the reason they were given sole supplier status. The reason for giving it sole supplier status was not even canvassed; it was just given.

Furthermore, on 11 November 1998, it had not produced any work for Main Roads. It had its previous contract which had just started, but there was no basis on which it could be argued that on 11 November 1998, given that its first contract was only given on 11 September, it had a level of expertise not readily available elsewhere. It is palpable nonsense.

The minister has tied himself up in knots. The Minister for Works and Services and the minister representing the Minister for Transport have both said, "Don't worry about it, we have fixed it. Since the new commissioner was appointed in February 1999, things are different and we have had an urgent review. We acknowledge that when the new commissioner was appointed, suddenly the magic associated with Indec evaporated and there is a new order." Far from that answering our concerns, this is evidence in support of our case that something was very rotten in Main Roads during the period that Mr Drabble was in charge.

Mr Board: During the period when Indec was given the contracts, don't you think that a competitor who felt aggrieved would have made a complaint?

Ms MacTIERNAN: I will tell the member a couple of things. Not everyone is aware of the contracts that are going out. Secondly, we were contacted. Thirdly, the Opposition is contacted time and time again by people, including major road builders, who are scared that if they put up their hands -

Mr Cowan: Len Buckeridge has been to see you, has he?

Ms MacTIERNAN: He is all right because he funds the coalition; it is safe! Buckridge is a major supporter of the coalition and a major benefactor. Therefore, he feels confident enough to get up and say what a mob of ratbags Main Roads contracting is. Consultants and engineers come to us with their complaints because they know that if they put up their hands they will not get any more work.

Mr Cowan: That is nonsense.

Ms MacTIERNAN: It is not nonsense. From whom does the Deputy Premier think we get the tip-offs about the things that we investigate first through parliamentary questions and then through FOI? They come from people who are aggrieved by the Government's corruption.

Mr Cowan: They know you are stupid enough to raise the matter in the Parliament. Refer it to the Public Accounts Committee yourself.

Ms MacTIERNAN: Unfortunately, the Deputy Premier was not in the House when we canvassed that issue. As I explained, from some years of experience on the Public Accounts Committee, a matter that is referred from this Parliament will certainly be addressed by that committee. However, we know how sensitive the Public Accounts Committee can be, and any suggestions, particularly from opposition members, on matters that might be a bit tricky for the Government are simply not investigated.

Mr Board: Those aggrieved people who have come to you could write to the Public Accounts Committee.

Ms MacTIERNAN: The minister is talking nonsense. We have incontrovertible evidence that 23 contracts worth \$1.2m have been granted without tender and without compliance with any supply processes. We have demonstrated that the arguments that have been used, such as the argument of sole supplier, are not the arguments that have in some cases been used in the documents and that they have been invented subsequently. We have also shown that even when those arguments have been used, they lack plausibility. How did this company get its first contract, which was for \$72 000? We have gone through and shown what the process was in Westrail. Someone would ring up Indec Consulting and say, "Hey, guys, come in. Sit down and have a cup of tea and some cake. This is the work we want done. Can you do it?" Is that the way the Government does business? Is that fair to all the other contractors, all the other management consultants, all the other economists and all the other engineering companies? No, it is not. Just because that company appears to have a friend in a high place, it is not fair that it gets the red carpet into the El Dorado of the taxpayers' purse.

Nothing that has been advanced here in any way supports the Government's case. The Government's argument does nothing but support what the Opposition is saying. The Government is saying that it is not a problem now because it has sorted it all out. It now has a new bloke as the commissioner, and he is doing a better job. I agree, and I said that in my initial comments. I said that in February 1999 suddenly Pandora's box was shut on the paws of Indec Consulting, and it was required to enter into the fray like any other consultant. Suddenly, for some reason or other after February 1999, the incredible uniqueness and expertise that Indec had had up until that date vanished. How does the Deputy Premier explain that? How does the Deputy Premier explain that all of a sudden in February 1999, once Mr Drabble departed the scene, that company was no longer unique? How did that happen overnight? I can tell the Deputy Premier that it is because Mr Drabble left. He was the one who thought that company was unique.

In its arguments, the Government has supported our case. It has recognised that Mr Greg Martin wanted to put things right. He was so concerned that he called in the Department of Contract and Management Services, and a whole review of contracting was carried out and a new mechanism was put in place. That is evidence in support of what the Opposition has been saying.

Another piece of evidence that was adduced by the minister representing the Minister for Transport was that the Auditor General had signed off on this. In fact, he had not. The Auditor General said that he had done a preliminary assessment of these cases - we have reason to believe that they include the ones that were raised in Parliament last time - and that preliminary assessment had concluded that although warranting further review, the impact of these matters was not sufficient to warrant qualifying the opinion on controls.

Mr Cowan: That is pretty straightforward and clear. Obviously the Auditor General believed there was value for money.

Ms MacTIERNAN: No, he is not saying that; he is saying that these contracts that have been singled out warrant further investigation.

Mr Cowan: But there is not a qualification.

Ms MacTIERNAN: Yes. My motion before the House today is not that the Opposition wants the accounts of Main Roads qualified. That is not what the motion says. The motion states that we want those contracts, which include those which have had a preliminary assessment -

Mr Board: You just destroyed your own argument. The Auditor General is not prepared to qualify it, having investigated it; yet the member wants to use it in Parliament to send this matter to the Public Accounts Committee.

Ms MacTIERNAN: No. He is saying that the contracts warrant further review. We are not sure whether he is talking about the entirety of these contracts. However, he is acknowledging in his statement that, from a preliminary assessment, they warrant further review. Since that time, more contracts have been uncovered - another 22 contracts that have been let by Westrail, starting from the period when Mr Drabble came into ascendancy in that organisation. Serious matters are involved here. Although the current leadership of Main Roads is making many mistakes, I do not believe that this sort of highly questionable arrangement is necessarily still going on. However, we know that the gentleman who presided over both organisations during the period when these gross breaches of probity occurred is still in a very senior position within the public sector. We also know that those people who aided and abetted in this process are still within the agencies in question. It is not good enough to say that that gentleman has moved jobs and we will let this matter slide. These are serious allegations that must be investigated. I had hoped that the minister would have had a bit more self-respect and that he would have asked to see some documentation to support the claims that he made, and that he would have shown a little more forensic ability in investigating the claims that the Opposition has made, given that some of these instances have been raised in the Parliament previously.

The Opposition will not let this matter drop. It will continue to seek to have it investigated to bring justice to the individuals involved. It is not proper that people can continue to operate with impunity when there is prima facie evidence here of, at the very least, reckless disregard in the execution of their duties.

Question put and a division taken with the following result -

Ayes (13)

Mr Brown
Mr Carpenter
Dr Edwards
Dr Gallop

Mr Graham
Mr Grill
Mr Kobelke

Ms MacTiernan
Mr McGinty
Mr McGowan

Mr Thomas
Ms Warnock
Mr Cunningham (*Teller*)

Noes (27)

Mr Ainsworth
Mr Barnett
Mr Barron-Sullivan
Mr Bloffwitch
Mr Board
Mr Bradshaw
Mr Court

Mr Cowan
Mr Day
Mrs Edwardes
Dr Hames
Mr Johnson
Mr Kierath
Mr Masters

Mr McNee
Mr Minson
Mr Omodei
Mrs Parker
Mr Pandal
Mr Prince
Mr Shave

Mr Trenorden
Mr Tubby
Dr Turnbull
Mrs van de Klashorst
Mr Wiese
Mr Osborne (*Teller*)

Pairs

Ms Anwyl
Mrs Roberts
Mr Riebeling
Mr Marlborough
Mr Ripper
Ms McHale

Mrs Holmes
Mr MacLean
Mr Marshall
Mr Nicholls
Mr Sweetman
Mrs Hodson-Thomas

Question thus negatived.

Sitting suspended from 6.02 to 7.00 pm

PROSTITUTION BILL 1999

Second Reading

Resumed from 23 November.

MS WARNOCK (Perth) [7.01 pm]: It is no secret that the Opposition is pleased to see some kind of legislation on

prostitution come before this House this year. Indeed, the Opposition takes some credit for prompting the Government - which has been battling unsuccessfully for two years to produce a full and complete Bill covering the entire field of prostitution - to produce this quickly drawn up Bill. This Bill, like the one produced last week by the Opposition through my colleague, the member for Midland, deals discretely with the matters of street soliciting, kerb crawlers and child prostitution and leaves aside the whole matter of brothels, massage parlours, escort agencies and all the other matters associated with prostitution with which it is fair to say we in this place have been battling for some time. The Opposition is pleased to support an attempt to improve the lives of inner city residents - and I am particularly pleased as the member who represents those inner city residents - by removing from the residential streets activities which any residents anywhere would find offensive.

I have been representing the views of my constituents on this subject for some two years now. Dozens of my constituents have joined me in trying to persuade the Government to produce its long delayed legislation and to rid residential streets of what has become an offensive nuisance to the people who live in them, and to get tougher and better resourced policing for the area. Many people have stressed to me that they bear no particular animosity to the young women involved in street prostitution and it is largely young women who are involved. Rather, these people are concerned about the welfare of those women. They object to the kerb crawlers, as they are called, and the pimps who are an obvious part of street soliciting. These residents and some of the businesspeople in the area are offended by being propositioned themselves or having their young daughters propositioned. They do not like the constant presence of the repeated circling cars of the kerb crawlers and they are put off by needles and condoms being discarded in their gardens or on their front paths.

The people I have spoken to about this matter - with perhaps the exception of one or two - are very sensible people and they are realists. They are not moralists; they do not ring me every day telling me that fire and brimstone will descend if any of us try to do anything about prostitution. These people are realistic, they have been living in this area for some time and they have noticed their standard of living deteriorating because of the recent increase in street prostitution. These people do not expect prostitution to vanish overnight as a result of any legislation we might produce in this place. However, they will be hoping that with tougher penalties for street soliciting - which is the main problem - penalties for kerb crawling and tough penalties for child prostitution there will be some changes for the better. I stress that the people I am speaking about are realists, they have a sensible attitude to the matter and they would not resist any attempt to change the law. They are looking for a change for the better and expect some change in the law to produce that.

I must express my personal view that many more things need to be done in this area. One of them is to try to work very hard to assist the women involved in street prostitution. I am involved with a group of people who have been trying to do that for some time. We recently failed to get a government grant to do this but we will persist because we think it is very important. Many of the women involved in prostitution are young; some are actually underage and illegally involved in this activity. I believe many of these women are drug addicts. Some people tell me that the incidence of drug addiction among prostitutes is very high but others say that it is exaggerated by people for their own reasons. However, I believe that most people who work on the streets would not choose to work that way unless they had a drug addiction and needed to make quick money. Most people who, for whatever reason, choose to make a career out of this business would choose to work in different circumstances because, by its nature, street work is dangerous and I would not have thought that it has many attractions. It seems that many of the women who work in this field need quick money for drugs. They work on the streets rather than in houses or for escort services for that reason as one is not able to work in a brothel if one is a drug addict - it is forbidden.

There are a number of ways of earning a living as a prostitute and I do not need to outline them to this collection of adults who are well over 21 years of age, regardless of what any of us think of the profession. I am extremely concerned about the welfare of these young women, several of whom have disappeared from the streets in frightening circumstances. A great deal more needs to be done. For example, we need to spend more money on safe sex education. We need outreach workers in the area to work with the people who continue to work in street prostitution regardless of the fact that others do not support that concept. We need to spend more on drug rehabilitation in this community. I would prefer no-one worked on the streets at all. It is too dangerous. Every parent would be horrified at the thought of their daughter or son - there are a few young men working as street prostitutes - working on the streets. It is too dangerous but I believe the whole issue of prostitution, particularly street prostitution, needs to be approached realistically.

I will refer to the minister's briefing note. As you will recall, Mr Deputy Speaker, this Bill very recently arrived in this House. I believe that many members of the Opposition have not had an opportunity to study it very thoroughly, notwithstanding the fact that we put up a similar Bill last week. This Government's prostitution control Bill has three principal aims: The first is to provide offences for street soliciting for both prostitutes and clients, which is extraordinarily important; the second is to prevent children from being involved in prostitution and to protect them from exploitation, which again is an extraordinarily important aim; and the third is to empower police to deal effectively with prostitution in relation to issues of health, the involvement of children and street soliciting. Those are three very worthy aims indeed.

Women from my mother's generation have often asked me why we constantly talk about prostitutes and rarely talk about their clients; if there were no demand, there would be no supply. We seem to be constantly talking about cracking down on the prostitutes and street prostitution when it might be more effective to crack down on the people causing the demand. This Bill has the proper balance in that there are provisions for the prosecution of both prostitutes and their clients.

It is important to prevent children from being involved in prostitution and certainly to protect them from exploitation. Recently my colleague the member for Willagee and I were fairly vocal in attacking the Minister for Family and Children's Services because we believe that a large number of young girls are involved in prostitution in the inner city area. There seems to be some dispute about the number of young girls involved in prostitution. I have no doubt that there are a number

because I drive through the area fairly regularly. My office is in the area and I go to a lot of functions there. I regularly see young women on the street who are obviously prostituting themselves. However, until this time, there has been some difficulty about bringing Family and Children's Services as well as the police into this issue. I certainly support, and the Opposition in general supports, anything that will prevent children from being involved in prostitution in any way and protect them from exploitation.

The third extraordinarily important element is to empower police to deal more effectively with prostitution. As I said at the beginning of my speech, for some time my constituents and I have been making approaches to the Minister for Police and senior police. We have been petitioning, demonstrating in the streets and taking numerous other actions to draw attention to this problem. At one stage of the game, after one of several public meetings, a senior police officer said to me that he would give me his mobile number and that I should simply ring him when there was a problem and that the police would come and do what they could. Unfortunately, that officer was not always available to deal with these matters. When we rang the number that we were given, we often found the machine on with a voice saying to call tomorrow morning and the police would do what they could.

Obviously the police do not have enough resources to deal with these matters. There are many other crimes which others regard as far more important than prostitution; indeed, some people refer to prostitution as a victimless crime. I do not think my constituents would agree with that. As I have said, police resources are stretched thinly and some people think there are far more important issues for them to be involved in. The long and the short of it is that we have called the police at the numbers they have given us and they have not been there or they have carried out an operation - made a raid as others might say - which has cleared up the streets for about half a day, and then the people have come back. Obviously the police need to be empowered to deal far more effectively with street prostitution; there is no question about that.

One of the elements of that provision is the ability to approach a kerb crawler. Although I hesitate to relate any stories about anybody I know being caught up in a matter like this, the plain fact of the matter is that it has been until this time extraordinarily difficult to pin on someone that he is in fact soliciting. He might say, "I am waiting here for my wife and daughter to arrive", "I am looking for milk at the shop" or "I am gazing at the scenery". It has been extraordinarily difficult to make any charge stick. I am aware that has been a problem for the police, and many times they have related to me the difficulties that they have had in effectively bringing a kerb crawler to book, notwithstanding the fact that most of my constituents would know a kerb crawler when they saw one. However, for legal reasons, it has been very difficult to make that charge stick. If we could improve that in any way through this legislation, the Opposition would certainly support it.

The way the Government has chosen to go about this is interesting. It has referred to offences in the Police Act 1892. It is delightful when one finds that the Police Act and many sections of it date from 1892. Sections will be repealed and replaced with modern provisions - not before time. Some of those provisions relate to the reversal of the onus of proof. I am quite sure this will cause alarm among some civil libertarians. If we had more time to deal with this matter, perhaps we might give a great deal more thought to that aspect. However, for the moment, if I might set that aside, I will say simply that we support the Government on this matter. We are aware that reversing the onus of proof in matters like this will cause concern in the minds of some people.

How does the Bill suggest that we deal with the matter of street soliciting? It will be an offence for both the prostitute and a person seeking the services of a prostitute - the client, shall we say - to solicit such services in a public place. The offence will be committed by any person who in a public place - I emphasise that - seeks another to act as a prostitute or to be a prostitute's client. As many of us in this House do, I was listening to talkback radio as I was driving from one function to another today. I heard various people ask what is a public place, how would they know it and how would anybody define it, and if one rang an escort agency, would we be talking about the same offence? In short, we are not; we are talking about soliciting in a public place such as a street or park where somebody approaches and says something. I will not repeat any of the phrases because I am sure that most of the members in this House are old enough to be familiar with them. When a prostitute solicits a person's attention or a client solicits the services of a prostitute in a public place an offence will occur.

The definition of "seeks" includes inviting or requesting another person to be a client or prostitute, loitering in or frequenting a place for the purpose or intention of inviting or requesting another person to be a client or prostitute or receiving an invitation for another person to be a client or a prostitute. Members might say that on the face of it this seems difficult to deal with, but anybody who has driven down Stirling Street lately would find that the definition is fairly easy to arrive at. I certainly hope that the Bill's provisions will make it a great deal easier for the police to make any of these matters stick.

The penalty for clients, or the so-called kerb crawlers, will be imprisonment for two years. I would have thought that would be a serious disincentive for somebody who might be Sunday driving in a place where he should not be. For a prostitute the penalty will be imprisonment for one year. The higher penalty for clients is an attempt to reduce the demand for street prostitution. As I have said, women of my mother's generation have often asked why we do not try to reduce the demand. I would have to agree that I always thought of this business as a two-way contract. I have never been able to understand why one party to the contract was in such difficulties; whereas the other person was let off scot free, if that is the correct expression. Reducing the demand for this kind of prostitution would be a more successful way to curb this matter.

The Bill provides aggravated penalties where the offence involves a child; for those of us who are not lawyers, that means more serious penalties for offences involving a child. Where the prostitute is a child, the penalty is imprisonment for seven years and where the client is a child the penalty is imprisonment for three years. This is a very important matter and sensible men and women of goodwill will see that this is an important change for us to make. It is a demonstration to the community that we are determined to protect our children from being involved in this business and we will severely caution any adult from seeking to induce a child to act, or continue to act, as a prostitute. Those penalties are very fitting because it is entirely

inappropriate for any child to be involved in this activity. Adults over the age of 21 can make up their own minds about it; however, it is extraordinarily sad for a child to be involved and we must discourage this practice in any way that we can. The Bill is very tough in that area and I believe that everybody on this side of the House will support those penalties.

The situation of children who act as prostitutes is interesting. This will be an arrestable offence enabling police officers to remove children from their environment and for the appropriate authority to deal with them, such as Family and Children's Services. There has been a great deal of argument between the Government and the Opposition about whether one should be able to call in Family and Children's Services on these matters. I would prefer to call in a child's parents, as I am sure everybody in this House would. However, when that is not possible for the very large variety of reasons we all know about - some people simply do not get on with their parents, some people have no parents and some people are estranged from them - Family and Children's Services must become involved. Indeed, that is the charter of Family and Children's Services and it should be involved in these matters. It may seem harsh to some people but it is important to prevent children within the definition of "child" from being involved in this activity.

The next clause of the Bill is more controversial and we might discuss it during the consideration in detail stage. The Bill refers to police powers in relation to prostitution. Senior police have frequently complained to me about their lack of powers in this area. I have had off-the-record discussions about how difficult it is to prefer a charge in this area. This Bill provides new powers in relation to search, seizure, covert operations and street soliciting. The powers have been developed by drawing from existing powers in the Criminal Code, the Misuse of Drugs Act 1981 and the Censorship Act 1996 and adapting those provisions to suit the unique situations faced by police officers when investigating prostitution offences under the Bill. As I said, these provisions are likely to cause some concern to people. For example, I remember having a discussion about the powers of entry without warrant during debate on the Censorship Bill. In the context of prostitution in this Bill, police officers will be provided with powers of entry at any time without warrant to places where it is suspected that offences are being committed against the provisions of the Bill. As I said, the Opposition supports the Bill but I believe that some people will be concerned about matters of that ilk. The Bill provides powers of seizure, retention and disposal of property; the creation of a new search warrant similar to that in the Misuse of Drugs Act 1981; and a clause dealing with undercover officers, giving certain police officers the power to operate covertly as undercover officers to obtain evidence of the commission of an offence under the Act. Again, people may be somewhat concerned about that, but, as I say, the Opposition supports the Bill because we realise that the present problem of street soliciting simply must be fixed.

In addition to the enhanced offences relating to street soliciting, it is interesting to note that the Bill empowers police officers to issue a "move on" notice when they suspect that a person is committing or is about to commit an offence in relation to prostitution. That suspicion will be based on the evidence available at the time, such as the person's address, the time of day, the actions of the individual and any reason given to police in explanation of that person's actions. Again, although any ordinary person would be able to tell what that clause was about if they had visited Stirling Street at a particular time of day; nonetheless - I am not a lawyer - I can see difficulties in proving these matters before a court. However, with wide publicity about the Bill, if we succeed in getting it through the Parliament, anybody who wishes to take a risk of two years in prison would be a gambler of some kind.

In general, the Bill will not remove the current illegal status of brothels. I refer to section 76F of the Police Act 1892 and section 209 of the Criminal Code, which are the two sections that deal with the status of brothels. It also does not remove the offence of living off the earnings of prostitution, which comes under another section of that old Police Act. In addition, serious offences have been created to address the issue of sexually transmissible life threatening infections and sexually transmissible infections. The regulations will enable diseases that are considered sexually transmissible life threatening infections to be prescribed. For example, HIV will be prescribed as a sexually transmissible life threatening infection. People who know, or could reasonably be expected to know, that they have one of those infections and who act or offer to act as prostitutes will commit a crime. In this case, the penalty is imprisonment for 20 years; or, in the case of a sexually transmissible infection, imprisonment for five years.

The Bill further refers, as the Opposition's Bill did not, to advertising for employment. Any person who publishes a statement promoting employment in prostitution or enters into a sponsorship arrangement that promotes prostitution commits an offence. I note the penalty for that is \$50 000. I cannot help noting that a large number of advertisements promote employment and prostitution, or certainly advertise prostitution. Some of our more respectable newspapers, indeed every family newspaper in town, extensively advertises prostitution services. I will need an explanation during the consideration in detail stage, as I am sure the Opposition will, about what is meant by that provision.

As I have said, the Opposition is prepared to support this Bill, although alarm bells ring in my head on a number of civil liberties issues. It is because of these issues that I prefer the opposition Bill, produced last week by my colleague, the member for Midland. However, we are prepared to support this Bill because, as an Opposition, we accept that it is more than time to take action on street soliciting in residential areas. We therefore applaud the Government for responding to our prodding on this issue, as I believe that is what has occurred. People have said to me in interviews that I have conducted, "You just want to move it to some other suburb" and I have said, "No, I do not wish any residential area to be an area where street soliciting takes place."

In a worst case scenario, if the police, the Government and the community in general agreed that we were simply not able to stop street soliciting, for whatever reason, in the long term we might have to seek another solution and even suggest that part of a commercial or industrial area be set aside for this purpose. I hope that would be a last resort. I am not seeking to move street soliciting to another residential area. I simply do not want it to be in any area. It is not good, and I am certain most prostitutes would think the same thing. They do not want anybody practising prostitution in public on their doorstep any more than those in my electorate do. This Bill is largely about street soliciting in residential areas.

I cannot let the occasion pass without commenting that the present Minister for Police is the third such minister who has undertaken to produce a complete Bill to replace the mess that passes for prostitution legislation in this State. As I have said before, I do not underestimate the difficulty of drafting prostitution legislation. As a woman, a feminist and an activist, I have been involved in this issue for nearly 20 years. The Opposition has also worked on the issue for some time. We all know it is extremely complex. We are all subject to the pressures in our electorates that cause people to be very cautious about making any changes. This Opposition has genuinely offered its cooperation to the Government to get this Bill through. It is a different matter when a group of people are seriously seeking to politicise an issue. We are seriously seeking a solution to the problem.

