



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE ASSEMBLY

Wednesday, 9 September 1998

Legislative Assembly

Wednesday, 9 September 1998

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

CONNOLLY DRIVE, CLARKSON AND KINROSS

Petition

Mr MacLean presented the following petition bearing the signatures of 224 persons -

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

We the undersigned petitioners respectfully request that Parliament supports the joining of Connolly Drive between Clarkson and Kinross so that residents can access Currambine train station and also Joondalup City Centre.

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

[See petition No 33.]

ONE NATION

Petition

Mr Kobelke presented the following petition bearing the signatures of 84 persons -

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

We, the undersigned condemn the failure of the Federal and State Liberal Governments to take a principled stand against the One Nation Party which was recently reported on the 16th August in the "Sunday Times" as casting a racist slur against Australians of Iranian descent.

Australia has a proud record of freedom, tolerance and respect for ethnic diversity which is now under challenge from a vocal minority. Many Iranians are now proud to call Australia their home and are hard working and law abiding citizens. They do not deserve to be falsely maligned in this way.

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

[See petition No 34.]

SENTENCING LEGISLATION

Petition

Mr Baker presented the following petition bearing the signatures of 690 persons -

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

We, the undersigned residents of the new City of Joondalup demand that new legislation be introduced as a matter of priority implementing:

'Truth in sentencing'

Zero tolerance for all crimes - particularly crimes involving violence against the person

Mandatory minimum sentences for violent criminals, and

Mandatory abstinence drug treatment programs for heroin addicts.

We, our children and our elderly, want to feel safe in our homes and in places of public resort!

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

[See petition No 35.]

GRAFFITI AND VANDALISM

Petition

Mrs Hodson-Thomas presented the following petition bearing the signatures of 176 persons -

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

We, the undersigned residents of the suburbs of Carine, Duncraig, Karrinyup, Trigg, North Beach, Waterman, Marmion, and Sorrento respectfully call for specific legislation to deal with the proliferation of graffiti and vandalism in our suburbs, which should include provisions -

1. Restricting the sale of spray paint to juveniles;
2. Deeming that any juvenile in possession of spray paint in a public place after dark be deemed to be in possession of the same with intent to graffiti until the contrary is proved;
3. Mandatory sentencing for juvenile graffiti offenders to include compulsory clean-up work with specially established Weekend Graffiti Removal Task Forces;
4. Prohibiting any juvenile convicted of criminal damage by graffiti from possessing spray paint for a period of 5 years after the date of the last such conviction.
5. Increased civil and criminal protection for members of the public who elect to apprehend suspected juvenile graffiti offenders and vandals; and
6. Making custodial parents more responsible for damage caused by their children in the form of graffiti and vandalism to property.

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

[See petition No 36.]

XEROX INTERNATIONAL TRIATHLON SERIES

Petition

Mr Baker presented the following petition bearing the signatures of 38 persons -

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

We, the undersigned residents and avid sports men and women of the City of Joondalup, request that EventsCorp WA support our local Member of Parliament's proposal to conduct 3 stages of the 1999 Xerox International Triathlon Series in the Joondalup area. The City of Joondalup has beautiful beaches, an excellent road system, an efficient public transport system, well equipped parks and recreational facilities and would make an ideal venue for such a series. Further, the national and international TV coverage associated with the event would greatly assist in promoting the Joondalup region and its various tourist facilities, hospitality industries and other attributes.

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

[See petition No 37.]

NORTHERN SUBURBS RAILWAY LINE EXTENSION

Petition

MR MacLEAN (Wanneroo) [11.08 am]: I have a petition couched in the following terms -

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

We the undersigned petitioners request Parliament support in the extension of the northern suburbs railway line from Currambine station to Merriwa and that this extension be commenced during this term of Government.

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

The petition bears 203 signatures and I certify that it conforms to the standing orders of the Legislative Assembly. There were another 276 signatures to this petition which, unfortunately, do not conform to the standing orders of the Legislative Assembly.

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

[See petition No 38.]

COMMON LAW DAMAGES

Petition

Mr Kobelke presented the following petition bearing the signatures of 17 persons -

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

We, the undersigned express our total opposition to the move by the Court Government to deny injured workers the right to make claims for common law damages for negligence through the "second gateway" in section 93D of the Workers' Compensation and Rehabilitation Act.

To abolish "second gateway" claims would:

1. deny many seriously injured workers the legal right to seek recompense through the common law, when they have suffered a loss due to the negligence of their employer,
2. remove an incentive for employers to improve health and safety in the workplace and thus lead to more accidents and injuries to Western Australian workers and
3. deny injured workers fair compensation for their loss and suffering so that insurance companies can make bigger profits.

