Legislative Council

Wednesday, 5 April 1995

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 2.30 pm, and read prayers.

STATEMENT - PRESIDENT

Questions Without Notice Placed on Notice

THE PRESIDENT (Hon Clive Griffiths): Yesterday Hon Alannah MacTiernan asked a question without notice that the Leader of the Government indicated had been included in the Supplementary Notice Paper for questions on notice. The question had been asked orally last Thursday, at which time the Leader suggested that the question be placed on notice so that time would be available to assemble information to provide a reply. After inquiry I am satisfied that, although it may not have been the member's intention to have the question placed on notice, the circumstances were such that the member would have had to direct the Chamber staff that the question not be placed on notice.

During the discussion that occurred when this matter arose yesterday, when everybody was arguing about whether the question should have been on notice, whether it was and who did it, one bit of information gave me a clue to the solution. The Leader of the Opposition read from the pink *Hansard* and that got my mind back on track, for which I thank him. The reason for my saying that the member should have directed the Chamber staff not to place the question on notice is to be found in a ruling I gave on 15 September 1992 in which, among other things, I said -

> The rule has always been that when a member asks a question without notice and the Minister says that he does not have the answer, whatever the reason, that question should be put on notice. The member asking the question does not have to do anything and the question will appear on the next day's Notice Paper. The only way in which that will not occur is if the member who asked the question without notice directs the Clerk not to put it on notice.

I am told that although the staff do ask a member whether a question is to go on notice, resulting from a Minister's request for that to happen, members must be aware that if they do not want the question to go on the Notice Paper the obligation is theirs to ensure that the staff are told not to follow the usual practice.

For the benefit of members who may not be able to remember or never knew in the first place, this place is controlled and conducted under certain Acts of Parliament, certain standing orders, certain conventions, certain precedents and certain presidential rulings. Each has equal force in regard to the operation of this Chamber. I am not suggesting that everybody remembers the ruling I gave on 15 September 1992.

Hon John Halden: It is a memorable day now, Mr President.

The PRESIDENT: Yes. The fact of the matter is that a President's ruling has the same force as any standing order or other requirement in this place.

That is how the situation arose. It was inadvertent. I can now understand why the member thought that the question would not be on the Notice Paper. She certainly was not here in 1992 and probably would not have been in a position to know. This is one of those things that should not have happened, but did. However, it goes back to the actions of the member.

I gave my 1992 ruling because members were complaining at that time that when a Minister said that they should put certain questions on notice, the questions frequently were not finishing up on the Notice Paper because the member in charge of the question did not do anything about it. I ruled then that immediately a Minister says that the question should go on the Notice Paper, it will go on the Notice Paper, unless the member does not want that to occur.

MOTION - URGENCY

Mining Company Scam, Central Desert-Warburton Area

THE PRESIDENT (Hon Clive Griffiths): Members will be very interested to know that I have received this letter, dated 5 April, addressed to me -

> Dear Mr President
>
> At today's sitting, it is my intention to move under SO 72 that the House, at its rising adjourn until 9.00 am on December 25 1995 for the purpose of discussing the failure of the Court Government, in particular the Minister for Mines and the Minister for Aboriginal Affairs, to take action against the plans by private mining interests to illegally wrest control of land access and mineral exploration rights in the Warburton/Central Desert area.
>
> Yours sincerely
>
> Mark Nevill MLC

Before this matter can be discussed, I require at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

HON MARK NEVILL (Mining and Pastoral) [2.40 pm]: I move -

> That the House at its rising adjourn until 9.00 am on 25 December 1995.

I draw the attention of the House to a scam that has been set up by a mining company in the Central Desert-Warburton area of Western Australia. This scam has been set up to control land access and mining negotiation rights within this area. I understand that the Aboriginal Affairs Department has concerns about the activities of this group, as does the Department of Minerals and Energy. It seems from the information I have gathered that both the Minister for Aboriginal Affairs, Mr Prince, and the Minister for Mines, Hon George Cash, have been sitting on their hands on this issue. No-one can understand why. One theory, though, is that this matter has been directed by people in the Ministry of the Premier and Cabinet.

Hon George Cash: Wrong.

Hon MARK NEVILL: The Minister can answer those charges when I conclude my comments. This scam was set up by Kilkenny Gold NL, whose chief director is Don Calderwood. Kilkenny Gold has paid about $567 000 to people who are directors of Central Lands Exploration (1994) Pty Ltd. Seven of the directors are Aborigines. Quite clearly these people have been paid money by these interests to facilitate a scam. Kilkenny Gold has a 51 per cent interest in Warburton Gold NL. I understand that a large proportion of the remaining interest is held by Don Calderwood. I have not been able to ascertain the exact percentage.

Warburton Gold owns 100 per cent of Warburton Consulting, another private company. Warburton Consulting has an agreement with Central Lands Exploration to deal with mineral applications, claims, mining matters and land access matters in the Central Desert. The revenue from Warburton Consulting will go 50 per cent to Warburton Consulting and 50 per cent to Central Lands Exploration. A closer look will show that Warburton Gold gets 50 per cent off the top and the Aboriginal company gets 50 per cent, minus the expenses. It is a rather unbalanced 50:50 split.

Hon P.R. Lightfoot: All the expenses in the Aboriginal 50 per cent are deducted?

Hon MARK NEVILL: All the expenses incurred by Warburton Consulting are deducted from the 50 per cent share owned by Central Lands Exploration.

Hon P.R. Lightfoot: It could end up having nothing or only 10 per cent of the total.

Hon MARK NEVILL: It could get a bill. The Aboriginal people who are directors of Central Lands Exploration have a bill from Kilkenny Gold for $567 000. The money they paid out in the hope of getting certain benefits is now being recalled. Other

directors and shareholders of Kilkenny Gold should ask why $567 000 was paid out of their funds for this purpose. I will go into the details of the arrangement between them.

Central Lands Exploration was to have entered into some deal with the Ngaanyatjarra Land Council. This deal has been before the council on a number of occasions since August last year and on no occasion has it ever agreed to cede its powers to Central Lands Exploration. One of the main objects and obligations of the Ngaanyatjarra Land Council's constitution is to deal with land matters, mining, mineral exploration rights and land access matters. Why on earth would the council cede those powers to another company, Central Lands Exploration, which admittedly has an Aboriginal board - albeit lavishly bought off by money from Kilkenny Gold - which could then cede them to a private company called Warburton Consulting with no Aborigines on its board, and which could then have powers to deal with matters relating to traditional ownership? It is highly strange, and I do not believe those sorts of arrangements or agreements or contracts could be enforceable.

The other thing is, to obtain agreement to mine in an Aboriginal area a miner must have the agreement of all traditional owners, not just those bought off. I do not believe the agreement entered into between Warburton Consulting and Central Lands was enforceable.

Hon P.R. Lightfoot: Are you saying that some Aborigines associated with that area were bought off?

Mr NEVILL: I am saying some Aborigines in the central desert area have reached highly questionable agreements with Central Lands. A number of statutory declarations are available. Some of the traditional Aboriginal people now say they did not make any agreement with Central Lands. We must bear in mind that some of those people are senile and aged; but some are young.

Hon P.R. Lightfoot: Some are completely illiterate.

Hon MARK NEVILL: They are illiterate by our standards. Five people said they made no agreement with Central Lands. Another person said he signed a blank form. A seventh Aborigine said he had been in gaol when he was approached by one of the directors who said he would be given a motor car and money if he signed a piece of paper; so he signed it. A motor car and money is very attractive in that position.

Hon P.R. Lightfoot: Was he a white Australian?

Hon MARK NEVILL: No, I am speaking about Aboriginal people, the traditional owners in the area.

Hon P.R. Lightfoot: Was the person supplied the money and the car an Aboriginal person?

Hon MARK NEVILL: He was approached by one of the directors of Central Lands. I do not know whether he received the money or the car. Kilkenny Gold has shelled out all that money in a bid to curry the favour of the directors of Central Lands, which I believe is a company facilitated by this group. They set up this company with Central Lands and basically induced those people to sign agreements by offering them large sums of money and providing vehicles and money in many cases. The amount of money that Kilkenny Gold is trying to get back from Central Lands is $567 000. It had cold feet because it realised it would not be able to get this right to negotiate with other mining companies on behalf of the people in the Central Desert area. Companies like Western Mining Corporation, CRA and BHP all have letters from Warburton Consulting advising them that it had signed an agreement with the Ngaanyatjarra Land Council, and it would be acting on behalf of the council in relation to any mining matters. As I have said before, no such agreement had been signed with the Ngaanyatjarra Land Council. Why on earth would one mining company want to submit its proprietary information to a group called Warburton Consulting, which is directly controlled by another company? One would usually like to keep one's trade secrets to oneself. There is a massive conflict of interest there.

Also a director of Central Lands, Jackie McLean, happens to be the current chairman of the land council. There is a terrific conflict of interest there. As members in this Chamber will know, and those with interests in mining, the Aboriginal people in the Central Desert are not hostile towards mining and have facilitated many exploration and mining agreements; in fact, an agreement was supposed to be made for an aeromagnetic survey in the Central Desert area. The company would have been buying fuels, stores, accommodation and everything from the Warburton community or the Ngaanyatjarra Land Council. Because of the legal uncertainty caused by this scam it has had to stop that program, and obviously the contractor has gone off to do other aeromagnetic work.

This small group has effectively disrupted an orderly process and has caused very deep divisions in the Ngaanyatjarra Land Council. A lot of people there are trying to hold the council together, and there is this friction caused by a group of people who have been looked after financially by a group which can only be self-serving and looking after its own interests. In no way in the world would the group be looking after the interests of Aborigines. It would be looking after itself. One can see that in the way the contract has been set up. A lot of people involved in this are tearing their hair out, because it has been going on for some months, and I have been aware of it. I am not someone who when he hears something gets up and raises Cain. However, they cannot understand why the Minister for Aboriginal Affairs has done absolutely nothing. They understand the Department of Mines is unhappy about the situation, and they cannot understand why no action has been taken. There are certain theories as to why it is occurring. One is that it has been taken out of the Ministers' hands. That may or may not be true. I believe it needs some response.

Hon George Cash: Who would dare take it out of my hands or those of the Minister for Aboriginal Affairs?

Hon MARK NEVILL: If the Minister can convince the House that he is taking action or that there is some compelling reason why this group has been allowed to continue, that would be another matter.

Hon George Cash: We are limited in time, but I think I will be able to show you that action has been taken and that the situation is being monitored very, very closely.

Hon MARK NEVILL: The Ngaanyatjarra people should have the support of this Government to get rid of these fleas so that they can get on with running their own lands, which they have shown they are very good at. Kilkenny Gold and the scheme put up should be dispatched to where they deserve to be. I look forward to the Minister responding to the effect that that will certainly happen quickly.

HON GEORGE CASH (North Metropolitan - Minister for Lands) [2.55 pm]: I thank the House for the opportunity to respond to this motion. Hon Mark Nevill commenced his comments by saying that the Minister for Aboriginal Affairs and the Minister for Lands have sat on their hands because of some alleged direction from the Premier's department. First, if Hon Mark Nevill cares to offer any names of people he thinks have done it I would be very interested to hear them. Second, there is no need for that because no-one has directed me at all, and I am sure no-one has directed the Minister for Aboriginal Affairs in this matter.

Hon Mark Nevill: It has been going on for a long time.

Hon GEORGE CASH: It has, and I will explain why in the limited time I have today. I want to run through some of the complexities of this matter. This is not an easy issue. Perhaps the House will understand a little more when I have answered. First, Central Lands Exploration (1994) Pty Ltd is a private mining company with Aboriginal directors. It has presented a proposal to the Ngaanyatjarra Land Council that it should gain a role in negotiating access for mining on the central reserves on behalf of the traditional owners. The parties' agreement would allow Central Lands to advise the Minister for Aboriginal Affairs and the Minister for Mines on all applications for mining tenements and exploration on the leases held by the land council as laid out in the terms and conditions of the agreement.

By way of some background, Central Lands claims to have signed agreements with over 250 traditional owners, which would allow it to act in respect of negotiations with mining companies. That matter Hon Mark Nevill alluded to in his comments. I should also advise that the Aboriginal affairs department has written to Central Lands Exploration company solicitors requesting copies of the agreements because it is interested in monitoring this situation. To date there has been no reply, but it is monitoring the situation.

I am also aware, as Hon Mark Nevill has said that he is, that CLE has also written to some mining companies with interests in the central reserves saying that they should be prepared to negotiate with CLE as representatives of the traditional owners for access to the reserves. Clearly until such time as the Ngaanyatjarra Land Council enters into the some formal arrangement with CLE, if it ever does, the question is whether CLE is representing a proper situation. There is no doubt that the CLE application has dominated nearly every Ngaanyatjarra Land Council meeting since August 1994. It is said that because of the conflict that is presently inherent in these negotiations between the various members of the Ngaanyatjarra Land Council the ability to deal with other land access issues is being obstructed at this stage of the game. The Aboriginal affairs department is very closely monitoring the situation. It is concerned that the Ngaanyatjarra Land Council fully understand the legal implications of any legal agreement that it might be considering.

Hon Mark Nevill knows it, but for the benefit of the House I will explain that the reserve is Aboriginal trust land. The chairman of the Aboriginal Lands Trust wrote the other day to Jackie McLean, the chairman of the Ngaanyatjarra Land Council, at his address in Alice Springs, raising certain issues in respect of the proposal between Central Lands Exploration and the Ngaanyatjarra Land Council. In the letter he stated that he was aware of the tensions between the Ngaanyatjarra Land Council and its members that needed to be resolved. He was aware of certain negotiations to date. He set out in a lengthy five page letter the fact that he regarded the matter as something that required serious consideration and, when I say serious consideration, he was aware of the tension that had developed and why any negotiations should be considered very closely. In that regard, because it could affect the future of the National Lands Council and its people, the Chairman of the Aboriginal Lands Trust recommended that the NLC should take legal advice to help it understand any obligations or responsibilities that would fall upon it should it enter into such an agreement.

Hon Mark Nevill: I think it has already done that.

Hon GEORGE CASH: That may be so, because I am referring to the letter dated 29 March by the Chairman of the Aboriginal Lands Trust to the Chairman of the Ngaanyatjarra Land Council. The chairman concluded his letter by stating that the Aboriginal Lands Trust and the Aboriginal Affairs Planning Authority will continue to monitor the situation. Obviously, that is the current situation. Both the Aboriginal Affairs Planning Authority and the Minister for Aboriginal Affairs have expressed concern at the tension and conflict that clearly exists in the area. They also expressed concern that both parties, if they were to enter into this agreement, must have a very clear understanding of all the obligations that might befall them.

A question has arisen about the legality of the Ngaanyatjarra Land Council entering into an agreement with Central Lands Exploration (1994) Pty Ltd -

Hon Mark Nevill: If they do.

Hon GEORGE CASH: Yes. There is a question surrounding the legality of whether the council can or cannot enter into the agreement which has been put to it by Central Lands Exploration. Again that is something on which the council must take advice. The Chairman of the Aboriginal Lands Trust raised certain legal questions which he believes should be addressed by the Ngaanyatjarra Land Council.

The motion before the House is addressed to both the Minister for Aboriginal Affairs and the Minister for Mines. The Minister for Mines is required to act in accordance with the

Mining Act, section 24 of which provides the Minister with certain power when issuing tenements and, in due course, consent to mine, if that is what is agreed to. Subsection (7)(a) states that -

> Mining may be carried out on any land referred to in subsection (1)(e), (f), (fa) or (g) with written consent of the Minister who may refuse his consent or who may give his consent, subject to such terms and conditions as are specified in the consent.

Subsection (7)(b) is very important and reads -

> Before giving his consent, whether conditionally or unconditionally, the Minister shall first consult the responsible Minister with respect thereto and obtain his recommendation thereon.

As Minister for Mines, I cannot issue a consent to mine until such time as the Minister for Aboriginal Affairs considers all the matters placed before him and has made a recommendation. The Minister for Aboriginal Affairs is also required to seek the ALT's advice. If it recommends that he does grant access -

Hon Mark Nevill: He cannot.

Hon GEORGE CASH: He can if he tables his reasons in the Parliament. However, in general terms the Minister does not, as part of the process, disagree with the ALT's recommendations.

Hon Mark Nevill: Your requirement to consult does not mean you have to accept his advice.

Hon GEORGE CASH: That may be a literal interpretation. However, it requires the Minister for Mines to take into account various matters and it also does not derogate from the way in which the application is made to the Aboriginal Affairs Planning Authority, which is required to give consideration to this matters.

Even more important to this House is that both the Minister for Aboriginal Affairs and I are aware of the tension that exists. Only recently the Chairman of the Ngaanyatjarra Land Council wrote to me advising me of the conflict and tension that exists. He claimed that the violence had broken out after the closure of a recent meeting. I am aware of the tension that exists and the letter to which I am referring is dated 27 February 1995 - it is not as though anybody is sitting on his hands. I am very aware of what is going on. The chairman of the council states in his letter -

> It has always been the intention of the Land Council to attempt to resolve this issue internally. However we now believe that this has become impossible for a number of reasons.

The letter is signed by Peter Rapkins, the coordinator, and my office has since spoken to him about this matter. Nobody is sitting on his hands. We are attempting to resolve this very serious question.

HON MARK NEVILL (Mining and Pastoral) [3.05 pm]: I thank the Minister for Mines for the information he has given and I am pleased that action has been taken. It concerns the Opposition that this problem has continued for six months. It hopes that for the benefit of the people concerned the problem is quickly resolved and that the focus will shift onto the people who are responsible for this scam. I use the word "scam" with a degree of thought because I cannot see anything genuine about what has happened. The company has parted with over $500 000, most of which has seen its way to people in the Central Desert via Central Lands Exploration. It found that its scheme was becoming unstuck and it is taking legal action to recover the money from the people concerned. Quite frankly, I hope it loses the money and learns a lesson. I ask the Minister for Mines and the Minister for Aboriginal Affairs to consider, if they find something smelly about this arrangement, referring this issue to the Australian Securities Commission. It may be able to ascertain whether shareholders are being used for the benefit of a company in which a major shareholder of Kilkenny Gold NL is a beneficiary via Warburton Gold NL.

Hon George Cash: I said that I am constrained by the provisions of the Mining Act and you recognised that. The Minister for Aboriginal Affairs is also constrained by his respective Act. However, after I received notice of the motion today I spoke to the Minister for Aboriginal Affairs and he, in the utmost good faith, said he is very closely monitoring the situation and is very concerned about it.

The PRESIDENT: Order! The Minister's time is up!

Hon George Cash: He said he would not at any time refer to the commercial dealings that existed because it is not a matter for the Government.

Hon MARK NEVILL: The sessional order gives members 15 minutes to put a case and 5 minutes to respond and that is absolutely ridiculous. The House should have more flexibility. This debate certainly would not have taken more than half an hour. The time allowed to members could be divided a little more sensibly if the standing orders were more flexible. I thank the Minister for his reply and I hope he takes whatever action he can to resolve the situation.

Motion, by leave, withdrawn.

MOTION - ROAD FUNDING AND FUEL TAX, CONDEMNATION OF MINISTER FOR TRANSPORT AND PREMIER

Resumed from 30 March.

HON N.D. GRIFFITHS (East Metropolitan) [3.09 pm]: I regret that notwithstanding the comments by Hon Kim Chance and me last week the Minister for Transport continues to mislead the people of Western Australia by claiming there was a major reduction in federal funding for roads. He continues to use this perception to justify the 4¢ per litre increase in state fuel tax. I note, as follows, the words the Minister used last Thursday on page 365 of *Hansard* -

> The $70m went where all the money from the Federal Government goes: Into all those services that State Governments provide to the community. It did not go anywhere else.

Further on he said -

> Nothing comes to the State Government from the Federal Government that is directed to be used on the road network.
>
> There is money for national highways, which are federal roads, and money for local government roads, but the State receives untied funds which can be used for anything.

I ask members to note the words "the State receives untied funds which can be used for anything". He then said -

> We choose to put it all into roads.

He says also, in this tangled web of deception -

> The federal grant is one packet of money and none of that is directed to the road network.

Last week I had occasion to compliment the Minister because he does try hard. However, in this one passage in *Hansard* he contradicts himself twice in three and a half lines. The Minister is, I regret, somewhat unbelievable when he says to this House that he has not misled the people of Western Australia. I note the Minister's media statement of 3 January 1995 in which he set out the basic deception when he said that the latest ruse was to have people believe that Commonwealth Grants Commission funding of $63.5m should be allocated to roads when these types of funds were never intended for roads. That statement does not marry with the facts. Certainly, it does not marry with what the Minister said shortly before he concluded his remarks last week. The Minister continues to try hard and I must be fair to him and say that he endeavours to inform us of the position, but regrettably the data which he uses is wrong and in using wrong data or in misconstruing the data he continues to mislead.

I was grateful to receive an invitation from the Minister, by letter undated but received by my office on 29 March, to a summit in regard to the Fix Australia, Fix the Roads campaign. That is the sort of courtesy that I appreciate from Ministers, as I am sure do all members. I understand that other members have received this invitation; I am sure that Hon Eric Charlton has not decided to pick me out in particular. However, I wonder whether the Minister actually reads his letters, having had the benefit of the wisdom of Hon Kim Chance and of listening to me last week, because the Minister states in the third paragraph of his letter - I will not read out the entire letter because I do not want to be party to misleading the people of Western Australia with regard to the facts because the letter contains a number of misleading statements which the Minister may characterise as facts but I would not because that would be a misuse of the English language -

> . . . we are the only State to commit to roads all untied Commonwealth road funds amounting to some $40 million annually.

On the one hand, the Minister says that untied grants go into consolidated revenue and are used for the general purposes of government; and that is fair enough because that is what consolidated revenue is for. On the other hand, the Minister purports to say that untied grants for roads are put into the road network. That marries with what the Minister said to the House last week in that passage of *Hansard* which I read out, but it does not seem to make any sense at all when one considers the general thrust of the Minister's speech and the misleading campaign in which I regret the Minister and the Premier are involved. I prefer to rely on the word of Hon Kim Beazley, the federal Minister for Finance, who, through the agency of Hon Kim Chance last week, pointed out to the House that because consideration was given to the inclusion of road maintenance expenditures in the assessments of the Commonwealth Grants Commission, Western Australia received by way of a financial assistance grant allocation substantially more funds than it otherwise would have received. Hon Kim Beazley pointed out in that letter read by Hon Kim Chance that -

> The grants as approved by the Premiers' Conference are, of course, untied. It is up to the respective State governments to decide how to spend them. Obviously your government has decided to spend the additional funds on areas other than roads.

Because the Government decided to spend the additional funds on areas other than roads, it then went on to levy a tax on the Western Australian people, contrary to what the Premier would have us believe when he presented his Budget speech in June of last year. It is interesting that while the Government has sought to deceive the people of Western Australia, the Western Australian Municipal Association has not been deceived, as Hon Kim Chance pointed out. Last week, I thought I might educate the Minister with respect to his responsibilities, but I note my colleague Hon Kim Chance is keen to do that; therefore, I conclude my remarks.

HON KIM CHANCE (Agricultural) [3.16 pm]: I did look around before rising in case another member wanted to make a contribution, but I will be brief in closing because I think we have had the opportunity during the currency of this debate, which in general has been a fairly good debate, to put most of the points of view which we wanted to put and on which we sought a response from the Minister. I have read the Minister for Transport's contribution to the debate on Thursday, 30 March, a couple of times now, once in the context of a debate last night, and again this afternoon -

Hon E.J. Charlton: Did it get better?

Hon John Halden: It was so lacking in substance, how could it get better?

Hon KIM CHANCE: I said yesterday that there was a lot in the speech about road funding - and that was fair enough since the issue related to road funding, although that was not the Minister's prime consideration - and it contained rather less of the gratuitous insults that we have come to expect from the Minister for Transport, so it is obviously an issue which the Minister takes very seriously, and I commend him for that. However, the Minister's speech did not contain any depth of detail on the matter raised in the motion.

Hon E.J. Charlton: How long does it take to say that the $68m and the $72m are not part of the total FAG formula?

Hon KIM CHANCE: The Minister's defence for not spending a great deal of time addressing the core part of the motion, in the words of his interjection just now - and this is consistent with his speech of 30 March - is that it does not take long to say that the money was not received. That position is consistent with the position put by the Premier and the Minister for Transport on earlier occasions in both the public arena and this place.

Our claim, which we believe we have clearly established and supported with evidence by way of a letter from no less than the federal Minister for Finance, is that the $70m formed a component of the financial assistance grant. The Minister for Transport in his speech said that the roundly $70m for each of the last two years to which we have referred was only a recommendation. He said on Thursday, 30 March -

> Having made that determination, the Grants Commission recommended that Western Australia receive $68m and $72m over the last two years, based on the road needs. That is the first part of the equation. The Federal Treasury said that in spite of the commission's recommendation only a certain amount of money was available.

I do not take issue with that. Certainly the Grants Commission looks at a wide variety of factors before making its final recommendation; indeed, I said that in my opening speech on the matter. The Minister also said -

> In its motion, the Opposition accuses this Government of not spending the money it received.