Mr Prince: Does the bipartisanship go to what happens in the other place?

Ms WARNOCK: I hope it does. I cannot speak for the assemblage of other opposition parties.

Mr Prince: I mean members of the Labor Party.

Ms WARNOCK: Most certainly.

Mr Prince: If this can be fast tracked, surely it is to the benefit of the public. If it disappears to a committee and is delayed in the other place, that will not be good.

Ms WARNOCK: That is certainly not the intention, as far as I am aware.

Mr McGinty: You can say it more emphatically than that. The answer is categorically no.

Ms WARNOCK: That is right. We are determined that this Bill should pass. We are offering the Government our cooperation, despite some reservations about various aspects of the legislation. We know it must be done and we see no value in politicising this issue. We are all in the same business. We all know how difficult it is to deal with these matters. Today I had a couple of telephone calls about these matters. I will not let some opposition dissuade me from joining the Government in attempting to solve this problem in Western Australia. I believe it is a social problem that simply must be solved. Western Australia must sort out its prostitution legislation. The so-called containment policy which involves a set number of brothels being "okay", despite the fact that it is technically illegal to run such premises, simply does not work any more. It is quite obvious to everyone that houses, parlours, agencies and so on have proliferated in this town. We have only to check the advertising pages in any family newspapers, about which I remarked earlier, to see the extent of that proliferation. Some estimates suggest that several thousand women are working as prostitutes in this town. Clearly we must find a solution to the problem.

Mr Prince: You mentioned something about advertising, but I missed most of it.

Ms WARNOCK: In the briefing paper for this Bill, I was interested in the information on advertising for employment in prostitution. Does that refer only to advertising jobs as prostitutes?

Mr Prince: Yes, it does.

Ms WARNOCK: I misunderstood that. I thought it was about advertising in general.

Mr Prince: No.

Ms WARNOCK: I was going to say that some newspapers will descend rather heavily on the minister in that case.

Mr Prince: They have already tried.

Ms WARNOCK: I will say no more about that subject.

Mr Prince: I think perhaps the member could have chosen a more elegant expression, considering the subject we are talking about!

Ms WARNOCK: It is almost impossible when speaking about this subject not to find a double entendre.

As I have said frequently, if society is to accept this situation, obviously prostitution must be regulated in some way, particularly from the point of view of planning laws and health regulations. By the way, on this subject about society's views, earlier this year a couple of hundred average citizens went to an open day staged by Madison Avenue, a brothel in Victoria Park. They were all ages, men and women. As I have frequently said, numerous brothels are located near my office; in fact, two are within 50 yards or so of it. In more than seven years of being in that area, I have had no complaints whatsoever about them. My impression from both this fact and my visit to that rather colourful and interesting open day was that, in general, most members of our community do not think about prostitution very much. It does not occur to them to talk about it very much. If they have any view about it, it is that it seems to be going on somewhere else that they do not know about. As long as it does not jump out in front of their faces, they are not terribly concerned about it. I hope I am not mistaking their view which I have arrived at from observing and studying this issue for many years.

Whereas I have heard not a single word of complaint about any of the many brothels in my area, including those close to my office, I have been inundated with complaints about street soliciting in the area for the past two years. I do not exaggerate for the purposes of politicising the issue. It is simply a fact that at one stage of the game I was getting several calls a week that could not be ignored. That is when I began to take the issue to the Government. It was quite clear that something had to be done. People's 12 year old daughters cannot walk to the local corner shop to get a bottle of milk - that will give members some idea of my age; how long has it been since we have seen a bottle of milk?

Mr Prince: Twenty years.

Ms WARNOCK: As I was saying, we cannot have these young girls walking to the local corner store in the early evening to get a carton of milk and have someone soliciting them, as happens. It is just not the sort of thing that people want in their area, including the prostitutes. Perhaps the views of the community in this matter are ahead of those of the members in this House. The people I spoke to when I went to the open day at Madison Avenue were very sensible, ordinary people of all ages, all sizes, both men and women. A grandmother was there with her daughter who had a baby in a pram. They were intrigued and were giggling about the whole event. I did not hear anybody say, "Shock, horror". I saw nobody standing outside with a sign that read, "The devil will descend on you". People seem to have a down to earth attitude about this form of prostitution. In future, if we are seeking some way of dealing with this matter, we must take the same attitude. As I say, we support the Bill, but we await with interest a much fuller and more complete approach to the whole issue at some time in the future.

DR EDWARDS (Maylands) [7.37 pm]: Like the member for Perth, I welcome the fact that the Bill has arrived in the Parliament. I have some friends who live in the heart of Northbridge and for some time I have heard about the problems involving street soliciting. I took the liberty of referring those friends to the member for Perth. Street soliciting has been a problem. This family would have no problem with my telling everybody about this matter, because they were very upset about it. This family was having all the same problems as those outlined by the member for Perth: Children walking to the shops were being accosted; cars were driving around at a very slow pace; and women walking by were being solicited. It created a very uncomfortable atmosphere. When this family moved, they lived in the same area and were confronted with same problem daily. I hope the Bill can enable something proper to happen about the street soliciting we are seeing in the Northbridge area and other parts of Perth. Recently my stepdaughter was walking in an area near Northbridge and could see this going on. When that happens, as parents, we have concerns about the welfare of these children.

In 1984 and 1985 I conducted a major study on prostitution for the Civil Liberties Council of WA in a project for the Human Rights and Equal Opportunity Commission of Australia. As a member of Parliament I perhaps know a little bit more about prostitution than other members in this place although I need to add that my knowledge is quite old, because I did the study a long time ago. The aim of the study was to look at the rights of the people who were affected by prostitution. It was to look at the rights of women in the industry - it was mainly women at that time - to cast a glance over the rights of the clients, and then to look more broadly at the rights of the community. That is because prostitution impinges on people's rights and people's enjoyment of their community, particularly with the street soliciting we have had recently. A six week project turned into a six month project - I might add with no increased fees being paid. However, we all became so interested in the subject that we did not mind that it dragged on for six months. For the duration of that time I was the project officer for this study.

It distressed me when the study was compiled that it then took over a year for the Human Rights and Equality Opportunity Commission to publish it. When the commission finally published the study, there was no great editing or any major changes. I think it was nervous about putting out a paper dealing with prostitution. As far as we could gather that was the first time in Western Australia that someone had taken an overview on prostitution. The paper went into the long and colourful history of prostitution. We interviewed clients, workers and people in the community, so that we had the views of everyone. We also made some recommendations. The study built on the work of a royal commission and some other work that had been done. One of the strong calls from this report was for the containment policy to be written out. The containment policy then was an open secret, but nobody could get it in writing. Even then there were complaints from operators because they were not sure whether they were inside or outside the containment policy area, and they wanted greater certainty. Fortunately, since then a more pragmatic attitude has been taken, and the containment policy is now much more clearly defined.

My study got off to a flying start, and that reflected my naivete. A media release went out saying that the study was about to commence. I got a call at six o'clock in the morning from the *Daily News* which wanted to talk to me about it. That was fine; I was happy to talk to anyone. As they say, any publicity is good publicity, and we wanted everyone to know about our study. The *Daily News* asked me to go down to James Street at seven o'clock in the morning. I was a bit put out, but I got down there. I was nicely dressed and I had my clipboard and all my notes.

Mr Prince: Were you wearing red?

Dr EDWARDS: I was not. I was wearing white. I remember it distinctly. They asked me to stand outside a shop and the photographer was way over in the distance, about half a kilometre away. They ended up having a photograph of me right outside Barbarellas. Even though Barbarellas was 200 metres in the other direction they had used a very wide lens, and the headline on the front page of the *Daily News* was, "What's a nice girl like this doing looking at prostitution?" My family were mortified, because I had not told them I was doing the study. It had a really great result. We were inundated with telephone calls.

The saddest were the telephone calls from men who were using the services of sex industry workers. In fact, because I was a medical doctor some of them told me why they needed to see these people. There was a call from them for me to tell them that what they were doing was okay. I took a slightly hard-nosed attitude in that I was trying to get them to do interviews that were structured so that we could build up valid research on which we could base our study. The message that came from many of these people who had a relationship of types with "the girls" as they called them, was about companionship, a connection and making a link with someone they could talk to over time. I was astounded at that stage that some of them paid for but did not have sex. They paid to see someone. It was obvious that there were some lonely people out there. There were some heart-wrenching stories.

Mr Prince: That is not the case with street prostitution.

Dr EDWARDS: No, that is absolutely not the case with clients of street workers.

These men were quite "respectable". I had to take notes, but I made sure those notes were absolutely secure and I did not document anything that would identify people.

Mr Osborne: You did not drop them on the floor of Parliament House?

Dr EDWARDS: No, I did not.

What came through to me was the sadness of that situation. In some ways, although people do not necessarily approve of prostitution, with containment and the brothels as they were then, the situation worked reasonably well. These people went to a designated place. They were not out driving around trying to pick up people. It was in a controlled atmosphere in which the madams made sure that the women had health checks. At some level it was meeting a need that these people had. This is not what we are talking about tonight. We are talking about people who are driving around seeking out women and perhaps some young men who often have a drug habit and who need to make a fast buck to support that habit.

It is a sad situation, but at least aspects of this Bill go some way towards addressing that. The fact that this Bill targets the people who are doing the kerb crawling is a good thing. I am pleased that has happened, because in many ways that is innovative. Not a lot of other Legislatures have sought that remedy. I might add that from my reading, where they have, it has been pretty contentious with some mixed results.

Mr Prince: I spoke to some members of the London Metropolitan Police in February or March. They do not have this sort of provision but they do have a provision where they can track down the registered proprietor of the motor vehicle and they have a law that permits them to send a notice to the home where the motorist resides - "Dear Mr or Mrs". I gather that the divorce rate goes up. Which is not necessarily a desirable consequence.

Dr EDWARDS: It would climb rapidly. Maybe a bit of prevention is better than the cure.

I can proudly say that I am one of the few members who has visited a brothel and is now happy to talk about it. As part of my study I organised to visit a brothel. It was an elucidating experience. There was also a downside. We decided early on that in any interview I did or any visit I had with somebody involved in the industry I should have a chaperone. I had a friend who was somewhat older than I, but she had blonde hair and was very attractive - it was not the member for Perth. We went to a brothel and we met the madam. I call her the madam, because that is what she called herself. We met the girls, which is what they called themselves. It was useful to talk to them about their lives, about drugs, about the services and about what went on. As we walked out the door the madam grabbed my friend. I thought, "Hang on, what's this?" We had both been standing wondering how we could walk out of a brothel without being seen. We imagined that someone might see us. I am sure other people have had this experience. My friend was grabbed by the madam and they were chatting away. When she came out she was furious. I asked her why and she said that the madam had offered her a job. I said, "Well, I'm furious; she didn't offer me one!" There were lots of things that happened and we had lots of laughs, but it was quite elucidating.

Throughout the course of the study I went to the homes of women who were in the sex industry and I had workers in my home. What came through to me was that we all were people, but we were in different circumstances. It was often harsh economic circumstances that got them into this situation, and it then became very difficult for them to get out of it. Again I am pleased that the Bill has a different level of penalty for the women who are involved in prostitution versus the people who are seeking the service.

When I was doing my study I was able to visit New South Wales and speak to research staff there. It was interesting to hear what they were doing at that stage. They had a similar problem but they sought to ban soliciting around churches hospitals and schools. I was always a bit puzzled about hospitals. I could understand the ban around churches and schools.

Mr Prince: Given what happens in most hospital emergency departments on any evening, one would wonder why! I do not reflect upon the staff, just on what happens.

Dr EDWARDS: Similarly, I had a chance to speak to people in Victoria, and I was interested in their planning and the way they were moving towards licensing. In 1999, enough models have now been tried around Australia for us hopefully in the near future to have a more extensive package to tackle the problem. In 1985, I identified two problems, which might be what made the Human Rights and Equal Opportunity Commission nervous and why it sat on the report. At the end of the day, I must thank the media for my report ever seeing the light of day. The federal Freedom of Information Act had just been passed, and *The Western Mail* which existed at that time was about to be successful with an appeal to the Administrative Appeals Tribunal to get hold of a copy of my report, so it printed it in 24 hours and distributed it before the case was heard in the AAT, and thus it became public. The two problems I was concerned about then were AIDS and violence. AIDS had only just started to appear in the medical literature, but it seemed to me that a lot of unprotected sex was going on in the industry and that the issue of condoms needed to be seriously addressed. People who get sexually transmissible diseases do not get them from brothels. In fact, brothels have a much better record than what we might call the enthusiastic amateur who goes home with someone from a nightclub.

Mr Prince: Not an enthusiastic amateur. A promiscuous person is far more likely to, firstly, become infected and, secondly, pass it on than is any prostitute in a brothel.

Dr EDWARDS: These days a lot of young people practice what may be called serial monogamy, and if they contract a

disease like chlamydia often they do not know they have it and pass it on. The evidence now is that brothels generally are well regulated and the staff have health checks, and the incidence of sexually transmissible disease is low. However, among enthusiastic amateurs, and undoubtedly among street prostitutes, there is a pool of sexually transmissible diseases.

Mr Prince: It is promiscuity that is in any sense unregulated.

Dr EDWARDS: It is risk management.

Mr Prince: A brothel is by definition regulated promiscuity. Street prostitutes and those who are simply promiscuous, male or female, are, by and large, the carriers of any sexually transmissible disease.

Dr EDWARDS: We can have another detailed discussion about that matter. One of the issues I was clear about in my report was that it does not do much good to licence people, make them have health checks and give them certificates to say that they had a health check today and are clear of all these diseases, because their clients almost never have health checks, and the next client they see may have some disease or infection that infects those people and that will not show up, depending on what the infection is, for three or four weeks, or for three months in the case of HIV AIDS.

Mr Prince: In the case of chlamydia, it may never show up.

Dr EDWARDS: That is right, and that woman may infect someone. The consumer may think that because the woman has had a health check and has a certificate, there is a measure of protection, but of course there is not, because the greatest danger is the clients. I am pleased that this Bill addresses the health aspect. What diseases does the Minister envisage will be covered? Will hepatitis B be covered, for example?

Mr Prince: Any sexually transmitted disease or infection.

Dr EDWARDS: Obviously street prostitutes are likely to have a pool of diseases that not only are sexually transmissible but also relate to drug use.

Mr Prince: It does not need to be a disease that is transmissible only by sexual means. It is a disease that may be transmitted by sexual means, which includes hepatitis B and C.

Dr EDWARDS: I am pleased to hear that. That is an important distinction.

I was also concerned about the issue of violence and was particularly fearful for women who are sole operators. They explained to me, and I am sure the situation is probably similar today, that to try to keep within the law, and certainly within the containment policy, they could not have men act as their bouncers or bodyguards; and there are good reasons for that. However, equally, they were putting themselves at risk if, as happened periodically, they got a client who was crazed. At the same time, I was shocked at the extent to which prostitution was occurring in the community. I visited one person at home who lived across the road from a church, and she giggled because she said she was sure the people who attended the church every Sunday had no idea what went on across the road, despite the regular stream of nice cars in her driveway.

The Bill places a strong emphasis on children. None of us wants prostitution to involve children, and I am pleased that the minister has picked that up in the Bill.

When I did my study, I spoke to people about drugs, and it seemed to me that back then, and it may have changed since then, the principal drug that was used was major tranquillisers, and women in particular would tell me that they needed to be full of major tranquillisers and valium in order to do the job. The line they used was that the more out of it they were, the better they did the job and the more money they got. We are now in a different dynamic with street prostitution in that people are desperate for drugs.

Mr Prince: There is an element of reinforcement here. Because prostitution is so destructive of people's self worth, they anaesthetise themselves by using a cocktail of narcotics, both licit and illicit, and that leads to the necessity to engage in prostitution to earn the money to buy the drugs, and so on and so on. That is particularly the case on the streets, and much less so in brothels.

Dr EDWARDS: The other difficulty is if they are full of a cocktail of drugs, they are not as aware as they might be of what is going on and are not picking up the clues about whether they are in a violent situation or at risk.

I am pleased that this Bill also addresses advertising, because that area can do with some attention, and, like the minister, I congratulate the media on coming together and looking at a code of practice. I will be interested to observe that over the next few months to see what happens. I am glad that we are finally dealing with this matter. In 1986 when my report was released, the then Minister for Police said that nothing could be done about the problem because it was too difficult, to which I responded that Lord Forrest had made the same comment earlier this century, and something needed to be done. At least in 1999, we are taking one step towards what I hope will be a wider package where we can look at prostitution, acknowledge that it goes on and seek to have a better system of regulating it.

MR McGINTY (Fremantle) [7.57 pm]: Like other members of the Opposition, I welcome this legislation to deal with streetwalkers and their clients, and with children, and to give the police greater powers to deal more effectively with this significant social problem on the streets of Perth. While I am pleased that this issue is being dealt with, I am disappointed that the legislation does not go further and deal with all of the issues relating to this industry, because we are now left with some unworkable and anachronistic provisions which bring the whole of the law in this area into disrepute, in the same way as the containment policy, which is another way of saying we have a law but we will not enforce it, inevitably brings the law into disrepute, because people look at the provisions of the Criminal Code and the Police Act and laugh and say it is not a

serious law and is not intended to be enforced. We cannot afford to have laws like that on the statute book. This legislation deals with the most pressing public issue in respect of prostitution, which is streetwalkers and their clients.

This month, my appreciation of the problems faced by people living in some of the inner urban areas of Perth was heightened when I received a letter from Trish Milburn. It was a letter that I am sure every member of this House will recall having received. Trish Milburn lives in Pier Street in North Perth, and in her letter she related very objectively a harrowing tale of her experiences and those of her partner and their two young children, an 11-year-old son and a 13-year-old daughter, and the consequences of the decision, obviously against public policy, of shifting an illegal activity from the area where it had been in operation for a number of years in the vicinity of Hyde Park in Northbridge to the area immediately adjacent to Perth Oval in Pier Street, and the impact that had had on them in their family home. When I spoke to Ms Milburn and her partner, Mr White, on 5 November, the story they told me, and what I observed sitting in their house, was frankly appalling. I would not like such things to happen adjacent to, and in full view of, my house, and all members would feel exactly the same way. Streetwalkers were apparent, which must have a disturbing influence on the life of this family, and any other family in the vicinity. Ms Milburn and Mr White told me that they and their two young children were the latest victims of street prostitution; that is, they could watch sex acts occurring in the street from their lounge room window as streetwalkers are picked up before them. They said that their 13-year-old daughter was harassed by a kerb crawler on her way home from school, and he twice tried to get her into his car. Fortunately, the 13-year-old girl had enough wit about her to take down the car's number, and it turned out that the person who tried to harass her and get her into the car was a married man. He was taken to the police station, but there was not sufficient evidence to warrant a charge being laid. I hope that in future, particularly with an offence against a child - this legislation is fairly strong with offences against children - charges will be laid. The legislation is also fairly strong against the kerb crawlers. Ms Milburn as a member of public who runs her fashion photography business from home said she wants some action taken to overcome the problem for not only them, but also other families and business affected by street prostitution.

It is interesting how this debate has evolved over time. A broad acceptance of brothels appears to be found in the community. People know where they are, and they appreciate that, by and large, they are safe places which meet a community need. That is not the case with streetwalkers. A number of incidents have involved prostitutes on the streets with offences of a serious criminal nature in recent times. It is not only dangerous for the prostitutes but also significant health-related issues need to be dealt with. The experience of visiting this house in North Perth immediately adjacent to Perth Oval, and seeing first hand what the family must put up with, convinced me that pussyfooting around on this issue can no longer be justified. Protection for the community is needed. Strong laws are needed to prohibit street prostitution in residential areas. I put aside for the moment whether provision should be made to enable the desperate women, most of whom have a drug-dependency problem, particularly with heroin addiction, should have their needs accommodated in non-residential areas. Streetwalking in residential areas should not be tolerated because of the impact of this practices and its debris on families in residential areas.

What will remain of the law relating to prostitution once legislation relating to street soliciting is passed? I briefly touch on the existing law, which is quite an anachronism. The Criminal Code provision relating to prostitution is section 191 which reads -

Any person who -

- (1) Procures a girl or women who is under the age of 21 years, and is not a common prostitute or of known immoral character to have unlawful carnal connection with a man, either in Western Australia or elsewhere;

... is guilty of a misdemeanour.

The provision further outlines that any person who procures a women or girl to become a common prostitute, procures a women or girl to leave Western Australia for the intention of becoming a prostitute, or procures a women or girl to leave her usual place of abode to become a prostitute is guilty of a misdemeanour, and the penalty prescribed is imprisonment for two years. Those provisions will remain in the Criminal Code following the passage of this legislation before the House, which deals only with street prostitutes and prostitution law as it relates to minors. The quaint provision of the Criminal Code which relates to brothels is section 209, which is headed "Bawdy houses", and reads -

Any person who keeps a house, room or set of rooms or place of any kind whatsoever for the purposes of prostitution, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

In my electorate of Fremantle, 205 South Terrace is a well-known brothel. From a distance it appears to be a well-organised brothel. I have never in my nine years as the member for Fremantle had anyone complain to me from a public order or puritanical view about the existence of 205 South Terrace, Fremantle. I heard the member for Perth say that existing brothels are well known and pose no problems for the community. However, the people who run 205 South Terrace, Fremantle, if the law is not an ass, should be arrested and put in jail for three years, according to the Criminal Code. That provision will remain after the passage of this law tonight. Government action, whether it be by the police or the Government, enables a law to be ignored which states that if one has a brothel, one will be put into jail for three years. A Government which enables that to continue brings the law into disrepute. We should not have a provision in the Criminal Code which nobody, including the Government, intends to enforce.

Mr Prince: It has been the situation for 100 years. It was in the Criminal Code when it was written.

Mr McGINTY: I do not think community acceptance of brothels, and the dichotomy between what the law says and the reality, has been so pronounced for that long.

Mr Prince: I debate that. At the time of the First World War, a significant amount of prostitution occurred, as it did to a certain extent during the Depression years, and certainly during the Second World War and post-Second World War. It definitely was around during the Vietnam War when the rest and recreation took place. My point is that at various different times in the last century, almost as a barometer in a sense, greater tolerance or condemnation of prostitution has occurred in brothel or any other form.

Mr McGINTY: The Roe Street brothels in North Perth were legendary, although I do not remember them.

Mr Prince: I arrived in Western Australia after that era.

Mr McGINTY: The Hay Street brothels in Kalgoorlie are legendary. Parliament should not tolerate a situation in which the law is crystal clear, yet no-one intends to enforce it. It is against public policy to do that. In dealing with prostitution, that section should be repealed and dealt with more comprehensively. Another section in the existing law that will remain intact after the passage of the streetwalking legislation is section 213 of the Criminal Code, which deals with people who act as keepers of bawdy houses. Perhaps the parliamentary draftspeople or politicians in years gone by could not bring themselves to actually call it a brothel, but that is what a bawdy house is. The relevant provision states -

Any person who appears, acts, or behaves as master or mistress, or as the person having the care or management of any such house, room, set of rooms, or place as is mentioned in section 209, is to be taken to be the keeper thereof, whether he is or is not the real keeper.

This provision is honoured in the breach and brings the Western Australian Criminal Code into disrepute because nobody intends to enforce it. In that sense this legislation contains some disappointments. This fiction, or farce, has been allowed to continue because of a timidity on the government benches to properly deal with the issue. It is appropriate that we deal with the most pressing part of the prostitution issue; that is, the streetwalker and kerb crawler issue. However, it is disappointing that the matter has not gone further.