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

[See petition No 39.]

WORKSAFE WESTERN AUSTRALIA COMMISSIONER

Statement by Premier

MR COURT (Nedlands - Premier) [11.11 am]: Yesterday the Leader of the Opposition called on me to sack Neil Bartholomaeus, WorkSafe WA Commissioner, as a result of findings by the Commissioner for Public Sector Standards. I advised I took the findings seriously and had sought assurances from Mr Bartholomaeus that workplace safety had not been compromised. However, I also advised I was concerned that the report did not provide sufficient basis for a "suspicion" that Mr Bartholomaeus had breached a code of ethics or a code of conduct or a standard that would justify commencing disciplinary proceedings against him.

It is important to understand that in dealing with disciplinary matters in the public sector, a process is required to be followed. No employer, including a minister, is able to simply decide that a person should be dismissed without observing due process.

The Public Sector Management Act introduced a new framework for the disciplinary process. That process is set out in part 5 of the Act, commencing at section 76.

In January 1996 the then Public Sector Management Office published a booklet called "A Practical Guide to Discipline" which was intended to serve as a comprehensive working guide for human resource practitioners and managers. At page 8 it states that the principles that apply to the disciplinary process are set out in sections 8 and 9 of the Act. In particular under section 8(1)(C), it states -

All employees are to be treated fairly and consistently and are not to be subjected to arbitrary or capricious administrative acts.

An explanation of the disciplinary process required to be followed begins at page 12 of the booklet.

Basically, the procedure commences at section 81 of the Act which states that when an employing authority suspects that a person has committed a breach of discipline, it may give the person a reasonable opportunity to submit an explanation. This is an essential precondition to the commencement of any disciplinary process.

According to paragraph 8.1.2 of the PSMO publication, however, that notice should not be given until the employing authority has undertaken a preliminary investigation and has determined that enough evidence can support its suspicions.

If, after considering the employee's explanation, the employing authority continues to suspect the employee has committed a breach of discipline, an investigation may be established. An investigation can find that there was no breach or that there was a minor or a serious breach. A serious breach will lead to charges being laid. At the end of the process, a range of penalties from a reprimand to dismissal might be imposed. The process is exhaustive.

The difficulty that has arisen is that we have legal advice that while the report makes findings, it does not contain any evidence that could be used to justify disciplinary proceedings against Mr Bartholomaeus. I said yesterday that if the Leader of the Opposition can provide information which justifies the Government sacking Mr Bartholomaeus, he should provide it.

However, I have not left the matter there. Yesterday I wrote to the Commissioner for Public Sector Standards advising him of the difficulty and asking if he had any evidence that could be taken into account in determining whether Mr Bartholomaeus had committed a breach of discipline. The Commissioner for Public Sector Standards has today provided me with further information which I will be considering over the next few days.

Members should read the PSMO publication in order to understand how prescriptive the process is. While the Commissioner for Public Sector Standards is required to monitor compliance, and an adverse finding by him is a serious matter, disciplinary action still requires that the process set out in part 5 of the Act be followed. It is appropriate and necessary that legal advice be sought on these matters, particularly in this case, in which Mr Bartholomaeus is not only a CEO but also a statutory officeholder. WorkSafe Western Australia is the name of a department and WorkSafe WA is the name of a commission of 12 persons. In these circumstances the Government must be careful that it follows due process and takes the right steps in relation to the right parties.

The Opposition would like Mr Bartholomaeus summarily executed. The Government does not behave like that and will follow the processes that have been laid down in the legislation.

TAXI AMENDMENT BILL

Introduction and First Reading

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

SELECT COMMITTEE ON CRIME PREVENTION

Leave to Sit when House is Sitting

On motion by Mr Cowan (Deputy Premier), resolved -

That leave be given for the Select Committee on Crime Prevention to meet when the House is sitting on Thursday, 10 September, Tuesday, 15 September and Wednesday, 16 September.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND INTERGOVERNMENTAL AGREEMENTS

Leave to Sit when House is Sitting

On motion by Mr Cowan (Deputy Premier), resolved -

That leave be given for the Standing Committee on Uniform Legislation and Intergovernmental Agreements to meet when the House is sitting on Thursday, 10 September.

CRIMINAL LAW AMENDMENT BILL (No 1)

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Mr Prince (Minister for Police), and returned to the Council with amendments.