True. To continue -

> However, the Opposition will not acknowledge that we did not get that money.

That is the point at issue. This argument has absolutely nothing to do with the propriety of the Government's spending that money on needs and priorities apart from transport. The issue in this debate is whether the Government was factually correct in saying that the money was never paid and, more seriously than that - because anyone can make a mistake - whether the Government was truthful in continuing to deny that the money was received. When the Premier was confronted with this issue on Channel 7's "Today Tonight" show - the inaugural broadcast of the show - he sought to bluff it out. Having committed himself to saying that the money had never been paid to the State and having gone to the extent of getting a letter from the Commissioner of Main Roads purporting, at least, to say that the money had never been paid - a reading of the letter might suggest that it means something entirely different - the Premier and the Minister, who was committed by what the Premier had said, had no choice but to go on denying that the $70m had ever been paid.

Hon E.J. Charlton: Are you saying that if roads had not been taken into account, Western Australia would have got $70m less that year?

Hon KIM CHANCE: That is exactly what I am saying and that is what we have been trying to establish.

Hon E.J. Charlton: How can you reconcile that the commission brought it in for roads for those two years for the first time when it gave $26m less overall?

Hon KIM CHANCE: I believe the Minister understands how the Grants Commission works this. In fact, when I first raised this issue I drew the parallel of the way the State Government works the road funds issue and the way local government does it. The Grants Commission's 1994 annual report, which was tabled only last week, indicates how road funding is kept separate from general funding, or the equalisation grants as it refers to them. Local government receives the funds in exactly the same way as the State. Local government has no reason to deal with those grants in the way it does, just as the State Government has no reason to deal with them separately. However, in the climate of a two year long debate on the question of road funding, why has this $70m

never surfaced before? The Minister was dead right when he put to me by way of a question - he did not commit himself to believing it: Would not the financial assistance grants have been $70m less had that road funding component not been a factor? Of course the answer is: Yes, it would have been less. Hon Kim Beazley, the federal Minister for Finance, said in his letter -

> Clearly, irrespective of the total figure in real terms, the final FAG allocation to Western Australia has been enhanced over the last two years by the inclusion of road maintenance in the assessment process.

We cannot get it much clearer than that. The point the Minister for Transport made by way of question at least establishes that there is a degree of understanding between the Government and the Opposition on what this matter is about. The State Government - and probably State Governments before it - will always be at odds with the Commonwealth Government over grants received from the Commonwealth. In my inaugural speech in this place I raised that issue - and not coincidentally in connection with road funding. I said much the same thing as the Minister is saying now. We do not need a dispute over that.

The Opposition has tried to show that it shares the Government's desire to increase the Commonwealth's commitment to road funds in our State. What we have disagreed about is the nature of that campaign. We have identified a funding component which takes the issue out of the road funding question into the broader question of commonwealth-state funding relationships. I do not expect that the State Government would have been able to find an alternative funding source to fill a $70m gap had it found it necessary to put those funds to roads. It seems to me that roads have been something of a victim in this case.

Question put and a division taken with the following result -

---

Ayes (12)

Hon Kim Chance	Hon Val Ferguson	Hon Mark Nevill
Hon J.A. Cowdell	Hon N.D. Griffiths	Hon Sam Piantadosi
Hon Cheryl Davenport	Hon John Halden	Hon J.A. Scott
Hon Graham Edwards	Hon A.J.G. MacTiernan	Hon Tom Helm *(Teller)*

Noes (15)

Hon George Cash	Hon Max Evans	Hon N.F. Moore
Hon E.J. Charlton	Hon Barry House	Hon M.D. Nixon
Hon M.J. Criddle	Hon P.R. Lightfoot	Hon B.M. Scott
Hon Reg Davies	Hon P.H. Lockyer	Hon W.N. Stretch
Hon B.K. Donaldson	Hon I.D. MacLean	Hon Muriel Patterson *(Teller)*

Pairs

Hon Doug Wenn	Hon Murray Montgomery
Hon Tom Stephens	Hon Peter Foss
Hon Bob Thomas	Hon Derrick Tomlinson

Question thus negatived.

ADDRESS-IN-REPLY

Amendment to Motion

Resumed from 4 April.

HON SAM PIANTADOSI (North Metropolitan) [3.33 pm]: In resuming my comments I note the absence of the Minister on parliamentary business, because some of my comments will relate to statements that he made in the past. In an article in the *The West Australian* headed "Foss acts to quell sewerage doubts" Mr Foss made it clear, in response to a letter he received from one of his colleagues, George Strickland, that there were concerns about the work of only one private contractor. I will read from Mr Strickland's letter to the Minister to highlight some of his concerns. The coalition ranks have at least one responsible member. Mr Strickland's letter reads-

> The purpose of this letter is to convey to you the serious concerns that I have with respect to the quality of work and work practices of various contractors involved in the in-fill sewerage program in Innaloo.
>
> I have received phone calls and faxes and had on-site visits to personally assess these problems. In addition, I have made enquiries and sought professional comment on the situation which is quite alarming and demands your urgent attention.

Obviously there were problems. The letter continues -

> Firstly, I intend to raise this matter in the Party Room Meeting of 22 February and to circulate some photographs which highlight reinstatement deficiencies and work safety problems.
>
> It has been brought to my attention that unskilled people have been employed to reinstate fences with the following deficiencies:-

When the Minister for Water Resources was asked about some of those deficiencies and bad workmanship that I highlighted last week he stated that only one complaint had been brought to his attention. According to this letter, Mr Strickland had brought quite a few problems to the Minister's attention. Some of the problems are -

> fence beams cut in half attempted to be joined with galvanised cleats
>
> fence lines way out of line and level
>
> old nails in pickets left protruding under beams
>
> tops of pickets hacked with a bow saw to "straighten"

Rather than level the fence the contractor decided to cut the tops off the asbestos fencing and replace them with mismatched corrugated faces. That will be a permanent reminder of bad workmanship in someone's backyard, but that is okay with this Government, that is not a problem! The letter continues -

> fence capping in little bits and split
>
> excess excavation material spread over peoples backyards instead of being removed

All of a sudden people have hills, dunes and landscaping graciously provided by contractors. It continues -

> second-rate reinstatement of driveways etc

Even driveways are being altered. It continues -

> To add to this disturbing list fences have been removed leaving pools accessible to toddlers without overnight or overweek security.

That is disastrous. Western Australia has a law which states that pools must be fenced in, yet these contractors are able to get away with removing the safety barriers and nobody has said anything to them. It continues -

> Fences left open allowing pets to escape, manholes left uncovered in a dangerous situation for days.

If someone falls in, it is not a problem to this Government! It continues -

> Sykes Street Innaloo saw work commenced early in early January. The whole street was dug up with high sand piles and residents unable to access their properties for weeks and with the fine sand and limestone left to blow everywhere even still. These points can only have a negative impact with my constituents.
>
> Let me now turn to the serious problems.

Those were only the minor problems! Yet we were informed by the Minister in this House that there had been only one complaint. Unless the member for Scarborough is telling untruths, somebody is misleading somebody. The member for Scarborough was prepared to put his concerns in writing, so I can assume only that the Minister is not telling the truth in this House. It continues -

> My investigations have revealed that at the design stage it was previously WAWA practice to check-walk the streets with the plans to allow modifications which eliminated costly construction problems.
>
> Present arrangements with consultants do not require them to be responsible . . .

Who the hell is responsible? It is not the Minister, because he clearly indicated last week that he was not responsible. The letter continues -

> Ridiculous situations where manholes have been designed to be constructed in the middle of swimming pools, pipes under buildings etc. have occurred.

These are private consultants who are not responsible to anybody.

Hon B.K. Donaldson interjected.

Hon SAM PIANTADOSI: I wish only that the manholes had been built in the middle of Mr Donaldson's swimming pool. Perhaps then we would hear some remarks from members of the Government. Only when it affects them will they react. This is not a statement by me; it is by one of Hon Bruce Donaldson's colleagues.

Hon B.K. Donaldson: Where did this letter come from? Was it sent to you personally?

Hon SAM PIANTADOSI: No, it did not come personally from Mr Strickland. Is Hon Bruce Donaldson trying to turn a little? He is on the back foot. Rather than accepting responsibility for what is happening, for the wrongdoings that have occurred, for the misspent moneys, and for the financial burden that will be imposed on Western Australians, all Mr Donaldson can ask is where this letter came from. He was a much valued member of the Estimates Committee for a period, as Hon Bob Thomas will vouch. He was in a prime position to look at how money was spent. That is the role of the Estimates Committee. However, there is no word from Hon Bruce Donaldson about what the Government can do to rectify the problem. He asks where the document came from. Did I steal the document? No, I did not; it was given to me. I wish Hon Bruce Donaldson would take the same interest in finding out ways and means of rectifying some of the problems his party colleague Mr Strickland is trying to highlight.

Hon B.K. Donaldson: Do you not think it is wrong and improper that someone cannot write a letter to the Premier or any Minister without its being tabled in this House?

Hon SAM PIANTADOSI: For all I know, this letter may have come to my office via Mr Strickland himself; I do not know. But Hon Bruce Donaldson and I both know that the stuff-ups that have occurred with private contractors in industry will cost Western Australians in the future. It is already costing them money, yet there is no comment from Hon Bruce Donaldson or his colleagues on how that can be rectified.

I will address another point which was raised last week. Hon Peter Foss stated publicly that he had set up a committee to rectify the problem. I understand that the committee consisted of Mr Strickland and two engineers from the Water Authority. However, when Mr Strickland was questioned he knew nothing about a committee. I will return to that matter later. Mr Strickland's letter continues -

> Once agreements have been reached with the residents on the unchecked original design there are costs and difficulties in getting new agreements and redesign at the construction end.

An extra cost has been imposed on ratepayers as a result of this mismanagement. Hon Bruce Donaldson and his colleagues should listen to this.

Hon B.K. Donaldson: I am writing it down.

Hon SAM PIANTADOSI: I will give Hon Bruce Donaldson a copy of the letter. It continues -

> I have had it on good authority that documentation has been rushed to get the programs up and running and that basically there is a fall away in standards across the range of ways that work is being done.

The Government's haste to privatise the Water Authority clearly was stuffed up right at

the beginning. Why? The Government wanted to sack all the workers and privatise the institution, irrespective of the cost. Is that responsible government? Members may recall that Hon Peter Foss was one of the main activists in this Chamber on the issue of WA Inc.

Sitting suspended from 3.45 to 4.00 pm

Hon SAM PIANTADOSI: I asked the Minister a question last night about a code of conduct for contractors as a result of what had occurred.

Hon Tom Helm: Which Minister?

Hon SAM PIANTADOSI: Minister "it was not me" Foss. His response to my question was -

> I thank the member for some notice of his question.
>
> . . . However, the conduct of private contractors on works contracts in the areas questioned is generally specified in the contract documents. Furthermore tenderers are required to act in accordance with the code of practice of the WA Building and Construction Industry during tendering and in any contract arising out of the tender.

He went on to say he had established a panel and that he welcomed positive suggestions. In response to an interjection from Hon John Halden, he said the decision was not his responsibility but was the responsibility of WAWA. He said it was intent on contracting out. I refer to Mr Strickland's comments on standards -

> . . . there is a fall away in standards across the range of ways that work is being done. With the tendering process, experienced contractors with proper standards of work are not winning contracts because they are going to people with cheaper prices and unacceptable standards.

Obviously, the statement by the Minister for Water Resources about standards is not the case. Mr Strickland has pointed out that the Minister for Water Resources has misled the House with regard to the code of conduct and the work practices of these contractors.

Hon N.D. Griffiths: How long has Mr Foss known about Mr Strickland's views?

Hon SAM PIANTADOSI: Since 17 February. Mr Strickland also wrote -

> Supervisory staff cannot be present at all times and examples of improper practice in the construction of drop structures have been brought to my attention. The implications of poor workmanship with these, is that at some time in the near future subsidence will occur, pipes will be cracked and WAWA will have a heavy financial burden because the contractor will have long since gone.

That applies especially to our brethren from the east who have brought their workers from the Eastern States to steal Western Australian jobs. The Government has hired people to steal jobs from workers in Western Australia. This is all Western Australian money. The Government is always championing the cause of Western Australia, yet we have heard not one whimper, even from the Minister for Finance, with respect to how these public funds are being spent.

Hon Max Evans: Stop generalising. Give examples of companies that have brought workers to WA.

Hon SAM PIANTADOSI: As I said to the Minister for Water Resources earlier, the Government will get this information when I am ready. I hope that he and his colleagues will be as positive in action against those people as they are in the rhetoric we have heard until now. The letter from Mr Strickland continues -

> Experienced contractors factor in things such as temporary sand dumping on nearby parks for minimal inconvenience of residents, proper covering measures using planks, lids on manholes, ongoing security measures for traffic and fencing.

According to Mr Strickland these contractors are dumping sand on nearby parks and the lawns of residents, and are not covering or protecting the work sites. Again, this work is

imposing a burden on the ratepayer. When the sand is removed from the local parks or the front lawns, the bobcat used to remove the sand will no doubt cause some damage. The contractors will not rectify that damage. Again, who will pick up the tab? The ratepayer. The letter continues -

> In addition, it has been indicated to me that because of the design problems some residents will be faced with connection bills far in excess of the $1000 - $2000 range that the Government quoted.

Obviously, that is because of the stuff-ups that have occurred and because the design has been done by private consultants and has not been checked. WAWA would have checked the designs and ensured everything was in the right place. The extra impost again is on the ratepayer. The contractors will not be billed because they will be long gone. The letter continues -

> You would be aware that reports on bad work are made, but apparently this is given little regard because contractors with unsatisfactory records continue to win more contracts.

The Minister in this place gave an assurance that this would not occur in the future, although it may have occurred in the past when he was not the Minister for Water Resources. However, it was still occurring last week when he was the Minister. The letter continues -

> In conclusion, let me say that in-fill work done by WAWA itself in Scarborough some short time ago had its minor problems, but was well received. The work being done by private contractors is causing much disquiet and responsible government requires that we take action -

Note the phrase "responsible government". One member of the coalition is asking his colleagues and Ministers to act responsibly. That was the theme pushed continuously by the then Opposition from 1990 to 1993. Now they have abrogated that responsibility and no-one wants to be responsible. The Minister for Finance says it is not his problem, although he is responsible for the finances of this State. The Minister for Water Resources says he was not the Minister responsible for that area at the time. The backbenchers say they will set up a committee. Hon Bruce Donaldson said that the other night; it can be checked in *Hansard*. However, it appears that there will be no committee, even though Hon Peter Foss was reported in *The West Australian* as saying a committee would be established. In fact, it will be a panel led by Mr Strickland and a couple of engineers.

Hon B.K. Donaldson: For want of another name; one is much the same as the other.

Hon SAM PIANTADOSI: The letter concludes -

> The work being done by private contractors is causing much disquiet and responsible government requires that we take action to ensure that there is not an undue maintenance problem for the future along with ensuring that work is carried out in a safe way without risky work practices which will lead to compensation, and injury problems.
>
> Would you take this as a strong request from me not to award any private contracts for in-fill development unless appropriate standards of work are ensured.
>
> There is no way that I want to be associated with this mess!

At least he is being honest. He is the only member of this coalition Government honest enough to try to buck his colleagues. I turn now to the response by Hon Peter Foss, which reads -

> Dear George
>
> Thank you for your advice on concerns you have in respect to the quality of work and work practices of contractors involved with the Infill Sewerage Program in Innaloo. In a program such as this it is essential that all customer concerns are investigated and managed correctly.

> I am advised by the Acting Managing Director of the Water Authority of Western Australia that in the first eight months of the program 76 tenders for construction contracts have been called with on site works being undertaken in the majority of these. During this financial year alone some 10,000 property owners will be affected as a result of various phases of survey, design and construction work. With a program of this size and the fact that contractors will be working within private properties it is unavoidable that some disruption will occur, which results in complaints being made.
>
> I am assured that the Water Authority and their contractors and supervisors place the managing of this potential conflict high on their agenda.

Two inspectors and a manager inspect the contracts for 76 sites. That is very interesting.

Hon B.K. Donaldson: When was that letter written?

Hon SAM PIANTADOSI: It is dated 7 March. The interesting point is that Mr Strickland's letter referred to bad workmanship in respect of the replacement of picket fences, and so on. Hon Peter Foss basically calls the complaining ratepayers liars. He states -

> The fence that you refer to was reinstated to a poor condition but as photographs confirm it was reinstated to a condition better than before construction commenced. Unfortunately there appears to have been a misunderstanding by the land owner of the process involved.

How can there be a misunderstanding about what was there in the first place and the end result? Hon Peter Foss states -

> However, the contractor has agreed to further upgrade the fence.

If it was a better standard than the existing fence, what need was there to upgrade it?

Hon E.J. Charlton: There would not have been a problem in your time because you did not undertake sewerage extensions.

Hon SAM PIANTADOSI: What extensions? The Western Australia Water Authority employees did infill sewerage.

Hon E.J. Charlton: There was no problem during your time in government, was there?

Hon SAM PIANTADOSI: No. Infill sewerage has been going on for years. I am glad that the Minister raised that point. One of the reasons for the current problem is that a previous Court Government opened up and developed new areas without putting in the proper services. Does the Minister wish to discuss it further? We can cite all the areas. Obviously the Minister lives in the back-blocks of Tammin and is not be familiar with the situation brought about by a previous Court Government in the metropolitan area. All our environmental problems with material leaching into our ground water from the septic systems have been caused by a Court Government in the past. The Minister should take a tour of those areas and get his facts right. We can provide all the evidence he wants. He helped to create this mess.

The DEPUTY PRESIDENT (Hon Barry House): Order! The acoustics in this place are adequate enough for the member to speak at his normal volume -

Hon SAM PIANTADOSI: It is very difficult -

The DEPUTY PRESIDENT: Order! The member's normal voice is easily heard - without the interjections it will be more easily heard.

Hon SAM PIANTADOSI: It is obvious that the ram farmer is having problems. He would like to conduct his business in this House in the same way he conducts his business on the farm. I would not want to go into detail.

Hon Peter Foss continues -

> Safety and safe work practices are critical to the success of this program and I am advised that the contract document clearly stresses this point.

However, in his letter Mr Strickland pointed out that it was not happening. According to Hon Peter Foss, the service standards were set, but they were not being complied with. Nothing has happened to the contractors! Hon Peter Foss continues -

> The contract Project Manager, Superintendent and Inspector are continually vigilant in this area. I believe that the Program Manager has called to your office to expand further on this and other areas of operation.
>
> As this program is targeted at the private sector it is the responsibility of the Design Consultant to produce an economical design that is practical and workable.

Again, the design consultants had no responsibility. Earlier, Mr Strickland said in his letter that the design consultants were not carrying out their duties. Obviously they could not design properly if they planned a manhole in the middle of a swimming pool. I do not know whether it was a relative of Hon Bruce Donaldson who tried to put in a drain to empty the pool - or what was the intention - but it was a major stuff-up. The consultants are not responsible! The Minister is not responsible! The Water Authority is not responsible! Hon Bruce Donaldson is not responsible! We will not ask Hon Eric Charlton. The Minister for Finance has disappeared; he does not want to know. This is the collective responsibility about which Hon Peter Foss spoke last night. No-one will take responsibility. Hon Peter Foss states that of all the construction contracts awarded to date there were only a few complaints. Last week there was one complaint and now there are a few, but we are also told that 20 officers in the Water Authority are taking complaints.

Hon Kim Chance: Is that about this program?

Hon SAM PIANTADOSI: Yes. It has gone from only one complaint, to the few mentioned by Mr Strickland - and the records indicate that 20 officers at the Water Authority are taking complaints, so there must have been a shift of duties in WAWA as a result of the problems that have arisen.

Hon Tom Helm: Will they privatise the Police Department?

Hon SAM PIANTADOSI: They may do that, to get rid of the complaints.

Hon Kim Chance: Has the House been misled?

Hon SAM PIANTADOSI: There is a good chance that we have been misled by the Minister. When I receive other information next week I will make some more interesting points.

The letter from Hon Peter Foss states that only contractors who can demonstrate technical ability and sufficient financial capacity are considered for contracts. In his letter, Mr Strickland states that professional contractors who are known in the industry are not winning contracts because they do not cut corners; they do not put their workers at risk or place additional costs on ratepayers. Mr Strickland made that statement. Hon Peter Foss says the opposite. Somewhere along the line we are not being told the truth on how these funds are being misspent. We were told that the funds spent by WA Inc over 10 years were estimated at $800m. The Government is currently incurring massive costs, $200m, in the first year on its programs. That does not include the privatisation of services like Healthcare Linen. It would be interesting to know the cost of that decision. I would ask the Minister for Finance to provide a figure, but I am not in a position to do that.

Hon Peter Foss is misleading us. In response to a question he said that builders must comply with certain criteria with respect to the WA Building Association's standards. He said that only contractors who can demonstrate technical ability and sufficient financial capacity are considered. Mr Strickland is saying that that is not correct. The Western Australian contractors are missing out on jobs, not imports from Victoria. The contractor involved in the work at Innaloo has been issued with formal advice of various deficiencies and the possibility of his not receiving future contracts. Has this contractor been asked to rectify the deficiencies? No, an instruction has merely been issued saying

that there are problems. How can this matter be corrected? The Minister then goes on to say that a major initiative of the Government, the aim of the program, is to provide a healthy and safe environment to the people of Western Australia. This when the deficiencies in the work of this contract include fences removed around swimming pools, manholes left open, and sagging sewer mains. According to Mr Strickland we will be picking up the tab for those things. How cheap has this exercise been? I wish members opposite could give me some idea. However, nobody can.

The Minister has said certain things. He has said that things will be different. How different will they be? Will they be different from what the Minister said they were?

I am a little concerned that we cannot accept the Minister's words, and I will tell members why. In response to a question without notice and an interjection by Hon John Halden, about what was happening with the closure of offices in both Fremantle and Joondalup, the Minister could not tell us. He said that it was not his intention to close them. Who is ultimately responsible? Hon John Halden interjected saying, "What a disgrace. Who are you, the Minister for nothing?" Hon Peter Foss answered that he did not know the intention of the Water Authority.

Hon John Halden: He is only the Minister.

Hon SAM PIANTADOSI: That is right. Offices are proposed to be closed in two areas which will impact on a number of ratepayers, constituents, Western Australians; but the Minister does not know, and does not want to know. This is the same person who has given assurances in this House that he will rectify the wrongs that have occurred with respect to the tendering system and the standard of contractors chosen to carry out work. One of his colleagues clearly pointed out that that has not occurred. This Minister went to great lengths to assure this House that things would be different and he immediately provided answers that said that he did not know the intention of the Water Authority of Western Australia.

The Water Authority did not instigate the infill program; it was a Government initiative. Next week we will table a document in the House, a notice from one of the management of the Water Authority, which quite clearly spells out the order that came down from the Government to implement this program and what would be its effect. I certainly hope that there will be others, including the retiring member, the member from Boyup Brook, who will show a little conviction, like George Strickland, and ask a few questions, the answers to which will show that we are not about to have another WA Inc.

HON I.D. MacLEAN (North Metropolitan) [4.25 pm]: I welcome Hon Val Ferguson to this House. I hope she has a long and enjoyable stay.

I oppose the amendment.

Hon Sam Piantadosi: What a surprise!

Hon I.D. MacLEAN: The Opposition has questioned the Government's commitment to provide open and accountable government. It talks about openness and does so in the same way as a virgin would talk about an orgy, without knowledge and experience.

Hon Reg Davies: That is disgraceful.

Hon I.D. MacLEAN: I know. Opposition members do not have experience with openness or accountability, and that is disgraceful.

Hon Reg Davies: That is Navy talk.

Hon I.D. MacLEAN: When in government the Labor Party lost close to $1b.

Hon Graham Edwards: But we are not in government.

Hon I.D. MacLEAN: It lost $1 000m.

Hon Bob Thomas: The electorate has passed its judgment on that.

Hon I.D. MacLEAN: That is only the amount we can account for. If that occurred through bad management, I could understand it.

Several members interjected.

The PRESIDENT: Order! I ask members to come to order.

Hon I.D. MacLEAN: It was not through bad management. If the losses were through failed social programs, I could understand that as well. That used to be the commitment of the Australian Labor Party in the old days when I was growing up.

Hon Graham Edwards: It still is. When will you stop growing up?

Hon I.D. MacLEAN: I hope I will grow to be very old. The previous Administration wasted money, not on social programs, not on bad management, but on its mates.

Hon N.D. Griffiths: Are you talking about your government?

Hon E.J. Charlton: We do not have any mates; you know that.

Hon I.D. MacLEAN: Hon Sam Piantadosi should know, because he points out that we do not have any mates.

Hon Sam Piantadosi: What about the infill sewerage program?

Hon Graham Edwards: Bradshaw is your mate.

The PRESIDENT: Order! Members must cease their interjections.

Point of Order

Hon SAM PIANTADOSI: I have been accredited with making a statement I did not make. I would like that clarified.