The other provisions relating to prostitution are found in the Police Act. The Prostitution Bill deals with soliciting on a street, so it is appropriate that the soliciting provision from section 59 of the Police Act is repealed. It currently reads -

any common prostitute who shall solicit, importune or accost any person or persons for the purpose of prostitution, or loiter about for the purposes of prostitution in any street, or place, or within the view or hearing of any person passing therein . . .

People who do this commit an offence. That provision is being repealed and replaced by far more verbose provisions in the Prostitution Bill. The rest of the farcical prostitution law will remain intact and can be found in sections 76F and 76G of the Police Act. The first section deals with brothels and the second with what has been traditionally referred to as "living off the earnings". Section 76F provides that -

Any person who -

- (1) keeps or manages, or acts, or assists in the management of any premises for purposes of prostitution; or
- (2) being the tenant, lessee, or occupier of any premises . . .
- (3) being the lessor or landlord of any premises . . . is liable, on summary conviction -
 - (a) to a fine not exceeding \$100, or imprisonment not exceeding 6 months; and
 - (b) on a second or subsequent conviction, to a fine not exceeding \$200, or to imprisonment not exceeding 12 months.

Keeping a brothel will remain an offence under the Police Act. Similarly, it will remain an offence to live off the earnings of a prostitute. Section 76G provides -

(1) Every person who -

- (a) knowingly lives wholly or in part on the earnings of prostitution; or
- (b) in any public place persistently solicits or importunes for immoral purposes,

shall be deemed to have committed an offence against section 66, and may be dealt with accordingly.

The section then states -

- (2) Where a person lives with, or is habitually in the company of a prostitute, and has no visible means of subsistence, he shall, unless he can satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

This is an important, but small, step in dealing with the prostitution issue. Our statute books will still contain legislation, in the form of the Police Act and the Criminal Code, that we laugh at, think is a joke and which none of us takes seriously. The police and the Government do not intend to enforce the legislation. Government ministers do not want the legislation enforced because they know it will create problems. It is the old ostrich approach: If one buries one's head in the sand and pretends something is not there, then it is not there. We on this side of the House think the legislation should go further for the important public policy reason that legislation should comprehensively deal with prostitution. This Bill does not do that, but at least it deals with a particular evil and provides what I hope will be a good remedy.

Notwithstanding the reservations the member for Perth alluded to, this Bill has the wholehearted support of the Opposition. It hopes - it will be a vain hope - that next year the Minister for Police will introduce more comprehensive legislation that deals with the total issue and does away with the farce of our current prostitution laws.

MS McHALE (Thornlie) [8.15 pm]: I will make a few brief remarks about the public health aspect of the Bill. My colleagues indicated that the Bill has the support of members on this side of the House, although that support varies in strength. However, the common denominator is that the Opposition supports the Government's intentions and attempt to legislate in this area. The Bill deals only with streetwalkers, and the member for Fremantle has already indicated that the Opposition would like the Bill to go further. I will not explore that area as it has been canvassed. I merely want to deal with a couple of clauses in the Bill and ask the Minister for Police, in between his huffing and puffing, to comment on those clauses.

Mr Prince: I beg your pardon?

Ms McHALE: The minister is on his side of the House huffing and puffing.

Mr Prince: I assure the member it is not in relation to her.

Ms McHALE: That is good. The minister can tell me later why he is huffing and puffing and trying to blow the house down.

Mr Prince: It has nothing to do with the member for Thornlie.

Ms McHALE: A number of constituents in my electorate have written to me expressing their concern and anxiety about the prevalence of prostitution. Those views range from the recognition of the need to regulate prostitution to a genuine desire for prostitution to be completely outlawed. We know prostitution has been around for many hundreds of years and perhaps the best way to deal with it is by regulation, rather than trying to outlaw it. Notwithstanding those views, many of my constituents are genuinely concerned and have sought guidance from the Government on managing prostitution. This Bill goes some way to dealing with one element of prostitution that members on both sides of the House believe is undesirable, causes health problems and is of grave concern to residents in those Perth areas where streetwalkers prevail.

I refer to two issues: One is to put on record the severe treatment of any person who knows, or is reasonably expected to know, that he or she has a life-threatening sexually transmissible disease and who commits a sex act. This has very serious penalties. According to the Bill, that applies to the streetwalkers, pimps and the person soliciting. We should be clear - if I am wrong I am sure someone will tell me - that the provisions in this Bill are very punitive for anybody who knowingly commits a sexual act if they are HIV positive, for instance, or have a life-threatening sexually transmissible disease. In trying to deal with various serious health issues among streetwalkers, whereby there is very little protection for the workers and their clients, this Bill adopts a very strong punitive approach. That is the legal framework. I hope there will be additional social strategies to deal with the fact that many of the streetwalkers are drug addicts or have some other illness that needs intervention strategies. It cannot all be dealt with in one Bill. Perhaps the minister will indicate what strategies the Government may be considering to deal with the other problems associated with streetwalkers.

I now refer to clause 31, which contains provisions for searching a person. According to the Bill, persons, whether they are prostitutes, pimps, clients or anybody else, may be forced to have a body cavity search. The clause states that the police officer cannot carry out a search of a person unless of the same sex as the person searched. Subclause (3) states that -

Nothing in this Part authorizes a search by way of an examination of the body cavities of a person unless it is carried out under subsection (5) by a medical practitioner or registered nurse.

Subclause (4) states that a police officer may arrange for a medical practitioner or registered nurse to examine the body cavities of the person to be searched. Subclause (5) states that it must be carried out by a medical practitioner or registered nurse, and subclause (6) states that a police officer may use any force that is reasonably necessary to perform a function under this clause. That gives rise to concerns, and those concerns have been expressed to me. Does it mean the police can forcibly detain a person in order to carry out a body cavity search? If so, under what circumstances would a person be forcibly restrained for a body cavity search?

Mr Prince: Clause 27 states that a police officer may without a warrant stop, detain and search anyone whom the police officer suspects on reasonable grounds to be committing an offence or carrying anything that will afford evidence for the commission of an offence. The member should now go to clause 31 which sets out how the search may be carried out. A police officer must have reasonable grounds to stop and search. Clause 31 states that, for example, if a female is stopped, a female must search her, and, similarly, it must be male-male.

Ms McHALE: The first step in the process is that there must be a cause to stop the person.

Mr Prince: There must be a cause to stop the person. It is not on a random basis, whereby a person will be held down while a doctor or nurse searches that person's body cavities. There must be reasonable grounds. That is an objective test of suspicion of commission of an offence.

Ms McHALE: Is that provision under which a body cavity search is forcibly carried out in any other legislation?

Mr Prince: It is, after arrest. There is a general power under the Criminal Code to search and take body samples and so forth after arrest, and under the Misuse of Drugs Act there is a power to search before arrest. The provisions in that Act are almost exactly the same as these. It is almost rewriting the Misuse of Drugs Act 1981 and clearly is aimed at drugs.

Ms McHALE: Under the Misuse of Drugs Act 1981, if there is a suspicion of an offence being committed, can a person be forcibly detained?

Mr Prince: Yes. A police officer has the power to tell people to turn out their pockets, take off their clothes and so on. Police do that, but not often.

Ms McHALE: This power is more or less the same.

Mr Prince: It is the same power but it is in relation to a different area of criminal activity. The difference is that when a police officer reasonably suspects, for example, that this man is the person who is the pimp for this girl, he can search this man.

Ms McHALE: Very clearly, the power to carry out a body cavity search would be invoked in the context of suspicion of drug dealing.

Mr Prince: It would be suspicion of commission of an offence under this legislation, such as streetwalking, street soliciting, by a male or female, and/or the involvement of children in prostitution.

Ms McHALE: Would the police be able to invoke the powers under the Misuse of Drugs Act?

Mr Prince: Yes they can, but they must have reasonable grounds to suspect there is an offence under the Misuse of Drugs Act. Under this law, if the police have reasonable grounds to suspect, for example, this male is living off the earnings of that girl in this piece of street, they may search this man. They may then find drugs.

Ms McHALE: I am talking about body cavities - anal or vaginal.

Mr Prince: That is where you are likely to find drugs.

Ms McHALE: I know that. These are very intrusive procedures and we must make sure that those powers are used sparingly and with justification.

Mr Prince: The difficulty, particularly with street girls, is that most of them - I agree with the member for Maylands on this - use a cocktail of drugs of heroin and others. They are a small quantity drug and the girls are very adept at hiding them in their body cavities very quickly. If the police suspect someone is a street prostitute but she has not been caught in the act, they can take her to the station and she can be searched by a nurse. If they find drugs, a charge can be preferred, but otherwise they use the move-on power. We must try to get them off the street and, insofar as is possible, get them into a program that will help them keep off the street.

Ms McHALE: That power of body cavity search presumably also could be used on the third party if a pimp were involved.

Mr Prince: Absolutely, if a pimp is "running" a number of these girls; the police arrested one some months ago with 60 deals on him. I have the greatest contempt for that individual, who is doing this for greed and money and not for any other reason. I have far more sympathy and pity for the girls than I ever have for a man who does that.

Ms McHALE: I just want to have on record what the powers of this Bill are because it is incumbent on us to explore it so that we do not rush through it.

Mr Prince: You have identified a quite serious power to give to police. It is already there in the Misuse of Drugs Act and it must relate back to a reasonable suspicion that the police officer has of the commission of an offence.

Ms McHALE: I will move back to clause 28, which relates to the entry of, and seizure at, a place of business without warrant. This gives the police very wide-ranging powers to enter any place without a warrant if they suspect that prostitution is being carried on and they can inspect any articles or records kept there. That suggests to me that they could enter a brothel and check records.

Mr Prince: Yes, but only in the context of this Bill. This Bill is about streetwalking, which most brothels will not have anything to do with. This Bill is about children in prostitution. If a police officer has reason to believe that there is information in a brothel relating to children in prostitution, the officer can go straight in without a warrant.

Ms McHALE: Part 3 contains provisions about children; part 4 contains provisions about police.

Mr Prince: The police powers that are contained in this Bill relate to the offences described in this Bill and not generally. For example, if a police officer gets information on the street that there is a child of 16 years of age or similar in the brothel just down the road, the police officer can, without the necessity of going to find a justice of the peace, swearing out a warrant and all the rest of it, go straight in. More often than not, the child will not be there for long. The officer can go straight in without a warrant and stop, detain and search anyone in the place. He can say, "I have reason to believe there is a child here. I will search the place and look at your records to see if there is any evidence of a child involved in prostitution in this place." That is not a general power of entry at all but must relate to the offences that are created under this Bill.

Ms McHALE: It would be knowing where there is a child prostitute.

Mr Prince: Yes, that is a classic example.

Ms McHALE: The police cannot enter premises without a warrant if there is no suspicion of a child prostitute?

Mr Prince: Another example would be that they had been given information that a prostitute with a sexually transmitted disease is working in a brothel or a man with a sexually transmitted disease has just gone in one. They could go straight in without delay. To get a warrant might take an hour, by which time the person may have gone.

Ms McHALE: So the Bill gives some limited power to the police to enter brothels for the purpose of investigating certain matters?

Mr Prince: That is right, yes.

Ms McHALE: That really stretches it a bit away from streetwalking.

Mr Prince: The Bill is only partly about streetwalking; it is mostly about children, anyone under the age of 18, who are involved in the wider sense in prostitution and anybody who feeds off them.

Ms McHALE: It is important to get that clarified. I wanted to put on record those concerns about the very wide-ranging power of body search. That is generally a departure from the usual police procedure and investigation. The minister says that the power is in the Misuse of Drugs Act. I can see a link but it is important to have on record that the powers are there and also to clarify the entry provisions.

In conclusion, many people in Thornlie who do not have prostitution on their doorstep and who see it as an issue for the inner metropolitan seats, nevertheless are concerned about the welfare of women and children who may be drawn into the field of prostitution. We should not think, and I am sure that the Government does not think, that this is the solution. We need to follow many more steps. I would be interested to hear in the minister's response what the Government is planning to do in relation to drug addiction for many of these young women and the other health and social problems which drive them into street prostitution as opposed to working for brothels.

MR McGOWAN (Rockingham) [8.35 pm]: Like the other speakers on behalf of the Opposition, I indicate my support for this Bill. Although I support what it is trying to do in trying to remove prostitution from our streets, in particular from residential areas, I have some concerns that it is only part of the equation and hence will be ineffective in a lot of respects.

A lot of people involved in street prostitution are drug addicts. Virtually all of the women and men who sell themselves on the streets of Perth have some sort of drug addiction. It is a terrible affliction on them and appears to be something that a great many of them can do very little about. Most, if not all, who are involved in this appalling way of making a living would not want to be doing what they are doing but for the fact they are addicted to these drugs. Because they are addicted to these drugs, outlawing their street soliciting, although I regard this as a positive step, does not remove the overall problem, which is that they need money to support their habit. It is only part of the solution. The solution to this problem is a very difficult question. There is a considerable risk that they will continue to offend. They will be constantly fined, and I suppose in the end - it will probably take a considerable time - some of them will be sent to prison for what they are doing. This Bill will not do a lot to help to solve the problem of their drug addiction. As I indicated, it is only part of the solution to the problem of prostitution besetting this State.

I have some experience of this where I used to live. I was formerly a resident of Brisbane in Queensland. When I lived there, an interesting story appeared one day in *The Courier-Mail* newspaper. A journalist got into his car with a photographer and drove to Fortitude Valley, the red light district of Brisbane. He interviewed some of the people involved in the industry and discovered that an immense amount of corruption was involved in the prostitution industry in Queensland, and in Brisbane particularly. His story led on to probably the most famous *Four Corners* episode in its history when it exposed corruption involving the prostitutes and the Police Force in Brisbane, which stretched all the way to the Commissioner of Police. I suppose, in the end, in December 1989 it led to the downfall of the National Party Government, which had ruled in Queensland for 32 years. That particular series of events was chronicled every day from about 1987 to the election in December 1989 on *The Courier-Mail* newspapers' front page, inside page or page 3. Every day it covered the links between the Police Force and prostitution in that State, the corrupt activities of Terry Lewis, the Commissioner of the Police Force of Queensland, and his involvement with his bag man, whose name I think was Jack Herbert, and a ring of police officers. There were also some implications, of which my memory is hazy because it was more than 10 years ago, that Lewis had been promoted over the top of about 18 other officers to achieve the job of Commissioner of Police and that some of the funds he had been procuring through his involvement in organised crime in Queensland had been making their way to the Government. The people adjudicated on that. They went through about three Premiers in two years, Joh Bjelke-Petersen, Mike Ahern and Russell Cooper, a very unfortunate man who was Premier for about two months. In the end, the election of 1989 gave the Goss Labor Government a mandate to clean up what had occurred there in relation to prostitution, the Police Force and the Government.

The events in that State have the potential to occur in Western Australia. At present prostitution is controlled through a containment policy. Although I think seven brothels in this State are legal, there are dozens of brothels in Western Australia, the vast majority of which are established illegally. The Police Service turns a blind eye to them and does not prosecute. However, it leaves the situation open to becoming like that which existed in Queensland in the lead-up to the Fitzgerald inquiry of 1987. It is a system in which brothels are acting outside the written law of the State. We must address that. Almost every other State in the Commonwealth is addressing or has already addressed that problem.

New South Wales has gone through a range of experiments. It has implemented a system whereby brothels are required to operate in light industrial or commercial areas. Their approval is governed by local councils under a specific Act. The Police Service has been removed entirely from the process. Local communities are left to determine where the establishments will be permitted. That system has its benefits and its flaws. A range of councils, as I suspect would a range of councils in Western Australia, take the view that they do not want any brothels, therefore they will not approve any. That results in brothels being established illegally.

Under the prostitution legislation, anyone who wanted to establish a brothel could appeal a council decision made on moral grounds, such as prostitution is dirty and awful, and have the council's decision overturned. In New South Wales a brothel can be established in a light industrial or commercial area. As I said, that system has taken the police out of the equation. It has removed an opportunity for any kind of corrupt police conduct to occur.

The legislation contains a range of requirements such as health checks and the need to locate in non-residential areas. The community has acknowledged that it does not really like prostitution; it is not a very appealing feature of society. However, it has accepted that it is the world's oldest profession and that, plainly, a head-in-the-sand attitude by the Government will not work.

We need to adopt a similar approach in this State of legislating to enable brothels to be established subject to local control in non-residential areas. They should be restricted to light industrial or fully industrial areas. It is a far better direction to take than the present unofficial containment policy, that leaves the way open for police corruption to rear its ugly head in our State, as occurred in Queensland.

Victoria has a system in place under the Prostitution Control Board, which has representatives from the industry, the Police Service, health professions and the like. It issues a licence to establish a brothel under certain conditions, subject to the payment of an annual fee. The Prostitution Control Board is designed to ensure that organised crime and the prospect of police corruption is removed from the system. Queensland is following a similar system, although I think additional fees are incurred; nonetheless, it is addressing the issue in the light of the police corruption that occurred there.

Victoria, New South Wales and Queensland have all addressed prostitution. I understand the Northern Territory has also addressed the matter, although I do not think its system is particularly good. One of the changes has been to legalise escorts. South Australia intends to introduce a Bill into the Parliament and will allow all members - both sides have agreed - to have a conscience vote on whether to support the Bill. I understand Tasmania is working on a system to regulate prostitution along similar lines to the process in Victoria and Queensland.

That leaves one State - Western Australia. A Bill is before the Parliament in Western Australia that will address one very small part of the issue, that of streetwalking. It does not address the wider issues of prostitution in relation to organised crime and police corruption. I am sure, as the minister, certainly the Deputy Premier, will freely acknowledge, it is too difficult to deal with and the coalition party room will not deal with it.

Seven years ago, a distant time for me, the Labor Party was in government and I do not think we addressed the issue either. Perhaps we introduced a Bill.

Mr Prince: You commissioned Mrs Beryl Grant to do a study. She did a very good study and you shelved it.

Mr McGOWAN: In any event, the Labor Party did not control the upper House, although I am not trying to make excuses; whereas the Government has an Opposition that will support a Bill to fully deal with prostitution. There is no perfect solution to this problem that will keep everyone happy. Not everyone will be happy with prostitution being regulated. People will sit in the gallery and say that we are giving in to the forces of evil when we legislate to provide a legal framework for brothels. However, as I said, this Government has an Opposition that will support a Bill. We want to see this important social issue addressed.

I am sure I can read the mind of the Minister for Police and I am sure he knows a Bill is necessary.

Mr Prince: I can't read my own mind.

Mr McGOWAN: I know that the police commissioner, former commissioner and Deputy Premier support it, and I am pretty sure that the Deputy Leader of the Liberal Party would also support it. However, the coalition party room is the stumbling block. We must address this as a Parliament. The Bill before us addresses only one small part of the problem. Although, as I said, on balance it is probably a positive step, particularly for those people living in areas where this sort of thing takes place, in a general sense many of these activities will not stop. They have tried to outlaw this sort of thing in all parts of America, but it still goes on, because desperate people resort to desperate measures. It is a positive step and the people who live in these areas have been calling for it. We should give it a go, at least to make their lives slightly more pleasant.

Last night I had a cup of tea with a woman who lives in Perth. I think she has been prominent in the media of late. She was telling me all sorts of stories about how kerb crawlers have attempted to pick up her daughter, who is only 13 or 14 years of age. They have attempted to pick her up in the same way, merely because she lives in a particular suburb. She is outraged by it. No-one should have to endure that sort of treatment. That is why I support this Bill. Although I do not think it will completely solve the problem, on balance it may make her life and the lives of the residents in that area slightly better. I know that the Opposition and our police spokesperson, the member for Midland, have been pushing for this type of legislation. She forced the Minister for Police to come up with this Bill by introducing her own Bill. In a way it is the Opposition's Bill that we have before us at the moment.

I have one concern in regard to some of the provisions of the Bill; that is, officers going undercover to seek evidence against a kerb crawler with the view to prosecuting that person. My concern is that it obviously runs the risk of being known as entrapment. Entrapment does not exist in the law in this State. It is not recognised by the Criminal Code or by the courts in this State. However, I have some difficulties with concepts.

Mr Prince: It is, however, an issue that can go to the question of intention, when intention is an element of an offence.

Mr McGOWAN: That is true, but I was about to raise a practical situation with the minister; for example, an individual is talking to someone he or she meets on the street and could possibly be prosecuted when that person's actual intentions, although not entirely honourable, were not intended to procure a prostitute.

Mr Prince: It is far more likely to be used when there is suspicion of child prostitution in a brothel, for example, or some other place when there is information that this is going on. We may wind up with a police officer - male or female - going

in, giving a false name and asking whether that brothel has anybody who is 16 years of age. That is the only way we will ever get the evidence that will be sufficient for a prosecution in which the information is not enough. In a sense that is entrapment, and if the person who is believed to be offering this, because that is the information received, then says, "Certainly, but the price is", we have them. It must be very carefully used only on the right information and only on the appropriately selected officers.

Mr McGOWAN: Is there a prospect that this provision could be used to place on the street attractive police officers dressed in clothes that would ordinarily make them look like prostitutes in order to prosecute kerb crawlers?

Mr Prince: That is conceivable, but I suspect that would be done only if there were a known kerb crawler who, for various reasons, the police had not been able to prosecute. It is a device for targeted policing against someone who is reasonably believed to be committing criminal offences, but the police cannot get the hard evidence. That is the only time it will be done; it will not be done on a random basis.

Mr McGOWAN: We see it in American television programs all the time, whether it be in *Hill Street Blues* or in movies. Police officers are dressed up as prostitutes to catch people. I find that whole concept very alien to our culture.

Mr Prince: That is more fiction than fact, because I am sure that the Americans have strict laws about agent provocateurs and entrapment, and it varies from State to State. I do not see the police doing that. It is not the sort of thing on which we will waste police resources. It will be used and targeted when the police have good information that an offence is being committed but they do not have the evidence to prove it.

Mr McGOWAN: It would be in extreme circumstances. The minister cannot envisage circumstances other than those he has raised with me in which it would take place?

Mr Prince: It relates only to the offences under this Bill, which are largely to do with streetwalking, street soliciting and children. I gave you the example of a rumour that a massage parlour will provide a 14, 15 or 16 year old if a person asks and is prepared to pay. If we cannot get the evidence, we will send somebody in there to see whether that person can get the evidence.

Mr McGOWAN: That is a positive development if that is what it will be used for. I will conclude my remarks by saying that I support this Bill on balance. It is only part of the equation. The minister knows that it is only part of the equation and that we need overriding prostitution laws. The vast bulk of the public of Western Australia would also realise that. There has been a softening of attitudes. People are not as strict in their views that something is bad and that, therefore, we need to outlaw it. They recognise reality in relation to these issues and that this industry will keep going irrespective of what we as a Parliament say. They are saying that we as parliamentarians must come up with a scheme which attempts to meet community needs in terms of location and which attempts to prevent corruption and organised crime becoming involved. The minister might be on his eighth draft of the legislation, but I implore the Government and the coalition party room, which is increasingly flexing its muscles, to bring something into this Parliament. In doing so, it will receive opposition support, which would have been a very different situation from that which existed in the last Government seven long years ago.