POLICE AMENDMENT BILL*Second Reading*

Resumed from 20 August.

MRS ROBERTS (Midland) [11.19 am]: The Opposition supports the creation of an offence for being in possession of graffiti implements with the intention of using those for the purpose of graffiti. Members may recall that the Leader of the Opposition moved a Police Act Amendment (Graffiti) Bill in November 1997. At that time the Opposition decided that the public should be more proactive in preventing graffiti, that it was a serious crime and that it should be cracked down on. With that in mind, the Opposition sponsored a simple Bill which made it an offence for people to carry graffiti implements, as we put it, on or about their person or in their possession, without lawful excuse, in a public place, or a place on which the persons were trespassing or had entered without invitation; where they carried or had on or about their person or in their possession any instrument or thing capable of being used to cause damage to property where such damage could consist of graffiti; or of a class prescribed by regulation. The suggested penalty was \$500 and every such instrument would, on conviction of the offender, become forfeited to the Crown.

The government legislation gives us something broader than that; however, I suggest it is not better. In fact, some elements make it worse. The Leader of the Opposition introduced that simple Police Act amendment in 1997 with the aim of seeking to reduce graffiti in our community. Graffiti has become a problem of enormous proportions. It is a senseless crime and imposes a huge cost on the community. Those who have not been affected personally by graffiti may see it as high jinks by a few young people. It is a much more of a crime than that. Graffiti clean-up costs result in million of dollars having to be spent each year. It occurs on public property - buses, trains, train stations, public buildings, schools, beach shelters, park benches, rotundas, public art and statues, street signs, road signs, sound barrier walls, overpasses, underpasses and the like. To clean graffiti off that property is costing the State Government, the Federal Government and local government authorities millions of dollars each year.

In addition, much graffiti also occurs on private property, mainly on the boundary and front fences. It can also occur on houses. Generally those targeted houses and fences are on major roads. One of the strategies for the graffiti artists is that they want the widest possible audience. As a result they choose very prominent positions. Where graffiti is prominently displayed, it is also far more detrimental to the community because it has an impact on how people feel about the places in which they live. No-one likes to live in an environment in which there is senseless graffiti and scribble everywhere or in which rubbish is lying around or things look generally uncared for. Many studies have suggested that that sort of an environment can also lead to more crime being committed. When residents do not care about where they live, there is more likelihood of people damaging their environment and other crimes, such as vandalism, occurring.

As well as the graffiti artists liking to choose prominent spots, another unfortunate element is that much of the graffiti is targeted at commercial premises. In my electorate, many people have had their shops and restaurants graffitied. It is becoming a worse and more insidious crime. Most people are very familiar with graffiti done with cans of spray paint and large felt-tip pens; however, they might not be aware of the other aspects of graffiti that are currently occurring. One of the worst forms that has been happening at commercial premises in my electorate is glass etching. The offender uses a sharp instrument to etch into glass windows. In some cases it is just scribble and tags; in others it is obscenities.

One restaurant in Guildford was graffitied in that manner. The proprietor told me that one of the difficulties is that unless the windows are smashed, there is a great difficulty in having the windows replaced by the insurer in many instances. There are always acts of vandalism of people having their shop windows smashed and there are incidences of that in Midland. One garage, in particular, and other shops regularly have their windows smashed and after that has happened a number of times, the insurers charge a higher premium which hardly makes it worthwhile to insure the premises.

Mr Bloffwitch: Some of them refuse to insure; they just say they will not cover them any more.

Mrs ROBERTS: As part of the policy, people are expected to pay a substantial amount before any insurance is payable. In that case, the insured is paying 75 per cent of the replacement cost of the window. In restaurants and cafes, many tens of thousands of dollars have been spent on the decor to provide a pleasant environment for the community and the customers. People sit close to the windows, but no-one wants to sit there and look at obscenities etched into the glass.

The cost of constantly replacing windows in shops is phenomenal. I have asked the victims of that kind of graffiti what they want to happen. First and foremost, they want the culprits caught. Secondly, they want to be compensated for the damage to their properties. In some instances recently, the police have caught the culprits at fault. Under the

existing legislation, there is provision for that sort of compensation to be made. In one example of which I am aware, the young offender was from a family of substantial financial means. It should not be assumed that all people who commit graffiti offences are from the lower end of the socioeconomic scale; many are not. Some come from what we describe as more privileged homes, yet they commit graffiti offences as much as others. When the victims become aware of that, they are all the more aware that the parents have the capacity to pay compensation. Most of the victims have a very strong belief that rather than their being many thousands of dollars out of pocket in replacing the windows, the young offender or that person's family should foot the bill. I point to those two issues because they are the things most commonly said. The victims are very frustrated because not only are many offenders not caught but also, when they are, the victims do not get much compensation. Of course, if the offender is not caught, they get nothing. The victims are continually paying out.