The PRESIDENT: It is not a point of order. If the member reads his standing orders he will see that he has an opportunity to have that fixed up at an appropriate time if he has been misrepresented.

Debate Resumed

Hon I.D. MacLEAN: The money the Labor Government wasted was spent on only a few people - people of wealth and people who supported the Labor Party. Barry MacKinnon said "No" to the Rothwells Ltd bail out.

Hon John Halden: He got bailed out by Crichton-Browne.

Hon I.D. MacLEAN: It was a Liberal leader who said "Enough" and who would not support the spending of $150m worth of bank guarantees to bail out Rothwells Ltd. It was Barry MacKinnon and the Liberal Party who were dumped on by the Press.

Hon Graham Edwards interjected.

The PRESIDENT: Order! I have just finished saying I will not tolerate any more interjections. That means I will not tolerate any more.

Hon Graham Edwards: No worries, Mr President, you should have reminded us it was his maiden speech.

The PRESIDENT: It is not his maiden speech.

Hon I.D. MacLEAN: Who owned *The West Australian* newspaper at the time this was going on? Two of its biggest shareholders were also on the list showing who was to receive big payouts from the WA Inc years. No wonder we do not have much respect for some newspapers in this State. Hon Jim Scott was correct to condemn the improper actions previously referred to and he was right to bring them up in this House. However, he was wrong in his assessment which he based on information supplied and tabled by Ministers in this House. That is a sign of the openness of this Government. We cannot be more open than that. Ministers tabling documents on request is what government, Parliament and fair and openness is about.

Hon John Halden: Get the Minister to be open about the Office of Industrial Training.

Hon I.D. MacLEAN: There also seems to have been considerable input from members opposite to Hon Jim Scott's assessment. The old saying is, "Send a thief to catch a thief." The rudderless people opposite are well aware of what is improper action. They are quite

ready to see improper action in anything they read, irrespective of the means they come by it. However, it is only as a result of their involvement in improper actions when they were in government that they can see it. There is no case to answer here. The commitment of this Government to provide open and accountable government is on the record. The ability of this Government to provide open an accountable government will continue, and has been demonstrated since it was elected to office. I cannot support the amendment to the motion and I will vote against it.

Amendment put and a division taken with the following result -

Ayes (13)		
Hon Kim Chance	Hon Val Ferguson	Hon Sam Piantadosi
Hon J.A. Cowdell	Hon N.D. Griffiths	Hon J.A. Scott
Hon Cheryl Davenport	Hon John Halden	Hon Tom Helm *(Teller)*
Hon Reg Davies	Hon A.J.G. MacTiernan	
Hon Graham Edwards	Hon Mark Nevill	

Noes (13)		
Hon George Cash	Hon Barry House	Hon B.M. Scott
Hon E.J. Charlton	Hon P.R. Lightfoot	Hon W.N. Stretch
Hon M.J. Criddle	Hon I.D. MacLean	Hon Muriel Patterson *(Teller)*
Hon B.K. Donaldson	Hon N.F. Moore	
Hon Max Evans	Hon M.D. Nixon	

Pairs	
Hon Tom Stephens	Hon Murray Montgomery
Hon Doug Wenn	Hon Peter Foss
Hon Bob Thomas	Hon Derrick Tomlinson

The PRESIDENT: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Motion Resumed

HON REG DAVIES (North Metropolitan) [4.36 pm]: It is a pleasure to be able to respond to the speech given by His Excellency the Governor of Western Australia on the opening of the third session of the Thirty-fourth Parliament. I also support the motion of thanks and loyalty moved by Hon Phil Lockyer on that same day. Mr Lockyer's motion in part begged to express our loyalty to our Most Gracious Sovereign. My personal loyalty towards Her Majesty has never waned.

In his speech, the Governor covered the program set down by the Government for this term. It looks as though there will be some very interesting times. I was pleased to see a Bill will be introduced which addresses the demands of HIV and AIDS and provides a legislative framework for the effective control of infectious diseases generally. When that Bill comes before us, I hope it will also have an avenue in which doctors and nurses who deal daily with patients are also tested regularly for HIV and AIDS. That is an area we have neglected over the years and one which causes a great deal of distress to people.

I was disappointed that His Excellency's speech made no mention of a new Police Act. Surely now that the current Act is over 100 years old it is time for a complete overhaul of the Police Act, which was promised some years ago by the previous Government. I thought that perhaps the new Minister would have taken those recommendations and brought a Bill before the Parliament, but it was not to be the case. I am hoping that in the next session the Government will address that anomaly.

This is the seventh occasion since I have been here on which I have been able to participate in the Address-in-Reply debate and to listen to members debating it. Therefore, I am probably qualified to make some comment on the debate in this session. In the main the quality of the debate has been very thought provoking, very interesting and most informative. That has been very refreshing. On many occasions members have left us with something to think about. I hope I am able to continue in that style today.

Hon Phil Lockyer started the ball rolling with his refreshing approach and discussion on the relevance and the role of this Chamber. I would like to add a few things to his comments. Before I do so I take the opportunity to welcome our new member, Hon Val Ferguson, to the Chamber. I hope she will be able to participate in many debates, as she did yesterday. I also found her comments most refreshing. She did not forget the little people who helped her attain her achievements over the years. We must all try to remember those who helped us on the way up because, as sure as hell, we will meet them on the way down.

Different aspects of the role of this Chamber warrant debate. We have reached a stage where we need to discuss the relevance of the Chamber. Hon Phil Lockyer said it is perceived as becoming merely a rubber stamp of the other place. That certainly has happened over the last four or five years; in fact, it started to happen when we began to elect parties to this Chamber as opposed to members. All voters need to do now is put a tick opposite a party on the ballot paper. It does not matter who is wanting to be elected, because the matter is handled according to the dictates of the party which is elected.

Hon E.J. Charlton: You have proved that to be wrong, Mr Davies.

Hon Graham Edwards: That is except in exceptional circumstances.

Hon REG DAVIES: Perhaps where a member is elected. One could dispute whether I was elected as an individual or under the umbrella of the term "Independent". That is when the problem started, and it has given credence to the party system in this Chamber. You yourself, Mr President, commented on the opening day of Parliament that question time would go for a certain time only, as was arranged between the Government and the Opposition. It shows that is the way we are going at all levels. It is not the role of this Chamber. The role of this Chamber is to constantly question and check the actions of the Executive Government. We cannot do that if we are following a party line and the dictates of our parties. Over the last two years in this Chamber every vote has been along party lines. There has never been any deviation from that. Regardless of what a person thinks about an issue he or she will vote according to the dictates of the party. That is a result of the electoral system, whereby we elect a party as opposed to an individual. It may be what the people of this State want - I do not know. I do not think so, given the comments I have heard and the general debate in the community.

We need also to address the privileges and powers of the Chamber and of its members. Some form of discussion is certainly warranted on whether it is appropriate for today's society and whether we continue with 600 or 700 year old rules and powers. Recently I had the opportunity to visit the mother of Parliaments, the House of Lords in the Palace of Westminster. Their lordships tend to be fairly modern and progressive in the way they operate. Some of them are quite amused that we hold on so rigidly to many of the old ways. The Lord Chancellor, who controls the House, as you will well know, Mr President, does not call on members to ask questions or commence debates. It is done - I will not use the term "in a gentlemanly way" - in an orderly way without any direction, and people show respect for one another and their positions. It seems to operate quite well considering so many members are in the Chamber. It is time we looked at the privileges of this Parliament and the rights of citizens who elect us, in particular the right of a citizen to reply to or defend himself against comments made in this Chamber under privilege. I guess there are ways of doing that. I understand the Federal Parliament allows an aggrieved person's comments to be incorporated in the *Hansard*. In all fairness we must address that situation in the near future.

We also need to look at the powers and the punishments that we are allowed to dispense in areas such as contempt of Parliament. Last year we took the unprecedented step of gaoling a member of the public because no other option was open to us. It is time we looked at other options. I am sure it would have been more appropriate on that occasion had this Chamber been able to impose a heavy fine or some other acceptable form of punishment. I do not step back from my role in our decision. I voted for the gaoling to occur because it was the only option we had other than the minor punishment of censure. However, gaoling people is not our role as members of a House of this Parliament. We

must address this question because we must never see that occur again unless it involves a serious situation. That power to gaol must not go. However, there must be a range of powers progressing up to the situation where we could finally place somebody in custody.

The sittings of the Council have to be considered as well. Hon Val Ferguson said yesterday that we must start considering women with young families who might like to enter Parliament and that we must adjust our sitting hours to facilitate that. That probably is not warranted.

Hon Cheryl Davenport: Don't you think that families would benefit from a change of sitting hours?

Hon REG DAVIES: Not if one were a member who physically abused his wife. I am sure she would rather see the Parliament sit all night and never see him home.

Hon Cheryl Davenport: I hope nobody in this place is like that.

Hon REG DAVIES: I hope not, also. I take the member's point. However, if we sat five days a week and long hours over a protracted period, there might be a need for it then. We sit sporadically. We have only short sitting times. I believe sincerely that one of the right attributes needed to become a member of Parliament is maturity. Generally, when someone becomes a mature woman or man, his or her family has usually reached the stage -

Hon Cheryl Davenport: Are we going to discriminate again?

Hon REG DAVIES: No. I think that, to be able to consider the legislative program and motions in all the committees that are part of this Parliament, we need some background and experience. Life's experience is a very vital part of that. If we are suggesting that 25 year old mothers and fathers should proliferate in here, I do not think that would serve any purpose.

Hon Cheryl Davenport: I am not saying that. However, we need a mix of all ages and gender.

Hon REG DAVIES: Of course.

Hon Tom Helm: We are not doing such a good job, are we?

Hon REG DAVIES: We could do worse. This State is going ahead fairly well. The population is clothed, fed and educated and, in many cases, has jobs. Our public transport system is not too bad and, although our roads need a little attention, they are not of third world standard. We have a lot in this State and in this country to be thankful for. We should, from time to time, look at the good points of our State and country rather than spending most of our time talking about minor concerns.

In relation to Council sitting times, we could set aside days or weeks specifically for committee work and days or weeks for the consideration of legislation, motions and the normal everyday work of the Parliament including petitions. It is not inconceivable that we could do the majority of our work in Committee. We could come in here one week in the month to hold the final debates and have the final vote. There is no reason for committees not sitting while the House is sitting. All we need to do is ring the bells for longer. There is nothing wrong with the bells ringing for 25 minutes to allow members to get here for the vote. There is nothing wrong with saving up all the votes for one day a week, a fortnight or a month when we know that that is the day on which all votes will be taken. We would come in here and vote on a number of issues.

Hon Graham Edwards interjected.

Hon REG DAVIES: We are at the end of the century. Let us have another look at ourselves. It may well be that the system we currently have is the very best system.

Hon Graham Edwards: How would you see that working in Committee where we divide on clauses?

Hon REG DAVIES: So be it.

Hon Graham Edwards: That is the way they do it in the House of Commons.

Hon REG DAVIES: Do we not do that here sitting in the Committee of the Whole? Who says that we have to have a first, second and third reading of a Bill? I know that our procedures say that, but is it necessary? Is it appropriate for today? Let us have a look at it. If the way we are doing it is not suitable, let us find something that is suitable for the end of this century and for the start of the next century. It is time, as Hon Phil Lockyer said, to reassess. God knows, the criticism we have been getting from the media on the way we conduct much of the business of the House has not been good.

Hon Phil Lockyer's comments have started people thinking, talking and opening up their minds to different ways of doing things. That is healthy. A little bit of navel gazing from time to time does not do any harm.

While we are looking at the upper House and its role, responsibilities and the way it operates, we should also look at the way we elect our members. I was rather intrigued to receive in the post from the Commission on Government its third discussion paper relating to the electoral system for the Legislative Council and the Legislative Assembly. It is a very thought provoking document. It is interesting to note that all Western Australians are not equal, particularly when they elect their members of Parliament and particularly their members of the Legislative Council. I have not seen it written down in this way and it makes one wonder when one reads paragraph 3.2 on page 18 which says -

> Inequality between metropolitan and non-metropolitan voters is more marked in the Legislative Council than it is in the Legislative Assembly. It takes the votes of 2.78 metropolitan electors to equal the vote of 1 non-metropolitan elector in the Legislative Council.

To illustrate that, in the 1993 Western Australian Legislative Council general election results, the National Party received 4 per cent of the valid votes cast; the Greens (WA) received 5.2 per cent; and the Independents received 4.2 per cent. The highest vote given to those small groups was to the Greens (WA) which received 5.2 per cent and that group has one member in this Chamber. The Independents which received 4.2 per cent of the valid vote have one representative in this Chamber and the National Party which received 4 per cent of the valid vote is represented by three members in this Chamber.

Hon A.J.G. MacTiernan interjected.

Hon REG DAVIES: It needs to be looked at. I like the idea of a statewide election system under which we would elect our members of the Council under the proportional representation system applied statewide. Given the figures from the 1993 election, I have done a comparison. If that election were held under a statewide proportional representation system, the Council would have 16 Liberals - it currently has 15 and so the Liberals would pick up one - the Labor Party would have 13 - it currently has 14 and so would lose one - the Nationals would lose two and end up with one member and there would be one Greens (WA) member, one Democrat and one Independent.

[Questions without notice taken.]

Hon REG DAVIES: Just before question time, using the 1993 election statistics and the actual result, I was comparing the make-up of the Legislative Council with the situation if we had statewide proportional representation. I outlined to members how representation would be equal and fairer under the statewide proportional representation system. We would not have a party with a majority; we would have a broad representation of the community's wishes with a system of 17 coalition members and 17 Labor and other members including two Greens, one Democrat and one Independent.

I have always acknowledged that country people have special needs, but they have adequate representation in the Legislative Assembly with 5.3 per cent of the vote. The National Party has six members representing country regions.

Hon M.J. Criddle interjected.

Hon REG DAVIES: That may well be the case, although efforts in 1989 for the North Metropolitan Region with 1 per cent of the vote would probably be representative of the

population in the State. The member may be quite correct; we may well have another National Party member. If Independents were to stand in every area in the State they would have achieved a higher vote than the 38 304 compared with the 36 614 the National Party received. The point I want to make is that the country constituents could still have that loading by having the two systems of electing members. We are well represented in this State by federal senators, House of Representative members, State upper and lower House members, and councillors. It is not as though we could not resolve a problem if one arose. There is always an elected member within the community to help solve problems. I have always thought the very first contact to have with a member of Parliament is by telephone, even in the metropolitan area. Often a problem can be resolved without even seeing a constituent. That is an area for thought.

Talk of reform is timely. Before my time is finished in this Parliament I would like to see voluntary voting introduced into this State. I do not like the idea of people who have no interest in politics or the outcome of elections and no knowledge of politics or desire to learn about politics being forced to go to a polling booth. They also think they are being forced to vote. We know they are not; they simply have to have their names crossed off the electoral role, and yet they depositing an ill-informed ballot into the ballot box. It is often those people who could well determine the outcome of governments in this State and this country.

Hon Derrick Tomlinson interjected.

Hon REG DAVIES: I guess that depends on what electoral system we use in the future. The old story is that the very best system of electing members of Parliament is the one that elected me! There will be much resistance to change in those areas. I ask members to give some thought to those aspects. They probably have completely different ideas from mine about the operation of the Legislative Council. I am sure they will all join with me in saying there is a need for some changes and to review some of our procedures. We should do that in the best interests of legislating for the people of Western Australia.

In the next 30 minutes, I would like to talk about juvenile crime generally, to introduce the topic of euthanasia, to speak briefly about drugs, particularly marijuana and to discuss briefly another topical issue; that is, the Family Court, particularly the Western Australian Family Court.

However, first I take this opportunity to thank Parliament for allowing me to travel overseas during the recent parliamentary recess. I have not previously had the opportunity of going further than South East Asian countries.

Hon Graham Edwards: What are you whingeing about? That was paid for by the Government.

Hon REG DAVIES: Yes. I had the opportunity during the recess to travel with the Joint House Committee on Delegated Legislation with an around-the-world ticket. We travelled to the United States, Britain and France. While I was there I used some of my imprest account to travel through parts of Europe. Despite what the Howard Sattlers of this world say and what some sections of our media print, travel is an essential part of the development of a member of Parliament. It broadens the mind and educates us and exposes us to more enlightened societies. More than anything, it makes one a prouder, more patriotic Western Australian and Australian. It also makes us grateful to come home to a fine country and to be able to bring back information from other countries. Members should do more of it and forget the few adverse comments that may come from those sections I mention.

One of the issues I had the opportunity to examine during my travels is euthanasia and assisted suicides. The Netherlands has a reputation throughout the world for advances in all sorts of areas. It is a very progressive country. It is a small, densely populated country which acknowledges a problem and does not act like an ostrich sticking its head in the sand, hoping its problems will go away. It tackles problems head on and tries to come up with solutions. Members would be aware of the way drugs and prostitution are

treated in Holland. Holland also is a world leader in euthanasia and assisted suicide. Assisted suicide is something I have yet to get a handle on. I am not sure of that aspect of the issue, but I will discuss it when I become more familiar with it. I believe that we have a right to choose life. I believe we should also have a right to choose death in certain circumstances. We have a right to protect life and a right to ensure that children are born into a stable society. We have right to life organisations, but we also should have a responsibility ourselves to allow death to occur in an unnatural way.

The Dutch passed their new law on euthanasia in 1994 after 21 years of research. They claim that this has led to increased awareness, more safeguards, and an improvement in medical decisions on ways to end life. We should not pretend that euthanasia does not occur in this country because in only recent days doctors around Australia have openly said that they have assisted people in excruciating pain with a terminal illness and a short time to live to die. We have reached the stage now where we should at least start addressing that issue in this country, and particularly in this State. The Dutch experience has shown that doctors do not just go out and pluck healthy or mildly ill people off the streets and terminate their lives. There is no great furnace in the country to end people's lives. However, the Dutch do have a legislative instrument which allows doctors with the approval of the patient to terminate life under certain circumstances; that is, when patients have a terminal disease, are extremely elderly, or are in immense pain, and keeping them alive by drugs and machines would be a burden on them, the hospital system and their families.

I have found that having a loved one who is suffering great agony is probably one of the worst experiences one could ever go through. All one wants to do is have that pain transferred to oneself. When people are begging to die, when they are suffering and nothing can be done except to give them some form of treatment that will prolong their life, that is probably not doing a great deal of good to our society. It is an ethical issue and a moral issue. It will cause divisions among cultural groups and certainly among religious groups. However, it is still a matter that a Government should address. The discussions should start. We should look at the Dutch experience. As I said, it took them 21 years of research and debate before the legislation came before their Parliament and became law.

Hon Derrick Tomlinson: What is the Dutch procedure?

Hon REG DAVIES: I would very much like members to view a film which I had the opportunity of seeing on BBC 2 when I was in England the day after I spoke to people in Holland about this matter. They suggested that I see it. It is called "Death by Request". It showed all the procedures involved in euthanasia. It went even as far as showing the doctors giving the injection, the patient dying, and the reaction of the family.

Hon M.D. Nixon: It may have been on Western Australian television.

Hon REG DAVIES: I think it was on SBS recently. If members are serious about this matter and want to know more about it, that program would be a good starting point.

In Holland the patient says to his doctor, "I have had enough. I cannot stand this any longer." The doctor then examines the patient and looks at the patient's record, and determines whether there is a case for euthanasia. Criteria are laid down that obviously the person must be terminally ill and suffering badly, and that it must be at the patient's request. The doctor must bring in another doctor to give a second opinion, and documents must be signed. It is still an offence under the Criminal Code so that it can be controlled. The doctor keeps monitoring the patient. The patient can at any stage decide to amend the date decided on.

It has been found that this procedure gives people a reason for living; it gives them a new lease of life. Suddenly they know that their life will be over shortly; it can be over whenever they decide. It allows them to have some quality time with their family and to start thinking more rationally, and the family can start preparing for the death. The quality of life in those last few weeks is generally much better than it would be if the patient suffered to the end. Research was done prior to the introduction of the legislation

which estimated the number of people who would request euthanasia. Strangely enough, when the legislation was enacted, far fewer requested it. The data shows that in 86 per cent of cases the patients were in the end stage of a malignant disease and their lives were shortened by less than a week.

This is an area we should look at. In my discussions with the director general of health in The Hague and the head of the medical ethics section, Dr Visser, I asked what advice he would give to a Parliament considering changes in this area. His advice was to keep euthanasia punishable in the Criminal Code to ensure that control is maintained; ensure that doctors must report euthanasia as an unnatural death, because it is; and let it be regulated by law with the law being the final arbiter. I add to this that we should not rush legislation through the Parliament because it might seem the flavour of the month at the moment. It is something we should start looking at now with a view to getting the feeling of the general community. If members have an opportunity to see that movie, I suggest they do so.

While I was in the Netherlands I took the opportunity to visit Rotterdam to speak to the people of the Boumanhuis Foundation, which regulates, monitors and assists drug addicts. I was interested in the Netherlands' approach to drugs and the effect it had on the community. I was most interested in that country allowing marijuana to be freely used and sold. If we are serious about combating crime and our concern for the youth this subject must be debated at length. The effects of marijuana are something we need to investigate and a great deal of research must be done into it. Although research has already been conducted, the results are conflicting. The long term use of any substance must have a detrimental effect on the user.

Hon Tom Helm: You should ask Iain MacLean about that.

Hon REG DAVIES: Why, does the member think that he uses it regularly?

The evidence is conflicting and there is no conclusive evidence which details the harmful effects of the long-term use of marijuana, particularly on pregnant women and sick people.

Recently I was speaking to Hon Peter Foss, the former Minister for Health, on this topic and he told me that the research shows that use of marijuana by a person who has a predilection to schizophrenia will bring on schizophrenia much more quickly. I am not aware of that research, but I take his word that it may well be one of the side effects of prolonged use of marijuana.

The Dutch do not consider the use of marijuana by young people as a great drama. That country has a system where people can buy a certain amount of marijuana in coffee shops. The only stipulations are that the person must be over 18 years of age and that he buys only enough for personal use and, I think, to sell to friends or small groups.

Hon Peter Foss: I thought you said in this Chamber that you were against smoking.

Hon REG DAVIES: I am quite serious about what I am saying. I did not say I was advocating the legalisation of the use of marijuana. We should at least look at the Dutch experience and start obtaining copies of any research that has been done. In addition, we must let the users know what are the long term effects.

Hon Peter Foss: A national health committee is doing a study into this and the preliminary indications show some peculiar results. One of the strange things is that the results in South Australia and the Australian Capital Territory show that the decriminalisation of marijuana has not led to any benefit.

The DEPUTY PRESIDENT (Hon Cheryl Davenport): Order!

Hon REG DAVIES: I am not advocating decriminalisation of marijuana, but we must acknowledge that people in the community are smoking that drug. We must arm ourselves with as much information as we can and should not bury our heads in the sand in the hope that the problem will go away simply because in a few years' time there will be another person responsible for this portfolio.

Hon Peter Foss: The research is being done.

Hon REG DAVIES: I welcome that and I hope that those people involved do not take an antagonistic approach to this problem and that they weigh up the pros and cons because it is a fact that our youth are smoking marijuana. Many middle aged people are using it for a variety of reasons. Drug use is normally not done in isolation, but for a number of reasons and those reasons must be carefully considered. We must consider why people become drug users. If it were decided that the effect of using marijuana was less than the effect of using the other addictive drug - nicotine - and it was more socially acceptable than people blowing smoke on other people in the office and in vehicles, the decriminalisation of marijuana might serve some positive use in society. In other words, it would keep youth away from the underground elements who dispose of this drug.

Members know that it is illegal to buy and use marijuana in this State and to get it one must deal with unsavoury people. By not acknowledging the problem we are saying to the kids in this community that they can go out and find the dealers, wherever they may be, and subject themselves to whatever may be required to obtain the illegal substance. If the supplier does not have what the youth want they may be offered something harder like cocaine or heroin instead of marijuana, which is milder and is the thing of the 1970s, 1980s, 1990s and probably into the next century.

Hon Peter Foss: I regard cigarette manufacturers as unsavoury people as well.

Hon REG DAVIES: While Hon Peter Foss was Minister for Health I challenged him to legislate against cigarette smoking and he told me that in the 1920s a prohibition did not work. Governments never do anything about cigarette smoking because they get too much money in taxes from it. The Minister knows that as well as I do. How much of the cigarette tax goes into health? It all goes into the Government's coffers. The Minister should not give me that rot, because it does not wash with me. It is time to address this problem. At the end of the day we may come up with a plan whereby we can keep the youth away from the criminal elements and, at the same time, appease their habit and keep them on the straight and narrow. Other countries have done it. I have visited the Netherlands where that has happened and that country has a good needle exchange program as well as a good heroin program. I asked the people involved in this area what the long-term effect of heroin use is and I was told that if it is controlled people can lead normal lives. I understand that cocaine does not create a problem because it is usually used by those in the upper echelon of society - the lawyers, doctors and actors - who can afford to pay the price for the drug. They are no direct threat to society because they can afford it. Apparently the long-term use of cocaine has a worse effect than the long-term use of heroin. We must do something to keep kids away from harder drugs and the unsavoury elements in society.