DR CONSTABLE (Churchlands) [8.58 pm]: I welcome the opportunity to make some brief comments in support of the Prostitution Bill. It has been a long time in the making, as I am sure other speakers have observed. In giving support, I also recognise that the vast majority of people in the community of this State will also support the provisions in this Bill. The purpose of the Bill is to give increased powers to the police, particularly to better control child prostitution, and no-one would argue with that; street prostitution, and very few people would argue with that; kerb crawlers; and advertising and censorship. I support this Bill, but I am concerned, as are other people, that perhaps we are looking at only part of the picture. However, this part of the picture is essential and it is essential that we deal with it.

It is very gratifying that the Bill regulates not only the activities of prostitutes but also the activities of their clients. There was a discussion on the radio this afternoon about the use of language in reference to prostitution. For centuries women have been called whores, prostitutes and other names that have extremely negative connotations, but we call the people who procure prostitutes "clients". Just as lawyers call their customers "clients", we call those who use the services of prostitutes "clients". One woman suggested that perhaps we should find some negative term for these people to even up the use of the language. The word "client" gives some credibility to those involved in this activity on our streets and in our towns.

First, this legislation makes street soliciting and kerb crawling illegal, regardless of who initiates the action. It is an enormous step forward that, along with the prostitute, the so-called client is now seen to be committing an offence. The legislation precludes a person from acting as an agent for either the prostitute or the person seeking the services of a prostitute. That is a very important aspect of this legislation.

Secondly, the essential part of the legislation is that it aims to eliminate child prostitution. I doubt that anyone in the community would openly support the notion of child prostitution or the encouragement of child prostitution. The laws in this case should be very harsh because it is something we do not want to see. Thirdly, the legislation seeks to protect the community by creating offences relating to health. Again, this is a very important area that must be dealt with.

This legislation has been a long time in the making. Not only has this Government been promising it for the almost seven years that it has been in office, but I can remember another life in which I was the chairperson of the women's policy subcommittee of the Liberal Party which in 1988 tried to write a policy relating to this issue. The community and political discussion has gone back a long way. It is a great shame that this legislation was second read only yesterday and that we have had barely 24 hours to examine and digest it before speaking on it. I am sure that, like many other members, I have

had time to have only a cursory look at it. There is a real danger in treating any legislation in this way. To rush through the debate on the legislation and not to have enough time to scrutinise it runs the risk of making mistakes and having to come back next year to correct them. I urge the Leader of the House to ensure that this does not happen often with any legislation, especially with legislation as important as this. It is important legislation and it is important that we get it right.

The minister stated in his second reading speech that the time it has taken to get this legislation into the House was not the result of a lack of commitment. I accept that, but he went on to comment -

... the delay has been occasioned by the need to achieve a position on this issue, which, at the end of the day, is not only acceptable to the community generally but also, in terms of effect, enforceable.

I do not believe it has needed seven years to get to this point, but it has taken that long.

Mr Prince: Without wishing to contradict the member, I think it was the member for Wagin, as the Minister for Police, who suggested in 1996 that this should be done.

Dr CONSTABLE: We were talking about it in 1988 when I chaired the women's policy subcommittee.

Mr Prince: In the life of this Government, it was first raised in 1996.

Dr CONSTABLE: Perhaps it should have been addressed before that.

The minister stated in the second reading speech that the legislation will bring about a reduction in the demand for street prostitutes. It probably will do that. The minister stated -

In reducing the demand for services it is reasonable to assume that supply will also diminish.

I can see street prostitution diminishing, but I am not sure that, in dealing with only part of the problem, we will not create other problems. This certainly raises a number of questions. Given that the penalty is a maximum of two years' imprisonment for street prostitution, it is probably fair to predict that it will be less visible than it is today.

However, questions arise: What will be the effect on brothels? Will there be a greater demand for brothels? Will more brothels spring up? Will more single operators set up in suburbs around Perth? That is a very important question. Two or three years ago I had a call from a resident in City Beach who was very upset because a single operator had set up shop in a rented property next to her home and family in a quiet suburban street. Unfortunately, the law as it stands does not deal with single operators. I called the local police station and discussed it with the sergeant, who said nothing could be done. Not long after that, for whatever reason, this single operator moved from the property. However, the single operator's presence caused much anxiety and worry. These are the issues we need to address. I would not be surprised if, in dealing with street prostitution and kerb crawling as we are, we see a mushrooming of the number of single operators setting up in properties in and around Perth. I see the Leader of the House nodding his head in agreement.

The Bill deals with only a couple of issues; it does not deal with the very important issues that must be addressed with regard to prostitution. It is highly likely that, in solving some important issues, we will create new issues or exacerbate other problems that already exist.

The minister also pointed out a very serious matter in his second reading speech -

A number of women soliciting in this manner -

That is, street prostitution -

- are looking to support a drug habit or to make a living.

What will these women do once this law is passed and they can no longer solicit in the streets? What will they do to feed that habit? Will they turn to other forms of crime? Will they continue soliciting, perhaps in quieter places rather than in the obvious areas of inner-city Perth? That is a major issue. We must ensure that these women know where they can go to access rehabilitation programs. Women who do not have jobs and who work the streets to make a living, to feed themselves and their children, should be told that counselling services are available and that they can obtain assistance, even financial assistance if necessary. If the Government passes this legislation without addressing those issues, it will be doing these women a grave disservice. We recognise some of the problems they face and we must help them to solve those problems.

I totally support the measures addressing health issues and the penalties provided in the Bill. The Bill recognises the importance of offences that involve the transmission of life-threatening diseases. Some people might say that a 20-year maximum penalty for transmitting infections such as HIV and AIDS is not enough and that perhaps it should be more. I think that the five-year maximum for transmitting non-life-threatening diseases will gain general acceptance in the community. I wonder how the community will interpret the stance taken by the Government. On the one hand, we are legislating against certain activities and behaviours relating to prostitutes, but we continue to turn a blind eye to other activities. Somewhere along the line, and some time soon, some Government must take the serious step of dealing with the issue as a whole. I suspect that this legislation with which we are dealing tonight, in solving the visible problem of street prostitution and kerb crawling, will exacerbate the other problems that still need to be dealt with. Therefore, the Government and the authorities continue to condone illegal activities relating to prostitution covered by other laws. In fact, they condone those illegal activities, provided some disease is not transmitted as a result of those activities of prostitution. Therefore, there is not a lot of logic in part of what we are doing tonight.

This Bill is only part of the story. I sincerely hope that the Government has the resolve to come back with further legislation

before too long to deal with the entire issue. The example that I gave in my electorate is a serious one, and I sincerely hope that we do not see an increase in single operators setting up. However, I think I will be disappointed and that that will be the case. I repeat that I support the legislation.

I draw attention to one other comment in the minister's second reading speech. He said -

While the exploitation of women is a serious issue, the community generally is appalled by those within society who would see fit to exploit children for the purpose of the sexual gratification of others, . . .

I agree totally with the second part of that statement. The community is generally appalled by that behaviour towards children. However, a comparison is almost made in that statement that the exploitation of women is serious but the exploitation of children is more serious. The exploitation of anyone in our community for whatever purpose is appalling and equally serious. Although this legislation deals specifically with the exploitation of children, we should not go soft on the notion of exploitation of women and men in our community.

MR PENDAL (South Perth) [9.12 pm]: I support the Bill, and in the first instance I congratulate the Government for having introduced some form of legislative control in the dying days of this session. It is probably decades since the Parliament and Western Australia has seen a serious attempt to better the laws and improve the laws that have been operating for well over 100 years. If we are making any mistake here, we are making a mistake in dealing with the matter as quickly as we are. My recollection is that the Opposition introduced a Bill some time in the middle of last week. The Government approved a Bill for introduction into the Parliament some time on Tuesday of this week, and now on Wednesday we are about to deal with all stages of the Bill, if not tonight, tomorrow.

I know that it will not mean very much, but I call on the memory of the late Andrew Mensaros, who taught many new members of Parliament 10 or 15 years ago that whenever Parliament acted quickly or swiftly, it invariably got it wrong. I would have thought that with a Bill of the kind that the Government agreed to as late as Tuesday of this week, knowing that it would have the support of the Opposition because it was not dissimilar to that which was announced last week by the Opposition, it might have been a good idea to allow the Bill to remain on the table of the House over the Christmas and summer recess, perhaps making it a priority early in the new year. I repeat that on most occasions when the late Andrew Mensaros warned that there would be a price to pay for shuffling a Bill through very quickly, he was invariably right. I hope that will not occur. Nonetheless, I signal my lack of enthusiasm for dealing with this Bill as quickly as we are being asked to do tonight.

I have said that I support the Bill. Ironically, I am happy that it does not deal with the central issue at stake; that is, whether we should be institutionalising, legitimising and regulating prostitution. The reason I am happy that the Government has fallen short of that is that, frankly, I am not sure which way I would have voted had the Government brought in a Bill of that kind. I notice that the Opposition did not bring in a Bill of that kind a week ago. If we in any way broadly reflect the view of society in Western Australia in 1999, which I think we do, it is interesting that we are dealing with a Bill that touches on the peripheral questions but does not address - I have already said that I am pleased it does not - the central, single issue of whether we should be regulating and legitimising the practice.

I know that it might not be fashionable to say so, but I happen to think that the policy of toleration and containment has served Western Australia well. I have no doubt in my mind that prostitution per se is wrong. Invariably, that brings on the debate that, notwithstanding that it is wrong, it is inevitable in our sort of society.

Ms Warnock: It has existed in every known human society for thousands and thousands of years.

Mr PENDAL: Sure. I say this to the member for Perth: In every sophisticated society throughout the world for thousands of years until the middle of the last century, so too has slavery. Slavery was built into the culture of almost every country.

Mr Prince: It still is in some places.

Mr PENDAL: It is now condemned by the United Nations, and condemned and outlawed by most enlightened, sophisticated societies like ours. Therefore, it is no argument to say that prostitution, because it is inevitable, should be tolerated.

Ms Warnock: Nobody is saying it should be tolerated.

Mr PENDAL: This is my speech. I am saying here tonight that that was the attitude taken a century ago in respect of slavery. After thousands of years of it being part of the culture of so many societies, the so-called enlightened world said that it was wrong to treat a man or a woman as a saleable commodity, usually because of the colour of his or her skin. I know I used this argument last year in the course of the abortion debate. It is still relevant to this debate. Prostitution is not inevitable; it does not need to be integrated and legitimised. I know that is not what the Government has in mind on this occasion. I repeat, I think the minister handling the Bill has shown a level of courage that Governments, certainly to my knowledge for the past two decades, have failed to do. That is one of the reasons I am a bit relieved to know we are not addressing that central issue. If we were, I think, but I am not sure, that I would seek to make the case that we should keep the practice at arm's length for as long as possible, in the hope that the role of education could one day mean that society in future does not rely on prostitution for human relations. It is demeaning for women, but it is also demeaning for men because it says that people in our society need to make commercial recourse to physical relations.

Ms Warnock: Some people do, quite obviously.

Mr PENDAL: Not only some people do. We know it is a flourishing, multimillion dollar industry. I am saying that we have made considerable progress in the past century and a half in the so-called enlightened world by banning such things as

slavery, but we still have a lot of catching up to do in terms of prostitution. Why? Because our so-called enlightened attitude is that it is inevitable and it will always be there. That was said about slavery and other forms of human abuse over many years.

Mr Prince: There is a certain element of slavery in prostitution.

Mr PENDAL: Yes indeed. The minister's interjection is a very good comment. If the Bill has a weakness, it is that the minister's speech tends to be offhanded about the exploitation of women. I note that the member for Churchlands referred to that aspect. The Bill is dealt with in a comprehensive way in the second reading speech and the accompanying explanatory memorandum, and it is a weakness that it has dealt with the exploitation of women in such a peremptory way. If the Bill has a strength, and I think it does, it is that it determines that people under the age of 18 years may not be involved in the practice. As a conservative social thinker, I find it interesting that we shall impose, and I hope enforce, a cut-off point of 18 years. I find it not only encouraging, but also a bit puzzling, in the light of the pressure on Parliaments and Governments in the past 20 years to lower the age of consent in other fields of human activity. I think the Government has it right, and perhaps the decision we make today will be visited again when other debates of an associated kind take place in the near future.

In a way, we are closing down the argument on prostitution at least for another generation. We shall not have to address that single central issue of whether to legitimise prostitution by a Bill of a wider nature. I repeat, I am not unhappy about that because, had we been confronted with that sort of Bill, I am not sure how I would have reacted. I commend the Government to the extent that it took an interest in the matter to take it off the political boil and, to some extent, the Opposition also deserves some commendation in that regard.

Finally, I think some of the peripheral issues dealt with by the Bill perhaps do not go far enough. I am very encouraged by the fact that advertisements for employment in this field will be banned, and I welcome that. I still find it an incredible compromise that newspaper advertising for the trade will be a very lucrative income earner for newspapers in this town. Only 10 or 15 years ago society, through Parliament, allowed the banning of advertising for cigarette products. Why? Because it was felt that cigarette products were injurious to a person's physical health. There is some analogy there and some oddity that 15 years down the track we leave the current regime in place. I will not go so far as to congratulate the newspaper industry, as the minister has done in his second reading speech, for the reasons I have outlined. Nonetheless I express concern over the one real weakness; that is, we are dealing with this issue at a pace and rate that is not necessary. The Bill could well have been laid on the Table of the House for the summer recess and be given priority on the Notice Paper for the opening of the new session. However, to the extent that the Government has tackled the issue, I commend it and I support the Bill.

MR PRINCE (Albany - Minister for Police) [9.27 pm]: I thank members for their contributions, which have all been positive and have shown the speed with which a Bill can be analysed and debated in detail, given that it became available just over 24 hours ago. A few matters were raised by various speakers, to which I should respond.

The member for Perth talked about the assistance to prostitutes who are street walkers, particularly young girls. This matter was also raised by the member for Churchlands. As I said in the second reading speech, there are, of course, a significant number of government and non-government agencies the function of which is to look after people such as prostitutes who resort to the streets. A variety of agencies deal with finding homes for the homeless and are there to help with health problems and all sorts of counselling. I know the member for Perth is associated with one such agency, which is a non-government organisation. I respectfully suggest that a plethora of help is available. Part of the problem is that many of the women, particularly the young girls who are on the streets for whatever reason, do not resort to these agencies. I suspect, particularly in the case of youngsters, that it is because they are in some thrall to a male who is living off them. It is essential and necessary, therefore, to get them in touch.

Part of the legislative solution to that problem can be found in clause 60, which provides for exchange of information between government agencies, such as Police, Health, Family and Children's Services and the Ministry of Justice. There is a process for overcoming confidentiality provisions which would otherwise limit the free exchange of information. The object of the exercise is to enable agencies to be informed about these people and, therefore, be able to act. It is also the case, as I have said, that many of these children do not voluntarily seek assistance. That is the sole reason that the Bill contains the offence of being a child prostitute. It is not that I or the Government wish to make criminal the activities of a 14-year-old girl who is prostituting on the street. We do not want to do that as a matter of course, but it is a means to an end. The Bill gives the ability to take that child off the street and put her in some form of care. Even Banksia Hill Juvenile Detention Centre would be a better place than on the street. By getting her off the streets we would be able to deal with the underlying problems and causes that take a child into prostitution. As in the past, not all but many children of that age who find themselves on the street and keep body and soul together by selling themselves to men, are victims of child sexual abuse. Almost invariably they have come from what is euphemistically termed a dysfunctional family, and have usually been the subjects of abuse for much of their young lives and are often people who are addicted to or habitual users of various forms of narcotics, both legal and illegal.

In a sense, in order to be able to recover and rehabilitate them, it is necessary to lift them out of that circumstance. There is no home to which they can go. There is no place to which they can be released; if there were, they would not be on the street in the first place. There is no-one with whom they are associating who is likely to try to dissuade them from behaving in this way. I speak in a generality, and the information we have is that there are about a dozen under-age girl prostitutes at present. The figure varies from time to time, but it is about that number at any one time. Family and Children's Services has received two reports in the past little while. We are not talking about a large number, but we are certainly talking about

people for whom, unfortunately, making criminal their activity is the one way in which we are able to rehabilitate them to get them off the street.

Women prostitutes aged 18 and over often have come from the sort of background I have described. However, they have the capacity to be able to break free if they are given some assistance and help. That is certainly part and parcel of what one would expect. Although the Bill refers to penalties of imprisonment or fines, I make the point very strongly that all of those penalties must be read in conjunction with the Sentencing Act and the Young Offenders Act where appropriate. It is obviously not the case that people will go to jail for committing these offences, because a wide variety of sentencing options are available, many of which are coupled with some form of intervention. When the drug courts come, an even greater variety will be available. Presently a significant number of diversionary programs for drug addicts are available through the courts. All of these things can be used right now if we can only get these people into the system. So although part and parcel of the intention of the Bill is certainly to get street soliciting off the streets so that it does not occur, whether it be by the prostitute or the potential client, there is also, particularly in relation to the prostitute, the desire to be able to use the existing systems to try to persuade these people not to go back to that life. The methadone, naltrexone and a number of other programs exist to deal with drug addiction. As Dr George O'Neil has said, many of his original patients, and probably quite a number now, were or are prostitutes. That is how he got into using naltrexone for detoxification. It is not that there exists a vacuum in service to deal with a prostitute who is arrested and able to be directed forcibly into rehabilitation and assistance; there is a plethora at the moment.

With regard to the move-on power, which the member for Perth mentioned, this must be supported by behaviour. I gave the example of Ms Milburn, who has seen me at some length. She complained to the police, but when the police arrived there was no visible criminal activity. However, acting on information received, the police will see the individual. The power may then be used, because the police may have reasonable grounds to do so. That is a classic case where, although there is nothing that could lead to an arrest because the police have no direct evidence, other than the evidence from Ms Milburn, which may or may not be sufficient under this new law, the police would certainly have sufficient information to be able to issue a move-on notice and get that prostitute out of that area. The move-on power has been developed to overcome the difficulties of clearing off the streets prostitutes who have such excuses as, "He is my friend and he is giving me a lift home" and "I am just waiting for a bus." I just remind the member for Perth and other members that there are also quite significant powers dealing with restraining orders; in other words, if the move-on notice is breached, the restraining order power comes into effect. These people will not get away with it with a slap on the wrist; we will ensure that they do not misbehave again.

I have probably dealt with most of the other matters raised by the member for Perth and likewise by the member for Maylands, except for the issue to do with safe sex and sexually transmitted disease. It is generally recognised by the health authorities that prostitutes who work in well-run brothels have a very low possibility of contracting any form of sexually transmitted disease - about 1 per cent is said to be the possibility. However, 1 per cent is 1 per cent and is still significant. Certainly the girls who work in well-run brothels take good care of their health by having regular checks, and the madams are quite rigorous in enforcing that. However, as one of the more notorious madams, Mary-Anne Kenworthy, said about six months ago on a radio interview, when the briefing note was tabled in this place and became a matter of some public discussion, she at that stage knew of six people working who had HIV. I do not know whether that is accurate; I am simply saying that is what the woman said on radio. If there is only one, the provision in clause 17 of the Bill is specifically designed to stop that person working and to protect, in the wider sense, public health. That is something to be borne in mind.

Other members have essentially supported the Bill and raised a number of matters repetitiously. I do not mean that in a critical fashion. It does somewhat bemuse me to know that part of the history of dealing with prostitution in this State is that in 1850 a Bill was introduced to discuss legitimate businesses - I think hairdressers - fronting for brothels. During the debate in the then Legislative Council, it was agreed that the next legislation to be introduced should deal with prostitution. In 1892 the Police Act did deal with it. At about the same time, the first Criminal Code of this State was written by Sir Samuel Griffiths. Queensland in like fashion had some complementary provisions to do with prostitution. The member for Maylands produced a report in 1985, as she said. Miss Beryl Grant produced a report in 1990. In 1999 there is some new legislation dealing with prostitution. It is actually more than a hundred years since the last legislation attempted to deal with any aspect of prostitution.

I thank members for their support. We must go into consideration in detail because a minor typographical error has snuck passed parliamentary counsel.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 and 2 put and passed.

Clause 3: Definitions -

Mr PRINCE: I move -

Page 3, line 3 - To delete the words "do not".

In the final proofreading of the Bill before it went to print, parliamentary counsel noted that, inadvertently, a double negative was used here. It is simply a matter of omission. The parliamentary counsel corrected it on his computer, but through some glitch, not his fault, it did not end up being corrected on the printed copy. This is a minor matter that must be amended.

Ms WARNOCK: I have no objection to that matter, and I am sure my colleagues will not either. I accept the explanation that it is merely a computer glitch, and it makes sense.

Amendment put and passed.

Ms WARNOCK: I seek clarification of what is a public place. I note that the essential elements of the Labor Police Act Amendment (Prohibition of Street Prostitution) Bill are included in this Bill. The offence of soliciting applies to both client and prostitute, with higher penalties for accosting children. As I said earlier, I am pleased to support the Bill. The question of what is a public place is something to which we must pay some attention. In Labor's street prostitution Bill the prohibition applied to any thoroughfare or street as defined by the Criminal Code. A street included a public place, and a public place was defined as a place to which the general public can, and does, have access. It would cover, as I understand it, parks, public squares et cetera. I am concerned that the definition in this Bill is a little more extensive and may include a privately owned place.

For that reason, I seek clarification of exactly what a public place means here. At common law a public place is not necessarily one to which the public has a claim or right or even permission to frequent. Also, a place possessing a public character at one time or another may cease to possess it at another time; I am talking about the bar of a hotel when the public has left, for example. I would very much like to know what is a public place and whether it would apply to a brothel, a nightclub, a shopping centre car park, a shopping mall or merely to a street or square or public park.

Mr PRINCE: That is a fair question. The limitation in the definition in the Bill those opposite introduced, taken as it was from the Australian Capital Territory legislation, is a limitation that might not apply here. I am not quite sure of the definitions of "street" and "thoroughfare" in the ACT. If we left it as a street and thoroughfare in this Bill, all people have to do is find out where the road reserve line is and get on the other side of it; then they are not in a public place. That would clearly lead to anomalies and to the objectionable behaviour continuing, but it would not be subject to the offence provisions because it is not technically a public place. This definition is not an unusual one. It is in a form found in the Road Traffic Act to my certain knowledge, and in a number of other bits of legislation as well.

A public place is a road, a square, a public park, a public car park, and a private car park that is open to and used by the public on payment of a fee. Under this definition it can also include the grounds of a school which are not a public place otherwise, or a university, or other place of education other than the part to which neither students nor members of the public have access; that is, they are private areas. It would also include Subiaco football oval, or any other sporting oval for that matter, to which people can gain entry only by payment of a fee when a game is in progress; otherwise, people cannot gain entry. A privately owned place that is occupied may be a squat in some of the abandoned houses. The intention there is to allow us to deal with those places as well. Often that is a place to which the streetwalkers will go to service their clients.

Ms Warnock: What about a brothel?

Mr PRINCE: No. A brothel is private premises. The owner, or occupier, or lessee, usually reserves the right of admission. It is not a place that is open to the public.

Ms Warnock: This is not intended to extend to the rest of the sex industry.

Mr PRINCE: No; it does not extend to the rest of prostitution. As to whether it extends to a hotel, a pub, arguably, the answer is no. Although publicans open the doors and ask people to come in, otherwise they will not make any money out of selling drinks and so forth, they also reserve the right to refuse admission. It is not, therefore, a public place.

Mr Kobelke: Are you quite certain of that?

Mr PRINCE: Yes.

Mr Kobelke: A general reading of paragraph (i) indicates to me that the normal hotel bar is a public place.

Mr PRINCE: I doubt it very much indeed. It does not have that character of being a public place. Paragraphs (a) and (b) certainly do not cover it.