I refer members to the current statistics on graffiti crime in this State. There has been a disturbing trend in recent years, despite much rhetoric from the Government about how it will crack down on graffiti. This has been a feature of its campaigns, whether it be at general elections or by-elections. Since 1993 the Government has said that it will improve the situation. The anecdotal evidence is that any person with whom we talk will say that the amount of graffiti crime has increased.

I turn now to the Western Australia Police Service summary of reported crimes statistics report for Western Australia 1994-95 to 1997-98. In 1994-95, the number of graffiti offences reported and detected per 100 000 population was 134.9. By 1995-96, that had increased by 53 per cent to 206.5 offences per 100 000 population. In 1996-97, graffiti crime increased by 17.8 per cent to 243.2 per 100 000 population. In 1997-98, the number of graffiti offences doubled to 537.1 per 100 000 population, a 120.9 per cent increase.

Mr Prince: Do you concede that is undoubtedly because more graffiti crime is being reported?

Mrs ROBERTS: I suspect there are a number of reasons. I am sure that more graffiti crime is being reported. I am also confident that the nature of the graffiti is becoming more serious, and that would incline people to report it more. However, I am still very certain that by far the most graffiti crime is not reported. I and members of my family have had minor graffiti on our fences, and I am not aware that any of those offences have been reported. I had a bit of spray paint on my letterbox on one occasion, and we removed it the next day. In my view, it was not worth wasting the time of the police to report that minor damage to my letterbox.

Mr Prince: I am not suggesting those sorts of minor matters should be reported, but the antigraffiti campaign that we have had for some years has led to far more reports than was the case previously.

Mrs ROBERTS: One of the difficulties has been the increase in the number of commercial premises being tagged with graffiti. People in that commercial situation, where the damage is more serious, need to report the crime in order to make a proper claim on their insurance.

I turn now to the clearance rates for graffiti in this State over the same period of time. In 1994-95, the percentage of offences cleared was 21.4. In 1995-96, the percentage of offences cleared was 27.4. In 1996-97, the percentage of offences cleared was down to 22.8. In the last financial year, 1997-98, the percentage of graffiti offences cleared was down to 18.4. Our best figure in recent years was in 1995-96, with 27.4 per cent of offences cleared. The figure went down to 22.8 in 1996-97, and it went down further to 18.4 in 1997-98. The amount of graffiti crime reported and detected has increased dramatically, and at the same time the clearance rate for graffiti crime has reduced substantially.

Many of the police are making a substantial effort in this regard, and it has been my anecdotal impression over the past 12 months, certainly within the wider Midland area, that the police have been taking graffiti crime seriously. Several years ago, graffiti crime was not taken as seriously as it is now. However, when the police make a substantial bust of a drug dealer, when they catch a person who has committed 20 or 30 armed robberies, or when they catch a person who has been caught in the act of committing graffiti and can be identified through his or her tag as having committed hundreds of graffiti offences, the police media move into full operation and say that the police should be given a pat on the back because they have caught that person. The difficulty with looking at things in that way is that it gives the community the false impression that the police are doing a better job in catching criminals than they are. It is very poor that only 18.4 per cent of graffiti crime is cleared. The empirical evidence is that the clearance rate has deteriorated over recent years. The only conclusion that we can draw from those statistics is that things are going from bad to worse: An increase in the number of offences reported and detected, and a decrease in the percentage of graffiti offences cleared per 100 000 population.

A number of key differences exist between this Bill and the Bill that was proposed last year by the Leader of the Opposition. The amendment to section 55 with regard to the presumption of criminal intent is somewhat confusing. It appears to reverse the evidentiary onus, and in effect will make it much easier for the prosecution to make its case against the accused. An argument may exist for doing this, but I would like to see a more substantial argument than

is found in the minister's second reading speech, which is less than half a page of *Hansard*. These kinds of provisions need to be fully justified if they are to be implemented, particularly given that we are talking about the carrying of graffiti implements and not the act of committing graffiti.

One matter that will need to be addressed is how we define a graffiti implement. Presumably the minister will do that by way of regulation. In recent years, the kinds of implements that have been used for graffiti have been changing. Once upon a time, the implements were mainly spray cans or large felt-tipped pens, but they may now be school compasses, which are used to engrave graffiti on windows.