Sitting suspended from 6.00 to 7.30 pm

Hon REG DAVIES: I will summarise the policy within Holland from a document entitled "Drug enforcement policy in Rotterdam, The Netherlands". It states -

> The local narcotic drugs policy is a direct elaboration of the national policy, which is primarily a responsibility of the ministry of Health (not the Ministry of Justice(!).

It is interesting to note that it does not come under the Ministry of Justice. Holland considers this to be a health problem. The document continues -

> For the use of softdrugs there is no active investigation and prosecution in the Netherlands. That means that the police do not interfere with the possession of small quantities of Cannabis products. These will not be confiscated as such, but only in the course of the prosecution of other criminal acts, such as hard-drugs trade, or when found at, for instance, traffic accidents.
>
> The small-scale distribution and trade in cannabis-products to users goes equally unhampered. The sales points, euphemistically called coffee-shops, are tolerated. Police and justice do interfere however whenever the seller of cannabis products is violating the regulations. These are:

no advertising in any form,
no sales of hard-drugs
no trouble or inconvenience for neighbours
no sales to minors (under sixteen)
no trafficking of large quantities

It continues -

> As mentioned before, police officers do not rush the users of drugs for the mere fact that they are users. The police does not take action on the small user's market where users buy their stuff. This explains why The Netherlands have developed a relatively accessible user's market.

However, it states that -

> The fight against organised crime and drugs trade gets a top priority in the Netherlands, and especially in Rotterdam, being the largest port in the world.

As I said at the outset, I do not advocate the legalisation or decriminalisation of the use of soft drugs at this stage; however, we are all mature grownups and it is time we addressed this problem in the community and looked for a solution. It is time to start talking about the matter. I feel much more confident in this area now that I have informed myself on the topic. I have looked at the way it has been resolved in another jurisdiction. I am not sure whether that is appropriate for Australia. Twelve months ago I congratulated Hon Alannah MacTiernan because at least she brought the topic to public attention. That is healthy and debate on the subject is healthy. It is probably time to shake off our personal phobias in this area and to think of our children and future generations. If there is any way to stop them being involved in the criminal elements of society, we should move in that direction.

I want to briefly discuss a range of topics this evening but I may not have time to cover them in any detail. I commend to members the interim report of the Select Committee on the Western Australian Police Service, tabled by the chairman, Hon Derrick Tomlinson, in February during the parliamentary recess. I know many members have not taken the time to read the report or the recommendations by the committee, but it is a very worthwhile report and I am sure plenty of copies are available. I will outline the recommendations of that committee. This report covers term of reference 7, which was to consider the appropriateness of police recruitment, training and promotional procedures and structures. The committee chose this term of reference with which to commence its deliberations because it gave the committee an insight into the Police Force and its workings. I might add that the committee has been working very diligently and, as a team, its members have been getting on extremely well and have had regular meetings. I hope the Parliament has taken note of the report and that the Government is considering the recommendations.

[Leave granted for the member's time to be extended.]

Hon REG DAVIES: I thank members for that courtesy.

Hon Tom Stephens: The Leader of the House never does that for me.

Hon REG DAVIES: During my remaining time I will go over the major recommendations of the committee as they relate to term of reference 7. I commend the report to the Parliament, the Government and the police service of Western Australia. I hope that the police service looks at the recommendations and considers them in the light in which the committee has presented them to the Parliament.

One of the major points made by the committee relates to the merit based promotion system. The sole recommendation is to abandon that system. It causes considerable concern within the police service and is one of the major reasons for the poor morale in the service. The system was never intended to operate the way it does. There are many other better ways to handle promotions within the Police Force. I hope that recommendation will be welcomed by the police service.

Hon Derrick Tomlinson: The system of merit based promotion has been abandoned. A

new system is in place which is much closer to the one that the Police Department developed in 1989.

Hon REG DAVIES: I am pleased to hear it. I was not aware of that.

Hon Derrick Tomlinson: They have acted on our report with alacrity.

Hon REG DAVIES: Did they do the same with our recommendations regarding the Police Academy at Maylands?

Hon Derrick Tomlinson: They have been given a demountable classroom.

Hon REG DAVIES: That is what Education Ministers have been doing for schools for years, with little success. If we are to have a well trained Police Force, the very best we can offer, we must have the best training facility. Something must be done with the Maylands Academy as soon as possible. Money must be spent. We must get rid of the Maylands Academy and build a new one - but the committee did not go that far. I commend the report to members and I hope they take time to read it.

Another area of concern which I will address relates to an article in *The West Australian* on Saturday, 1 April. At page 47 under the heading "Push for probe into costly divorce law" it reads -

> Wanneroo MLA Wayde Smith wants a select committee to look at the perceived injustices from costly divorce battles.

He was reacting to correspondence and representations from the Civil Liberties Council of Western Australia, Flame - the Family Law and Marriage Environment group, which is part of the council. The group is very concerned about what is going on in the Family Court. The group has circulated a petition. I do not know if it has been presented here or in the other place. The main concern is a call for an urgent parliamentary inquiry into the operations of the Family Court system in Western Australia with particular emphasis on establishing a law which allows public scrutiny, criticism and open public debate.

I did not feel competent to comment to the group or to represent it in the Parliament at the time. I have taken the time to look at the issue more closely. Yesterday I spent just over three hours at the Family Court with Chief Justice McCall. I put a lot of questions to him relating to concerns expressed by my constituents. He was very happy to take me through the Family Court building and to answer my queries. I was allowed to watch the sittings of the Family Court. I have considered my constituents' concerns in conjunction with those of the Civil Liberties Council, and the proposed petition to Parliament, as well as the fact that the Liberal Party has discussed the call for a select committee to inquire into the Family Court operations, but I see very little that the Western Australian Parliament can do. The Family Court of Western Australia operates under a federal Act of Parliament.

Hon Peter Foss: It is operating under Western Australian law which administers federal law.

Several members interjected.

Hon REG DAVIES: The only jurisdiction our Attorney General has is to appoint the judges to the court. However, they either have a federal commission or a dual commission to operate in both courts - and this State Attorney General must have the approval of the federal Attorney General. Our court has jurisdiction only for ex-nuptial children; that is, illegitimate children and children of de facto relationships. Therefore, the only thing we can do to address other concerns is to repeal the Western Australian Act, and it would immediately revert to the federal Act. The fourth point of the circulated petition refers to reviewing and repealing section 121 of the Family Law Act to return freedom of speech in this area to the people of Western Australia. Again, this relates to a federal Act.

Hon Peter Foss: It is interesting whether it is family law or whether it is law relating to newspapers.

Hon REG DAVIES: I understand the only matter prohibited from being done under sections 126 and 121 is the publication of names of people involved in the court - the

witnesses and the children. People can talk about the actions within the court, court cases and so on, and they can publish the details. People can sit in the court and be part of the court activity.

Hon Peter Foss: A person cannot go on talkback radio. That would identify the person.

Hon REG DAVIES: The only reason it would identify the person on that day would be the court list being published.

Hon Peter Foss interjected.

Hon REG DAVIES: I do not think that usually the names are identified. They say "Bob" or "John".

Hon Peter Foss: Voices identify people to the people who know those persons' voices.

Hon REG DAVIES: I am happy that that aspect is fairly open. A Joint House Committee of the Federal Parliament has been looking at aspects of the Family Law Act 1975, its operation and interpretation. The committee has operated since 1991. It made recommendations in its report dated November 1992. Recommendation 117 was that "section 121(3) of the Family Law Act 1975 which specifies the particulars which may identify a person, in particular be amended and perhaps rewritten in more general terms". The Federal Government's response was to accept these recommendations. Obviously it is a matter of educating the public that the Family Court is an open court, and people are allowed to comment on the court's proceedings. They are not allowed to identify the individuals involved.

Hon Peter Foss: The individuals can identify themselves.

Hon A.J.G. MacTiernan: Two parties are involved.

Hon REG DAVIES: Another concern was the establishment of a family law and marriage environmental board to oversee the operation, review and monitoring of family law in this State and to make it more equitable, less confrontationist and less costly. The court employs 16 tertiary qualified counsellors. Counselling is a major part of the divorce process. The Chief Justice informed me that of every 100 cases that come before the Family Court only five go before judges, and the other 95 are resolved before it gets to that stage. Mrs Barbara Campbell was concerned about perjury in the Family Court in a case that she was close to. An avenue for someone who has a complaint about perjury is to lodge that complaint with the police, because that is a one on one situation and details of the family court proceedings are not published. As far as accountability of the judiciary is concerned, the decisions of the Family Court are subject to appeal. I no longer feel as strongly about the Family Law Act and the way it is administered as I did some time ago when I was perhaps ill-informed in some cases by misguided people. Every court case has a winner and a loser and the loser will obviously be unhappy about the situation. The Family Court of Western Australia does not cost the Western Australian Government a single cent. Its operating cost of $7.7m a year comes from federal funding. In fact, the salary of the police officer in the court is reimbursed from federal funds to our Police Force. The State will be duplicating the role of the federal joint House committee. If people have any real concerns in that area it will probably be better for them to make a submission to that committee.

I thank members for the opportunity to comment in this debate. I wish His Excellency well in his role over the next several years. I hope that members will consider some of the points I have raised this evening. Although they may not like some of these points, it is time we debated these subjects. I support the motion before the House.

Debate adjourned, on motion by Hon Tom Helm.

SELECT COMMITTEE - WESTERN AUSTRALIAN POLICE SERVICE

Report Tabling, Extension of Time

Hon Derrick Tomlinson presented a report of the Select Committee on Western Australian Police Service. On his motion it was resolved -

That the date fixed for the presentation of the committee's report be extended from Wednesday, 12 April 1995 to Tuesday, 16 April 1996.

On further motion by Hon Derrick Tomlinson, resolved -

That the report do lie upon the Table and be printed.

[See paper No 244.]

GASCOYNE DEVELOPMENT COMMISSION - ANNUAL REPORT
Page Omitted, Inserted

Hon George Cash (Leader of the House) by leave substituted a page omitted from the Gascoyne Development Commission annual report tabled on 20 December 1994 be inserted.

OCCUPATIONAL SAFETY AND HEALTH LEGISLATION AMENDMENT BILL
Second Reading

Resumed from 13 December 1994.

HON A.J.G. MacTIERNAN (East Metropolitan) [7.57 pm]: I draw the attention of the House to the inadequacy and the inappropriateness of what we are about to embark upon. Effectively we are about to duplicate in most substantial respects the debate that has gone on in the Legislative Assembly. Of course, there will be some different angles and some new material which the Opposition has acquired between now and December when this matter went to the Assembly, but in all essential areas the issues and the manner in which they will be debated here are identical to the process that was adopted in the Legislative Assembly. We usually achieve nothing at all out of this duplication.

The Government has the numbers in both Houses of Parliament and the outcome of all aspects of this legislation is assured. Arising out of experience, rather than the theory of the House of Review, this is a wasted charade. It points to that matter that has been raised on many occasions in the Address-in-Reply debate conducted in this place over the past few weeks; that is, the need for a more realistic mechanism in this House so we have a genuine review and not simply, as Hon John Cowdell has said, identical ends of the legislative sausage machine.

The PRESIDENT: Order! I do not think that has anything to do with this Bill.

Hon A.J.G. MacTIERNAN: I am trying to put it in a broader framework.

The PRESIDENT: It is a very much broader framework.

Hon A.J.G. MacTIERNAN: But a very important framework especially to someone like you, Sir, who believes strongly that this place should have a real role. But hope does beat eternal in the hearts of the Opposition. We believe that perhaps there is some very slim chance that our arguments will be listened to, and that in Committee we can amend this Bill so that it does not undermine the very good occupational health and safety processes currently in place in this State.

The Bill seeks to amend three separate pieces of legislation: The Occupational Health, Safety and Welfare Act 1984, the Mines Safety and Inspection Act 1994, and the Industrial Relations Act. I will not spend time discussing in my address the Mines Safety and Inspection Act, although many of the principles affecting the other legislation will apply to it because Hon Mark Nevill will focus on that legislation. However, I note, as had been noted in the Assembly and we have noted in discussions during questions in this place, it is a pity that a very positive piece of legislation which the Leader of the House introduced into this place and which was passed here last year is being amended and derogated from by this Bill. No doubt we will have an opportunity to discuss that with the Leader of the House when Hon Mark Nevill gives his address and when we go into an extensive Committee debate, which I hope we will be permitted here.

This legislative package follows chronologically the tabling of a report on the review of the Occupational Health and Safety Act by commissioner Laing which was

commissioned by the Labor Government in 1992 and was part of the statutorily prescribed five year review. However, a great deal of the change presented in this Bill does not come in any way, shape or form from the Laing review, but rather is a clear and direct manifestation of the ideology of the Minister for Labour Relations and his desire to destroy union power and collective action and influence in the work place, and his desire to see reduced the rights, power and influence of the ordinary working people in their workplace. These ideologically driven changes unfortunately have the potential to completely undermine the very successful system which was put in place by the previous Labor Government and, indeed, which most of us believe was one of the real achievements of Labor's term in office. For those reasons, because of the capacity of these changes to totally undermine the system, we cannot support this Bill, even though there are a number of positive amendments we would certainly like to see implemented. We have done our sums. There is no doubt that the mischief created by this legislation far outweighs any good it will do.

Before I get into the more detailed critique of this legislation I will stress how desperately important it is that we get this right. Occupational health and safety is an issue of crucial importance: It is a question of life and death in many industries. In the seven years between 1987 and 1994, 182 Western Australians died in accidents at the workplace. That does not include work related motor vehicle deaths nor people who died from work related diseases. Those 182 died on the job primarily as a result of accidents in the workplace. To put this in some sort of context, the number of Western Australian soldiers who died in Vietnam was 65; that is, in the biggest military confrontation Australia has been involved in since the end of the Second World War we saw 65 Western Australians lose their lives. In the past 7 years 182 Western Australians lost their lives in directly work related accidents. Some industries show alarming figures: Transport and storage had 13 deaths, manufacturing 14, construction 29, agriculture 38 and mining a worrying 58. If we could add the disease related workplace fatalities the number would rise dramatically. It is a harder figure to come by but we understand that the figure would be in the order of 1 200. Although we know that death is the ultimate penalty paid by workers in an unsafe work place, many workers pay with their health rather than their lives. Recent research conducted by the Australian Bureau of Statistics has shown that for every fatality in the workplace six workers are seriously maimed or injured. Those figures show that we have a very grave responsibility to give this legislation our utmost attention. We must do everything reasonably possible to ensure that those Western Australians whom we represent and who are the life blood of our economy can go to work knowing that in place is a system which will do all that is reasonably possible to protect their rights and health.

There is also an enormous economic cost. Recent figures I was handed earlier tonight show the estimated cost of workplace injuries in Australia, rather than Western Australia, to be as high as $37m annually, which is an extraordinary drain on our economy.

Hon J.D. Scott interjected.

Hon A.J.G. MacTIERNAN: This is a very broadly drawn figure produced by the Australian Bureau of Statistics' national accounts. They point to a $4.8b in direct workers' compensation cost. The ABS says that when one factors in all the related costs, including health care, pensions and all other ancillary factors, we get a figure of some $37m. So we have highly compelling economic and, more importantly, real life reasons why we need to address this question very seriously and why we must give our utmost attention to ensuring that what we are doing will not undermine the health and safety regime which has been put in place.

There is no doubt that the system which was put in place in its first form in 1984 and refined and developed in 1987 has done a great deal to address occupational health and safety fatalities and injuries in this State. Although we have shown here figures that have occurred since then, there is no doubt that even these figures, alarming though they are, are a vast improvement on the situation that existed before this legislation was put in place.

The Bill before us has some positive features. I will mention a few of those briefly, perhaps taking a model from the parable of the lost sheep. It is not my intention to spend much time on those things with which we agree. It is more important to debate those things with which we do not agree.

Hon Peter Foss: The parable of the prodigal son is more applicable.

Hon A.J.G. MacTIERNAN: I think the lost sheep. Why the prodigal son?

Hon Peter Foss: You intend to spend more time on the one that went astray.

Hon A.J.G. MacTIERNAN: The principle in the parable of the prodigal son, if I remember right, was the jealousy of the older towards the younger son. Here we want to focus on those things that are a problem. Those are the lost sheep of the Occupational Health and Safety Amendment Bill.

The changes that we believe contribute an improvement include the extension of the Act to cover apprentices and trainees. We think it is an important expansion. We certainly support the extension of the statutory duty of care to architects and builders. We have some comments to make on other areas into which we believe this statutory duty could be expanded. A system will be set in place for the reporting of diseases and injuries in the workplace. We think that is positive. However, we would like to see it go further. Important amendments deal with the protection of health and safety representatives against discrimination. That is a practical and real problem that must be addressed if an employee is prepared to take on what can be an onerous and challenging role.

Generally, we welcome the increase in penalties. We believe that there has been a very significant increase in penalties against individual workers and self-employed persons. While we recognise, in many instances, the fundamental notion that employees and employers must be responsible for occupational health, the reality is that these individuals have a limited ability to influence the system of work and other matters directly affecting health and safety in the workplace. It is unfair, therefore, to impose penalties of the order prescribed by this Bill. The codes of practice have been given recognition in this legislation and that is a good thing. However, again we will propose a development of that so that they have even more persuasive authority. We welcome the prohibition related to the storage of prescribed hazardous substances and offences associated with that as well as the introduction of an offence removing improvement notices. These are the bits that we like. I do not think we are damning with faint praise. We have constructive amendments to make on some of those aspects of the Bill. However, they are the matters we will support in the legislation and that is the sort of fine tuning that we believe is proper.

I want to now go on to other areas that are of great concern to us. I will not go into the minutiae of legislation in doing that. It is my intention to cover four areas and do it in a fairly broad brush way. I will look at detailed provisions when we get to the Committee stage. The first matter with which I wish to deal is the removal of unions from the process. That is one of our most fundamental concerns. We believe that the amendments - there are a number of amendments go to this effect - have the capacity to undermine the whole thrust of the legislation as it exists today. To understand why this is a matter of profound importance, we have to go to the philosophy and the principles which underlie the system that is in place in this State. The system is based on principles developed by a British parliamentary committee between 1970 and 1972. The committee was chaired by Lord Robens and is generally referred to as the Robens committee or the Robens principles. The report of the Robens committee had these basic tenets: Firstly, that reliance made on prescriptive regulations to guarantee health and safety in the workplace produces regulations that rapidly become cumbersome, outmoded and impossible to enforce. Having a regime of prescriptive regulations which are then enforced by external third parties is not the way to implement an efficient and effective occupational health and safety system. We find that, particularly now with a rapidly changing work force, technologies and work structures, the regulations that are put in place very rapidly become out of date and they are very blunt instruments in providing safe working conditions.

The second tenet is that the alternative to this prescriptive externally enforced regulation is to accept that there is a fundamental responsibility for occupational health and safety on the employers and employees in the workplace. Hence, primary enforcement should be by way of self-regulation and that regulation should be underwritten by a statutorily imposed duty of care. We move from having all these detailed regulations and a third party who inspects factories from time to time to make sure that huge lists of regulations are enforced to saying that we need to get employees and employers to take responsibility for occupational health and safety and for devising systems that will be safe, and that we create statutory obligations and regimes of statutory penalties to provide a bit of backbone to that responsibility.

It is important to remember - it was pointed out in many of the second reading speeches in the Legislative Assembly - that self-regulation is not laissez-faire. Importantly, this notion of self-regulation by employees and employers works only where employees are empowered to play a very active role in ensuring the delivery of safety. The system envisages a cooperation between employees and employers to achieve that. It was recognised very early in the Robens committee that unions had an important part to play in guaranteeing genuine cooperation because it was the involvement of unions that gave confidence and weight to employees to balance the natural power of the employers' management prerogatives. Therefore, we have seen developed in Western Australia a system where the unions have been given an important place as of right in the occupational health and safety structures, in the formation of consultative groups, in the elections of health and safety inspectors and, in an ongoing way, in the administration of occupational health and safety in the workplace. They also have a broad role within the Occupational Health, Safety and Welfare Commission.

The tripartite model that was proposed had the full support of industry when it was introduced. As far as we are aware there is no pressure from industry to abandon the basic principles. There has been no suggestion also by Laing that these basic structures should be changed. Commissioner Laing said -

> Few would attempt to argue that unions in this State have not contributed significantly to the health and safety of many in the workforce. The unions have been the conscience and often the force that has led the drive to improved safety and health in many industries and enterprises and their contribution should not be ignored.

He also said -

> The unions have a legitimate and proper role in occupational health, safety and welfare. It is part of their role to protect their members and they are able to provide advice, expertise and, where necessary, resources. Some unions, over the years, have exercised their industrial power to achieve significant health and safety improvements for the employees they represent. Some industries where the unions have been active are among those which have shown greatest improvement in terms of time lost through injury and illness.

We also know that around the same time that the Laing report came down a Chamber of Commerce and Industry of Western Australia survey showed that in those industries where trade unions were active, health and safety committees were more likely to be elected and the protective system which is envisaged by the Act put in place. Moreover, unions introduce a specialist knowledge and expertise, both theoretical and practical, which it would be unrealistic to expect the ordinary worker in the workplace to have. An enormous amount of union resources has been spent on developing that expertise and passing it on to the members of the union and, in particular, to the workplace representatives. The way in which the union involvement has been structured also provides a method of ensuring the proper spread of health and safety representatives across a range of functional areas within a workplace. There is limited point in having an occupational health and safety representative who is a clerical worker when a large proportion of the activities of a particular workplace involve heavy duty metal work; and I will elaborate on this in Committee. The way in which the union involvement has been

structured provides a greater assurance that each functional area within a workplace will have an opportunity to be represented at both the consultative stage and the stage at which the health and safety representatives are appointed.

The Minister for Labour Relations said unions will not be excluded but will still be involved under certain circumstances, but the reality is that this legislation will systematically remove unions from the occupational health and safety structures. It certainly will remove any involvement they have as of right; and in Committee we will detail the mechanisms of this removal. There is no doubt that this removal of the unions will radically undermine the standard of occupational health and safety in Western Australia and will lead to far greater control and manipulation of the system by unscrupulous employers. Of course, many employers share the unions' genuine interest in occupational health and safety, and they are the ones about whom we do not need to worry, but those employers who do not share that commitment are the ones who will create problems and they are the ones who will be the beneficiaries of this system. They will certainly have far greater control over the formulation of health and safety representatives and the formation of health and safety committees. It will lead to a reduction in informed worker involvement. There will be less union support for those workers, and, as I said previously, it will lead to a less appropriate spread of representatives across the different functions in the workplace.

The second area that I will address is the removal of the jurisdiction of the Industrial Relations Commission. This Bill will amend not only the Occupational Health and Safety Act but also the Industrial Relations Act. Under this legislation, through a series of mechanisms, and principally by changing the definition of "industrial matter", the Industrial Relations Commission will cease to have power to conciliate and arbitrate on industrial matters. Apparently, Mr Kierath and this Government take the extraordinary view that occupational health and safety is not an industrial issue so it will no longer be able to be dealt with by the Industrial Relations Commission. Occupational health and safety is very much an industrial issue, as Mr Kierath would know if he listened to the 2 000, or so, workers who rallied here last November and to what the unions are telling him, and Mr Kierath's attempt to re-label it will not change the reality that the working conditions in which people find themselves will affect the employer-employee relationship and the productive process.

The alternative which Mr Kierath has proposed is that occupational health and safety matters, which to date have been handled competently by the Industrial Relations Commission, as Commissioner Laing affirmed, will be put before the Magistrate's Court. The Minister refused to debate the matter in Committee, and guillotined the Bill before the Opposition could raise its detailed concerns about that matter. It is an extraordinary act of bad faith, when the Minister is seeking to make a change of this scale, to not in any way allow the matter to be debated and amendments to be considered. These issues were canvassed extensively by the Opposition at the second reading stage in the Assembly, and I can say only that the Minister gave his usual responses: They were inaccurate, facile and rooted in a complete misunderstanding of the function and operation of the Industrial Relations Commission in respect of occupational health and safety.

Currently, a variety of matters in the Act can go before the Industrial Relations Commission. These include the number and training of workplace representatives, the election of those representatives, pay entitlements arising out of disputes, and appeals against prohibition orders. In our view, to take these matters out of the commission will create the following problems: Firstly, the Magistrate's Court is not set up for conciliation. It is important for those who are less familiar with the processes in the Industrial Relations Commission to understand that it is a tribunal which can both conciliate and arbitrate. Indeed, it conciliates before it arbitrates, and it arbitrates only if conciliation is not possible. There is no provision in the Magistrate's Court for conciliation and there is no introduction in this legislation of a conciliation or mediation power or process to be established. The court will by necessity have to deal with these disputes from the outset in an adversarial manner. This is the antithesis of the philosophy of cooperation that underlies the occupational health and safety scheme. Any one with

any practical knowledge of adversarial systems, and that includes all of us here because we work within one, will understand that an adversarial system drives the various participants further into their respective corners. It deepens rather than resolves any point of conflict between the parties. This is undesirable, one would argue, at any time, but it is totally unsatisfactory where the parties must have an ongoing relationship.