Mr Kobelke: At Subiaco Oval, the football association clearly has the right to refuse people entry, and it does that.

Mr PRINCE: That is specifically included under the definition as being a place to which the public is permitted to have access, whether on payment or otherwise. That is a place where people can come in by paying a fee.

Mr Kobelke: They can do that at any hotel.

Mr PRINCE: The publican has the right to tell people to get out arbitrarily.

Mr Kobelke: So does the football commission. It can target people if there is rowdy behaviour one week. The next week, it can photograph them and say they cannot have admission any more.

Mr PRINCE: That is with cause.

Mr Kobelke: Surely it is the same situation for the publican, otherwise, he can be up on the ground of discrimination.

Mr PRINCE: A publican has an absolute right to say that someone cannot come into the hotel.

Mr Kobelke: What about publicans who have done that to Aborigines and cases have been taken up on the ground of racial discrimination?

Mr PRINCE: Yes, because there has been evidence that it was not just, "You cannot come in here." It was, "You cannot come in here because of your colour."

Mr Kobelke: I will bow to the minister's superior knowledge, but I am not convinced.

Mr PRINCE: The intention here is to cover not only the street but also the park, the public car park and places of that nature.

Mr KOBELKE: My concern is with hotels, because if hotels are picked up as public places, that will have considerable implications for other sectors.

Mr PRINCE: That is not the intention. If a publican has a prostitute soliciting in the bar, the publican would have the prostitute out of there quick smart, otherwise the licensing court will have the publican.

Clause, as amended, put and passed

Clause 4: Prostitution -

Mr KOBELKE: With the forbearance of the Acting Speaker (Mrs Holmes), I will ask a question about the long title, which reads -

An Act to make provisions about prostitution and for related purposes, and to amend certain other Acts.

It does not say "to amend certain other Acts for related purposes". Does that mean that amendments to other Acts will take force and have effect totally unrelated to the prostitution matters which are the subject of the Bill?

Mr Prince: My advisers say no.

Mr KOBELKE: A later clause gives certain powers to the police that, on my simple reading, indicate powers that go to matters related to and supportive of the main provisions of the Bill.

Mr Prince: I understand the point, and it was the subject of some interjection and debate earlier. My view is that the powers of the police spelt out in this Bill are referable to the offences created by this Bill and to no other.

Mr KOBELKE: The definition of "prostitution" is a fundamental definition to a range of clauses within the Bill. I will read into the record what I think are the active parts, without giving the qualifiers, which obviously are important. The definition reads -

When this Act refers to prostitution it means prostitution in which payment is consideration for the sexual stimulation of a person ("**the client**") by means of physical contact between the client and another person ("**the prostitute**") . . .

Other clauses relate to what are offences relating to prostitutes. How does one become a prostitute? Let us say that a person was convicted of an offence with respect to prostitution: Is that person then characterised as a prostitute or does it have to be the act at the time relating to a sundry or related offence which makes the person a prostitute?

Mr Prince: The answer is found in the earlier definitions of "act as a prostitute" and "prostitute", which is referred to in clause 4. To "act as a prostitute" means to take part, as a prostitute, in an act of prostitution.

Mr KOBELKE: The act would have to be involved at the same time or in direct relationship to the particular offence which involved prostitution?

Mr Prince: That is right.

Mr KOBELKE: A concern that arises in various parts of the Bill - not because I am making a judgment on whether it is good or bad - is the extent of the reach of the provisions of the Bill. The second reading speech says that the Bill will increase powers for the better control of child prostitution, street prostitution, kerb crawlers, advertising and sponsorship. However, in order to tie that down as tightly as possible - I commend the minister's efforts in trying to do that - the powers will have the potential to reach far beyond that and will try to enforce provisions opposed to prostitution in a much wider way. I am not making a judgment on whether that is good or bad. The difficulty when it is extended further is that we encounter a range of extra problems of which the minister would be well aware, and those measures are not taken up in this Bill. I will give one example of where this possibly would be extended. I have taken the minister's definition of a public place. The offences which relate to prostitution in a public place will not, on the minister's advice, apply to hotels. I understand that in Kalgoorlie - although I have never been in a hotel in Kalgoorlie where I have seen it happen - various forms of sexual favours take place in public with so-called skimpy barmaids involving physical contact for the purpose of sexual stimulation. That clearly is prostitution if money is exchanged. If a \$5 note is put into the G-string of a skimpy barmaid and certain actions take place, that is prostitution. To catch some of the offences, that must be in a public place, but that would seem to go well beyond the kerb crawlers this Bill is intended to catch.

Mr PRINCE: That is a fair comment. We can then get into a discussion about strippers who have physical contact with the patrons of the strip show and so on and whether that is sexual stimulation etc. That could be considered to be an act of prostitution. For example, if the stripping is taking place in a closed place, whether it be a club or a private house where some show is being put on, it is not a public place, so it is not an offence. The clause defines prostitution for the purposes of this Bill, and not generally, although it is probably not a bad definition if we wanted a general definition of prostitution. However, prostitution is defined for the purposes of this Bill and the offences created under this Bill. Is the skimpy barmaid who allows the patron across the bar to tweak her nipples doing that for consideration? The character of prostitution is, "I will do this or permit this to be done to me if you pay me a sum of money. No money, no service."

Mr Kobelke: What if money is exchanged, as I am told it does.

Mr PRINCE: Sometimes it does not and sometimes it is debateable. To be blunt, if that happens in a hotel bar, I would still argue that is not a public place within the definition of this Bill. Far be it for me to preempt what the Court of Appeal might say, but I will. The tenor of the Bill is to do with street soliciting, either by a prostitute or a client. We are not talking about child prostitution. Does that include a bar of a pub in a street in Kalgoorlie where a barmaid happens to be wearing very little and is not compelled but chooses to behave in this way? I think the Court of Appeal would say no. To be honest, when it comes down it, I would expect the police to concentrate on the offensive trade on the street and not what is going on in a bar. If people want to be involved in that, they can go into the bar. If they do not want to have anything to do with it, they do not have to go in there. We cannot avoid what happens on the street. That is the problem with street walking. We cannot get away from the fact that it is there right smack in front of us as we go to and from our homes, as our children go to and from school or the deli or whatever. That is the problem and the nature of the difficulty that we are trying to address with this legislation. If there is a problem and complaints are made about skimpy barmaids having their nipples tweaked for \$10 or whatever in a pub in Kalgoorlie, that is matter of complaint to the licensing authorities. The licensing court may choose to do something about that publican's licence on the basis that it is an indecent act.

Ms Warnock: Are you saying it is a different offence?

Mr PRINCE: It is a different offence that can be dealt with through the licensing court. It may be an offence under the Criminal Code in relation to indecent acts; that is debateable, particularly when there is consent. The question then is whether it offends those who are around. It becomes a complicated legal question, and I doubt whether the police will bother to try to charge anyone, because why is the complainant complaining? If he did not like it, he should not have been there, because it is in a private place and consequently only offensive to the people inside the pub at the time. This is all about what happens in a public place, to which members of the public who do not like it, do not want to see it and do not want it to have any effect on their lives, object. That is the tenor of the Bill, and I would expect any court to interpret it in that way.

Mr KOBELKE: Are the offences or crimes which are created by this Bill ones for which people can take civil action?

Mr Prince: No.

Mr KOBELKE: Must the prosecution be by the police?

Mr PRINCE: Clause 58 states that a complaint of an offence under this Act can be made only by a police officer.

Mr MARLBOROUGH: My quick reading of this Bill indicates that it deals with sex between different genders rather than between people of the same gender.

Mr Prince: No.

Mr MARLBOROUGH: My understanding is that under another Act that deals with homosexual sex, the age of consent is set at 21. How is that affected by the definition of "child" under this Bill as meaning a person whose age is less than 18 years?

Mr PRINCE: Insofar as it relates to a female heterosexual prostitute, it is an offence under the age of 18; over the age of 18 it is not an offence.

Mr Marlborough: Where does it say that it is a female?

Mr PRINCE: I am saying that is the way it will be interpreted. With regard to a male, the age of 21 still applies.

Mr Marlborough: Where does it say that?

Mr PRINCE: It does not need to say that because it is in the Criminal Code. The Criminal Code states with regard to sexual intercourse by females that under the age of 16 it is an offence; under the age of 17 it is an offence if the other party is in a position of authority, a classic example being an employer or a school teacher. Those cases are male-female, with the female generally being the younger party, but that is not always the case, and the member may recall a recent conviction where it was the other way round - older female and younger male. With regard to homosexual offences - and I was not here when that Bill went through the Parliament, but I think I am right in saying, because I have not read it in recent times - the age is 21. This Bill does not affect that. What this Bill does is criminalise prostitution under the age of 18.

Mr Marlborough: I am suggesting that this does not in itself criminalise prostitution over the age of 18 by people of the same sex. It is written, as the minister correctly says, for women. It has nothing to do with people wanting to hire prostitutes of the same sex, which happens every day of the week. Is the minister saying it does not need to?

Mr PRINCE: It does not address that. Sexual intercourse with a female under the age of 16 is an offence, regardless of whether there is payment. It is an offence to have consensual sex with a person under the age of 16, and with a person under the age of 17 if the older person is in a position of authority. If an act of sexual intercourse which is prostitution is committed by a person under the age of 18, it is an offence by that individual, as well as by the other party. It does not matter whether it is heterosexual or homosexual. I think I am right in saying that the age of consent for homosexuality is 21, and it is an offence if committed under the age of 21. I am talking about consensual sex which is not prostitution.

Mr Marlborough: Are we therefore saying that a female homosexual over the age of 18 but not 21 is committing an offence anyway? We are talking about selling the body for sexual pleasure between one party and another. It may be a party of the same sex. This Bill seems to fall into the traditional category of defining one sex as male and the other as female.

Mr PRINCE: No. I said at the beginning that this Bill does not distinguish -

Mr Marlborough: Does it penalise a female who is involved in homosexual activity in the form of prostitution and is between the ages of 18 and 21 as it penalises a male?

Mr PRINCE: It does not, because if I am correct in recalling the provisions with regard to sodomy, they refer only to male homosexuality.

Mr Marlborough: There is a bit of discrimination there, is there not?

Mr PRINCE: The member and I, and perhaps others, can debate that at another time with perhaps another piece of legislation, because we are not talking about that in this legislation.

Mr Marlborough: With the greatest of respect, you are.

Mr PRINCE: That was the subject of the legislation in 1989, which was talking about male homosexuality, for which the age of consent is 21. Nothing in the Criminal Law deals with lesbian behaviour in any way at all when a person is over the age of 18.

Mr Marlborough: That is right, and that is discriminatory. It is time to review the law.

Clause put and passed.

Clause 5: Seeking prostitute in public place -

Ms WARNOCK: I want to draw attention to the issue of loitering. Subclause (4) states -

For the purposes of subsection (1), a person (in this section called "**the offender**") seeks another person to act as a prostitute if the offender . . .

It then talks about loitering. This is an interesting issue which seems to reverse the onus of proof. A person who loiters in or frequents a place is presumed to have the intention of loitering unless the contrary is proved. I have often talked to the police about this because there is so much street prostitution in my area, and I am aware that it is extraordinarily difficult to prove this offence, because when is a person loitering and when is a person not loitering. It seems to me that there may be some civil libertarian complaints about this matter. The minister is a lawyer; I am not. How can it be proved that a person is loitering as opposed to just standing? I would be interested if the minister could explain that to me. I am aware that one of the things that is most maddening to the people in the area and one of the things they would most like to get rid of is the so-called loiterers or kerb crawlers. How does one prove it, and how will police go about their business in this matter?

Mr PRINCE: In a sense, the member is asking for a legal opinion.

Mr Kobelke: For the purpose of standing orders, we will not treat it in that way.

Mr PRINCE: I hope not. I am trying to remember my annotated Police Act, which I have not looked at for some time.

Mr Marlborough: You removed section 54B a long time ago; why not reintroduce it for the people of Northbridge?

Mr PRINCE: Relating to what?

Mr Marlborough: Relating to three people meeting on the street for a chat.

Mr PRINCE: The member and I would be more than three people.

A plethora of legal interpretation relates to the Police Act and loitering; namely, at least 100 years' worth. I recall that it is the behaviour of the individual in being in or around a particularly small location for a period of time when it is otherwise unexplainable. In other words, the person has no apparent reason for being there. Someone standing at a bus stop clearly has a reason. Someone standing at a bus stop when the buses have ceased to run is in a different position. The member for Perth understands very well the difficulty in prosecuting effectively, as the excuse of "I am waiting for a bus" or "I am waiting for my friend to pick me up from here" negates the prosecution.

Clause 54 when read in conjunction with clause 5(4)(b) leads to the circumstance in which our Ms Milburn tells us what is happening. That is the evidence. There is no evidence of a sexual act, and not necessarily any evidence of an attempt to solicit. That person is presumed to be soliciting and the averment provision in clause 54 states, "Explain yourself." The police will not use the provision capriciously.

Ms Warnock: One would hope not.

Mr PRINCE: No, because the power relates to street soliciting. That is what it is all about. It is a very difficult area. I clearly concede that it trespasses over the otherwise basic rules: "If you want to accuse me, you as the State must prove everything. I do not have to say anything, and I do not have to incriminate myself." The reversal of the evidentiary onus of proof should apply only when there is no other way around it. However, the reversal of the onus of proof has occurred in English law, and now Australian law, for centuries. One can find examples in the Criminal Code as it was originally written, and a stack can be found in the Police Act 1899. The one which comes to mind in the Criminal Code is section 205, which reads -

Except as otherwise stated, it is immaterial, in the case of any of the offences defined in this chapter committed with respect to a person or a child under the specified age, that the accused person did not know that the person or child was under that age . . .

That has been included since the code was written. It is unchanged for 100 years. The Police Act has a brilliant provision relating to the possession of property reasonably expected to be stolen. One makes the accusation, and it is up to the accused to come up with an explanation.

Ms Warnock: You say it is not unusual.

Mr PRINCE: It is not unusual as heaps of examples of its use can be given. It is done where there is no other way to deal with what is categorised as offensive behaviour. We are trying to deal with offensive behaviour for the benefit of the overwhelming majority of the public, who do not want to see street prostitution, clients or prostitutes, outside their homes day and night, particularly in the electorate of the member for Perth.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Seeking to induce person to act as prostitute -

Mr KOBELKE: This clause refers to seeking to induce people to act as prostitutes, which seems to go beyond street crawling or street prostitution. It is targeted at madams or controllers of brothels or people inducing people into prostitution.

Mr Prince: Partly.

Mr KOBELKE: I will ask the minister to clarify in a moment. What is the intent of the clause? I read that a person who does anything or refrains from doing anything with the intent of inducing another person, who is not a child, to act or to continue to act as a prostitute will be guilty of an offence, with a penalty of imprisonment for 10 years or a summary conviction for three years. Can the minister confirm or correct my interpretation? Second, how does this sit with the current law by which it is an offence to run a house for the purpose of prostitution or being a pimp?

Mr PRINCE: Many of the brothels that are generally accepted to be well run are caught under containment - it is those which are generally speaking tolerated because they have strict regimes and drugs are kept out of the premises and so forth. This measure does not apply to such an exercise. However, a number of women who work as prostitutes - it is usually a woman imposed upon by a man - on the street will be assaulted or supplied with drugs, which is part and parcel of the control to get them on the street. As I know from clients I have represented, some instances have arisen of women being treated in that way who have worked in brothels of this city. It can apply, although mainly to women on the street, to women in brothels, massage parlours or escort agencies. It is intended also to pick up some of the sex slavery provisions from federal legislation. This is a restatement of some of that legislation, which as a matter of public policy the Government and I happen to think is the right thing to do.

Mr Kobelke: Your referral to the containment policy is a fiction. You should not bring it in. The difficulty we have is the current situation.

Mr PRINCE: As far as I am aware it has never been written down anywhere.

Mr Kobelke: It is a fiction: It may have worked to a limited extent, but it is not working now. Your point is that this has wide application. It applies to anyone involved in street prostitution or brothels, although the intention and target of the provision clearly relates to workers on the street induced by, or under the control of, other people. The other matter to which you related was sexual slavery, which is a matter of concern.

Mr PRINCE: Yes, it is intended to apply, and undoubtedly will do so in the main, to women and girls on the street, but it can also apply to women working in what would otherwise be a tolerated brothel, massage parlour or whatever name one uses. It is far less likely to be the case in such premises, but I know from my professional experience that it has happened.

Mr MARLBOROUGH: This provision carries with it the following: It might be, it could be and it may be. However, if it is applied, it carries with it a severe penalty of 10 years' imprisonment. I am not suggesting that it should be a lighter sentence, although I can think of some horrific crimes for which the penalty is not nearly so severe. My reading of it is a lot broader than I have heard suggested. Why would clause 7 not apply to the literally hundreds of advertisements we see in the *Sunday Times* each week. Among the advertisements for brothels and single operators offering their services are numerous advertisements offering opportunities for young girls in the main - and young males - to join escort agencies.

Mr Prince: That is specifically covered by a clause in this Bill which says that that form of advertising is banned. Advertising to induce people to become prostitutes is banned by clause 10 - promoting employment in the prostitution industry.

Ms Warnock interjected.

Mr MARLBOROUGH: It is a lot broader than street prostitution.

Mr PRINCE: Yes. It has a lot to do with children.

Mr Marlborough: Children?

Mr PRINCE: The Bill is aimed principally at street prostitution. However, it is also aimed at getting children out of

prostitution and there are other things in it. I mentioned advertising in the second reading speech. This clause concerns sexual slavery in a sense because that is where we got it from and it mostly relates to street prostitution. However, it can also relate to a prostitute in a brothel although it would depend on the circumstances of the relationship, for want of any other way of describing it, between the male and the female. If a male is supplying a woman or girl with illegal drugs - usually a cocktail of amphetamines, heroin and tranquillisers - and is living off what she produces, I think 10 years is a fair sentence. If those offenders want to go for summary conviction, they might go inside for three years. I reckon they will be fairly harshly dealt with in the prison system and I will not weep for them. There are very few other things I can think of from the point of view of human behaviour which I find more loathsome and I think most people would agree with that.

Clause put and passed.

Clause 8: Allowing person with sexually transmissible infection to act as prostitute -

Mr KOBELKE: With the minister's cooperation and the forbearance of the Chair, I will again ask a question which takes up matters covered in several clauses. Clause 8 makes it an offence to allow a person with a sexually transmissible infection to act as a prostitute. Clause 9 relates in a similar way to persons with certain health conditions who use prostitutes and clause 17 covers persons with certain health conditions who act as prostitutes. The Government seems to have covered all the possible permutations. However, we find in clause 8 that a person who commits an offence under that clause is liable to imprisonment for three years if it is a simple offence and to imprisonment for 14 years if it is a crime. Under clause 9, persons with certain health conditions are prohibited from using prostitutes. If they are a person with a life threatening sexually transmissible infection, the penalty is 20 years' imprisonment. If it is a non-life threatening sexually transmissible infection, the penalty is five years' imprisonment for a crime and two years' imprisonment for a summary conviction. The same penalties apply to a prostitute. It seems that with the drug problem and the level of infection of sexually transmissible diseases among the drug using community, we have a huge problem. If the provisions in clauses 8 and the other clauses to which I alluded are used effectively, we will have a major problem in our jails. I would like the minister to comment on whether he thinks the provisions in clauses 8, 9 and 17 will be used and whether it is likely there will be a reasonable number of prosecutions and convictions. If that is the case, what are the implications for the number of places we need in jails? More important than that, if the people who are likely to be convicted in this area are people with drug problems, will we simply put them in Bandyup Women's Prison or Casuarina Prison or will facilities be available in our jails in time to meet the requirements of this Bill so that these offenders can be treated as drug dependent people and put on the path to rehabilitation?

Mr PRINCE: There have been a few people with a sexually transmissible life threatening infection. I recall as Minister for Health being involved in dealing with several, not many. Some of them were prosecuted under the provisions of the code and imprisoned because they simply would not stop behaving in a promiscuous fashion. To a large extent the code is re-stated here in the prostitution context so there is no doubt. For people with life threatening infections - and there are some - obviously we are trying to deter them from behaving in this fashion. Under clause 8, if the madam knows that a girl has HIV, there is no way she should permit that girl to be in the brothel.

Mr Kobelke: But in street prostitution it is a different matter.

Mr PRINCE: I am talking about clause 8 which criminalises the person carrying on the business involving the provision of prostitution, not the prostitute herself. Likewise, if the madam knows a particular girl has a sexually transmissible disease which is not life threatening, she has committed an offence. This is a deterrent to these people being less than vigilant about the health of the people who come into their premises. Clause 9 is a re-statement of the code dealing with the person who has a life threatening sexually transmissible infection and the penalty will depend on the way the person has behaved. However, I know of two or three such people who wound up in jail because there was no other way of controlling their behaviour.

Will that lead to a problem in the jails? In the sense that there are a few in there already and they are handled in a special way by the prison officers -

Mr Kobelke: You missed the point of the question. I understand what you are saying and I want to get through this as expeditiously as I can. However, I was pointing to the fact that in clauses 8, 9 and 17, and given that this is primarily aimed at street prostitution, there is a potential for a much larger number of people to be convicted. I am concerned about the impact on our jails and the need to have special programs in the jails if many of these people are drug dependent.

Mr PRINCE: I am coming to that. I am dealing with the life threatening cases first because more often than not people who behave in this way will go to jail because that is the only appropriate penalty. People with a non-life threatening infection may be dealt with by a non-custodial sentence.

Mr Kobelke: So you are not anticipating a sizeable increase in the jail population because of these provisions.

Mr PRINCE: No, I am not. People with non-life threatening infections - ones that can be treated by medical science - should be able to be dealt with outside jail. That is a general statement which will not apply to any specific individual and circumstance. A stack of other sentencing options are available under both the Sentencing and Young Offenders Acts. My adviser has reminded me, as I said in the closing remarks of my second reading speech, that if Miss Kenworthy is to be believed, she thinks there are six people with HIV operating within prostitution at the moment. That is not a sizeable increase. For other forms of infection, if the person can be dealt with by imprisonment, that is the way to deal with them.

Mr Kobelke: But you are creating an offence which has a penalty of imprisonment.

Mr PRINCE: Yes. However, the Sentencing Act and the Criminal Code have a stack of sentencing options. We are not

saying it is mandatory imprisonment; we are saying that it is the maximum punishment. We have expressed it in terms of imprisonment and it is for the courts to apply the appropriate penalty using the discretion which they have in other legislation. I would expect a person with HIV-AIDS to go to jail on the basis that the person has acted in a way that is likely to give a death sentence to someone else. If someone is doing that, jail is probably the only place for that person. Other people with less serious forms of infection, chlamydia, syphilis or whatever the case may be, would probably be dealt with without being sent to jail.

Mr KOBELKE: Clause 8(1) says -

A person carrying on a business involving the provision of prostitution commits an offence . . .

This clause gives legal recognition to the fact that people are conducting businesses for the purpose of providing prostitution in Western Australia. The clause is tacit recognition of that fact. Is this, to the minister's knowledge, the first time that we have had legislation which has acknowledged the institution of prostitution as an industry?

Mr PRINCE: Section 76F of the Police Act 1892 reads -

Any person who -

- (1) keeps or manages, or acts, or assists in the management of any premises for purposes of prostitution; or
- (2) being the tenant, lessee, or occupier of any premises, knowingly permits such premises, or any part thereof, to be used for purposes of prostitution; or

It goes on to say that that person commits an offence.