Mr Prince: Glass etching instruments are also being used. The types of implements might change along the way, so that matter should be dealt with by regulation.

Mrs ROBERTS: A lipstick could arguably be regarded as a graffiti implement if it were used to graffiti a shop window. I understand that the Government is proposing to reverse the evidentiary onus. It would then be up to the person who was found with the lipstick to prove that he or she had no intention of using that lipstick to commit graffiti.

Mr Prince: I suggest that if it were a young male at nine o'clock at night who was not actually wearing lipstick on his face, then the inference would be reasonable. However, if it were a young female who was clearly wearing makeup, the inference would not be reasonable. That is why it depends on the facts and circumstances of the case in which the person is found.

Mr Graham: If it were a middle-aged lawyer in Albany at 11.30 on a Friday night -

Mr Prince: It would be on the front page of the local newspaper!

Mrs ROBERTS: I am sure that most members would have had people come into their electorate offices who have been convicted because they pleaded guilty in many instances to relatively minor offences. The offence of carrying a graffiti implement would be in that category. Legal aid has become less and less available to many people. Many of these offenders are quite likely to be juveniles or young adults. They may find themselves having to prove that they did not intend to use an implement for graffiti rather than having the evidential onus on the prosecution to substantiate a case, which it could well do, to suggest that they were intending to use the implement for graffiti purposes.

Mr Prince: I am pleased to hear you distinguish between shifting the onus of the burden of proof as opposed to the evidential onus. This is a shifting of the evidential onus.

Mrs ROBERTS: Yes. Another area about which I have some concerns is that of the search and seizure powers provided under this Bill. It is arguable that police do not have adequate search and seizure powers in some instances. However, we see drawn into this Bill search and seizure powers involving graffiti implements which apply to sections 65, 66 and 67 of the Police Act. I note the Minister for Police has provided a fresh copy of those sections of the Act in the clause notes.

For the enlightenment of members I point out that these kinds of sections deal with offences such as those relating to persons who have no visible lawful means of support or insufficient lawful means of support; and every person wandering abroad, or from house to house, or placing himself in any public place, street, highway, court, or passage to beg or gather alms, or causing, or procuring, or encouraging any person to do so, or begging or gathering alms in any other place and not quitting such place whenever thereto bidden or requested. Section 65 also includes "Every person found in possession of any weapon or instrument or thing capable of being used for the purpose of disguise, who being thereto required, shall not give a good account of his means of support, and assign a valid and satisfactory reason for such possession" and "Every person who, without lawful excuse, carries or has on or about his person or in his possession any rifle, gun, pistol, sword, dagger, knife, sharpened chain, club, bludgeon or truncheon, or any other article made or adapted for use for causing injury to the person, or intended by him for such use by him".

With some of those categories of weapon in section 65 a good case can be made for the search and seizure powers. With some of the earlier categories I do not think the minister has made his case. There was practically no reference to this in the minister's second reading speech.

Section 65 also lists "a person who has any such jacket, vest, or article in his possession pursuant to, and in accordance with the conditions, if any, specified in, the written permission of the Commissioner of Police" and "a person who has any such jacket, vest, or article in his possession in the course of and for the purpose of supplying or delivering it to any person referred to in subparagraph (a) or (b) to fulfil an order previously made for such supply and delivery". It also includes "Every person who, without lawful excuse, carries or has in his possession any jumper leads, silver paper, wire hooks, cutting implements or other implement or device to facilitate the unlawful driving or use of a motor vehicle". If the minister has jumper leads in his car -

Mr Prince: I have.

Mrs ROBERTS: - the onus will be on him to demonstrate that he does not have them there for the purpose of stealing a car.

Mr Prince: That is right. That has been there for 100 years in one form or another.

Mrs ROBERTS: Yes, but not with those same search and seizure powers. The minister may correct me if I am wrong, but, in my view, the Bill gives the police officer the right to search the minister's car if he believes that the minister has jumper leads.

Mr Prince: The police have the power to search a vehicle under the Road Traffic Act. Try again.

Mrs ROBERTS: It is a bit trite of the minister to say that.

Mr Prince: I am not trying to be trite; I am simply saying that the police officer has the power to search under the Road Traffic Act.

Mr Osborne: It is not trite to inform you that you are wrong.

Mrs ROBERTS: I beg to differ. The minister has put the argument very simplistically. I do not think that under law a police officer has the right without any due cause to search a vehicle. He must have a reasonable belief of the commission of an offence, surely.