This total unsuitability of such an adversarial system to resolve workplace disputes led in the first instance in 1902 in this State to the development of a conciliation and arbitration system, one administered by the Industrial Relations Commission. We are taking workplace disputes, where the parties will have, and are expected to have, an ongoing relationship, out of a conciliation and arbitration model and putting them into an adversarial system. That is very poor practice. As I say, it is antithetical to the whole nature of good industrial relations and to our occupational health and safety scheme.

Our second criticism of this removal of the jurisdiction from the Industrial Relations Commission and popping it into the Magistrate's Court is that it will lead to a reduction in expertise in resolving these disputes. A few statements the Minister has made - there is no extensive debate by the Minister in any of these issues - suggest that the magistrates will be specialists because they will develop expertise. He says that, because those magistrates will be dealing with occupational health and safety all the time - I am not sure that this is right - they will develop this expertise. That seems to run contrary to his claims that only four health and occupational safety matters were dealt with by the commission in the past year. I find it difficult to see how these magistrates could gain expertise on the basis of their hearing four cases a year. It is a completely ludicrous proposition.

The commissioners of the Industrial Relations Commission, unlike magistrates, are selected because they have a specialist knowledge of the workplace, a familiarity with workplace culture and practice. I will refer to Mr Kierath's comments when he spoke in support of these issues while speaking on a different issue. When he was trying to justify his proposal to transfer employment related opportunity provisions to the Industrial Relations Commission, he had this to say about commissioners -

> We believe the Industrial Relations Commission has more expertise in handling employment related matters through the experience and qualifications of the existing commissioners ... They are much closer to it and they have a better understanding of the issues associated with employment.

That is exactly what we are saying. That is exactly why the industrial relations commissioners should remain the referees of the disputes concerning the workplace.

Hon P.R. Lightfoot: Have you asked Mr Kierath whether he has changed his mind?

Hon A.J.G. MacTIERNAN: No, I have not. Perhaps Hon Ross Lightfoot could advise me about that.

Hon P.R. Lightfoot: I suspect that he has.

Hon A.J.G. MacTIERNAN: What has he changed his mind about?

Hon P.R. Lightfoot: The make-up of the commission.

Hon A.J.G. MacTIERNAN: Is that right? These remarks were made only on 12 March 1995, two weeks ago. I would be very interested to hear whether the Minister has changed his mind. We all know he is a fairly volatile character, but I would be interested if the Minister could enlighten us if he has gone back on his words. For once he was quite correct when he stated that these commissioners do have experience and qualifications and have a very special understanding of the workplace. Mr Lightfoot has some contact with people who operate within the legal profession and will be aware of the backgrounds from which the magistrates are drawn. They are not drawn from the same sources as are industrial relations commissioners. There is nothing in their background and selection that befits them in any way for the duties that they are called upon to discharge. We believe the statements of the Minister are a very clear demonstration of the Government's hypocrisy. It strips back all the rhetoric and unmasks

the real agenda. It is not about better occupational health and safety or better industrial relations; it is simply a strategy to reduce the conditions and power of working men and women in this State, as has been the case with all of Minister Kierath's industrial relations changes.

Our third concern about the removal of the jurisdiction of the Industrial Relations Commission is that nothing in the rules of the Local Court provides for representative actions. No procedures are established to deal with a large number of complainants. The rules of the Local Court are designed for simple adversarial processes, with a single or a small number of joint plaintiffs. There is no capacity under this system or in the way the amendments have been structured for a union to take action on behalf of its members, as can be done in the Industrial Relations Commission, which recognises the existence of unions as bodies that can appear before it in their own right.

Let us take the example of a workplace with a couple of hundred workers - that is not unusual; it can happen on a manufacturing site or on a multistorey construction job - who are aggrieved by the industrial health and safety process. What are they expected to do? Are the whole 200 or so expected to become joint litigants in an action in the Local Court? All the paperwork necessary could not be completed. It is a nonsense of a system and it is a quite inappropriate attempt to atomise the employees in a workplace, to drive them apart and not give them any recognition of collective status.

In addition to this is our concern about costs. The Industrial Relations Commission is a no cost jurisdiction. That means that, although one might have to pay one's own representative, if that party loses, there are no additional financial consequences. That has been a very important part of ensuring that workers are prepared to use the referee, the conciliation and arbitration provisions of the commission. The financial consequences upon those workers can be contained. Under this system employers and other parties will have the right to be represented by lawyers. If employees lose a case, they will be liable not only for their own costs but for the costs of the employer's legal representative. This will be a powerful double disincentive for workers to take action.

The unions will be precluded from launching an action in the collective name and, more importantly, the complainants - now individual complainants - will be exposed to legal costs of the other side in the event that they lose the action. As I say, that will be a powerful disincentive for workers seeking to have the occupational health and safety systems that are contemplated in the Act put in place, and put in place correctly. The Government knows full well that this will be the consequence of what it is doing. It just shows that it is interested not in providing an improvement to the system but in a mean-minded undermining of the position of workers in this State, an undermining of that equality of position that is the cornerstone of this cooperative model. Again, it is important to understand that without a balance of power between employees and employers in the workplace, this cooperative, self-regulatory model will not work. It will simply become a system that is used and manipulated by the naturally more powerful party, the employer.

Concerns have also been raised about the changes to standards of proof. I suppose this is primarily relevant to the pay disputes. I have not formed a view but I think certain matters will need to be teased out in Committee, such as whether it will be more difficult for workers to establish certain things before the Magistrate's Court given a general standard of proof beyond reasonable doubt, which would be more difficult than establishing a similar thing in the Industrial Relations Commission. I will reserve judgment on that, but it is something we will discuss in Committee.

The third area I will consider is that relating to the right of workers to stop work. The legislation proposes changes to a worker's right to stop work. Currently the legislation provides that an employee has a right to stop work where he has reasonable grounds to believe that to continue working will expose him or her or some other person to serious risk of harm. That is an absolutely basic right for workers. Any attempt to intimidate workers, to stop them exercising their proper judgment on matters affecting their own safety where they believe themselves to be at imminent risk of serious injury must be

totally abhorrent to this House. That provision was the subject of some comment by commissioner Laing, who was concerned that the provision was too restrictive. He was concerned that situations would arise where workers genuinely believed that their workplace was unsafe, but might find themselves unable to demonstrate that that was so and so continue working. He suggested that workers should have a broader right to back their judgment. He went on to consider a model that has been put on place in Ontario, Canada, which is a good compromise. However, that is not what we have been offered here because what has been proposed here seems to tighten the net.

The provision in mark 1 of the original legislation as it went before the Legislative Assembly was particularly abhorrent; we were to have a series of deeming provisions outlining what were to be reasonable grounds. I do not know who can claim credit for this change - perhaps it has resulted from the degree of outrage expressed by the Trades and Labor Council and the Opposition, but that provision has been removed. We see inserted a number of matters to be taken into account in determining what is a reasonable ground. That may be going in the opposite direction to that recommended by commissioner Laing. We want the Minister to outline what he believes will be the consequences of including those specific matters that can be taken into account. As I read it, this is not an exhaustive list of matters and nor are these finally determinative. We are concerned that they may constitute an even further restriction of the right of workers to exercise their proper judgment in circumstances where they believe they are facing a serious risk of injury if they remain in the workplace.

The other aspect of the legislation that we find unreasonable is the introduction of new offences. It is proposed that if a worker believes there is reasonable ground to suggest he is at risk if he stays on the job and he leaves the workplace without the authority of his employer, he faces a fine of up to $5 000. He may forget to obtain permission to leave the workplace perhaps because he has become flustered owing to his predicament, yet he is be fined $5 000 for leaving the workplace. Absolutely no evidence suggests that such a provision is needed. The Laing report contains no evidence to suggest that there has been abuse of the system and that we need to introduce such an inappropriate and onerous offence against workers who fail to get permission before leaving the workplace. This provision treats workers as though they were naughty schoolchildren. The idea of being fined for leaving a workplace without permission is deeply offensive to us. Government members need to ask themselves why it should be an offence for a worker to leave the workplace without permission when he believes he is facing the prospect of injury, but it is not an offence for a worker to leave the workplace to visit the pub for a beer or to visit the TAB to bet on a horse.

Hon J.A. Scott: Is it constitutional?

Hon A.J.G. MacTIERNAN: I cannot say at the moment.

Hon Peter Foss: I don't think the member would be able to comment.

Hon Graham Edwards: He leaves you for dead. You were found wanting and wrong again. You should not be getting stuck into people.

Hon Peter Foss: Only when they are wrong.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon A.J.G. MacTIERNAN: I listened to the broadcast of Hon Jim Scott's analysis of the very sordid Solomon affair and I found it most impressive.

Hon Peter Foss: My understanding and your understanding are completely different, in that case.

Hon A.J.G. MacTIERNAN: We are running a book on Mr Foss' legal opinions. We have a scorecard on a whole range of legislation where the Minister has given his legal opinion and I can say that he has not scored a winner yet.

Hon Graham Edwards: George Strickland and Phil Lockyer have money on it.

Hon A.J.G. MacTIERNAN: They say, "Which way is Foss going, because we will put money on the other bloke."

Hon Peter Foss: Oh yes. You are making it up.

Hon A.J.G. MacTIERNAN: But it could be true. Certainly the smart money would not be on Mr Foss.

Hon Peter Foss: You really are making this up.

Hon Graham Edwards: The Minister is really worried. He will have a sleepless night.

Hon A.J.G. MacTIERNAN: Mr Deputy President, I do confess that I have misled the House: I am not running a book on Mr Foss' legal pronouncements.

The DEPUTY PRESIDENT: Order! I think we should get back to the question before the Chair.

Hon N.D. Griffiths interjected.

Hon A.J.G. MacTIERNAN: That is very unkind.

The DEPUTY PRESIDENT (Hon Barry House): Order!

Hon A.J.G. MacTIERNAN: It is a totally inappropriate provision. If a person were concerned about her health and safety in the workplace and left, she would be exposed to a fine of $5 000. Leaving for any other purpose does not leave her open to prosecution. That is not sensible. Clearly in the context of occupational health and safety it is an attempt to intimidate workers and create a general climate of fear and concern about their exercising their rights.

The range of new offences goes on and they are equally bizarre. It is now also an offence to accept payment of one's wage from an employer in situations such as this: An employee has left the job because there are reasonable grounds for believing that she might suffer injury and her employer agrees and says she will pay her for the lost time. The court can then second guess the employer. No doubt various government agencies will do this. They have certainly little interest in prosecuting those who should be prosecuted, just as the Department of Productivity and Labour Relations' activities have been redirected towards charging unions with conspiracy for dealings with bosses rather than prosecuting those employers who do not pay their workers, the resources of the Occupational Health and Safety Commission will be directed towards second guessing an employer and employee who come to a reasonable arrangement about when it is appropriate to pay the worker. A situation could arise in which an employee and employer come to an agreement that it is reasonable for the worker to stop work. However, if the employer pays, and the worker accepts payment she can be fined up to $5 000 and I think the employer can be fined up to $20 000 for paying the wages. That is an extraordinary proposition. They can be fined for amicably settling a matter that would be related to the two of them. Where is the freedom of choice we hear about all the time? Where is the freedom of choice for employers and employees to decide what is fair and reasonable under the circumstances?

Hon J.A. Scott: That will hardly encourage a safe workplace.

Hon A.J.G. MacTIERNAN: It will hardly encourage amicable resolution of these matters. Clearly, the agenda is to set up an atmosphere of fear and concern among workers about exercising their rights, that they may be prosecuted and that they may lose their pay and have very little recourse to gaining it.

Hon J.A. Scott: That situation could occur on an oil rig when a cyclone was approaching.

Hon A.J.G. MacTIERNAN: It is an important matter, so I am happy to answer that. In that instance the rig workers may determine it will be unsafe for them to stay on the rig and consequently catch the helicopter back to the mainland. The employer may agree they were at risk and not dock their pay. Presumably it will fall to the commission to launch prosecutions. It could decide that the workers did not act reasonably, that they should have stayed on the rig because if they really understood what was happening they would have known the cyclone was not going to cross there or, if it did, it would have had marginal impact. That case could be taken to the Magistrate's Court which is not a court with any expertise on worker related matters and workplace culture.

Hon Graham Edwards: And many other things.

Hon A.J.G. MacTIERNAN: I will not be so unkind as to comment on that. The experience is variable, to say the least.

Hon N.D. Griffiths interjected.

Hon A.J.G. MacTIERNAN: Under those circumstances presumably the commission can second guess the situation and take the case to the Industrial Magistrate's Court which may find the oil rig workers did not have reasonable grounds for leaving the rig as defined by some objective test. The employer and the employee who both agreed there were reasonable grounds to leave the rig and who both agreed to a pay regime would be fined for amicably settling a workplace issue and for exercising what must be freedom of choice. No social end is served by this unwarranted intervention in the affairs of the employer and employee.

What might have been the motivating factor for this provision? Commissioner Laing said that very few complaints have been made in this area. He said that there is a general consensus that the Industrial Relations Commission has handled well issues relating to pay for lost time. The Minister for Labour Relations revealed on 6PR that he was motivated by a situation involving cockroaches at the Morley Galleria work site. He explained to his mate - Rod Broadfield, I think it was - that the Builders Labourers Federation and the Construction Mining Forestry and Engineering Union of Workers and all those other horrors walked off the Morley Galleria site because cockroaches were there. There has been no greater misrepresentation of an industrial matter than that.

Hon N.D. Griffiths: They probably saw the Minister.

Hon A.J.G. MacTIERNAN: Who, the cockroaches?

Hon N.D. Griffiths interjected.

The DEPUTY PRESIDENT: Order! The member has enough interjections from the other side; I am sure she does not need them from her own.

Hon A.J.G. MacTIERNAN: I would not mind if they were relevant or understandable. If the troops want to support me, I ask them to keep their interjections in line with the debate. I know it is difficult to follow because I am trying to follow the mind-set of the Minister for Labour Relations. That is, by definition, a tortuous path. We are trying to find out why he is trying to stick his bib into the business of employers and employees who do not have a dispute. We find that the reason is cockroaches. In fact, this incident was in many ways a copy book of a proper application of the procedures of the Occupational Health, Safety and Welfare Act. There was what could be only described as a plague of cockroaches in the food and kitchen and amenities areas of the Galleria site. The health and safety representative, quite understandably, complained to management, as I am sure members opposite would if they found cockroaches crawling all over their kitchens and food.

Hon N.D. Griffiths interjected.

Hon A.J.G. MacTIERNAN: I will not say that members are getting tired and emotional, but they are getting rather enthusiastically involved in this debate.

The health and safety representatives told the employers that there was a problem with cockroaches in all the amenity areas. After about 10 days, during which time there were no disputes, the employer engaged a pest control operator who looked at the job, drew up a list of preferred pesticides and, as is the procedure laid down, directed the list to an outfit in Perth called Australian Health Consultancy Services. The data sheets that were sent stated that the preferred pesticide contained formaldehyde. The consultants, Australian Health, wrote back and said that that was not an appropriate substance to use in those areas because they were food preparation areas and there would be contact with food. The pest control company told the health and safety representatives that the pesticide had been approved by Australian Health, and went ahead and sprayed.

The problem occurred when the stewards found out that the information given to them by

the pest control company was incorrect; that the pesticide had not been approved by Australian Health and, indeed, Australian Health had said it should not be used in that area. The workers still did not walk out. They adopted proper procedures: They called a meeting of the health and safety committee and spoke with various personnel with some expertise in this area about what was appropriate action. They were told that the area had to be cleaned up before it could be used. The employees consulted the company. The company then decided that it would reduce staff levels on the site while the facilities were cleaned and the matter was sorted out. The remaining staff were able to use a limited number of amenities other than the food, toilet and kitchen areas. The staff numbers were reduced to a level which could be properly accommodated by those remaining facilities.

Multiplex made the decision to send the other workers home: It was not a decision by the unions, and it was not a strike. No suggestion was made that those workers had acted in any way without the authority, and other than at the direction, of their employer. No strike pay was paid. There was a complex arrangement about deferred entitlements. It was not an issue in which the employees, or the unions which represent them, in any way acted in an unreasonable fashion. Yet this matter has been totally distorted by the Minister for Labour Relations, and it is the only reason he gives for making these monumental changes to the legislation in this area. Again, it shows that the man is a complete fraud. I hope members opposite, many of whom are far more reasonable than that Minister, will see these provisions for what they are and will give them a great deal of scrutiny.

The final area to which I make brief reference is the extension of statutory duty applying to architects, designers and builders so that these persons have responsibility to ensure that those who use the buildings they create are not exposed to hazards as a result of their design or structure. As I indicated early in this address, the Opposition welcomes that expansion; however, it does not cover hazards that may arise out of the design and from prescribed methods during construction. This legislation provides that where hazards arise out of the design or method of construction which affect the people properly using a building, those personnel are liable. However, there is another area where this class of persons must be given responsibility; that is, during the construction phase. I draw attention to three instances to illustrate that this is a real point, and not just an indulgence in theory and hypothesis. I again make reference to a figure I pointed to earlier in my address; that is, in the construction industry in Western Australia, 29 deaths occurred in the seven years from 1987 to 1994. That is the industry with the third highest level of fatalities. The rate of serious injury is concomitantly high. The construction industry is dangerous.

The first instance to which I draw attention is the Perth bus junction. The architect of that construction specified a highly toxic waterproofing sealant known as vulcan. A number of substitutes were available, but the architect stuck to the specification of that product because he was not roped in by this legislation and given a statutory duty of care. His prime focus was not on the occupational health and safety consequences that would go with the application of that substance, but on his liability for the longevity of the finish of the building. This was not an issue for those who would be subsequently exposed to the building because the period in which the substance remains toxic is the period only in which it is in its moist form. It was a real problem for those workers who were forced to apply it. The focus of the product the architect chose was skewed away from the proper consideration of health and safety. The Opposition is sure that if the extension it proposes had been in place, the architect would have been much more prepared to select one of the alternative products.

A second example is the construction of the Arnotts Biscuits Ltd factory. The designers of that building specified the use of interior thermalite walls. In the space of a couple of weeks, two of the walls fell over. The second of those walls, which was 9 metres high, was knocked over by a sea breeze. Serious injury was avoided by a sheer fluke in this instance. The senior workers managed to dive under scaffolding and were protected. They got away with some light grazing. A few seconds before, an apprentice had been

high up on a ladder that was positioned against that wall. That apprentice would have been badly injured, and possibly would have had his back broken, had he not been the subject of a call of nature a few seconds before. Again, this is an example of where material which may be inherently unsafe over heights of that magnitude is selected by the architect. It is important that the architect take into account the occupational health and safety factors that arise during the course of the construction.

I will give more attention to the third example in another debate next week; that is, the practice of using pine ceiling joists and timbers, particularly in residential constructions. An alarming number of instances of injuries have arisen out of the use of this pine. I drew the attention of the Department of Occupational Health, Safety and Welfare to this fact and asked that a meeting be convened to look at the very real problems which are occurring. To its credit it quickly convened that meeting and got the process under way. It undertook surveys of the industry and the information it obtained confirmed what I had been told in the previous six months by subcontractors; that is, the use of pine ceiling joists is a very precarious one and has led to a number of instances of people breaking their spinal cord, long term injuries and head injuries, injuries which are occurring with greater frequency. We need to look at the responsibility of those who are drawing up the specifications for these structures to ensure that the timbers they specify are suitable for the job and do not put at risk the health and safety of those who have to work with these products.

I will use this debate as an opportunity to raise a particular problem experienced by subcontractors. They have little control over their workplace, the materials presented to them to use and their rate of pay. The rate of pay for roof carpenters is very low and the economic reality is they have very little capacity to reject the material presented to them. They have to try to get the job done in the shortest time possible simply to keep body and soul together. I have outlined three cases where the materials specified by the architects or builders of these buildings have compromised the health and safety of the people involved in their construction. The Opposition will certainly ask the Minister to consider some further expansion of the statutory duty of care to cover those cases. It will not prevent accidents occurring, but it will mean that the architect or builder must take into account not only how cheaply he can erect the building, but also to what degree he is exposing those engaged in the construction to serious harm or injury. The Opposition is concerned about myriad other matters and my colleagues, starting with Hon John Cowdell, will discuss various elements of the Bill that I have not raised. The Opposition looks forward to some intelligent and thoughtful debate in the Committee stage.

I repeat that this State has a good occupational health and safety system. It is a matter of great importance to the working men and women of this State, particularly the blue collar workers. Members have a moral obligation that exceeds any obligation they have to their political party to ensure that the system of occupational health and safety is not undermined by changes to the legislation. If in the long run we are not able to deliver decent occupational health and safety legislation in this State there will be no recourse other than to seek some sort of federal legislation under the aegis of the implementation of various International Labour Organisation conventions. Certain ILO conventions covering this area will be ratified in the Australian Parliament by the end of the year. I hope that action will not be necessary and that the level heads of the coalition parties will prevail to make sure that we preserve the very good system this State has.

HON J.A. COWDELL (South West) [9.16 pm]: I want to express concern about many aspects of this legislation. I will not get into the clash of biblical parables that seemed to highlight earlier exchanges because I am sure the Minister in charge of the Bill has written half of them. Therefore, it would not be appropriate to try to dispute with the author!

A "fresh unencumbered approach" is promised in the second reading speech - I am not sure whose second reading speech it is. I do not think Minister Foss delivered it in this place, although it is under his monocle and I am sure he will take responsibility in terms of responsible government. I will refer to the aims of consultation and cooperation that are referred to in that speech, to Minister Kierath as author, to the Trades and Labor

Council's concerns which are expressed in its paper, and the merits of continued union involvement in occupational health and safety. I will also raise a number of questions about the claims made in the Minister's second reading speech. I start with the claim made in the second reading speech about the reform of occupational health and safety. It reads -

> As a part of this strategy the Government has identified a need to signal a fresh unencumbered approach to occupational safety and health legislation.

Of course, the element of freshness to be found in the legislation has more to do with rhetorical embellishment. The unencumbered nature clearly refers to removing the encumbrance of unions and workers being represented on health and safety concerns. One is overwhelmed by the need for this Bill. The essence of freshness becomes very obvious when reading the second reading speech. For more than a page the second reading speech waxed lyrical about the changes in titles. It begins -

> It is proposed to amend the title of the Act. The new title of the Act is to be Occupational Safety and Health Act. Reference to "welfare" is to be deleted from the title and from the text throughout the Act. The Government is of the view that the word "welfare" adds nothing to the scope of the Act which is not already embodied in the terms "safety and health". The use of the word "welfare" engenders expectations which are beyond the precise definition of the term which, as it is currently defined, relates directly to health and safety. Arguably, inclusion of the term "welfare" leads to public confusion in regard to the scope of the Act.

Certainly, if the workers were expecting some reference to generosity in the legislation of this Government, that would be correct. Of course, the removal of "welfare" may affect issues which currently fall within the meaning of welfare - the sections of the regulations which deal with aspects of welfare. It must be of concern that clearly the Government does not want anything pertaining to welfare to be related to occupational health and safety. Reference is then made to the great change of putting "safety" first. The order is changed and "safety" precedes "health". Of course, we are all impressed by the very strong argument, which occupies a page and a half, telling us why the Bill cannot include welfare, why safety needs to precede health, and of the pressing need for legislation in this regard. On the change of title with respect to the instrumentality, it is stated in the second reading speech -

> Consistent with improvement to the title of the Act it is also intended to make the title of the commission and the commissioner more relevant to people at work. "WorkSafe Western Australia" which can be abbreviated to "Worksafe WA" will replace "Occupational Health, Safety and Welfare". The Department of Occupational Health, Safety and Welfare will utilise the simpler title "WorkSafe Western Australia" or "Worksafe WA". . . . I am confident that the term "WorkSafe Western Australia" and "Worksafe WA" will prove as popular as "WorkCover Western Australia" has become.

No doubt the Minister can assure us at an appropriate stage that the problems with respect to confusing the new entity with Worksafe Australia, and the claims that instrumentality has and has enforced legally in the past, will be overcome. I am sure we do not need another court case with the Commonwealth Government. No doubt the Minister will respond to that, given that it was raised in debate last year in another place. The second reading speech contains reference to the other provisions of this Bill. Apparently, it provides a "fresh unencumbered approach", which mainly seems to pertain to the rhetoric of changing safety and health and dropping welfare altogether. The second claim is that the emphasis on consultation and cooperation at the workplace will be strengthened. In fact, the main import of this legislation is to kick the unions. Its effect is disharmony and dispute, and it sets back the cause of occupational health and safety in this State. It is claimed in the second reading speech that cooperation and conciliation will be enhanced. One needs only look at the relevant reports with respect to cooperation and conciliation, which emanated as soon as the legislation was made known. I refer briefly to some of the descriptions in *The West Australian*. On 2 November 1994 under the heading "New safety laws divisive: unions" it was stated -

> WA unions last night condemned Labor Relations Minister Graham Kierath over his new occupational health and safety laws which they claimed would put workers' lives at risk.
>
> An urgent motion was passed at the Trades and Labor Council meeting which called on union executives to considered protest action over the laws.
>
> TLC assistant secretary Tony Cooke described the laws as mean-minded, devious and deliberately divisive . . .