Mr Kobelke: Yes, the offence relates to it. However, this Bill has offences relating to another part and not to the fact that the person is conducting a business.

Mr PRINCE: It was recognised 107 years ago.

Mr Kobelke: Yes, for the purposes of an offence.

Mr PRINCE: This is for the purpose of an offence.

Mr Kobelke: There is a subtle difference.

Mr PRINCE: No, there is not. With respect, the member for Nollamara is trying for a subtlety that does not exist. It was recognised in the Police Act of this State 107 years ago and it is recognised again in this Bill. There is really no difference.

Clause put and passed.

Clause 9 put and passed.

Clause 10: Promoting employment in prostitution industry -

Mr KOBELKE: I will not go into the second reading debate with respect to the promotion of the industry and advertising. I have some concerns about what was said there but I will skip over that. I simply want clarification of a technical point. The clause says -

A person is not to publish or cause to be published a statement that is intended or likely to induce a person to -

- (a) seek employment as, or act as, a prostitute; or
- (b) seek employment in any other capacity in any business involving prostitution.

Can the minister confirm that there are no loopholes in that clause, that the definition of "a person" will cover a newspaper in whatever form it appears? Does the definition of "a person" have a legal standing which will allow prostitution to be pursued against a range of entities should they undertake such publication?

Mr PRINCE: Clause 62 covers that matter because if a body corporate is found to have committed an offence, each person who is a managerial officer of the body will be treated as having committed the offence. A body corporate is a person in the Interpretation Act. If people try to get around that clause by using a proprietary limited company, they will be caught.

Mr MARLBOROUGH: The clause seems to be nonsensical. It paints an image of responsibility but, when looked at, cannot stand up to carry with it the responsibility that the minister is trying to paint. How does the minister intend to police a clause that does not allow advertising for the procurement of people to work in the profession when in fact the Government has a containment policy?

Mr Prince: What?

Mr MARLBOROUGH: The Government currently has a containment policy. It recognises that there are brothels operating. How does the minister think that people go to work there? Can he tell me? Is it done by magic signals? How does it happen? It is a nonsense.

Mr Prince: The girls who wind up in the brothels that are tolerated are not necessarily attracted there by advertisements that appear in newspapers. Frequently they are attracted by word of mouth and frequently somebody has said something to someone else. They may work there of necessity because money in their family is short, or whatever the case may be.

Mr MARLBOROUGH: They just ring up?

Mr Prince: Usually they will know one of the other girls and that is how it occurs. As a matter of policy, it is wrong that people should be able to advertise that this is an attractive line of employment.

Mr MARLBOROUGH: If the minister got rid of his containment policy, he might have some moral position. He has no moral position on it.

Mr Prince: I am not talking about morality.

Mr MARLBOROUGH: The minister has said that he is delighted the *Sunday Times* and *The West Australian* have joined him. What a nonsense. The truth of the matter is that the minister has a containment policy. How do people know where to work in the first instance? If I believe the minister, it is all done by Chinese whispers. Women are short of money so they phone up a known brothel. How do they know about the known brothel? Do they go down to the drycleaners or the deli and talk about it? What a nonsense. They know about it because it is advertised. Is the minister saying that if people put a written advertisement in a newspaper they will be prosecuted but that they will not be prosecuted if they telephone somebody? Clause 10 specifically states that a person is not to publish or cause to be published. Can the madam of a brothel which works within the containment policy maybe have a conference phone with a room full of women and ask them how they are that evening and whether they would like to work for her? Would that be allowed? It is not publishing or causing to be published. Is that how it will work? How will the minister stand up with any moral integrity on this nonsense when he has a containment policy?

Mr Prince: Do you not support it?

Mr MARLBOROUGH: I do not support this clause; it is a nonsense. It does not measure up.

Mr Prince: Do you not want to discourage people from being involved?

Mr MARLBOROUGH: I live in the real world. I do not live in a pixies-down-the-back-garden world. The minister is the expert. He can tell me how they will be informed about his containment policy; or will this clause make them all die on the vine?

Mr Prince: This is not, and never was intended to be, the total answer.

Mr MARLBOROUGH: Clause 10 is not the answer at all.

Mr Prince: Will you let me speak?

Mr MARLBOROUGH: It is my five minutes. I am saying that clause 10 is not the answer and the minister knows it. It is a nonsense. If he got rid of his containment policy, it might have some standing. The definition of a containment policy is that something exists and that we are trying to control the way in which it exists. One of the ways brothels exist and flourish is not only because of clients but also because there is work for people to do. Why the minister has a \$50 000 penalty attached to a piece of nonsense, I do not know.

Clause put and passed.

Clauses 11 to 24 put and passed.

Clause 25: Powers to obtain information -

Mr KOBELKE: On my reading of this clause, it is not tied specifically to matters relevant to offences contained in the Bill.

Mr Prince: It is only in relation to this Bill.

Mr KOBELKE: It must be specific.

Mr Prince: It is not a general power.

Mr KOBELKE: Can the minister give an assurance that all the other powers that are provided to the police under part 4 are also to be used in relation to enforcement of offences under only this Bill?

Mr PRINCE: If it were to be otherwise we would have to explicitly state that the police are now given the following general powers in relation to all offences known to the criminal calendar. It does not say so. The powers provided in this part can relate to the offences created by only this Bill. When we bring in the police powers Bill next calendar year, some of this will be generally applicable in a modified fashion. Then we will debate it across the gamut of the criminal offences. However, it can apply to the offences created only in this Bill.

Clause put and passed.

Clause 26 and 27 put and passed.

Clause 28: Entry of, and seizure at, place of business without warrant -

Ms McHALE: I referred to this matter during my contribution to the second reading speech. Why does clause 28 relate only to children?

Mr Prince: It does not. It relates to offences under this Bill. My reference to a minor was only an example.

Ms McHALE: Can I be reassured that it is not exclusively related to children?

Mr Prince: Yes.

Ms McHALE: Does it give the police powers of entry to a premise or a range of premises?

Mr Prince: In relation to the offences created by only this Bill.

Clause put and passed.

Clauses 29 to 51 put and passed.

Clause 52: Person residing with child prostitute presumed to receive payment -

Mr KOBELKE: Some terrible examples have been brought to my attention of young girls aged from 13 to 15 falling out with their families after a bit of a tiff, going into the city, getting caught up with people who may be associates or introduced by friends, living with them, getting hooked on drugs and becoming almost a prisoner to a person over 18 who could clearly be treated as an adult.

Mr Prince: In their twenties.

Mr KOBELKE: If they are older teenagers they are adults under the law. In cases such as that, instances may arise in which the older person has physical control over the younger person, often in a threatening and harmful way.

Mr Prince: It is not so much physical, but more in an emotional way.

Mr KOBELKE: It often becomes physical. The person may receive moneys through the supply of drugs because the child is engaging in prostitution. I am not sure how effective clause 52 will be in dealing with such cases. In the past it has been very difficult to get the police to press charges and to get Family and Children's Services to become involved.

It is a difficult situation for those agencies because the young girl usually does not wish to cooperate and provide information. A mother who has contacted me several times says her daughter has asked her to save her, but as soon as the older male is on the scene she cannot stand up to him. Unless she is totally removed from that situation, and assured that the threat of the male is removed she would not be willing to be a witness and provide the evidence needed so that the police or other government agencies can take action. I am not sure whether this new provision in clause 52 provides any assistance to deal with those cases.

Mr Prince: Yes, it does.

Mr KOBELKE: If it does, we come back to the issue that I asked about earlier - I know the minister answered it, but it is not clear in my mind - about how direct and clear must the linkage of prostitution be with the minor and the money going to an adult who has some control over the minor.

Mr PRINCE: It goes to clause 19. We are dealing with clause 52 which contains an evidentiary provision that assists in the prosecution of an offence under clause 19. Clause 19 relates to attaining payment for prostitution by a child. I have had a few complaints about a few instances like the scenario spelt out by the member; thankfully, relatively speaking, they are only a few. Usually we are talking about a girl of 13 years or 14 years of age and a man in his early twenties, and sometimes more than one at the same time. In the days before the welfare state, where there was no other means for the 13 year old or 14 year old to have earned money and given it to the man, it was relatively easy to ask how he came by this money, and say that it must have come from the girl who was working as a prostitute. The young homeless allowance, unemployment benefit or any form of benefit that the man may be receiving makes it next to impossible to relate that sum of money paid to this girl by a client to the sum of money the man has. There is a pooling of the cash.

This averment says that if the male is living with the girl who is a child prostitute - we have the evidence that she is a child prostitute and has been convicted - the onus is on the male to satisfy the court that he did not know she was a child prostitute and did not receive any of the money. It is a turning of the onus of proof. It seeks to overcome the problem we have had for long time to connect the act of prostitution and the money thereby earned with the pimp. In the case of a child, it is justified to reverse the onus of proof, not necessarily in other matters, but certainly in relation to a child. It is something that, hopefully, will not arise too often.

In the circumstances the member put forward, and no doubt the member for Perth has heard a similar story, this is a law and power which enables the police, the authorities, and the state to deal with what is otherwise a terrible situation that we cannot deal with. Because of the amendments made to the Child Welfare Act in 1990, Family and Children's Services has no power. Those officers cannot take the 14 year old girl. There is no power of arrest and no way they can get her. The criminalisation of child prostitution enables us to get the child. The provisions in clauses 19 and 52 enable us to get at the Svengali - we can call him what we will - the pimp who is living off the child and make it reasonably probable that there will be a conviction.

Having said that, a person who is living in the same house in which a number of people may be residing and who genuinely has no connection with the child and her behaving as a prostitute will be able to stand up in court and say so, produce evidence and, consequently, not be convicted. It is not a provision that says that a person is guilty, and that is it. It says that the person must explain himself adequately, otherwise he will be found guilty.

Clause put and passed.

Clauses 53 to 66 put and passed.

Schedules 1 and 2 put and passed.

Title put and passed.

Third Reading

Bill read a third time, on motion by Mr Prince (Minister for Police), and transmitted to the Council.

GENDER REASSIGNMENT BILL (No. 2) 1997

Second Reading

Resumed from 9 April 1997.

MS WARNOCK (Perth) [10.51 pm]: I am not the lead speaker for the Labor Party on this matter. My colleague, the member for Thornlie, will be the lead speaker but I will speak briefly. I am immensely pleased at last to be able to speak on this Bill which has been languishing on the Notice Paper since 1997. I am pleased because it is certainly time for it to be passed and the constituents who have been ringing me for two years about the changes the Bill will bring will at last get their wish. It is not a Bill that concerns a great many people, but it is enormously important to those Western Australians who are affected by the provisions of the Bill. Some say that around 80 people are involved; some say nearly 500. Whatever is the truth, people who are gender dysphoric, and who believe they have been living with the wrong gender identity all their lives, are badly affected by this disorientation. It is a medical matter rather than a question of sexuality and can have a possible medical solution.

The Bill's purpose is to allow people who have undergone gender reassignment procedures to get a recognition certificate showing that they have had the procedure and that they are indeed the gender stated on that certificate. They will thus gain legal recognition for their new gender status. Presently, even someone who has had the reassignment procedure remains, under our law, listed under the gender identity of his or her birth. The Bill, first of all, establishes a board which will issue recognition certificates to people who have undergone the procedure, whether in Western Australia or elsewhere. Secondly, it also allows the Registrar General to register the reassignment of gender as shown on the certificate and to issue a new birth certificate showing the person's new gender. The Bill is also specifically aimed at protecting people from discrimination on the ground of gender history if they have gone through the reassignment procedure. This has also been done in South Australia in 1988, as well as in the Australian Capital Territory, New South Wales and the Northern Territory. Legislation has also been enacted in a number of other countries in recent years. Incidentally, the Bill does not deal with marriage at all. That is a commonwealth matter and a recognition certificate cannot be provided to anybody who is married.

The Bill involves a change to the Equal Opportunity Act, so that people who have a reassigned gender and have a recognition certificate to prove it can be protected against discrimination at work, in education, accommodation and sport on the grounds of their gender history. In passing, while I am pleased that this Bill has at last seen the light of day, I am at a loss to understand why the Government has not also had the courage to introduce antidiscrimination legislation for gays and lesbians in Western Australia. Members of that community are puzzled by that as well. However, that bears little relation to this matter; I understand that very well, and gender dysphorics are keen that the distinction should be made. It should be noted that there are many more gays and lesbians in our community and they have been waiting for a long time for proper protection. That is why I mention the point at this moment, although I understand very well that the two issues are very different. Legislation for gays and lesbians is a long time coming, and there are a lot of frustrated people out there as a result.

To return to this Bill, there are also some criticisms of the fact that it does not extend antidiscrimination provisions to preoperative persons, and perhaps that can be dealt with at a later date. I am looking at a letter that was written to me a couple of years ago when the first Bill came up. It says that the Bill is offensive and discriminatory because it applies only to post operative transsexuals. The word preferred now is gender dysphoric people. The person who wrote to me had very good reasons for making those complaints. He said that gender reassignment operations are very expensive. For example, they start at \$10 000 and clients must first undergo several years of psychological assessment before they can qualify for the operation.

The assessment period requires the client to live as a woman - when we are dealing with a man who seeks to become a woman - including speech, clothing and manner for at least two years. How can preoperative gender dysphorics successfully undergo this assessment period and raise the necessary funds for the operation if they are suffering discrimination in employment, housing and the provision of goods and services? The person who wrote to me was distressed by that, and said it was a fault in the Bill that this fact had been ignored.

Other people who have written to me raised concerns about the nature of the board that will decide whether people will gain a recognition certificate. There were concerns that according to the legislation none of the members of the board need to be appropriately qualified to assess the candidates for recognition. I received this letter two years ago when the Bill first came up, but I am assuming that, because I have had no further information since, we are dealing with the same Bill. People were concerned about the composition of the board and wished to discuss the matter with the minister who put up the Bill. They were concerned too that a person going before the board for a recognition certificate should be able to request the identity of board members so that they would know who they were dealing with when they had to go, I imagine, through a rather uncomfortable procedure. I am bound to say it sounds as though the lives of gender dysphorics are tremendously uncomfortable right from the beginning. For those unfamiliar with the problems of transgender people I will quote some material from the Gender Council of Australia (WA) Inc -

Without complete legal recognition of reassigned gender the Government is condemning people who have undergone medically approved treatment for their condition, and who are desperate for assimilation, to a miserable and unproductive half life.

Reference is made to the tremendous discrimination that is freely applied to people who are in this very difficult position and how they spend their lives having to disguise their condition. Of course, it is very difficult to do that when a person has felt from early in life that he or she is in the wrong skin. The letter, which was written to me a couple of years ago when the first Bill was introduced, states that there is a healing period that a person must go through and that it is a very necessary part of preparing oneself to take on a new identity. It is stressed that gender dysphoric people are potentially healthy people after treatment and that they should have the opportunity to present themselves to the world in the new gender as simply and as directly as possible; in fact, in a way in which most ordinary people face their lives.

This is important legislation. It affects very few people in our community. Nonetheless, it will be extraordinarily important to those who are affected. They have felt for some time that they have been badly discriminated against and their lives have been unnecessarily difficult as a result of that. This legislation, delayed as it is, will nonetheless be very important to those people. Therefore, I am happy to support it.

MS McHALE (Thornlie) [11.01 pm]: This significant legislation is a positive reform that legally clarifies the gender identification of a person who has undergone a gender reassignment procedure. It is not legislation about sexuality and sexual preference. The legislation affords legal protection and status to gender dysphoric people in a post-operative stage only. Given that, the number of people to whom this Bill will apply is limited, yet it is still very significant.

There is estimated to be between 300 to 350 gender dysphoric people in Western Australia, of whom about 80 have undergone gender reassignment procedures. This Bill will help them to obtain a recognition certificate, and therefore a birth certificate reflecting their reassigned gender. It has very limited application; as I said, it does not apply to pre-operative dysphoric people and leaves them unprotected.

A gender dysphoric person is someone who identifies with the sex opposite to that of their birth. The term refers to the condition of feeling ill at ease with one's gender identity in biological terms. It is therefore seen to be the incongruence between the biological sexual differentiation and the gender identity. This Bill offers protection only after the surgical reassignment operation has been completed. Using the Attorney General's figures, about 170 people will not be protected by this Bill.

This is not a recent phenomenon; it has been part of our history for many centuries. It is important to note that in April 1996 the European Court of Justice determined that throughout Europe it would henceforth be unlawful to discriminate against a gender dysphoric person on the ground that he or she intend to undergo or had undergone gender reassignment. This legislation deals only with people who have undergone gender reassignment.

To pick up on the point that the member for Perth raised, it is fair to say that gender reassignment is one of the most radical and stressful procedures that an individual can undergo, and we should not underestimate the difficulties that gender dysphoria can create for the individual in terms of the societal, biological and emotional incongruence that they feel. It strains and severs relationships, it imposes economic hardship, and it involves physical and emotional pain. The transition usually takes place in the face of societal disapproval, a scarcity of resources, and, until now in Western Australia, a lack of legal recognition. The effect of the discrimination is wide ranging and includes anxiety, isolation, job loss and even suicide. It is also important to recognise that there is no guarantee of success or harmony with one's reassigned gender, and that not all gender dysphoric persons want to proceed with surgery and are, therefore, left uncovered by legislation.

It is not necessary or meaningful for me to go through in great length the medical procedures that these people must undergo, but in order to understand why the Bill is important, it is necessary to realise that gender reassigned persons must undergo a long and painful process. Hormonal reassignment refers to the administration of various drugs, usually androgens and oestrogens, depending on whether it is female to male or male to female. Surgical gender reassignment involves surgery to genitalia and breasts to approximate the physical appearance of the assigned gender. No person with gender dysphoria undergoes gender reassignment procedures without great physical, personal, social, medical and emotional considerations, and also turmoil.

Once these persons have been surgically and hormonally assisted to adopt the gender with which they identify, they should be offered legal protection and identity, hence this Bill. This Bill enables persons who have undergone a gender reassignment procedure to obtain a recognition certificate which gives legal recognition to their reassigned gender. It also sets up a board which will administer the decisions and procedures that these persons need to undergo and issue the recognition certificate. Once these persons have received the recognition certificate, they can be issued with a birth certificate which shows their reassigned gender and provides protection from discrimination on the grounds of that gender history. It is important that members note that these persons will need to go through quite a rigorous procedure in order to be issued with that recognition certificate, and that only persons who are born in Western Australia can be reissued with a birth certificate.

The Bill seeks to amend the Equal Opportunity Act by including after the word "harassment" the words "or, in certain cases, on gender history grounds". It does not afford protection against discrimination per se, but the Bill seeks to amend the Equal Opportunity Act. Also, the Bill does not provide protection if the person would have a significant performance advantage as a result of his or her medical history in competitive sporting activity with the sex with which the person identifies. It deals with differential advantage by virtue of reassigned gender in the sporting arena.

To summarise, the Bill will give protection to a very small group of people in our community, who have gone through the

very long, painful and emotionally, socially and spiritually traumatic decision to surgically change gender from that at birth because of a sense of incongruence between that and the gender with which they identify. It will give people the opportunity to minimise the harassment and loss of dignity of gender reassignment about which people constantly talk.

I have glossed over many issues in relation to the decision-making process that people undertake. That gives no justice to the trauma and agony many people in this category experience. It should not be treated frivolously or lightly, which I am pleased has not been the case. The Government has finally decided to introduce this legislation, which is not an easy measure by any means. It affords legal protection to people who have undergone that particularly difficult surgical procedure. I commend the Bill to the House.

MR PENDAL (South Perth) [11.12 pm]: I agree with the member for Thornlie on a number of key issues. For example, the Bill should not be treated frivolously or lightly, and essentially the Bill is not about sexuality or sexual preference. However, one area of the Bill is wrong, and we should dwell on that point for a couple of moments.

The Government advances three reasons for the passage of the Bill. I will cite the first and third reasons with which I agree, but the second reason is wrong, and I will dwell on that aspect. The first reason the Government advances in the second reading speech is -

Firstly, to establish a gender reassignment board which will be able to issue recognition certificates to persons who have undergone, whether in Western Australia or elsewhere, gender reassignment procedures.

I have no difficulty with that. Let me jump to the third reason, which reads -

Thirdly, to provide protection from discrimination on the ground of gender history where a person has undergone reassignment procedures.

I have no difficulty with that reason. My difficulty is with the second of the three reasons, which reads -

Secondly, to enable the Registrar General to register the reassignment of gender as indicated on the recognition certificate -

So far I have no difficulty with that point, which refers to the Bill's provision for recognition certificates. Here is my objection -

- and to issue a new birth certificate showing the person's gender in accordance with the altered register.

There is my problem. I understand, because a number of cases have been explained to me, about the practical, the emotional and, to use the previous member's words, the spiritual implications for a person who effectively carries a gender that does not reflect his or her birthright. I can understand, therefore, why it is that people who seek to have a gender reassignment for practical purposes would want, for example, to carry with them a recognition certificate.

What I find offensive about the Bill is that we will not just assist a person to be reassigned, which is a rather inadequate term, but by the passage of this Bill we will go back to the original birth entry and alter a fundamental record of the State. We will effectively be pretending that what was recorded 40 years ago was never recorded. We will cross that out, enter some other information, and there will be no record that we have made the alteration.

Later in the minister's speech - the first attempt goes back to April 1997 - he said at page 1361 -

The recognition certificate will be conclusive evidence that the person to whom it refers has undergone a reassignment procedure and is of the gender stated in the certificate.

After a gap of some words it continues -

Where a recognition certificate is produced to the Western Australian Registrar General, that reassignment of gender must be entered on the register and the Registrar General must, unless otherwise requested by the person, issue a birth certificate showing the person's gender in accordance with the register -

Here is the difficulty I have -

- as altered.

I put to the House that we have no capacity to change fundamental records of the State. There is some irony in the fact that we have a Bill - if we do not have a Bill, we are about to have a new one - introduced into the House dealing with state records. I am not sure whether you, Mr Acting Speaker (Mr Barron-Sullivan), are aware that controversy has been raging for 10 years in this Parliament, some of which grew out of the alleged activities of the WA Inc years whereby people altered fundamental records of the State; in other words, they tried to rewrite history.

One of the values of the State Records Bill that the Government has had before the House and is about to reintroduce in a better form is that it preserves the integrity of records as they are. My point, therefore, is by all means allow people to adjust to what must be a difficult issue in their lives and allow them to carry with them, for example, what might be an extract of a birth certificate which allows them to go about their social business of the day without being humiliated. Why fiddle with and tamper with the fundamental record which was initially established with an entry by no less a person than the Registrar General? That is the difficulty I have.

Mr Bloffwitch: We have the power to do it.

Mr PENDAL: I think it was the Earl of Pembroke who once said that Parliament has the power to do anything it likes, except make man into woman or woman into man.

Mr Bloffwitch interjected.

Mr PENDAL: I do not want to get sidetracked by the member.

Mr Bloffwitch: He had not been through the Gender Reassignment Bill.

Mr PENDAL: I do not want to be sidetracked by the member. I was in his electorate on Friday giving him a hand to hang on to the seat, so he should be more accommodating to me than he has been in the past minute or so.

I am saying that we have an obligation to keep the fundamental record intact. I have made this confession in past years: I am the great great grandson of a convict. I know that every time I say that some of my colleagues say, "Yes, and it still shows." This Bill means that we could one day reach a point where there is some embarrassment - I do not think there is now - attached to being the great great grandson of a convict. We could then introduce a Bill into the Parliament to expunge the record so that people like me, or others for their own reasons, could have their origins expunged from the record. That is wrong. My problem is not with gender reassignment. In the few cases which have come to my notice one could barely begin to understand the trauma and emotional distress facing those people. I do not have any difficulty with anything we can do to assist them in rearranging their lives and giving them documentation which makes things easier. However, we are dabbling in a dangerous area when we are prepared to change not just the extract, the information a person would carry around, but also the fundamental information which has been entered into the record.