Of course, Minister Kierath was happy not only about spreading cooperation and conciliation among the formal representatives of the workers; he immediately opened up the front of conciliation by widening it to include the Federal Government. The article further stated -

> Also yesterday, Mr Kierath accused the Federal Government of protecting a national occupational health and safety grants system which propped up the union movement.

Then Mr Kierath attacked the Federal Government, the federal occupational health and safety system, and the grants to workers' representatives. That was followed by the development where the Trades and Labor Council proposed that certain steps could be taken to safeguard members of the work force. A further article stated -

> WA unions plan to take widespread industrial action from Monday if companies refuse to agree to maintain existing occupational health procedures.

Conciliation is proceeding daily! That was followed by the rally of 2 000 workers on the steps of Parliament House. Once again, Minister Kierath, busily promoting conciliation, was quoted as saying before the crowd that he would not change his Bill and that unions were merely angry at losing occupational health and safety as an industrial tool. Then there was the escalation whereby the TLC considered the inclusion of occupational health and safety agreements at the workplace and having them ratified by the federal Industrial Relations Commission. The following appeared in the Press -

> TLC assistant secretary Tony Cooke said yesterday that such agreements would override changes to WA's occupational health laws that Labour Relations Minister Graham Kierath has introduced in State Parliament.

There was the concept of also looking for national action with respect to the external affairs powers applied under International Labour Organisation Convention 155, which is to be ratified later this year.

The Government started with two initial claims in the second reading speech and how can we doubt them? Reference was made to a fresh unencumbered approach. It is clear in the rhetoric that unions will not have a role in consultation and cooperation. This is immediately obvious. There is a great leap forward with respect to tackling occupational health and safety problems with this legislation. Minister Kierath has once again displayed his abilities with respect to industrial relations. The Industrial Relations Commission may be good for equal opportunity cases but, of course, it is bad for occupational health and safety cases. It is bad for workers who are subject to workplace agreements. Any role for the commission in that area was struck out. It seems to depend on the phase of the moon as to whether the Industrial Relations Commission is included in legislation or is completely cut out on the whim of the Minister. I note that according to reports the Minister once again is looking into our humble situation here, again, with respect to workplace agreements despite the assurances of Minister Foss. However, that will wait for another day.

The new legislation has immediately advanced the cause of occupational health and safety. Members will be aware that the Trades and Labor Council has brought out a summary of its concerns about this legislation. I will refer to some of those concerns, if not all. They encompass concerns that the legislation will increase employer control, both directly and indirectly, over health and safety issues, and this may not be in the interests of individual workers; and that the legislation deliberately limits the scope of

health and safety issues. That is the reference that it is intended to exclude all reference to the welfare of employees, and this may exclude many positive features of the current legislation which allow for provision of facilities and amenities, first aid and treatment rooms, and adequate staffing to avoid excessive work stress. The TLC expresses concern about the isolation of health and safety representatives without any connection with the union movement, in a splintered workplace. It expresses concern that these changes may undermine the resolution of issues; that they may undermine the development of expertise at the workplace level, reduce acceptance of responsibility at enterprise level for the management of health and safety issues, with the division into individual sites or components within a business; that it imposes on employers and workers the State Government's judgment on the management of health and safety issues; that it increases formality and legalism - as pointed out by Hon Alannah MacTiernan very effectively. The TLC is concerned that this legislation relies on increased formality and inflexibility to deter workplaces from a positive approach to health and safety issues, and that it increases pressure on departmental inspectors without a commensurate increase in resources, training and support, with the effect of undermining the effectiveness of the inspectorate.

It is obvious that a target of the legislation is the removal of unions from the health and safety process. The aim of this piece of legislation is the removal of unions from a representative role at the workplace. It means greater power to employers to determine the definition of workplace, the number of representatives required, the location of those representatives, and the training required to put representatives beyond introductory training. Of course, a whole complex system is set up for the election of health and safety representatives, and the process associated with the disqualification of health and safety representatives. I commend the TLC document to members. It contains a set of concerns that the TLC has put together in respect of the new directions that are taken with this legislation, hardly contributing towards the advancement of occupational health and safety.

I remind members of the very positive comments of Commissioner Laing in respect of union involvement in these issues, certainly since the 1984 legislation. He says -

> Few would attempt to argue that the unions in this State have not contributed significantly to the health and safety of many in the work force. The unions have been the conscience and often the force that has led the drive to improved safety and health in many industries and enterprises and their contribution should not be ignored.
>
> The unions have a legitimate and proper role in occupational health, safety and welfare. It is part of their role to protect their members and they are able to provide advice, expertise and, when necessary, resources. Some unions, over the years, have exercised their industrial power to achieve significant health and safety improvements for the employees they represent.

This piece of legislation before us raises a number of concerns which we look to the Minister to satisfy us on. It certainly has not contributed - as the first claim of the Government states - to a fresh, unencumbered approach with an emphasis on consultation and cooperation.

Turning to the second reading speech, reference is made to part II of the Bill. I have referred to part I - the fresher approach rhetoric. Part II refers to the WorkSafe Western Australia Commission, and the revised structure of the commission. For the first time, a chairperson will be nominated by the Minister rather than an executive chairperson. I look forward to the Minister's explanation about this change of form and why the system was not working adequately before. I look to the Minister for some elucidation of the Government's statement that it is intended to improve the voting structure within the commission because of the voting complexities within the legislation which can lead to deadlocks. I would like the Minister to explain the deadlock situation that has required this change to the structure of the commission and the removal of the executive chair.

I turn to the general provisions - the reporting of occupational diseases. This seems to be

a worthwhile advance, although I will be interested in the prescribed diseases that it is envisaged will be listed.

Hon Peter Foss interjected.

Hon J.A. COWDELL: That is a commendable part of the legislation - the widening of reporting of occupational diseases. We have some limited extension with respect to requiring architects and builders to take care that they do not introduce hazards to buildings, such as occurred in the past with asbestos. The extension of the Act in that regard, although in a limited manner, is worthwhile.

I am pleased to see in this version of the Bill that a clause of particular concern in another place with respect to direct ministerial power to make certain directions or gain certain information, seems to have dropped by the wayside.

Hon Peter Foss: Mr Kierath is nothing if not cooperative with good suggestions.

Hon J.A. COWDELL: Is the Minister for the Environment referring to workplace agreements for MPs?

Hon Peter Foss: You seem very keen to have one.

Hon J.A. COWDELL: I am swayed by the Minister's argument.

The initiative for prohibited areas in prescribed areas is worthwhile. I have no objection to the Minister's statement that an amendment will provide for an employee to be able to refer a matter to an inspector where there is no safety and health representative. The Minister states in the second reading speech that amendments will provide for payment for time lost by persons who are directly affected by an occupational health and safety hazard up to the point of arbitration. Presumably the Minister will assure us that he is referring to the end point of arbitration, not the beginning of the process,

Part IV is the key part of the Bill which has far from contributed to conciliation and cooperation. The Minister states that the Government will make a number of amendments to ensure that the structures to establish consultation in the workplace and the consultation processes are of a more democratic nature than the Act presently provides. He says that this thrust is consistent with changes to other labour legislation introduced by the Government. The thrust is a matter of trying to set up individual workers to stand alone without the necessary support of organised labour. The Minister states that in making this amendment the Government is seeking to enhance the flexibility in the Act for the parties to implement consultative structures that suit their individual workplace requirements. The Minister then breaks down the different units which may be beneficial to reducing the number of workplace accidents.

The Minister outlines a new and cumbersome election process. I thought that the poor Electoral Commission was to be saved after having been lumbered with the prospect of conducting every local government election in the State, on top of its existing responsibilities. Now it will conduct elections to the nth degree for various occupational health and safety committees throughout the State. I would hate to see the extension of the cost of this bureaucratisation in the budget of the other instrumentality. I am sure the Government will come up with some compelling examples to increase expenditure to the Electoral Commission. Of course, if there is no cause for having the Electoral Commission conduct all ballots, I see no reason that the provision should be required in the Bill.

The Minister states in his second reading speech that the amendments also allow an employer to initiate the election of safety and health representatives and that this is a key change in support of better occupational health and safety and a recognition that they have an important function in promoting sound health and safety culture. I am sure the Minister will assure us that that initiative role is not exclusively in the hands of the employer.

The Minister states that the Government proposes to strike down the concept of one health and safety committee for each workplace. The Opposition's concern is that by breaking down one committee covering the workplace into a range of committees it

decreases the effectiveness of the role of the committee as the expertise is reduced and the committees become smaller and smaller, and confined to different units of the enterprise. The Minister states that employees who are not elected health and safety representatives are not eligible to serve on health and safety committees. That seems to be unduly restrictive of worker participation in and contribution to a health and safety culture in the workplace.

Part V relates to inspectors. The Minister states that an inspector in carrying out his functions is to avoid unduly or unreasonably interfering with any work or any work process. That is a change from regulations to inclusion in the Act. Part VI relates to improvement and prohibition notices and the Minister states that it is intended to be more specific in this requirement and an amendment will be made to give it effect, with the inclusion of a provision requiring the inspector to state the reasonable grounds for forming a particular opinion. The Opposition would like to see the history that requires the greater onus of proof to be included. From an initial reading it is obvious that this may put a brake on inspectors adequately doing their job. We need to know whether past abuses have required this more stringent clause to be included in the Bill.

Part VIA refers to safety and health magistrates and part VII to legal proceedings. These are major concerns. The Bill is designed to make the structures more difficult for people to comply with, and to take away the good work that has been done in establishing informal structures and committees which seem to be working in a cooperative manner. The Minister has adopted a legalistic position of creating a role for magistrates by moving everything across into the mainstream court system. That is rather at odds with the Government's legislation in the area of workers' compensation, where the push was to have appropriate administrative tribunals and exclude easy recourse to the Magistrates' Courts. As my colleague Hon Alannah MacTiernan pointed out, a problem exists with individuals appearing before a magistrate. They do not have the same class action capacity as they do before tribunals, and there certainly is not the long record or expertise in dealing with workplace situations covering 30, 40 or more people. The Government is moving to more rigid procedures, and to locking us into a legal conflict situation. This goes against the Government's whole rhetoric.

It reverses what the Government did with workers' compensation. Once again we see a healthy increase in penalties. There is some concern over the penalties applying to individual workers who are deemed to be in positions of responsibility. That needs to be looked at closely, particularly with respect to whether the individual workers are in positions of responsibility and whether those sorts of penalties are appropriate.

The Minister goes on to refer to miscellaneous provisions and consequential amendments. This piece of legislation shows some positive aspects, as I pointed out, by including apprentices and trainees and expanding the duty of care to designers and architects, by requiring the reporting of diseases and increasing certain penalties, but it is to be regretted that the negative aspects of the legislation outweigh the positive. Those negative aspects include the fact that the Government by these amendments is undoing the goodwill and universal cooperation that has been seen to be evident in this field, over the last 10 years in particular, yet at the same time other areas of positive development pertaining to occupational health and safety are not addressed. I hope they will be. Certain avenues concerning workers' compensation and insurance premiums for good workplace sites and so on would make an invaluable contribution to occupational health and safety. We see no evidence in this legislation of the relationship between workers' compensation, insurance premiums and other activities in the field of occupational health and safety.

The negatives in this Bill outweigh the positives. Although the Bill contains some worthwhile initiatives, the fact is that one good avenue of conciliation, the Industrial Relations Commission, is cut off by this legislation. The level of expertise available to workers is reduced rather than expanded, as the Government suggests that the Industrial Relations Commission seems to be far more suitable for class action categories than a Magistrate's Court. There is of course the question of what the cost of the new jurisdiction will be compared with the cost of the Industrial Relations Commission. I

suspect that, as my colleague Hon Alannah MacTiernan has previously said, this will cost the worker more; that it will be more legalistic; that it will be more bureaucratic; and that it will contribute less to occupational health and safety than would be achieved by the continuation of the current legislation.

HON MARK NEVILL (Mining and Pastoral) [9.54 pm]: I will confine my remarks on the Occupational Safety and Health Legislation Amendment Bill to that part of the Bill which amends the Mines Safety and Inspection Act 1994. Before I do that, I want to congratulate Hon Alannah MacTiernan on her response to the Minister's second reading speech. She did an excellent job. I was listening to it on the speaker in my room.

Like Hon Alannah MacTiernan I oppose this Bill. I have spoken to a number of people in the mining industry and, quite frankly, I cannot find anyone who supports the Bill or many who have taken a very great interest in its content. Those who have are fairly dismissive of the parts that relate to the mining industry. The changes generally and the amendments to the Mines Safety and Inspection Act are unnecessary. When I consider the enormous amount of important legislation that really should be brought before this House, I cannot see how this Bill even remotely gets into a B class category, let alone an A class category. We have Acts like the Police Act and the Aboriginal Heritage Act, and quality control in the health industry which are more important issues to be dealt with than those in this Bill. There is no mining industry pressure for this amendment Bill. I can conclude only that it is an ideological trip by the Minister for Labour Relations, Hon Graham Kierath. The second reading speech of this Bill states -

> I have requested the commission to advise me of its views on the Bill presented to the Parliament and I will consider the feedback for the purposes of finalising the amendments before Parliament.

It seems to me that although he talks about an important occupational health, safety and welfare amendment he is producing a Bill which he will send to the commission and then consider the feedback. One would think the Occupational Health and Safety Commission would have had a look at this Bill and approved it before it came into this House. The next paragraph is even stranger, and if I were the Minister for Mines I would be insulted by it. It reads -

> It is also my intention for this Bill to be distributed to the members of the Mines Occupational Health and Safety Advisory Board to facilitate comment and feedback on the proposed consequential amendments.

That suggests to me that the Mines Occupational Health and Safety Advisory Board was not consulted about these consequential amendments that flowed from Hon Graham Kierath's work. That begs the question, what was its answer? Did it make any comments about this Bill that resulted in any amendments? It seems to me that people in the mining industry do not seem to know much about it. They do not regard it as an important piece of legislation, and certainly not one that is really contributing a lot to health and safety in the mining industry. The Mines Safety and Inspection Bill came into this House last year and passed through both Houses of Parliament within three weeks. We now have this amending Bill which significantly amends the Bill passed by this House last year. My side of politics gave great credit to the Minister and the Government for the Mines Safety and Inspection Act, and to my great surprise the shadow Ministers of my party, like Hon Yvonne Henderson, who strongly opposed the separate mining and health legislation two or three years ago, admitted that the piece of legislation that went through the House last year was excellent. What do we have now? Within three months of that Act going through this place, we are dealing with amending legislation which, in my judgment, makes a mess of the Act. The Act that went through the House last year was supported by the Opposition. It also had the support and involvement of the mining industry. With all the processes it went through and with the wisdom that was contributed to it in its progression through this Parliament, when it finally became law it was a much better piece of legislation.

As I said, it was freely admitted that it was a superior piece of legislation to the Occupational Health, Safety and Welfare Act. The Bill seems to have picked up a few

provisions from the Mines Safety and Inspection Act relating to the duty of care of manufacturers, who now include persons who design or construct buildings. It does not seem to have picked up other features. A significant amendment was made in this House relating to the duty of manufacturers. It required that manufacturers supply information in respect of the maintenance of plant and equipment. That was in response to the fatality at Robe River when a bucket wheel broke and a person's life was lost. The problem arose from improper maintenance by contractors. That provision has not been picked up in this Bill. It does not seem that the authors of this Bill have studied the Mines Safety and Inspection Act in any great detail because I do not see many other amendments in here flowing the other way towards the Occupational Health, Safety and Welfare Act.

This Bill, in my view, writes quite unnecessary provisions into the Mines Safety and Inspection Act. It writes in a provision outlawing payments to workers who refuse to work. This amendment is targeted at the building and construction industry. Yet, it has been quite gratuitously put into the Mines Safety and Inspection Act and it is a patronising approach to the mining industry. The Minister is treating mine workers like schoolboys and is reading the Riot Act to them about walking off the job and having secondary strikes because of someone being in a dangerous work situation. I am not aware that that occurs. Why, therefore, is there a need to put this schoolboy sort of stuff into the Mine Inspection and Safety Act? I do not believe also that it should be in the Occupational Health, Safety and Welfare Act. This Bill makes illegal an employer and an employee making an arrangement for the employer to pay a worker who leaves his place of employment for good reason and returning. What does that have to do with the Act? Why cannot an employer and an employee come to a mutually acceptable arrangement? Why does the Government want to interfere in such an arrangement?

It is petty to change the words "health, safety and welfare" and substitute the words "safety and health". "Welfare" is a commonly used term in the workplace in Western Australia. This seems to be catering to the whim of the Minister for Labour Relations. The amendment make a mess of the Act that has just been reprinted. I have glued all of the amendments into it and it now looks like a dog's breakfast within three months of its being printed. I think most people will ignore that amendment because it does not clarify the legislation or contribute anything to improving health, safety and welfare in the mining industry. The change has little meaning and no effect. Welfare is an important concept to have in the legislation that looks after safety in the mining industry.

The mining industry is a very stressful industry. People work in a very stressful and close environment. Miners working underground can have the roofs fall on their heads. They have to work with explosives and high levels of noise. Water makes conditions hazardous. They also have to work with heavy equipment, dust and diesel fumes. The welfare of the worker is important. It goes beyond health and safety. The idea that the welfare of a miner has something to do with social security handouts is some sort of ideological nonsense. Miners work in isolated areas on 14 day rosters and are away from their families and friends for that time. They work 12 hour shifts. Many of them take drugs, which is a problem. It is important that a holistic approach is taken to the mental and physical welfare of miners at a minesite.

This amendment is all about the Minister's dogma. When we get into government we will revert to what has been the traditional usage. This change does nothing except reduce employees to objects who have no personality and all we should be interested in is making sure that their workplace and their work practices are safe and, if they are injured, putting bandaids on their cuts. There is a bit more to it in my view. I worked in the mining industry for 10 years, six of which were underground. I have seen very bad accidents. In the mine in which I worked there were six fatalities in 18 months. Therefore, this is not extreme rhetoric. I think the welfare of mine workers is absolutely important.

The removal of unions from this Bill is dreadful. For the first 80 or 90 years of the mining industry in this State, unions drove the safety issue in mines. There were very few progressive people in mine management who brought in safety procedures before

they were demanded by the work force. Obviously there were individual managers who were progressive, but essentially the Australian Miners Association, the Australian Workers Union and the Collie Coal Miners Union drove safety in the mining industry for the best part of a century. Some of that was misguided, and perhaps some of the things which they did could have been done better. Dust allowances and those sorts of initiatives were very regressive because a miner was paid money for being exposed to extra dust when what we should have done was remove the dust. Therefore, I am not saying that everything they did was perfect.

The union movement is an essential ally in reducing the level of fatalities and accidents in the mining industry, and to isolate it as though it were some pariah or had some disease, which this Bill seems to do, is small minded. It was easy for Hamersley Iron to blame the union movement whenever it had problems, but now that there is no union movement there it has no-one to blame, and we can see from the resignation levels at Hamersley Iron over the last couple of months that something is wrong. That company was very keen to exclude the union moment from the workplace, and at the end of the day it will achieve very little. The Minister for Mines needs all the help he can get to reach his safety targets in the mining industry; and that includes management, workers, unions and the Mines Inspectorate. The more people whom the Minister can get to help him, the better will be his chance of reaching those targets, which will not be easy. In recent times, the level of serious accidents has increased. I hope that is just a short term aberration and that the trend will continue down.

This sort of legislation will not contribute one iota to reducing the accident rate in mines and making our mines safer and, therefore, more productive. It is only in the last 10 years that the unions have ceased to be probably the dominant force in mine safety. I am quite confident that the dominant force now is the occupational health and safety legislation that was introduced in 1983 or 1984. That legislation has certainly changed the face of workplace safety in Western Australia and has been the leading factor in reducing workplace accidents and encouraging better work practices. That has not been an easy process. There was a lot of resistance to that from members of this Chamber when I was a fairly fresh faced young member of this place. It took a number of years for the mining industry to take on board the concept of duty of care. It now embraces it fully and without reservation, but that took time. Although the union movement may not be at the vanguard of change in this area, it is still an essential ingredient, and members can rest assured that when a Labor Government returns to the Treasury benches we will give the union movement its rightful prominent place in safety legislation. We do not accept that the union moment can be sidelined and made a mere spectator in the safety legislation of this State. The union movement is essential in tackling the problem, and we need its help.

The appointment of industrial magistrates concerns me. I asked the Minister some questions about the number of matters in the mining industry that are referred to the Industrial Relations Commission because I do not believe all that many matters are referred. The Industrial Relations Commission is the body that is best equipped to deal with those matters. I do not want to repeat the comments that were made by Hon Alannah MacTiernan but I thought she expressed our view very lucidly when she pointed out that magistrates are not equipped to deal with conciliation processes and that that is not the traditional role of a magistrate. There is a huge variation among magistrates when it comes to knowledge of mining matters, and I think the same will apply to this Industrial Inspectorate. I think we will end up with a lot more problems than we solve by referring these matters, particularly in regard to mining, to the Magistrate's Court. I do not believe the statistics will show that the Industrial Relations Commission is used too frequently, and I am not convinced that the Magistrate's Court is the appropriate place for conciliation to take place. To divorce occupational health and safety from industrial issues is a theoretical and arbitrary division. Industrial issues and health and safety issues are inextricably interlinked. The hours of work have a lot to do with safety. When workers are working 12 hour shifts, how should we structure the shifts and set up the workplace? All of those industrial issues are interwoven with health

and safety issues, and it is artificial and unrealistic to think that they can be separated and distinguished.

The penalties under this legislation have been increased dramatically, and this was foreshadowed in the Minister's second reading speech when the Mines Safety and Inspection Bill was introduced in June of last year. The Minister said that the Government had not decided what it would do in this area, but he did foreshadow this provision, which in general I support, but with some reservations. The second reading speech states -

> ... breaches of duty causing death or serious harm to a person will be separate offences and will have significantly increased maximum penalties - $200 000 for an employer and $20 000 for an employee. For the application of this penalty, it will be necessary to show in a prosecution action that the defendant owed a duty and had breached that duty, and that the breach directly caused death or serious harm.

In the other second reading speech he said that the court would have to be satisfied that the breach of duty of care reflected a culpable degree of negligence rather than inadvertence or oversight. There are cases where criminal negligence is involved, and where that results in serious injury or death there should be stiff penalties. However it has a flow-on effect. The stiffer the penalties under this legislation, the more litigation there will be. The Mines Regulation Act of 10 years ago had fairly small penalties. It was easy for an employer to plead guilty, pay the fine and have done with the matter. Members will find that these cases will be contested more often and with very able lawyers, Queen's Counsel more often than not, if they are serious offences, particularly with the penalties in this Bill. That, in itself, is of concern to me.

What concerns me more is that the Department of Minerals and Energy inspectorate officers will be tied up for lengthy periods dealing with this litigation. It will put an additional strain on the staff of the Mines Inspectorate. When a provision like this is put into a Bill - I support it - we must look at the need for additional staff. Under the existing legislation, the workman's inspector in one case was tied up for a couple of months and unable to do his usual duties. They are the front-line troops of the Department of Minerals and Energy when it comes to mine safety. People will be tied up with more litigation and the department will require extra resources within the Mines Inspectorate. I hope they will be forthcoming.

I do not understand one part of the Bill and I did not have time to discuss it with Hon Alannah MacTiernan but perhaps the Minister in his reply can enlighten me about what it means. In the second reading speech under evidentiary provisions the Minister says that the Bill contains changes which require the prosecution to prove certain matters of fact. At the moment the defendant must prove matters that are contested. I cannot find anywhere in the mines safety and inspection legislation amendments where that applies. I wanted to ask the Minister whether this evidentiary provision applies to that legislation. If so, where? If not, I presume it will only apply to the Occupational Safety and Health Legislation Amendment Bill.

Clause 19 of the Bill relates to prohibited activities in prescribed areas. In his second reading speech the Minister said -

> The 1994 report of the Legislative Assembly Select Committee on Wittenoom recommended that -
>
> > The Government take whatever actions, including specific legislative actions, that are required to stop people from working in the area containing tailings contamination.
>
> The Government supports this recommendation and this Act will be amended to enable activities to be prohibited at Wittenoom which could lead to occupational exposure to asbestos. Regulations will be introduced, utilising the head of power in this new section of the Act, to prohibit all but specified "clean-up" and essential services activities in the Wittenoom environs.