I mentioned the convict analogy. Members might imagine what might happen with a person's religious observance. In the future we might well run into a period when it is not socially acceptable to be an Anglican minister, heaven forbid!

Mr Prince: Exactly, and I am sure heaven would forbid.

Mr PENDAL: The social engineers of that time might say they could give people, in this case the current Minister for Police, the chance to cover up that sort of heritage. I know this almost sounds flippant but it is not. It gets to a point where somebody makes a decision down the track seeking to alter the original and fundamental record, not the record that we are equipping people with in order for them to have a more natural lifestyle and one which exists without embarrassment or humiliation for them. Mr Acting Speaker, I do not wish to speak any further except to say -

The DEPUTY SPEAKER: Mr Deputy Speaker.

Mr PENDAL: Mr Deputy Speaker - it is just a matter of time, I am sure. I accept and can understand the first and the third reasons outlined by the minister. The second reason being advanced to change the law should not be part of the Bill. I can accept the clause which refers to the recognition certificates. However, I do not accept those clauses dealing with the records controlled by the Registrar General. They are wrong. Nonetheless, I still intend to support the Bill.

MRS HOLMES (Southern River) [11.25 pm]: I shall speak very briefly on this Bill, which affects some of my constituents. In response to the comments by the member for South Perth, although I understand what he was saying about altering records, he must acknowledge that gender dysphoria means that someone may be born with a male form but be female inside that male form.

Mr Pendal: We both agree on that.

Mrs HOLMES: That is why members must understand that when people go through the gender reassignment procedure, which takes years and years, and then undergo the operation, they then become in form what they knew they always were inside. Therefore, the male form becomes a female form. In such cases, why should the female be locked into carrying a birth certificate around that says she is a male?

Mr Pendal: We agree on that as well.

Mrs HOLMES: I have some brief notes about the outcome for people who have undergone a gender reassignment. Currently, those people receive substandard medical care; limited legal recognition; social stigma attachments; often poor family attachments, including ongoing child abuse, both physical and psychological; discriminatory practices in employment and advancement in the workplace; and physical and psychological abuse in society. That is because a person's gender status is changed as a result of an accident of nature. It is not because they have a sexual predisposition towards a particular gender. Other members have mentioned, and I would like to reinforce, the fact that this Bill has nothing to do with sexual preference.

What will the Gender Reassignment Bill (No 2) provide for gender reassigned persons? This Bill, when enacted, will provide legal recognition of the status of a gender reassigned person who lives within the State of Western Australia. They will be able to function as a person of their reassigned gender status without having to provide sensitive information, which other persons of a non-gender reassigned status do not have to. They will be able to fulfil their day-to-day functions, and get a passport, driver's licence, social security card, Medicare card and so on. It will provide a means of addressing discrimination in the workplace, when filling in forms, and when attending schools, colleges, universities, clubs and so on. The Bill will provide the law with a means of registration of individuals. This will ensure that the interests of the State are taken care of by a central body - the Gender Reassignment Board of Western Australia.

This Bill is not a matter of tolerance, or homosexuality versus heterosexuality or bisexuality. This Bill is about providing for a small group of people from a broad group of human beings who, through no fault of their own, have been left with a

gender identity claim and who have gone through years of medical, psychological and social learning and lifestyle commitment to be at peace within themselves and to correct nature's misprint. I am proud to support this Bill.

MR PRINCE (Albany - Minister for Police) [11.28 pm]: I am obliged to members for their contributions and support of the Bill.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clause 1: Short title -

Mr PENDAL: I did not intend to talk on clause 1 or on any other clause, but I had hoped the minister might have given some response other than to leave the impression that the House was happy in the second reading debate with all the provisions of the Bill. I will not repeat the matter at any length but I ask him how he can justify a change to a fundamental record of the State. As someone who supported the Bill, I expressed the regret that the minister did not deal with the response in the second reading debate except in a perfunctory way.

Mr PRINCE: I did not mean to neglect to address the matter raised by the member for South Perth. I thought what he said was self-explanatory and did not require a response. I understand the point made by the member for South Perth related principally to the alteration of the fundamental record in clause 18. There is an amendment to clause 18 on the Notice Paper and upon that amendment the clause will read -

After the reassignment of gender is registered by the Registrar General and the register altered accordingly, a birth certificate issued by the Registrar General for the person must, unless otherwise requested by the person, or permitted by the regulations show the person's sex in accordance with the register as altered.

There are at least two circumstances in which the original unaltered birth certificate would be able to be produced and used. The original birth certificate will still be preserved for certain purposes.

Mr PENDAL: I note the minister is talking about an amended birth certificate that I might carry around in my wallet.

Mr Prince: Yes.

Mr PENDAL: That has never been my difficulty.

Mr Prince: I am talking about the original in the register.

The DEPUTY SPEAKER: I remind members that we are talking about the title of the Bill and I ask the member for South Perth to bring up his argument when we reach clause 18.

Mr PENDAL: I thought we might be able to dispose of it in the debate on the short title.

The DEPUTY SPEAKER: I will bear with you for a short time.

Mr PENDAL: I am trying to come to grips with the seriousness with which the Government has considered the matter of obliterating original and fundamental records of the State. What can happen in one instance, as I have already mentioned, is capable of happening in many other instances with future Governments. My concern is the integrity of the original record. What concerns me is that we could be accommodating the reasonable aspirations of people who have been gender reassigned in their recognition certificates without fundamentally changing a record of this State.

Mr PRINCE: With the amendment that is proposed to clause 18, to insert the words "or permitted by the regulations", the original record will remain and will not be removed or rendered a nullity. The best way I can put it is it will not be erased. The amendment will permit regulations to allow for the disclosure of the original birth certificate. An amendment of that nature is necessary to ensure the integrity of an individual's criminal history for the purpose of presentation to a court of record. For example, the police may need to gain access to a person's original birth certificate to ensure the correctness of a criminal record and to provide a full and accurate piece of information. The original record is not erased but remains. The amended, changed, altered or whatever record is issued. To all intents and purposes that is the one which the world will see, whether it is carried around in the hip pocket or someone seeks a copy of it from the Registrar General. It will only be in exceptional circumstances that the underlying certificate will be produced. In very few circumstances will that be available, but it will still exist.

Mr Pendal: The underlying record under this amendment is not off?

Mr PRINCE: No.

Clause put and passed.

Clauses 2 to 10 put and passed.

Clause 11: Executive officer and other officers -

Ms McHALE: Can the minister clarify who the chief executive officer is?

Mr Prince: The member will find it in the Public Sector Management Act.

Ms McHALE: Is the chief executive officer a designated authority such as the Commissioner for Health?

Mr PRINCE: It is the CEO of the board. From clause 5 on, a board is established with certain functions, having a president, other board members and an arrangement of business. The CEO is to be appointed. The Public Sector Management Act states how that is to be done.

Ms McHale: The board will have a CEO?

Mr PRINCE: Yes, and whoever it is will more than likely have some other position in the public sector. This is not exactly a full-time job. Whether it winds up being the Commissioner for Health or somebody else, I do not know.

Ms McHale: The clause does not actually say that the board will have a CEO.

Mr PRINCE: No.

Clause put and passed.

Clauses 12 to 17 put and passed.

Clause 18: Issuing of new birth certificate -

Mr PRINCE: I move -

Page 11, line 15 - To insert after the words "by the person" the words "or permitted by the regulations".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 19 put and passed.

New clause -

Mr PRINCE: I move -

Page 12, after line 1 - To insert after clause 19 the following new clause to stand as clause 20 -

Issue of replacement qualification certificates

20. (1) If -

- (a) a certificate of qualification refers to a gender reassigned person by a name that by common usage is not attributed to a person of the gender to which the person has been reassigned; and
- (b) the person has adopted another name,

the issuing authority, on being satisfied of those matters, may issue to the person a replacement certificate showing the name referred to in paragraph (b).

(2) Except for the name of the person, a replacement certificate may be identical to the original certificate in every respect including the date of issue.

(3) A replacement certificate need not show that it is issued in place of the original but may do so if the issuing authority considers that it would not otherwise be practicable to issue the certificate.

(4) An issuing authority is not to be taken to have issued a false document by issuing a replacement certificate in accordance with this section.

(5) In this section —

"certificate of qualification" means a document that shows that a person has an authorization or qualification or experience that is needed for or facilitates —

- (a) the practice of a profession;
- (b) the carrying on of a trade or business; or
- (c) the engaging in of an occupation;

"gender reassigned person" means a person who has been issued with a recognition certificate or an equivalent certificate;

"issuing authority", in relation to a certificate of qualification, means the authority that issued the certificate or a successor to that authority.

The consequence of this new clause will obviously be a renumbering of the following clauses.

New clause put and passed.

Clause 20 put and passed.

Clause 21: Confidentiality -

Mr PRINCE: I move -

Page 13, after line 3 - To insert the following -

- (2) An issuing authority under section 20, or any person acting on its behalf, must not divulge confidential information obtained for the purposes of that section except as may be required for those purposes, or as may be permitted in writing by the person to whom the information relates.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 22 to 28 put and passed.

Schedule 1 -

Ms McHALE: Will the information in clause 7 of the schedule be public or will it be subject to strict confidentiality rules? Is the new clause the minister just inserted applicable to that? I am referring to the executive officer, who I presume is the same as the chief executive officer.

Mr PRINCE: Yes. We have both a chief executive officer and an executive officer under clause 11. I confidently expect that the practice directions to be issued under clause 10 will include directions as to the confidentiality of applications. That will be in accordance with the clause presently numbered 21. Given that we have that mandated requirement of confidentiality, it seems to be inevitable there will be a practice direction with respect to the non-disclosure of the particulars of the applications.

Schedule put and passed.

Schedule 2 -

Ms McHALE: This seeks to amend the Equal Opportunity Act to include the ground "or in certain cases, on gender history grounds". How will the words "in certain cases" be interpreted by the Equal Opportunity Act? They are very broad and vague. I am concerned that it is not so broad as to cause some legal confusion or uncertainty in the future. Can the minister comment on those sorts of concerns?

Mr PRINCE: The answer is to be found in the amendment that will appear in the Equal Opportunity Act, which will become new section 35AB. That defines and delineates what can be called discrimination under the heading of gender history. As my adviser is pointing out, the balance of those amendments to go into the Equal Opportunity Act - that is, proposed new sections 35AC, 35AD and so on - will pick up different forms of discrimination that can be dealt with. It is fairly compendiously delineated and described.

Ms McHale: Does that deal only with post-operative gender assignment?

Mr PRINCE: Yes, I think it does. It would have to.

Ms McHale: It refers to members of the opposite sex. It does not focus on this very small group of people. It is a broad definition about transsexuals and others who are not gender reassigned.

Mr PRINCE: I understand what the member is saying. She is looking at the interpretation clause under proposed new section 35AA. We must also look at the gender reassigned definition, which relates to a person who has been issued with a certificate. A certificate is issued only when there has been the medical and surgical procedure. The proper interpretation is that the person who has the medical-surgical procedure can bring a discrimination case before the Equal Opportunity Commission only in a post-operative sense. Dr Thompson agrees with me, and I am comforted.

Schedule put and passed.

Title put and passed.

Third Reading

Bill read a third time, on motion by Mr Prince (Minister for Police), and transmitted to the Council.

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) BILL 1999

Returned

Bill returned from the Council with amendments.

House adjourned at 11.50 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

CONTRACTING OUT POLICY, IMPACT ON BUSINESSES IN REGIONAL AREAS

1051. Mr BROWN to the Minister for Regional Development:

- (1) Is the Minister aware that numerous small and medium sized businesses in regional areas rely on work from Government Agencies?
- (2) Is it true that the Government contracting out policy has led to a greater concentration of decision making and resources being based in Perth with the consequence that businesses in regional areas (or at least some regional areas) are being disadvantaged by the centralised decision making?
- (3) If not why not?

Mr COWAN replied:

- (1) Yes. The Government undertakes purchasing in such a way as to ensure that small and medium sized businesses in regional areas are afforded the opportunity to participate in and benefit from government contracts wherever possible. The commitment to providing greater opportunities to small and medium sized regional businesses is supported by the Regional Buying Compact. CAMS is a good illustration of the government's approach. Over the last financial year, about eighty eight per cent of work through CAMS regional offices went to local suppliers who are predominantly small to medium sized businesses.
- (2) Regional suppliers who deal directly with government agencies managing contracts in regions have not been disadvantaged by the contracting out policy. For agencies such as CAMS and Main Roads, local decision making has been strengthened. In those cases, where regional businesses supply goods or services to the prime contractor it may well be that regional businesses must now deal with companies whose purchasing is managed outside the region. However, the majority of government agency contracts for regional areas are managed within the regions giving opportunities for regional suppliers.
- (3) Not applicable.

REGIONAL FOREST AGREEMENT, REDUNDANCY PAYMENTS AND TRAINING PACKAGES

1088. Mr BROWN to the Minister for Employment and Training:

- (1) How much has been allocated to assist employees made redundant, or to be made redundant, as a result of the Regional Forest Agreement or revised Regional Forest Agreement?
- (2) How much has been allocated for redundancy payments?
- (3) How much has been allocated for training/retraining?
- (4) How much has been allocated for other employee services which will assist employees gain alternative employment?
- (5) Have any of the funds allocated for retraining been used?
- (6) How much has been used?
- (7) Where a person is made redundant or faces redundancy and seeks Government assistance to undertake a training course, what criteria is used to determine if the costs of that course will be met by the Government?
- (8) What departments and agencies have been given responsibility for examining and approving training packages?
- (9) Has the Government utilised the services of any -
 - (a) State Government department or agency;
 - (b) Federal Government department or agency;
 - (c) non-Government organisation; and
 - (d) private sector provider,
 in -
 - (i) assessing
 - (ii) approving; and
 - (iii) placing,
 any person made redundant or to be made redundant in a training course?
- (10) What is the process employees made redundant or to be made redundant have to undergo in order to be placed in a training or retraining course?

(11) What agencies/organisations are involved in that process?

(12) How were such agencies/organisations selected?

Mr KIERATH replied:

- (1) An amount of \$8 million has been allocated for redundancy payments and relocation and training.
- (2) \$7.3 million.
- (3) \$0.7 million.
- (4)-(6) In addition to the \$8 million, the Department of Training is committing resources and funds as part of its 12 month Mature Age Employment Program to assist employees gain alternative employment. In addition, employment services to the regions are in place through Jobs South West, a not-for-profit agency funded by the Department of Training delivering the State's Job Link service to the South West. These programs assist employees with the development of resumes, skill recognition and training opportunities amongst a network of employers and includes a group training scheme to place apprentices.
- (7) Details of the Worker Assistance Guidelines are nearing completion. The Guidelines will include financial support for preparatory training and vocational training to help workers upgrade skills and obtain a new job. Government's contribution to the cost of training will be dependent upon the specific type of training. Criteria will be developed when the Guidelines are finalised.
- (8) This will be determined once the Guidelines are finalised.
- (9) Pending finalisation of the Guidelines, the assessment, approval and placement of redundant workers in training is coordinated by the retrenchment coordinators managed by Jobs South-West. This arrangement is designed to provide redundant workers with a 'one-stop-shop' approach to planning their future.
- (10) Pending finalisation of the Guidelines, through a Jobs South-West retrenchment coordinator.
- (11) Pending finalisation of the Guidelines, the agency employing the retrenchment coordinator is Jobs South-West. Following contact with the coordinator, the client is referred to other service providers on the basis of need. These include, but are not restricted to:
 - Business Enterprise Centre;
 - TAFE;
 - Private training providers;
 - Centrelink (to secure income support);
 - JobNetwork;
 - Apprenticeship & Traineeship Company.
- (12) Referral to these agencies is on the basis of an agreement between the retrenchment coordinator and the client as to the most appropriate strategy to meet the client's needs.

RECHERCHE SOFTWARE DEVELOPMENT PTY LTD

1128. Mr BROWN to the Minister for Small Business:

- (1) Further to question on notice No. 781 of 1999, what is the nature of the software being developed by Recherche Software Development Pty Ltd?
- (2) What is the purpose of the software?

Mr COWAN replied:

- (1) The software being developed by Recherche is a database application for holding business licence information and incorporates a web interface to enable delivery of business licence information over the internet.
- (2) The Small Business Development Corporation, through its Business Licence Information Centre, currently provides information to small business on State and Federal Government licensing requirements. The enhancement of the Small Business Development Corporation's database will extend this service to the provision of information on local government licences ensuring its comprehensiveness across all three tiers of government. In addition, in line with the government's commitment to facilitate the use of e-commerce, the software enhancement will allow access to licence information 24 hours a day via the internet.

RECHERCHE SOFTWARE DEVELOPMENT PTY LTD

1129. Mr BROWN to the Minister for Small Business:

- (1) Further to question on notice No. 781 of 1999, what is the nature of the software being developed by Recherche Software Development Pty Ltd?
- (2) What is the purpose of the software?

Mr COWAN replied:

- (1) The software being developed by Recherche is a database application for holding business licence information and incorporates a web interface to enable delivery of business licence information over the internet.

- (2) The Small Business Development Corporation, through its Business Licence Information Centre, currently provides information to small business on State and Federal Government licensing requirements. The enhancement of the Small Business Development Corporation's database will extend this service to the provision of information on local government licences ensuring its comprehensiveness across all three tiers of government. In addition, in line with the government's commitment to facilitate the use of e-commerce, the software enhancement will allow access to licence information 24 hours a day via the internet.

REGIONAL DEVELOPMENT POLICY

1218. Mr BROWN to the Minister for Regional Development:

- (1) Further to question on notice No. 240 of 1999, how many letters, submissions or comments were received on the draft policy until 3 September 1999?
- (2) Have any further letters, submissions or comments been received since that date?
- (3) If so, will those letters, submissions or comments be taken into account by the Government in determining its policy?
- (4) Will the submissions, letters and comments received on the draft policy be analysed and considered?
- (5) If so, when is it envisaged that a policy will be ready for consideration by Government?
- (6) On what date does the Minister envisage the Government releasing its formal regional development policy?
- (7) Will the policy be confirmed and publicly released before the 2000-01 budget is introduced into the Parliament in the Autumn session next year?
- (8) If not, why not?

Mr COWAN replied:

- (1) Until 3 September 1999, a total of 80 written submissions (including e-mails) were received on the draft Regional Development Policy. Comments were also collated from a range of public meetings, including 13 regional forums and a number of agency briefings, as well as consultations with youth and Aboriginal community members.
- (2) Yes. A total of 28 written submissions were received after the closing date.
- (3) Yes. Late submissions have been taken into account in the drafting of the final Regional Development Policy.
- (4) All submissions, letters and comments have been analysed and considered in the final policy drafting process. A full report on submissions to the draft Regional Development Policy will be published in November 1999.
- (5) The policy is anticipated to be ready for consideration by Government before the end of the year.
- (6) The Regional Development Policy is expected to be released before May 2000.
- (7) Yes.
- (8) Not applicable.

ANTI-DISCRIMINATION LEGISLATION

1221. Mr BROWN to the Minister representing the Attorney General:

- (1) Is the Minister aware of the 1998-99 Annual Report of the Commissioner for Equal Opportunity?
- (2) Is the Minister aware that in the body of that report the Commissioner anticipates that Tasmania will proclaim its Anti-Discrimination Act in the near future which will make Western Australia the only State that does not make discrimination on the base of sexual preference unlawful?
- (3) Is the Minister also aware that the Commissioner believes it may be appropriate to reconsider the experience that people who are discriminated in public life, because of their sexual preference, in light of changes in other jurisdictions and human rights standards articulated in many international instruments?
- (4) Does the Government intend to introduce legislation to bring Western Australia into line with other States?
- (5) If so, when?
- (6) If not, why not?
- (7) What action, if any, does the Minister/Government intend to take on this matter in this financial year?

Mr PRINCE replied:

- (1)-(3) Yes.
- (4) Not at the present moment.
- (5) Not applicable.

- (6) The Government has considered proposals to amend the Equal Opportunity Act to include sexuality as a ground of unlawful discrimination in the past, and decided to not support such amendments. The Government's decision was based on the fact that a significant proportion of the Western Australian community does not support such amendments. To make discrimination on the basis of sexual preference unlawful would interfere with the rights of others to practise their religious beliefs, and hence discriminate against them. I believe that there is a clear difference between refraining from doing something, and imposing by legislation, requirements that interfere with beliefs and opinions.
- (7) None.

RADIO RTR'S FRESH BLAST CD LAUNCH PROGRAM

1243. Ms ANWYL to the Minister representing the Minister for the Arts:

- (1) Does Radio RTR's Fresh Blast CD Launch Program currently include concerts in country Western Australia?
- (2) Has the Government investigated the option of expanding the program to include performances in country schools?
- (3) If yes, what was the outcome of the investigation?
- (4) If not, why not?

Mrs EDWARDES replied:

- (1) RTR is not within the portfolio.
- (2)-(5) Not applicable.

CONTEMPORARY MUSIC, REVIEW OF SUPPORT

1247. Ms ANWYL to the Minister representing the Minister for the Arts:

- (1) Will the Minister confirm that the Coalition in its 1996 Arts policy promised to "In partnership with the Australia Council's commercial music export fund, review support for contemporary music in Western Australia."?
- (2) Has a review of support for contemporary music in Western Australia been conducted?
- (3) If yes, what was the outcome or recommendations made in response to that review?
- (4) If not, why not?

Mrs EDWARDES replied:

- (1) The coalition did not publish a policy on the arts for the 1996 election.
- (2) No.
- (3)-(4) Not applicable.

KEMERTON, LAND ACQUISITION

1377. Mr GRILL to the Minister for Lands;

How much of the \$6 million allocated in this year's budget for the acquisition of land in the Kemerton area has been spent?

Mr SHAVE replied:

Nil. The allocation is a provision pending the Government decision on the expansion proposals for the Kemerton Industrial Estate.

NATIONAL YOUTH WEEK

1388. Ms ANWYL to the Minister for Youth:

I refer to plans for National Youth Week in about April 2000 and ask -

- (a) what funding will the State Government provide for this week of events;
- (b) how will these funds be spent;
- (c) what funding has been sought or received from elsewhere for the Youth Week;
- (d) how will these funds be spent;
- (e) what planning is occurring in the Office of Youth Affairs and your Ministry in relation to the Youth Week;
- (f) what regional activities will be undertaken;
- (g) what publicity has been generated by the Office of Youth Affairs to publicise Youth Week; and
- (h) what events will be held by the Office of Youth Affairs to launch Youth Week; and
- (i) what events will be held by the Office of Youth Affairs during Youth Week?

Mr BOARD replied:

- (a)-(i) The State Government, through the Office of Youth Affairs, has been involved in the development of the National Youth Week initiative at the National and State levels. Details of the Western Australian component of National Youth Week are still being finalised in consultation with State youth representatives on the National Planning Committee. I will provide the member with details of the proposed State events when planning and development has been finalised and following the Federal Minister's official announcement and launch of National Youth Week in January 2000.