Most members of this House know my views on Wittenoom and the risks there. That provision obviously does not apply just to Wittenoom. It can apply anywhere around the State. It is very loosely worded and could quite easily be misused by a Minister for any number of purposes. I feel that it should be prescribed in some way. There needs to be some delineation of any area to which the provision refers. The Bill does not seem to satisfy that. There needs to be some objective assessment of whatever risk we are trying to quarantine when that provision is being used. We have only to read Brendan Nicholson's columns in *The West Australian* to see how risks can be distorted out of all sense of reality by the advocacy style of journalism that some writers indulge in. It is important that that risk be determined. The community has very little understanding of the real risks in different activities; in other words, the relative risks. We baulk at some things where the risk is infinitesimal and we quite happily charge into others where there is a massive risk.

Another thing I want to see in that provision is that the Minister be required to give some reasons for his decision. I do not think he should be prescribing certain areas unless some reasons are provided for doing so. In the case of Wittenoom, I suspect that this provision has been put in the Bill to quarantine the Hancock and Wright workshops at the Colonial minesite. I put an air monitor outside that workshop. The readings were below the detection level of the equipment. It was quite obvious why. The whole of the ground around the workshop is soaked with oil. There is very little loose material. Cars were coming and going for the eight hours I was monitoring. The dust level was below the detection level of the equipment even though there were a lot of tailings in that area.

If the Government feels that there is an unacceptable risk and it needs to quarantine the area, I will not argue with that. I can understand that a majority of people would say that the risk is unacceptable. Where will the Government stop with the area it will prescribe? Will it prescribe all the mine areas? Will it extend it to the town? Will it extend it from the mine for 10 kilometres to the town? This provision should be used very carefully. The area needs to be delineated very carefully. There needs to be some objective assessment of the risk involved to someone working in a particular area. The Minister should give reasons for prescribing that area. This provision could be applied to all sorts of electromagnetic radiation. Six years from now we may have a Minister who believes that such radiation is a threat to everyone's safety and begins to prescribe areas near high voltage powerlines and other equipment which gives off electromagnetic radiation and areas near sulphur emissions. It is something that could be easily abused because all sorts of activities could be coupled with this provision.

Proposed section 23B refers to no double jeopardy, and that is attached to the section I have just discussed which prohibits activities in prescribed areas. It reads -

> A person is not liable to be punished twice under this Act in respect of any Act or omission.

I know that the Mines Safety and Inspection Act has a double jeopardy clause and I am surprised to see this provision in this Bill. I had assumed the Occupational Health, Safety and Welfare Act contained such a double jeopardy provision. I ask the Minister to check whether proposed section 23B is to apply only to that provision or to the whole Act.

I will summarise my views on the part of this legislation that amends the Mines Safety and Inspection Act. First, I reiterate that I cannot find any support for this legislation in the mining industry. It has been foist on the industry by the Minister for Labour Relations in his usual gung ho approach. He has simply translated provisions from the Mines Safety and Inspection Act into the Occupational Health, Safety and Welfare Act without much thought and without any consultation, and the second reading speech exposes that lack of consultation. The legislation is not called for; it is not warranted. We could be discussing more important pieces of legislation than this Bill because it is not urgent. Although it has some good provisions, on balance it is not a Bill we can support. It was introduced three weeks after the Mines Safety and Inspection Bill passed through this House. With this Bill the Minister for Labour Relations has managed to make the Government look silly in the eyes of the mining industry. The Opposition opposes the Bill.

HON SAM PIANTADOSI (North Metropolitan) [10.34 pm]: In his second reading speech the Minister said that every year some 30 000 Western Australians suffer work related injuries and lost time as a consequence of those injuries. He said that this has led to an average of four weeks' loss of work in each case at a high social cost to many employees and their families and that it has also been a cost to the economy of Western Australia.

I suggest to the Minister for Labour Relations and the Minister in this Chamber representing him, Hon Peter Foss, that the figure of 30 000 injuries is not correct because of the practice followed by government departments and private companies, where many accidents go unreported or are hidden. The Minister will have heard me outline before in this place examples of this occurring, especially in the Water Authority of Western Australia. A system is in place in government departments of awarding banners to work forces for accident free hours. So-called safe workshops may be awarded a banner for achieving 30 000, 50 000 or 100 000 accident free hours. How do they achieve these accident free hours? First, I am heartened a little because the Government is to increase the number of inspectors who check on these matters. Managers in government departments and private sector employers can exert tremendous pressure on their employees to avoid reporting accidents.

I will give an example of a bricklayer named Colin Sheffield. Colin had an accident at the workplace one afternoon and reported it. The following morning at seven o'clock he had a visit from one of his supervisors who attempted to entice him back to work. He said, "No, I am injured. I cannot go back." At eight o'clock a junior engineer and an inspector called on him to try to entice him back to work. At nine o'clock a senior engineer - who is now on the board of the Water Authority - called on him and said, "You can come back to work. Not a problem. We will sit you behind a telephone. We don't want you to take off too much time from work because you might get used to it." He had been injured only 12 hours before. He was offered an additional benefit of six Saturdays' overtime if he returned to work to man the telephone. Why was this offer made to him? He was offered that work because the depot was sitting on 98 000 accident free hours. If Colin Sheffield reported his accident they would have had to start from scratch. The employer was clearly not interested in the injury sustained by Colin Sheffield. He was interested only in getting the 100 000 accident free hours banner to hang up in his workshop. In fact, the very person who sits on the board of the Minister's authority representing the white collar employers, Mr Eugene Murphy, got his promotion over the years for keeping workers in sheds on worksites and refusing to allow them to go home. I am talking about middle age men who were racked, and sometimes crying, with pain. I can get the Minister all the evidence he wants. Eugene Murphy was the manager who achieved his ambition at the expense of the workers. The Minister does not have to take my word for it; he should ask the staff of the Water Authority who are his employees. He is the responsible Minister. He can respond to one example in this exercise and come back next week and tell me I was wrong and I will apologise publicly.

Hon Kim Chance: Some managers were reputed to have brought workers to work on stretchers. Were they exaggerating?

Hon SAM PIANTADOSI: I will get to that. Mr Murphy kept workers on construction sites in sheds. The practice was to keep them there for four hours, then drive them home when they were booked off sick. It was not work related; nor was it related to accidents or injury so it did not affect lost time accidents.

Hon Kim Chance: It got their figures down.

Hon SAM PIANTADOSI: It did. That is the type of scam that is being used by managers. I have one example the Minister should seriously examine. I believe the proposals in the Bill do not go anywhere near ensuring that practice will cease. In fact some of the elected safety committee members on sites will still be subjected to pressure because they are employees on a worksite. The practices of Mr Murphy and others, and perhaps the example of Mr Colin Sheffield, were common occurrences on worksites. The sad part is that unfortunately neither the Minister nor I nor many of those inspectors

will be present when that occurs. At the same time, the bribes that will be offered on site by management and by employers may, over time, be difficult to prove. When the ability of industrial muscle to counter that is removed, we are doing an injustice to those workers who rely on that industrial avenue to voice their concerns about their sufferings. At the end of the day much can happen before a case goes before a magistrate or even before the Industrial Relations Commission.

Norbet Avice-Demay who worked in a workshop in Shenton Park had his hand squashed under a press and was taken to Sir Charles Gairdner Hospital where he spent two weeks and where I visited him. At the workshop, a fortnight later, the number of accident free days registered was 678. In a fortnight it is not possible to clock up 678 accident free hours. The workshop manager saw I was there and found out I had been asking questions. By the time I reached his office he had received a telephone call, and he knew what I was inquiring about. The figure had been changed. All of a sudden nil appeared on the blackboard. However, I can assure the Minister that if I had not visited that workshop, the following day 679 accident free days would have shown on the blackboard. No change in the figure would have shown.

The best is yet to come. This will clarify what Hon Kim Chance asked when he was here a few minutes ago. After his release from hospital Norbet Avice-Demay was collected from his home on a daily basis and brought to work for approximately six weeks for four hours a day, then driven home. When he sought compensation approximately two and a half years later, an offer of compensation was made to him of approximately $3 500 in damages. By that time the scars on his hand were not as bad as they were initially. The records on his file of time lost showed some notable omissions. The two weeks he spent in the hospital did not show on his file. The six weeks' sick leave were shown as nil. Initially the insurance assessor, and subsequently the magistrate, could base their assessments only on the information presented and consequently offered compensation of about $3 500. When we heard about this we collected some hospital records as well as some transport records. We then had a completely different picture. Norbet Avice-Demay all of a sudden was offered $10 000 compensation plus costs.

Hon Peter Foss: When was this?

Hon SAM PIANTADOSI: That is irrelevant. The relevancy is the ability of management and employers to manipulate employees.

Hon Peter Foss: I want an idea.

Hon SAM PIANTADOSI: It was 1983. The situation with Colin Sheffield occurred in 1982. I can give evidence of what happened before and after those incidents. These past practices illustrate some of the dangers that concern me. The inspectors may not always be able to be on site. Despite the ability to elect on-site committees, management will be able to influence opinions on safety issues. That has occurred on numerous occasions. I raised the point previously that I thought the offer made to Colin Sheffield of six Saturdays' overtime constituted a bribe, because he had sustained an injury and was being offered an incentive not to lodge a claim. I received a reply from one of the Minister's senior engineers, Barry Saunders, who I am sure the Minister will have met. He was an energetic engineer who was trying to ensure that Mr Sheffield, who had sustained an injury only 12 hours earlier, would not lapse into a compo freak and spend endless hours on compensation and not return to work. If it had been three months since the injury occurred, I might have some sympathy for the argument, but the offer was made some 12 hours after the person was injured. That it was made for no other reason than to protect the 98 000 accident free hours so the Water Authority could get the 100 000th banner is a problem. That is the scenario I foresee occurring regularly on worksites.

The penalty considered for employers who are negligent in that area is about $100 000. That is clearly not enough. What would happen if a serious accident occurred? It is horrendous to think that if an employee died, the family of the employee would still have to go through the legal system to claim compensation. I cite the example of Lou Hendry. Lou Hendry was one of two workers who were gassed in the sewer in Morley; the other

was Billy Counsel. I understand why the Minister may not want to inspect a sewer, because dangers are involved. Although the Minister does not have to go down the sewer, many employees must work there and face hazardous conditions. Lou Hendry's wife was humiliated in front of the Coroner's Court when she was put on the stand in her claim for compensation. She had to prove that she and her husband were still having a sexual relationship. The case made headlines at the time.

Hon Peter Foss: That occurred in the Coroner's Court?

Hon SAM PIANTADOSI: Yes. The lady was distraught: Not only had she lost her husband, but she was questioned on whether she and her husband had an ongoing sexual relationship.

Hon Peter Foss: I cannot think of any justification in the law for that.

Hon SAM PIANTADOSI: It is all there. I would love the Minister to speak to Mrs Hendry.

Hon Peter Foss: I am not denying what you are saying.

Hon SAM PIANTADOSI: These are some of the difficulties on the other side of the fence.

Hon Peter Foss: It sounds most improper.

Hon SAM PIANTADOSI: Opposition members thought so too, and we made our views known at the time. The Minister is on track when he talks about the social cost for family members. One would like to see an Act that protects that social cost so that time is not lost and those accidents do not happen. I suppose that is the perfect environment for which we all should strive, because at the end of the day it would save money for the employers, the State and people all around. The workers, who would have their health, would also benefit. This is an area this Minister needs to consider.

He should consider enforcing those workable regulations and ensuring that committees are not subject to influence and can do their job. The Minister must consider retaining some input from the trade union area on that matter. I can understand that examples exist where time has been lost over minor issues. However, if the Minister takes into consideration all the actions and looks at the percentage of these examples of the total responsible actions that have been taken, he will find that they are minor; but obviously they got more attention.

I am interested in ensuring that a safeguard is in place to protect the workers. Once there is a safe workplace, the benefits flow all around. The Minister talks about disease, but the only example he touched on was the Wittenoom asbestos tailings. Many areas in manufacturing involve chemicals, acidic fumes and gasses.

Hon Peter Foss: That was only one example.

Hon SAM PIANTADOSI: Yes, but because of my interest in the area I am pointing out that we need to cast a wider net. Something I have voiced my opinion on - even against my colleagues and successive Water Resources Ministers - is the sewerage industry; in particular, the International Labour Organisation's recommendations on how long workers should spend in the industry. Because of the nature of the industry - and the nature of what goes down the sewer - it is recommended that workers do not spend more than 10 years in the industry. Many diseases emanate from working in that environment, but the only way to collect the information on that and prove a common link for all the employees in that industry is to centralise a medical examination of those workers. The same would be necessary for those who work in the manufacturing area where acids and chemicals are involved. It is the only way to determine whether there is a connection between substances in the workplace and disease and to protect the wellbeing of people working in that industry. I notice that the Government has not expanded on that area in its proposal.

Hon Peter Foss: It will be done by regulation as they come forward.

Hon SAM PIANTADOSI: Regulation and bandaid treatment?

Hon Peter Foss: No, that is how it is done with the reportable diseases under the Health Act. As a new disease comes forward it is added to the list to be reported.

Hon SAM PIANTADOSI: We should not wait for a new disease to come forward. There are industries now in which problems could be detected by employees having an annual medical. This is the safeguard I am trying to get the Minister to accept and implement as part of the Government's proposal. We should not wait until there is an outbreak of a disease. I spent 12 frustrating years trying to implement annual medical examinations for Water Authority employees to ascertain whether there is a link, but it has not happened. It is a sad state of affairs.

[Debate adjourned, pursuant to Standing Order No 61(b).]

ADJOURNMENT OF THE HOUSE - ORDINARY

HON GEORGE CASH (North Metropolitan - Leader of the House) [11.00 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Waste Water Treatment Plant, Newman

HON TOM HELM (Mining and Pastoral) [11.00 pm]: I draw the attention of the House a matter which I raised on 2 June by way of question without notice 87 to the Minister for Education, but I understand he is not in the Chamber tonight because he is on urgent parliamentary business. My question was about a waste water treatment plant at Newman. I asked the Minister to look into the safety of children in the schools in the town of Newman in connection with a gift from BHP of a $5m water treatment plant which had already been installed. The plant had been offered to the Water Authority of Western Australia for its reticulation program. I said that the Minister should be concerned with the health problems that had been created in Karratha, particularly at Pegs Creek and Millars Well Primary Schools, because of the contaminated water supply emanating from the traditional Water Authority method of treating water. The Minister's answer to me was -

Hon John Halden: It was somebody else's fault.

Hon TOM HELM: He could not give me an answer. I advise members that the Minister for Education should be aware of the health problems in primary schools in the north west because he represents that area. In reply to my question he said -

> I do not know the system that exists in Newman at the moment. I have not been advised. However, I will seek advice and inform the member accordingly.

He was to inform me any time after Thursday, 2 June 1994 and I am still awaiting that information.

Hon John Halden: Do not hold your breath.

Hon TOM HELM: No, I will not do that. I wanted to draw the attention of the House to this matter because of a letter I received from the East Pilbara Shire Council, which is based in Newman. I have been asked to progress the matter as quickly as I can. The matter has been before the shire and the Water Authority since well before 2 June 1994 and it is all about a $5m gift in the form of a water treatment plant. Although the capital cost has been met, I have been told that it is an expensive plant to run. BHP provided not only the most expensive plant, but also the best treatment plant available. The company bought it because it cared about the people who work for it. All the people in the town work for BHP because there is no work available other than at the mine. BHP thought so much of its employees that it purchased the best system available at the time.

The town of Newman is being normalised and the Water Authority will take responsibility for sewage treatment. The authority is suggesting that it not take up the offer from BHP and it is prepared to put in the three pond system which has been installed in other areas in the north west. This system has proved to be most inadequate. Health problems have arisen in schools in the north west because of the old fashioned

system of sewage treatment. The two schools I mentioned are prime examples and I would hesitate to tell members about the children who have grazed themselves while playing sport and have ended up with badly festered sores. These sores can indirectly be attributed to the less than well treated sewerage water used to reticulate the ovals in Port Hedland and Karratha. The Water Authority says that the recurrent costs of the system offered by BHP are very high. Perhaps they are, but I suggest that the health of the citizens in those towns is far more important to the people of this State than the capital and running costs of the best system available. It is well documented that the system which is proposed by the Water Authority for Newman is not adequate. The Water Authority suggested to me and to the shire that it will not accept BHP's gift because the system will cost too much to run. The shires in the north west which have the three pond system are unable to run that system as efficiently as they should; whether that is due to inadequate equipment, I do not know. I have been told that the fault lies not with the system, but with the people who operate it.

I have been trying to go softly on this issue to give the Water Authority the opportunity to sort it out. I am probably reflecting the anger felt by the councillors of the East Pilbara Shire Council.

Hon Peter Foss: I wish you had spoken to me.

Hon TOM HELM: I am sorry, but Hon Peter Foss was not the Minister at the time I raised this issue.

Hon John Halden: He would probably give you a lecture on how stupid you are.

Hon TOM HELM: I am always frightened to ask Hon Peter Foss a question during question time because if I did nobody else would have an opportunity to ask a question because Mr Foss would take up the allotted time making a ministerial statement.

I have never received a reply from the Minister for Education on this issue. Now that the Minister for Water Resources is in this Chamber he might respond to my complaint. It is about time somebody responded to the shire councillors who care about the people they represent. A $5m gift is going begging and it appears the Water Authority is reluctant to take up that gift.

HON PETER FOSS (East Metropolitan - Minister for Water Resources) [11.08 pm]: I am pleased to give Hon Tom Helm an answer. The advice I have been given by the Water Authority of Western Australia is that the two methods - the existing one and the proposed one - are equal in their efficacy of treating the water, but there is a difference in the recurrent cost of doing so. As the member probably knows, as soon as the town is normalised people will have to pay sewerage rates, which will be calculated on the actual cost of the treatment of sewage in that town. Although the authority's scientific advice is that the two systems have an equally efficient result, it will be left to the people of Newman to decide which system they want. This was the process recently adopted in Albany when the people of that town decided they would rather have a higher standard of treatment so that the water which would be put on the blue gum trees would not discharge nutrients into the sound. A similar choice will be given to the people of Newman. The facts will be put before them so they will be in a position to understand the ability of each method of sewage treatment. If they choose the system established by BHP, that is the one they will have. Obviously their rates will be higher if they opt for the BHP plant. It will be a democratic exercise. The people will be given the facts of the difference between the two. It will be up to them to make the choice. The authority will be very happy to carry out their wishes and the sewerage rates will be calculated according to their choice.

Question put and passed.

House adjourned at 11.10 pm

QUESTIONS ON NOTICE

MINISTERIAL PORTFOLIOS - TELECOMMUNICATIONS, EXPENDITURE

109. Hon TOM STEPHENS to the Minister for Finance:

(1) What was the total telecommunications expenditure for each department or agency within the Minister's current portfolio areas for each of the following years -

(a) 1992-93;

(b) 1993-94; and

(c) 1994-95 (Budget estimate)?

(2) What part of this expenditure in each of the years above was for telecommunications expenditure other than Telecom phone accounts?

Hon MAX EVANS replied:

State Taxation Department -

(1)	(a)	1992-93	$194 688
	(b)	1993-94	$270 151
	(c)	1994-95	$192 560
(2)	(a)	1992-93	$25 728
	(b)	1993-94	$26 373
	(c)	1994-95	$30 920

Government Employees Superannuation Board -

(1) (a) $76 254
(b) $77 066
(c) $84 000.

(2) Nil.

Valuer General's Office -

(1) (a) $111 434
(b) $148 693
(c) $147 000

(2) Nil.

Note: The above amounts include telecommunication links with Albany and Bunbury for connection to mainframe computer, but they come under the one account.

State Government Insurance Commission -

(1) (a) $882 250 (includes SGIO figures prior to privatisation on 31 March 1994)
(b) $143 065 (excludes SGIO)
(c) $178 000

(2) 1992-93 (SGIC portion of the annual total of $882 250 is unable to be calculated)
1993-94 - $20 684
1994-95 - $20 907

MINISTERIAL PORTFOLIOS - NAME CHANGES OF DEPARTMENTS, AGENCIES OR BODIES

335. Hon TOM STEPHENS to the Minister for Education representing the Minister for Commerce and Trade:

(1) Would the Minister for Commerce and Trade please list -

(a) the current name; and

(b) the previous name,

of any department, agency or body within his portfolio area which has had a change of name since January 1993?

(2) On what date was the name change effected for each of these departments, agencies or bodies referred to in part (1) above?

(3) What was the total cost to the Government of each of these name changes?

Hon N.F. MOORE replied:

The Minister for Commerce and Trade has provided the following reply -

Department of Commerce and Trade -

(1) (a) Department of Commerce and Trade
(b) Department of State Development

(2) 16 February 1993.

(3) No specific costs can be identified.

Goldfields-Esperance Development Commission -

(1) (a) Goldfields-Esperance Development Commission
(b) Goldfields-Esperance Development Authority

(2) 8 April 1994.

(3) $1 095.

Great Southern Development Commission -

(1) (a) Great Southern Development Commission
(b) Great Southern Development Authority

(2) 8 April 1994.

(3) $2 740.

Mid West Development Commission -

(1) (a) Mid West Development Commission
(b) Geraldton Mid-West Development Authority

(2) 7 April 1994.

(3) $3 751.

Peel Development Commission -

(1) (a) Peel Development Commission
(b) Peel Office of South West Development Authority

(2) 1 January 1993.

(3) $307.

South West Development Commission -

(1) (a) South West Development Commission
(b) South West Development Authority

(2) 8 April 1994.

(3) Approximately $1 000.

MINISTERIAL PORTFOLIOS - PROGRAMS MEETING NEEDS OF ABORIGINES

432. Hon TOM STEPHENS to the Minister for Finance:

(1) Which departments and agencies within the Minister's portfolio areas

have programs aimed at delivering services or other government activity to meet the needs and interests of Aboriginal people in Western Australia?

(2) What funds have been allocated within the 1994-95 financial year for specific use by each of these departments or agencies within the Minister's portfolio area to deliver programs that target the needs of Aboriginal people?

Hon MAX EVANS replied:

(1) The State Taxation Department is currently participating in the Aboriginal employment and cadetship strategy.

(2) The State Taxation Department has allocated $12 207 for salary expenses and $2 500 for payment of higher education contribution scheme fees and reimbursement of textbooks.

MINISTERS OF THE CROWN - COMMERCE AND TRADE
Christmas Cards

531. Hon TOM STEPHENS to the Minister for Education representing the Minister for Commerce and Trade:

(1) What was the number and total cost to the Minister for Commerce and Trade's ministerial budget allocation for Christmas cards that were sent out by the Minister last year?

(2) Did the Minister send cards to other Ministers?

(3) Who printed the cards?

(4) How many Christmas cards were unused?

Hon N.F. MOORE replied:

The Minister for Commerce and Trade has provided the following reply -

(1)-(4) The Minister for Commerce and Trade does not use Christmas cards.

GOVERNMENT DEPARTMENTS AND AGENCIES - FUNCTIONS WHOLLY OR PARTLY PRIVATISED

595. Hon N.D. GRIFFITHS to the Minister for Education representing the Minister for Small Business:

With respect to the Minister for Small Business' department and each of the bodies administered within that department -

(1) What functions have been wholly or partly privatised since 16 December 1994?

(2) As a result of that, how many full time equivalents have left the public sector?

Hon N.F. MOORE replied:

The Minister for Small Business has provided the following reply -

Small Business Development Corporation -

(1) Nil.

(2) Not applicable.

MINISTERIAL OFFICES - ABORIGINAL AFFAIRS
Maintenance and Operation Expenditure

681. Hon TOM STEPHENS to the Minister for Education representing the Minister for Aboriginal Affairs:

(1) What has been the total expenditure incurred to 28 March 1995 in the maintenance and operation of the Minister for Aboriginal Affairs' ministerial office since February 1993?

(2) What is the breakdown of that expenditure?

Hon N.F. MOORE replied:

The Minister for Aboriginal Affairs has provided the following reply -

The current portfolio of Aboriginal Affairs and Housing was established in February 1994. Since that time Homeswest has been the host department holding records of ministerial expenses. Could the member please clarify whether he requires expenditure for Aboriginal Affairs and/or Housing and for what period.

ABORIGINAL EMPLOYMENT PROGRAM - REVIEW

976. Hon JOHN HALDEN to the Minister for Education representing the Minister for Aboriginal Affairs:

(1) Has the public sector Aboriginal employment program been revised and restated with the aim of ensuring substantially greater employment of Aboriginal people in the public sector workforce and that a register of employment qualifications and interests for Aboriginal people be established to assist both potential employers and employees?

(2) If not, why not?

Hon N.F. MOORE replied:

The Minister for Aboriginal Affairs has provided the following reply -

(1) The Aboriginal employment and career development strategy is currently being reviewed. The results of the review, along with recommendations for the next triennium strategy, are expected at the end of April 1995. A register of Aboriginal people seeking employment within the Western Australian Public Service is held in the Public Sector Management Office.

(2) Not applicable.

ABORIGINAL AFFAIRS - ABORIGINAL ORGANISATIONS, PEOPLE WITH LAND MANAGEMENT EXPERTISE, EMPLOYMENT

978. Hon JOHN HALDEN to the Minister for Education representing the Minister for Aboriginal Affairs:

(1) Are Aboriginal organisations and people with land management expertise appropriately employed to provide advice to land managers, researchers, educators and government agencies?