QUESTIONS WITHOUT NOTICE

PRESCHOOL CHILDREN, DROWNINGS

492. Dr GALLOP to the Premier:

I refer to the feeble and defensive answer given by the Premier yesterday to the question concerning the high incidence of preschool drownings in Western Australia, and ask -

- (1) Is the Premier aware that the Child Health Research Institute report released yesterday specifically mentioned separation fencing as a major preventive measure?
- (2) Is the Premier aware that the report specifically mentioned his Government's relaxation of pool regulations in 1993?
- (3) Is the Premier aware that the report noted that most preschool drownings occurred in households with inadequate pool fencing?
- (4) Why, then, will the Premier not reconsider his position on this matter of public importance?

Mr COURT replied:

- (1)-(4) I take this issue seriously, particularly as a parent of a five-year-old daughter. I am fully aware of the dangers of swimming pools.

Dr Gallop: The report linked those dangers to your failure to legislate, Premier.

Mr COURT: I read that report after the member for Thornlie raised the question yesterday. I will make a couple of points. First, it is important that as much publicity as possible be given to this issue, particularly at this time of the year. Today is one of the first hot days of summer. The report spells out that it is preschool children who are most at risk. People must have their pools enclosed with regulation gates and the like. Unfortunately, it is true that many people do not properly maintain those pool areas.

The other major concern is the whole question of parental or adult supervision in relation to swimming pools. Members opposite know that the changes that were made had the full support of the Royal Life Saving Society. A swimming pool must be enclosed. It is appropriate that at the beginning of summer people put some effort into making sure that their pool gates, etc, are functioning properly. People should not just rely on fencing. It is also critical, particularly with preschool children, that there be adequate supervision when they are near water.

SMALL BUSINESS, PREMIER'S SUPPORT

493. Mr BLOFFWITCH to the Premier:

Last week the Premier visited Busselton and Kalgoorlie to open new small business operations. Is the Premier aware of concerns that have been raised about his support for small businesses in Western Australia?

Mr COURT replied:

Last Friday I went to Busselton and to Kalgoorlie to open two different small business operations. In Busselton I opened the extensions of Jensen Jarrah, which is a very successful operation. It employs nearly 100 people, and has a turnover of around \$10m. Most of its products are exported. What was interesting about that opening was that representatives of its two major competitors, Clarecraft Industries Pty Ltd and Inglewood Products Group, were at that opening because they work in a collaborative way with many of their export promotions. It is a terrific success story.

In Kalgoorlie I opened a new spare parts premises that has been built by two young chaps, one of whom is a member of the Liberal Party.

Ms Anwyl: He is the branch president.

Mr COURT: Okay. One of them is the branch president of the Liberal Party in Kalgoorlie. I will give some background. A question has been asked in the Legislative Council today about whether I went to that function, how I got there and who paid. I went to Busselton and to Kalgoorlie on the government charter plane, and I opened two small businesses. I do it regularly. As members know, I go to Kalgoorlie regularly. As the member for Kalgoorlie knows, I opened the McDonald's Family Restaurant in Kalgoorlie, and I have also opened sling rigs, mines, etc. I willingly stand alongside any small business that is investing in those areas. I do not care whether the people who own them are members of the Liberal Party or the

Labor Party; they get the same support from this Government. What was interesting is that a couple of hundred people were at this opening. It was probably one of the best cross-sections of small subcontractors, mechanics, the mayor, local government people, etc; yet the member for Kalgoorlie was cowering in the business premises next door, and she complained to the media that I, as the Premier, had the nerve to go there to open a small business.

Those people spent a couple of million dollars expanding that business. They have gone from small premises at the back of a service station into their new premises, which even the member for Kalgoorlie must agree is a vote of confidence in Kalgoorlie. Those two young chaps started that business in 1992, at the bottom of the difficulties in the goldfields, and they agreed to spend millions of dollars on their new premises earlier this year when the future in Kalgoorlie was also not seen to be very good. On two occasions they have put their money where their mouths are, and all the local member for Kalgoorlie can do is be critical of those people who are having a go. I do not care whether people who own businesses are Liberal or Labor. I will willingly do what I can, as will this Government, to support them.

Several members interjected.

The SPEAKER: There is too much interjecting. I can understand some emotion, and I have allowed a lot of latitude - it would appear too much.

Mr COURT: While I was in Western Australia working alongside, and being supportive of, those small businesses, the Leader of the Opposition was in Sydney. What was he doing in Sydney while I was in the goldfields and at Busselton? He was at a glittering function at the Darling Harbour banquet hall, when 1 200 people from the business community and the ranks of the true believers shelled out \$200 each to meet Labor's twenty-first century leadership team. Everyone who was anyone in the ALP from around the country, as well as a few of the old twentieth century crowd-pleasers, like Gough Whitlam, Bob Hawke and Wayne Goss, was at this function. Was the Leader of the Opposition there at taxpayers' expense?

Dr Gallop: I did a lot of things in Sydney, Premier.

Mr COURT: Yes. I inform the House that, yes, it was at taxpayers' expense that I went to Busselton and to Kalgoorlie. I do it virtually seven days a week. I am proud of what these small businesspeople are doing. Before the Leader of the Opposition starts trying to make cheap politics out of my going to Kalgoorlie to support local small business, it should be remembered that he was over east with the chardonnay set raising money for the Labor Party.

KWINANA MOTORSPORTS COMPLEX, SOCIETAL RISK ASSESSMENT REPORT

494. Ms MacTIERNAN to the Minister for Planning:

- (1) On what grounds is the Ministry for Planning appealing the decision of the Information Commissioner to release to the public the societal risk assessment on the Kwinana motorplex site?
- (2) How does this action fit in with the Government's pledge to be open and accountable?
- (3) What is in this report that the minister is so scared of becoming common knowledge?

Mr KIERATH replied:

- (1)-(2) I do not have any information from the Ministry for Planning on the grounds on which it is appealing the decision of the Information Commissioner. All I know is that the ministry is exploring its legal rights.
- (3) The Ministry for Planning has told me that, in its view, it is a very poor report that does not stand up to scientific scrutiny.

TERTIARY ENTRANCE EXAMINATION RESULTS

495. Mrs van de KLASHORST to the Minister for Education:

I understand that the tertiary entrance examination concludes today. As this experience has occupied the thoughts of many people in my electorate and all over Western Australia, will the minister advise how it went and when these young students and TEE candidates will receive their results?

Mr BARNETT replied:

The TEE concluded today and the final examination this morning was on ancient history. Some 13 000 students took part in the examinations and generated 58 000 exam papers which are currently being marked. The TEE went remarkably smoothly this year, and I congratulate and thank the Curriculum Council and the supervisors who oversaw the exams. It is a large exercise. The results will be available through the Tertiary Institutions Service Centre on 28 December. Upon producing some identification, students can obtain their results - subject grades, TEE score and eligibility for university entrance. I wish them all well, as I am sure other members do, as they complete their secondary education and, I hope, go on to further study.

KWINANA MOTORSPORTS COMPLEX, OPPOSITION

496. Mr McGOWAN to the Premier:

I refer to the Government's proposed site for a new motorplex in Kwinana, and ask -

- (1) Is the Premier aware that a survey by the Town of Kwinana showed that 70 per cent of local residents oppose construction of the motorplex on that site?

- (2) Is the Premier also aware that the same survey showed that 91 per cent of residents in the nearest suburb, Hope Valley, also oppose the proposal?
- (3) On what basis does the Premier claim, as he did in Saturday's edition of *The West Australian*, that the proposal for this site has strong support in the local community?

Mr COURT replied:

- (1)-(3) It is no secret that it is always difficult to find a location that all parties agree to for a complex of this type. We, as a Government, are doing what we can to find a suitable site for this facility. The Labor Party is opposing the site that is being worked up. There are other options, and the Government has looked at a wide range of them. It is having difficulty with all of them. I do not walk away from the fact that the Government is having difficulty finding a site for that complex.

Mr Marlborough: If you will give me half an hour this afternoon, I will give you a site on a platter.

Mr COURT: Okay. That is a cooperative approach, as long as that site is not 500 kilometres from the central business district. Is it in the metropolitan area?

Mr Marlborough: Yes.

Mr COURT: The Government has been looking at all the different options for this complex, and it is not easy. I was in Rockingham on Saturday with you, Mr Speaker, at the Rockingham spring festival. I spoke to some of the councillors and local business people at the Chamber of Commerce and Industry function. I cannot say it is a reliable survey, but every person I spoke to said they would love to have that facility in the area.

NARROWS BRIDGE, NATIONAL ENGINEERING LANDMARK

497. Mrs HODSON-THOMAS to the Premier:

Last week the Narrows Bridge was recognised by the Institution of Engineers Australia as a national engineering landmark, highlighting the significant role this vital piece of infrastructure has played in the development of the metropolitan area. As members of the House will be aware, the construction of a duplicate bridge is now under way. Will the Premier inform the House on the progress of the construction of the second Narrows Bridge?

Mr COURT replied:

Yes, I was at the function on Friday, along with the opposition spokesperson on Transport. The work on the new bridge has been progressing extremely well. The deadline is for the bridge to be operating in November next year. It is significant that the Narrows Bridge has been recognised as a national engineering landmark. It was a proud occasion which was dampened only by the comments of the opposition spokesperson, who said that the construction was being sped up to meet a political deadline. She then said the project was unsafe. It is very serious to publicly say that the bridge being built will be unsafe.

Ms MacTiernan: I referred to the interchanges.

Mr COURT: The member said the bridge was not properly specified when it went out to tender, and that the bridge as specified would not be safe. The point I make is that we have asked the people involved, and they have said that is not the case.

Ms MacTiernan: It is our job to expose your incompetence.

Mr COURT: Is it the member's job to scare the community by saying that the bridge is unsafe?

Dr Gallop: Your Government cuts corners in many areas of public service.

Mr COURT: Is the Leader of the Opposition now saying that the Government has cut corners with that bridge? Members opposite cannot cop the fact that a project of this nature is proceeding.

An interesting point came out. I have sat in this Parliament this year and listened to members of the Opposition, including the spokesperson on Transport, say how outrageous it is that the private sector is involved in this sort of construction, maintenance and so on.

Ms MacTiernan: We have never said that.

Mr COURT: Not a day has gone past without the Opposition saying that.

Harold Clough made an interesting speech about the Narrows Bridge, and said that the Labor Government in office in 1956 made a decision which, for the first time, allowed a major engineering works of this type to be designed and constructed by the private sector. In other words, it was not done by the traditional day labour force. As a result of that decision, the project had international interest and an outstanding design was produced that was a leader in engineering excellence. It enabled a small Western Australian engineering firm to work alongside a major international player, develop expertise, and go on to become a successful construction company. That is a wonderful example in 1956 of how a Labor Government was prepared to contract out and privatise bridge construction in this State. Forty years later there is a rearguard action saying it is bad to privatise.

NARROWS BRIDGE DUPLICATION, TIME LINES

498. Ms MacTIERNAN to the Premier:

I refer to the memo from then Main Roads Western Australia Commissioner Ross Drabble to the Minister for Transport regarding the Narrows Bridge duplication which states -

The delivery of this project on time has critical events in each step of the process. Intervention by the Minister for Transport or Premier may be required (this was an instruction from the Premier to the previous Minister for Transport).

- (1) What was the instruction which the Premier gave to the previous Minister for Transport about intervening in the time lines set for this project?
- (2) Has the Premier given any further instruction following Mr Drabble's memo?
- (3) Is it not true that, as the memo indicates, sound engineering decisions are taking second place to the Premier's desire to cut the ribbon on this project before the next election?

Mr COURT replied:

- (1)-(3) There is not the slightest bit of evidence that any shortcuts have been taken. Why is the Opposition so uptight about this project being built quicker and under budget?

Ms MacTiernan: We know that will not happen.

Several members interjected.

Mr COURT: The project budget is \$49m which is considerably less than the Main Roads -

Ms MacTiernan: Answer the question! Tell us about your instruction.

Mr COURT: Hang on! Main Roads Western Australia estimated \$70m and the budget is \$49m. The savings have been achieved by the contractor's method of construction and by the decision -

Ms MacTiernan: The question is about this memo which says you have intervened to set political deadlines on this project. Now you answer that question. We know the rest of that stuff.

Mr COURT: Let me finish this. The savings have been achieved by the contractor's -

Ms MacTiernan: That has nothing to do with it. It is irrelevant.

Mr COURT: It does - the member for Armadale just asked me the question. The savings have been achieved by the contractor's method of construction and by the decision to have a separate bridge rather than a joint structure. The contract price is \$42m, which is a fixed price for the scope of the work which Main Roads is negotiating with Leighton Contractors Pty Ltd.

Ms MacTiernan: What have you said to the Minister for Transport?

Mr COURT: Claims by the member for Armadale that Leightons and Main Roads are currently in dispute are without foundation. A senior executive for Leightons told the media last Friday that the contract price was locked in and the project was proceeding on schedule and without difficulty.

Several members interjected.

The SPEAKER: Order! I have allowed a lot of interjection and I think that adds to the information flow. However, we are reaching a stage at which members are asking one question and all sorts of other questions are floating around. Many members are interjecting, including ministers. Ministers get the opportunity to answer questions in this place, not just interject. The next minister who interjects will be formally called to order. If he does it twice, I will do that twice very quickly. Let us get on with some answers because we are still on question No 7. It is a lamentable performance.

Mr COURT: I finish by saying that there has been no compromise on safety. We have just got knock, knock, knock. The Opposition cannot cope with the fact that the engineers are getting on with building a second bridge and it does not like those things happening.

NARROGIN AND COLLIE, FIREFIGHTING APPLIANCES CONTRACTS

499. Mr WIESE to the Minister for Emergency Services:

I am aware that the Minister for Emergency Services was in Narrogin and Collie this morning to announce the awarding of new contracts for firefighting appliances. Can the minister explain to the House the significance of these contracts to regional Western Australia?

Mr PRINCE replied:

I visited Narrogin and Collie this morning to announce that two regional businesses, one in each of those towns, have triumphed over rival national organisations to secure shares in contracts worth more than \$8.5m for new firefighting appliances. These two businesses have a history of supplying some appliances over the years. However, in the past, much

of the equipment, particularly that used in the metropolitan area by the Fire and Rescue Service, has come fully assembled from the eastern States. Now Narrogin-based WA Fire Appliances has won a contract to provide 11 medium pumpers. That contract is worth in excess of \$2.3m for the company spread over about two years. Despite the fact that the first cab chassis has not yet been received when I visited the company this morning, workers were already framing up the work they fabricate on site, which is part and parcel of the equipment the company fits to the vehicles. The organisation employs about 18 people. It grew some years ago out of a brake and clutch repair small business and is now a significant sized Narrogin business and has won a significant contract.

In Collie, a recently established - only five years ago - but equally successful business called South West Fire Units has won a contract worth over \$2m for the provision initially of 11 tankers for bushfire work with the probability of providing 16 more tankers over two years. That will bring \$2m to the company. The total contract is worth \$3.9m but the cab chassis are being bought from other supplies. An interesting fact about the Collie business is that it was started five years ago by three people who were former employees of the Department of Conservation and Land Management. This was a case of contracting out. The three of them started their own little business and are now employing 19 people and have employed a maximum of 25. The company has a turnover in the millions of dollars. It is supplying and repairing equipment for Hamersley Iron Pty Ltd and a number of other mining companies interested in firefighting in addition to CALM and the Fire and Emergency Services Authority of WA and other bodies. They not only deal in this State but also nationally. It is very pleasing to see a small business which is a prime example first of privatisation and then of contracting out now being able to receive contracts by open tender to supply equipment paid for by the taxpayers for the protection of the public of Western Australia. It is a magnificent success story and both of these businesses are in regional Western Australia.

OLD-GROWTH KARRI AND TINGLE COUPES, LOGGING

500. Dr EDWARDS to the Minister for the Environment:

Some notice of this question has been given. I refer to the Minister for the Environment's commitment in this place on 26 October to provide a list of the old-growth karri and tingle coupes which had been logged in the previous three months.

- (1) Will the minister now table that list?
- (2) If not, why not?
- (3) Have the Department of Conservation and Land Management's revised logging plans for old-growth karri been finalised?
- (4) If yes, can the minister advise which coupes will be logged in the next six months?

Mrs EDWARDES replied:

- (1)-(4) The following coupes containing old-growth karri and tingle have had harvesting operations and/or log removal during the past three months as part of the ordinary published logging plans: Bavington 4, Beavis 7, Beavis 8, Beavis 10, Burnside 1, Dombakup 5, Gardner 4, Gordon 4, Thomson 4, Thomson 6 and Weld 8.

As I indicated in answering question without notice 380 on 16 October, when I release the Ferguson report I will make a public statement about the logging plans and the response so that members of the community are fully involved and informed.

OLD-GROWTH KARRI AND TINGLE COUPES, LIST OF LOGGING

501. Dr EDWARDS to the Minister for the Environment:

I have a supplementary question. Will the Minister for the Environment now table that list of coupes?

Mrs EDWARDES replied:

I have answered the question. The information is on the public record.

[See paper No 438.]

FREMANTLE, GOVERNMENT ASSISTANCE

502. Mrs HOLMES to the Minister for Employment and Training:

Many of my constituents find it convenient to travel to Fremantle to work. Given that the Leader of the Opposition claims that the Government is interested only in the central business district, can the Minister for Employment and Training inform the House of any assistance which the Government is offering outside the CBD, especially in the Fremantle area?

Mr KIERATH replied:

I am pleased to inform the House that job seekers in Fremantle will benefit from more than \$439 000 of the State Government's injection of \$4m into a package for employment projects throughout Western Australia. For the benefit of the Leader of the Opposition, Western Australia means both the central business district and the other 2.5 million square kilometres of this State. I am sure that the member for Fremantle would be interested in this but he does not appear to be here. The Fremantle area will receive \$439 810 for four state assistance strategy projects. These projects will assist more than 30 000 unemployed people each year throughout the State, not merely the central business district. The allocations include \$144 200 for Co-Scope and \$111 755 for the South Metro Migrant Resource Centre. South Metropolitan Youth

Link has been allocated \$97 335 and Bridging the Gap South has been allocated \$86 520. These projects focus on job seekers with special needs. This includes people with disabilities, the long-term unemployed, people from culturally and linguistically diverse backgrounds, ex-offenders, mature age people, youth at risk, Aboriginal people and those seeking to return to the work force. This Government is committed to helping those people realise their full potential. I hope that, as his constituents are some of the principal beneficiaries, the member for Fremantle will acknowledge the contribution of these grants to the wellbeing of the people in the Fremantle area and the State as a whole.

WORKERS COMPENSATION, PEOPLE ON CERTIFIED AGREEMENTS

503. Mr KOBELKE to the Minister for Labour Relations:

I refer to the recent changes to the Workers' Compensation and Rehabilitation Act 1981 and specifically to the step down in weekly payments after four weeks.

- (1) Was it a secret, and so unstated, intention of the Government's amendments to apply the reduction to 85 per cent of pre-disability earnings to teachers and others employed on certified agreements within the award system?
- (2) If not, what action will the minister take to ensure injured workers are not disadvantaged by the technical device of treating certified agreements as non-industrial awards?

Mrs EDWARDES replied:

- (1)-(2) This was one of the recommendations of the Pearson report which was implemented by the Government in a generic sense. How teachers fit within those amendments is obviously a matter between the State School Teachers Union of WA and the Minister for Education.

SOUTH WEST HEALTH CAMPUS

504. Mr BARRON-SULLIVAN to the Minister for Health:

I refer to the fact that country residents often need to travel to the metropolitan area for a variety of health procedures and health care services, often at great inconvenience and expense to themselves and their families.

- (1) Can the minister provide a figure for the number of patients admitted to the South West Health Campus since its opening?
- (2) Of these, how many would have been required to travel to Perth for medical care prior to the advent of the health campus in Bunbury?

Mr DAY replied:

I thank the member for some notice of this question.

- (1) The Government has a very clear policy of providing care closer to home wherever it is reasonable to do so and, therefore, is expanding the provision of health services in regional and rural parts of Western Australia as well as the outer parts of the Perth metropolitan area. In the south west region the Bunbury Health Service is collocated with the St John of God Hospital in the still very new South West Health Campus, which is a magnificent new facility for people in the south west part of the State. The campus came into operation on 15 March of this year. From that time to 30 September of this year the Bunbury Health Service had 6 093 admissions to the public hospital.
- (2) The exact number of patients who would otherwise have been required to travel to Perth is difficult to identify. However, the agreement between the Health Department and the Bunbury Health Service this year includes an additional 1 100 cases to be provided for in Bunbury which would previously have had to be treated in metropolitan hospitals in Perth. Therefore, we can assume that over the full year there would be at least 1 100 people who would not have to travel to Perth for their treatment. These patients will now receive services at the Bunbury Health Service part of the campus due to the expanded provision of services there. In addition, the Health Department has purchased services for public patients from St John of God Health Care, located at the South West Health Campus. For the period 15 March to 30 September of this year, 481 episodes of chemotherapy were undertaken and 132 episodes of renal dialysis. Those two forms of treatment had never been possible in the Bunbury or the south west region previously, so they are now very welcome without any doubt. As my predecessor advises me, this is an excellent policy. It was put into effect to a large extent when he had responsibility for the portfolio. In addition, 126 psychiatric patients have been admitted to the psychiatric residential unit in Bunbury. All of those patients would previously have had to be treated in Perth. All of these examples are very tangible evidence of the Government fulfilling its policy of expanding the provision of health services for people in rural areas.

SURGERY WAITING LIST

505. Ms McHALE to the Minister for Health:

On 7 September 1999 the minister told the Parliament that as at 30 August 1999 of 3 270 patients awaiting surgery for cataract, knee and hip operations, 3 238 were no longer waiting for surgery.

- (1) Is the minister aware that the Auditor General has found that of 3 130 of those cases deleted from the list, fewer than half had actually been admitted as public patients for treatment?

- (2) Why has the minister misled the community on the real situation in regard to waiting lists?
- (3) Why does he take credit for reducing waiting lists when the Auditor General tells us that they have dropped, not because more patients are being treated, but because of fewer new cases and deletions and that in fact urgent and semi-urgent cases remain untreated?

Mr DAY replied:

- (1)-(3) It is always the situation with some patients who are waiting for elective surgery of whatever form that when the time comes when they could be provided with the treatment, they no longer require it.

Dr Turnbull: The same thing happened when members opposite were in government.

Mr DAY: As the member for Collie reminds me, of course exactly the same situation applied when the Labor Party was in government. It will always be the case that some patients for whatever reason no longer require treatment, either because they have decided that they prefer not to have the treatment or they have private health insurance and decide to make use of it and therefore do not need to be public patients. The information that I provided to Parliament in September of this year I have no doubt is accurate and certainly reflects the true situation which applied at that time. The reality is that this Government has made substantial progress in reducing the number of people on waiting lists. The number has come down from a maximum of about 17 000 people on our teaching hospital waiting lists to approximately 12 000 at the moment. More importantly, the median waiting time for elective surgery has also been reduced substantially from a maximum of around eight or nine months to about five and a half months. The amount of time that people need to wait is the important statistic. I could speak for a very long time about the progress that has been made in dealing with elective surgery waiting lists in this State. The Government has a very proud record. We have allocated \$125m over five years so that we can have a sustained effort in ensuring that more people are provided with elective surgery than has ever been the case. We have made substantial achievements in getting people who need joint replacements to be operated on, people who previously would have been waiting for four or five years. If the policies of the previous Labor Government had been in place, they would have been waiting for a very long time. They have been treated. The people who need joint replacements, for example, are generally no longer waiting for anything more than about 12 months. We have a very proud record in that area and, as I say, I am happy to speak about it at length at any time the member for Thornlie would like me to.