(2) If not, why not?

(3) If yes, how is this achieved?

Hon N.F. MOORE replied:

The Minister for Aboriginal Affairs has provided the following reply -

(1) Yes.

(2) Not applicable.

(3) Where possible, the Aboriginal Affairs Department engages and consults with Aboriginal agencies/individuals to assist with land investigations on a contractual basis.

ABORIGINAL LIVING AREA PROGRAM - REVIEW REPORT

1014. Hon TOM STEPHENS to the Minister for Education representing the Minister for Aboriginal Affairs:

(1) Was the Aboriginal living area program review report commissioned by the Minister for Aboriginal Affairs?

(2) If yes, on what date was the report commissioned?

(3) What were the terms of reference for the review?

(4) Who were the members of the review committee and what were their credentials that justified their appointment to this review process?

(5) Did the review committee include any Aboriginal people among its membership?

(6) If yes, could the Minister list these members?

(7) What was the Budget allocated to the review and what was the final cost of the review?

(8) On what date did the Minister receive a copy of the completed review report?

Hon N.F. MOORE replied:

The Minister for Aboriginal Affairs has provided the following reply -

I refer the member to the reply to question 1763 of 14 December 1994, provided by the Minister for Aboriginal Affairs.

ABORIGINAL LIVING AREA PROGRAM - REVIEW REPORT

1016. Hon TOM STEPHENS to the Minister for Education representing the Minister for Aboriginal Affairs:

On what date did the Minister for Aboriginal Affairs refer to the Minister for Lands a copy of the Aboriginal living area program review report?

Hon N.F. MOORE replied:

The Minister for Aboriginal Affairs has provided the following reply -

Not applicable. The report was not commissioned by the Minister for Aboriginal Affairs.

ABORIGINAL LIVING AREA PROGRAM - REVIEW REPORT

1019. Hon TOM STEPHENS to the Minister for Education representing the Minister for Aboriginal Affairs:

In regard to the Aboriginal living area program review report -

(1) What queries about this report were relayed to the Minister for Aboriginal Affairs from the Minister for Lands?

(2) In what form were these queries referred to the Minister for Aboriginal Affairs?

(3) Will the Minister table a copy of the record of these queries?

Hon N.F. MOORE replied:

The Minister for Aboriginal Affairs has provided the following reply -

(1) None.

(2)-(3) Not applicable.

HOMESWEST - KIMBERLEY REGION ACCOMMODATION
Repairs and Maintenance Funds; Broome Accommodation

1020. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Housing:

(1) What funds were allocated in the 1993-94 financial year for repairs and maintenance to Homeswest accommodation in the Kimberley region?

(2) What funds were allocated in the 1994-95 financial year for repairs and maintenance to Homeswest accommodation in the Kimberley region?

(3) How much of the allocation for 1994-95 has been spent as of 28 March 1995?

(4) Is the Minister for Housing aware of recent media reports of a Broome

Homeswest house having been offered to a prospective Homeswest tenant in Norman Street Broome which was well below acceptable health standards?

(5) Specifically, is the Minister aware that -

(a) the house was cockroach infested;

(b) there were leaks in the grey water drainage at the rear of the house from the kitchen and bathroom areas, including a cracked and loose drain into the main sewer;

(c) wet areas were not sealed and that there are large cracks around the flooring in the bathroom and the tiling area round the bath; and

(d) the water heater had "blown up" while being tested for the new tenant?

(6) Is the Minister aware that the prospective tenant for this house was advised by Homeswest that if she were to reject this offer of accommodation that she would forfeit her position on the waiting list for accommodation in Broome?

(7) Is the Minister aware that since recent inspections by senior Homeswest personnel that it has been necessary to completely gut the kitchen, replace the faulty hot water service, renew the floor covering and effect significant repairs to the plumbing?

(8) Further, is the Minister aware that the house is still considered to be in a substandard condition, with battered and marked tin lining, with the paintwork, the condition of the bathroom, and the overall standard of the building being considered to be very poor?

(9) Does the Government believe that the standard of this house in this condition is an acceptable home to be offered for public housing?

(10) How many new houses were built in Broome in -

(a) 1993-94; and

(b) 1994-95?

(11) How many tenancies were let in Broome in -

(a) 1993-94; and

(b) 1994-95?

(12) How many Homeswest tenancies are there in Broome as at 28 March 1995?

(13) How many people are there on the waiting list for accommodation in Broome in each category as at 28 March 1995?

(14) What number of new homes are proposed for construction by Homeswest in 1995-96 to meet the local housing needs of the Broome community?

(15) How many old Homeswest houses are earmarked for -

(a) major repairs and maintenance for the rest of 1994-95; and

(b) demolition in either 1994-95 or 1995-96?

Hon MAX EVANS replied:

The Minister for Housing has provided the following reply -

(1) $2 296 409.

(2) $2 077 051.

(3) As at 28 February 1995 - $1 588 218.

(4)-(9) Yes. Approximately $3 500 was spent on the property when it was vacated and prior to allocation. On inspection by the director rental operations, further maintenance and upgrade work was authorised to repair the further issues of floor covering, cupboards and drainage. On reflection, the department could have done more in respect of maintenance prior to allocation. The tenant has subsequently accepted an offer of an alternative.

(10)* (a) 1993-94 - 26 family units, four singles units.

(b) 1994-95 - The proposed program is for 31 family units, five singles units.

(11) (a) 144.

(b) 130 to date.

(12) 667.

(13) Waiting list for accommodation in Broome, as at 28 February 1995 -

1 bedroom single	127
1 bedroom single pensioner	23
1 bedroom couple pensioner	10
2 bedroom couple pensioner	14
2 bedroom family	72
3 bedroom family	83
4 bedroom family	3
5 bedroom family	1
Total	333

(14)* 33, subject to budget and program approvals.

(15) (a) Nil, expecting normal day to day and vacated maintenance.

(b) Yet to be determined.

* Please note, figures provided in (10) and (14) above are commencements.

QUESTIONS WITHOUT NOTICE

EASTON, BRIAN MAHON - PREMIER'S OFFICE INQUIRY

81. Hon A.J.G. MacTIERNAN to the Leader of the House representing the Premier:

(1) Is the Leader of the House aware of the existence of an affidavit by Ms Carmelina Galati, a solicitor employed by Parker and Parker, in which allegations are made concerning allegations that staff from the Ministry of the Premier and Cabinet and from the office of another Minister conducted general investigations into the affairs of Brian Mahon Easton, including allegations of general misconduct?

(2) Can the Leader of the House confirm whether statements made within the affidavit in respect of the conduct and actions of the staff of the Premier's office and of another Minister investigating Mr Easton and in providing information so gathered to the solicitors of West Australian Newspapers Ltd in order to assist those solicitors in preparing a defence to a libel action by Mr Easton against *The West Australian* are true?

(3) If yes to (2), what was the scope and the intention of the inquiry undertaken -

(a) by the member of staff of the Premier's office; and

(b) by the member of staff of the other Minister's office?

(4) Can the Leader of the House provide the names of the member of staff of

the Premier's department described in that affidavit as the "representative" and the member of the Minister's staff described as the "assistant"?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. The Premier has provided the following reply -

(1)-(4) The Premier is aware of the existence of an affidavit by Ms Carmelina Galati, his staff having been informed of such. The document is not a document of Premier and Cabinet and can not be commented on directly. However, no general investigation was conducted by employees of the Premier's office. Allegations were made by a private citizen of specific misconduct against Mr Easton in two matters. Those matters were referred to the respective appropriate authorities. One of the two allegations was determined to be without foundation. The second led to an examination of the affairs of the Aboriginal Homes Development Association, which has been previously reported to Parliament. Solicitors for West Australian Newspapers Ltd had been advised by their client that material associated with the allegations had been provided to the Premier's office. A meeting was held at the solicitor's offices to discuss access to the material, such access having been previously agreed to by the private citizen who had provided it in the first place. Some of that material was accessed by the solicitor named.

AUSTRALIA II - SITE DECISION

82. Hon GRAHAM EDWARDS to the Minister for the Arts:

(1) Has a site to house *Australia II*, the successful America's Cup challenger, yet been chosen?

(2) If yes, what is that site?

(3) If no, what is the process of choosing a site and what is the current status of that process?

(4) Is the Premier aware that approaches have been made to the Western Australian Tourism Commission to have the boat located at Scarborough?

(5) If so, what consideration is being given to this request?

(6) Is the Premier also aware that a commitment to the people of Scarborough and the City of Stirling was given by the developers of Observation City to house the boat there as part of the approval-seeking process for the construction of Observation City?

(7) Is the Premier aware that the Tourism Commission supports the location of the boat at Scarborough; and, as Minister responsible for that commission, will he endorse and support a Scarborough bid?

(8) If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The site to house *Australia II* has not yet been chosen.

(2) Not applicable.

(3) A steering committee has been formed and expressions of interest for a project manager advertised in the Press. The project manager will work to the steering committee's direction in progressing the decision as to the most appropriate site. The process will include consultation with the Fremantle community.

(4) Not known.

(5) Not known. The State Government has accepted the Commonwealth Government's offer outlined in the Prime Minister's Creative Nation statement "to return *Australia II* to the Fremantle community". The emphasis in exploration of site options has been upon sites in the west end of Fremantle, the location of the proposed maritime precinct.

(6) Any promise by Mr Alan Bond to house *Australia II* at Observation City was made irrelevant when Mr Bond sold the vessel to the Commonwealth Government.

(7) The Premier has accepted the offer by the Commonwealth "to return the yacht *Australia II* to the Fremantle community". However, no decision has yet been made about the location.

(8) Not applicable. No decision has been made.

FISHERIES DEPARTMENT - MATTHEWS, LEIGHTOM, BANK ACCOUNT DETAILS ACCESSED BY OFFICER

83. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

(1) Did an officer of the Fisheries Department obtain access to confidential details relating to the bank account of Mr Leightom Matthews, from the Esperance Branch of the Commonwealth Bank, on or about 10 August 1993?

(2) Did the officer have a warrant to obtain this information?

(3) If a warrant did not exist, what other legal authority did the officer have to access Mr Matthews' confidential banking details?

(4) If the officer had no legal authority, has he been disciplined for his actions?

(5) Did the information obtained by accessing the banking details relate in any way to Mr Matthews' later conviction for offences under the Fisheries Act 1905?

Hon E.J. CHARLTON replied:

I thank the member for some notice of the question. The Minister for Fisheries has provided the following reply -

(1)-(5) An officer of the Fisheries Department accessed Mr Leightom Matthews' bank account under the authority provided by Section 48B(3)(a) of the Fisheries Act 1905. Mr Matthews was convicted for offences dated 2 November 1993 involving 508 abalone and was ordered to pay over $10 000 in fines and costs. He was again convicted for similar offences dated 6 and 8 February 1995 involving the illegal taking of large quantities of abalone and was fined $32 700.

ANDERSON, ROB - HEALTH CARE LINEN, POSITION REINSTATEMENT

84. Hon J.A. SCOTT to the Minister for the Environment representing the Minister for Health:

I refer the Minister to questions without notice on 30 March 1995 about Mr Rob Anderson and Healthcare Linen and to the answers and tabled documents which the Minister gave -

(1) Why did the Minister disagree with the Acting Commissioner of Health, Mr Solomon, the Commissioner of Health, Dr Brennan, and the previous Minister for Health, Hon Peter Foss, who all saw that Rob Anderson had a potential conflict of interest in his job as Manager of Customer Services, Healthcare Linen?

(2) On whose advice did the Minister come to the conclusion that

Mr Anderson was not in a situation of potential or actual conflict of interest?

(3) When Dr Brennan said in a letter dated 27 February 1995 that "I shall, acting as your agent, direct the CEO of Healthcare Linen to reinstate Mr Anderson to his position, as requested in your correspondence", did the Minister have any objections to Dr Brennan's carrying out that role? If yes, how did the Minister register his objections?

Hon PETER FOSS replied:

I thank the member for some notice of this question -

(1)-(2) The Minister was of the view that any potential conflict of interest could be managed without necessitating the removal of Mr Rob Anderson from his current position.

(3) Regardless of the words used by Dr Brennan in his letter dated 27 February 1995, in accordance with the Public Sector Management Act the chief executive officer must act independently in regard to employment matters.

TEACHERS - REMOTE, WORKPLACE AGREEMENTS FITZROY CROSSING MEETING; TEACHERS UNION ATTENDANCE

85. Hon JOHN HALDEN to the Minister for Education:

(1) Will the Minister guarantee the House that the State School Teachers Union will be allowed to sit in on the meeting at Fitzroy Crossing on 10 April at which the Education Department will present its proposal to Kimberley and remote teachers in regard to why they should be on workplace agreements and what will be the hours and conditions of those workplace agreements?

(2) If not, why not?

Hon N.F. MOORE replied:

(1) No.

(2) The situation with workplace agreements is that an employer can discuss with his employees the general tenor of the proposal, and that is what is intended at that meeting. When the situation arises where negotiations are to take place on the actual agreement, the employees may, of course, use a union advocate to promote their case.

EXMOUTH - MARINE FACILITY, CONSTRUCTION DATE

86. Hon P.H. LOCKYER to the Minister for Transport:

Last week the Minister announced that a boat harbour would be built in Exmouth.

(1) Is he aware that this boat harbour was promised three times by the previous Government?

(2) Can he advise a firm construction date?

(3) Will it be built in stages?

(4) Will it be completed prior to the end of 1996, or is it a staged development not to be finished until the year 2000?

Hon E.J. CHARLTON replied:

(1)-(4) The member is quite right in a number of aspects of his question. Yes, last week the Government did announce the $10m marine facility at Exmouth. The whole operation is designed to be built forthwith and should be completed by 1997.

Hon P.H. Lockyer: It is not to be staged; you will start and finish it in the one operation?

Hon E.J. CHARLTON: Yes. It will be started in the second half of this year and will proceed to completion by the end of 1997. It will be located about 600 metres south of the existing yacht club. The marine facility will cost about $6m and the associated works for boat ramps, wharves and landing areas will take up the balance. It is also correct that it has been promised for a long time and that the people of Exmouth believed, "Here we go again; we will never see it happen." It is pleasing to announce that it will take place. Another important thing is that everyone will acknowledge that Exmouth is probably the prime area of the west coast of Western Australia for future tourism potential. This facility will go a long way to giving due regard to that area. We look forward to the time when the turning of the first sod takes place. I am sure that Hon Phil Lockyer will be there to see it happen.

TEACHERS - PAY OFFER, REJECTION; RECONSIDERATION

87. Hon JOHN HALDEN to the Minister for Education:

With the vast majority of schoolteachers today rejecting the Minister's pay offer and threatening not only to maintain existing voluntary work bans but also to increase industrial action, I ask -

(1) Will the Minister accept the reality that his pay offer and supplementary demands will only further damage the State's education system?

(2) Will the Minister reconsider his offer and reopen negotiations immediately with the State School Teachers Union?

Hon N.F. MOORE replied:

(1)-(2) I am not yet aware of the teachers union's position on my offer, which I made in writing on the weekend. When the union advises me accordingly, I will be in a position to determine the next stage in this process.

Hon John Halden: It is about 98 per cent. That is a pretty clear rejection.

Hon N.F. MOORE: That is what the member tells me and what the union has said on the radio; but that is not what I have been told in writing. I understand that the process has not been completed and that the union will be making a decision about the offer on the weekend. If the decision has already been made and the union is to meet again, I cannot work out that logic. However, I am still hopeful that in this day and age anybody who is offered a pay increase of 5 per cent as part of an enterprise agreement with the union, and then a potential for another 10 per cent on top of that through a workplace agreement, will regard it as fair and reasonable. The teachers should at least take what little risk there is in entering into negotiations. The strange irony is that the union has argued that these bans were needed to get the Minister to the negotiating table; that the Minister would not negotiate, so bans had to be brought in. I might add that this was in advance of the agreed time within which we would provide a response to their log of claims. When the log of claims was presented to the department, it said that it would respond by a date in February. Before that date, the teachers' union had called on its members to bring on these bans.

Hon John Halden: Bans that you said would not be successful.

Hon N.F. MOORE: I did not expect at the time that they would be successful. I am the first to admit that they have caused more disruption than I imagined.

Hon E.J. Charlton: To parents and children.

Hon John Halden: That is right, and it is his fault.

Hon N.F. MOORE: I regret that that has happened. The bans were put on to draw attention to the fact that I would not negotiate with the union. I have not been in a position to negotiate an enterprise agreement until now. I have put myself in a position to make an offer. Now that I have made an offer, the teachers' union does not want to negotiate. I cannot work out that logic. I am

hopeful that teachers who think about this will work out that it makes sense to negotiate. If they do not get what they want through negotiation, they simply go back to where they are now. It makes a lot of sense to go down that path. If the offer is rejected, the Government will assess the situation at that time.

MINING INDUSTRY - MINERS' RIGHTS, NO MORE ISSUED DECISION

88. Hon GRAHAM EDWARDS to the Minister for Mines:

(1) Why has the Government refused to issue any further miners' rights?

(2) Is the decision based on legal advice?

(3) If not, on what authority is the decision based?

(4) If yes, will the Minister table that advice?

(5) If not, why not?

Hon GEORGE CASH replied:

(1) The Department of Minerals and Energy is not issuing any more rights following the recent decision of the High Court of Australia.

(2)-(3) Yes; it is based on legal advice.

(4)-(5) I do not have the advice to table; however, as the member will be aware, as a former Minister, it is not usual for such advice to be tabled. Although certain legal advice has been provided to the department, I have met with the chief executive officer of that department and conveyed the views that have been put to me by industry, in particular by the prospectors' association, and the Director General of Mines is seeking further advice on that matter. It is believed that the issuing of a miner's right is not provided for under the current provisions of the Native Titles Act. We will be raising that matter with our federal colleagues when we are talking about changes that are needed to make the Native Title Act more workable.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - CLAN PROGRAM
Alternative Program based on Homestart, Funding

89. Hon J.A. COWDELL to the Minister for Transport representing the Minister for Community Development:

(1) Does the Minister propose to fund an alternative program to community link and network based on the Homestart scheme?

(2) If yes, what are the implications of this decision in terms of duplication of services and costs to the State?

(3) Is such a decision justified, given the unanimous endorsement of CLAN by the divisional health managers?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1)-(3) A range of services are required to provide support and assistance to parents in our community. The Department for Community Development has been examining a number of programs which provide support with parenting for people with children under five years of age.

PORT HEDLAND - BOAT RAMP, FUNDING

90. Hon P.H. LOCKYER to the Minister for Transport:

(1) Is the Minister aware that the BHP company has given the Shire of Port Hedland $150 000 towards a boat ramp in the area?

(2) Is he also aware that the shire was expecting the State Government to match this dollar for dollar funding; however, funds for the first $150 000 are running out?

(3) Is the Minister in a position to commit the $150 000 fully, or has there been a delay?

(4) If so, has the Shire of Port Hedland been advised?

Hon E.J. CHARLTON replied:

I am aware of the issue; it was first brought to my attention when Cabinet met in Port Hedland some months ago. Some weeks ago I met with members of the Shire of Port Hedland and representatives of BHP, when I was advised that BHP was supporting the boat ramp because it saw a significant need for it. I asked the port authority to assist the shire to see that the project took place. I am pleased to be able to advise that $150 000 is to be provided forthwith to the shire to match BHP's contribution. In addition, the member will be pleased to know that the Government, which is very good at looking after the interests of people in the north, will provide an additional amount of, I think, $65 000 to allow an examination of a possible boat harbour.

ANDERSON, ROB - HEALTHCARE LINEN, POSITION REINSTATEMENT

91. Hon J.A. SCOTT to the Minister representing the Minister for Health:

I refer the Minister to questions without notice asked on 30 March 1995 and questions about Mr Rob Anderson and Healthcare Linen, and the answers and tabled documents that the Minister provided. In a letter from the Minister for Health to the Commissioner of Health - reference 13502 - the Minister stated that he did not see Mr Anderson as having a conflict of interest, and he would therefore want Mr Anderson "to be immediately reinstated to his position at Health Care Linen".

(1) Is the Minister aware that there are proper procedural processes for public servants to appeal to if they disagree with a conflict of interest decision in which they are involved?

(2) If yes, why did the Minister use his political office to bypass and interfere with such processes?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

The member has failed to recognise the significance of the words immediately preceding those he has quoted. Those words were "Unless there is any compelling reason to the contrary" and are clearly aimed at giving the commissioner an opportunity to substantiate the department's decision. In the absence of such substantiation it would be reasonable to expect the commissioner, in accordance with section 8(2) of the Public Sector Management Act, to reinstate Mr Anderson to his position. The Minister's involvement in this matter was to expedite the resolution of what appeared to be an unsatisfactory situation. Like me, the Minister for Health sees it as his role to ask questions, offer opinions and indicate his views, and will continue to do so in the interests of ensuring the effective operation of public sector agencies.

WESTRAIL - FEDERAL FUEL EXCISE, WHEAT FREIGHT CHARGE COST

92. Hon KIM CHANCE to the Minister for Transport:

What amount, on average, is added to the cost of freight for 1 tonne of wheat carried by Westrail as a result of the federal fuel excise being applied to Westrail fuel usage for this task?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The average cost of federal fuel excise included in the freight charge for each tonne of wheat is 17¢. That is significantly less than it was some short time ago, although I cannot recall the exact figure. This has resulted from a number of changes that Westrail has implemented in recent times.

ROADS - FIX AUSTRALIA, FIX THE ROADS CAMPAIGN
Funding

93. Hon J.A. COWDELL to the Minister for Transport:

(1) How much has the State Government contributed to the Fix Australia, Fix the Roads campaign to date?

(2) What percentage of total campaign funds are contributed by -

(a) the State Government;

(b) local government; and

(c) industry?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) A total of $295 000 to date. This excludes salary and administrative costs borne by Main Roads and the Department of Transport.

(2) (a) 87.8 per cent;

(b) 4.4 per cent; and

(c) 7.8 per cent.

In addition, industry and local government have provided considerable "in kind" assistance to the campaign, including: Running advertisements in their journals; circulating information to their membership; providing advice and assistance as required; sending people to meet with similar groups in other States; taking campaigns into the national arena via their peak bodies; and running advertisements in the media.

ADOPTION - INFORMATION OR CONTACT VETOES

94. Hon CHERYL DAVENPORT to the Minister representing the Minister for Community Development:

Since the proclamation on 1 January 1995 of the Adoption Act 1994 -

(1) How many adoptees have placed either information or contact vetoes?

(2) How many relinquishing mothers have placed either contact or information vetoes?

(3) How many adoptive parents have placed either contact or information vetoes?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The original question submitted referred to proclamation on 1 January 1994 rather than 1995 but I am sure the answer takes that into account.

(1) 176 adoptees have placed contact vetoes.
206 adoptees have placed information vetoes.

(2) 121 relinquishing parents have placed contact vetoes.
114 relinquishing parents have placed information vetoes.

(3) 221 adoptive parents have placed contact vetoes.
232 adoptive parents have placed information vetoes.

BUILDING MANAGEMENT AUTHORITY - CORE AREAS

95. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Works:

What areas of the Building Management Authority's operations are considered core and therefore not subject to review for privatisation?

Hon PETER FOSS replied:

I thank the member for some notice of this question. Core areas will include policy and planning for the strategic asset management of government building assets and contract management.

MENTAL HEALTH SERVICES - MULTICULTURAL PSYCHIATRIC CLINIC, CLOSURE

Patients of Non-English Speaking Background, Facilities; Referrals

96. Hon TOM HELM on behalf of Hon Sam Piantadosi to the Minister representing the Minister for Health:

Following the closure of the multicultural psychiatric clinic -

(1) What facilities are in place to care for patients of non-English speaking background?

(2) Where are the patients of NESB referred to?

(3) How many referrals have been made since the closure of the clinic?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1)-(2) With the closure of the Multicultural Psychiatric Centre, staff have been relocated to various hospitals and clinics throughout the State. As a result, the following institutions now have professionals who are competent to deal with problems of mental illness among migrants and ethnic communities -

Inner City Community Mental Health Service
Alma Street Centre, Fremantle Hospital
Avro Clinic
Mirrabooka Clinic
Graylands Hospital
Goldfields Health Services
Osborne Clinic

Tertiary services are also available at the Transcultural Psychiatric Clinic, which is located on the Royal Perth Hospital campus. This centre is developing excellence in education, training and research on issues of mental illness among people with non-English speaking backgrounds and has strong links with the University of Western Australia.

An additional initiative has been the allocation of more than $100 000 across the three metropolitan western health authorities to establish or enhance services for people from non-English speaking backgrounds. Programs currently being developed include -

Training and awareness raising for staff on multicultural issues;

Provision of health information for people from non-English speaking backgrounds;

Counselling services;

Development of a register of bi/multilingual staff;

Research into the mental health needs and utilisation of local services by non-English speaking people; and

Mental health training for medical interpreters.

(3) It has not been possible to isolate referrals for people of NESB who would have attended the Multicultural Psychiatric Clinic from those accessing mental health services generally.