Mr Prince: No. I can give you two recent examples in which traffic patrol police stopped vehicles for some minor traffic matter and in one case found a cache of weapons and explosives and in the other a whole stack of stolen property.

Mrs ROBERTS: By way of example I could give the minister a letter from Mr Bob Kucera to all police officers involved in searches pointing out the law to them. It would seem that his advice is different from the advice the minister has given today.

Mr Prince: Okay, I will defer to him.

Mrs ROBERTS: Looking further at section 65 of the Police Act, it includes the following other offences which will come within the purview of this legislation -

- (7) The occupier of any house which shall be frequented by reputed thieves, prostitutes, or persons who have no visible means of support.
- (8) Every common prostitute wandering in the public streets or highways, or being in any thoroughfare or place of public resort, and behaving in a riotous or indecent manner.
- (9) Every person who habitually consorts with reputed criminals or known prostitutes or persons who have been convicted of having no visible lawful means of support.

Of course these are not new offences but these are new rules which will apply to these offences as opposed to many other offences listed under the Police Act. There is an onus on the minister to put forward an argument as to why we need these additional search and seizure powers merely for these offences and why he is doing this ahead of perhaps bringing in a new Police Act in which a proper code or statutory list of police powers is provided. That is the correct way to go. One of the difficulties with the Bill is that the police will have different powers relating to different offences.

Mr Prince: You are entirely correct. The new Police Act is being prepared, as I have said to you. However, it will not be ready until next year.

Mrs ROBERTS: The difficulty we have in opposition is that in 1992 when the Liberal and National Parties put out their law and order platform, they promised a new Police Act. We are dealing with very antiquated legislation. Everybody recognises that. That is why it was promised in 1992. The first term of government passed us by. Over 12 months ago I asked the previous Minister for Police about it. He told me I could expect to see the new Police Act this year. We now have a new Minister for Police who is telling me that I can expect to see it next year. It seems that a new Police Act is moving further and further away.

Mr Prince: I can well understand why you say that. It is a fair criticism. I give you an assurance that as far as I am concerned I will have it done.

Mrs ROBERTS: I am pleased to hear that.

Mr Wiese: The previous minister is the same!

Mrs ROBERTS: Maybe it will be third time lucky. I hope that the new minister is more persistent than his predecessors.

Why does the minister want to encompass these other offences, including carrying graffiti implements, under sections 65 to 67? That has not been properly explained. Some argument was made for powers to apply to some of this miscellaneous group of offences. It is not an appropriate way to go about it in those statutory powers.

Mr Prince: I suppose the answer is that the Police Act is such a hotchpotch. A few sections at the beginning deal with administration, and the rest deal with summary offences by and large. The back of the Act contains the miscellaneous provisions. Proposed section 67B will be part of a number of these provisions which to some extent are not related, but are included for the sake of putting them somewhere. It makes some sense to have the powers of a search and seizure spelt out, as police power should be spelt out rather than left in limbo. It should apply to the collection of offences outlined in sections 65 to 67 of the principal Act.

Mrs ROBERTS: One of the difficulties is that, in the sense of a statutory code of police powers, even those most able to make their own investigation into their rights must refer to numerous pieces of legislation, such as the Criminal Code, the Police Act and the Misuse of Drugs Act. It does not make people appropriately aware of the rules.

Mr Prince: You are right. A statute which sets out police powers in a general sense is long overdue. Section 68 deals with constables apprehending people, charging for offences under sections 65, 66 and 67, by which they may seize money, goods or vehicles in possession or use. This is the logical place to refer to search and seizure on reasonable suspicion. Section 68 deals with search and seizure on apprehension, which is post-arrest. We refer to search pre-arrest. That is why we need the power. Otherwise, an individual can be suspected of graffiti, without anyone seeing the implement in that person's hand. It is desirable to search that person before arrest.

Mrs ROBERTS: I am not disputing whether it should apply to the graffiti provision. I dispute that it should apply to the other sections. In fact, I dispute whether those provisions are appropriate and current law.

Mr Prince: Some of them will be replaced.

Mrs ROBERTS: Given that we have the search and seizure powers, and the reversal of evidentiary onus, why did the Government believe that imprisonment might be the appropriate penalty for the carrying of graffiti implements? We must bear in mind it is not the situation in which someone has used the implement; otherwise, he or she could be charged with the more serious offence of causing graffiti. It refers to someone carrying a spray can. The onus will be on that person to prove that the can was not carried to commit graffiti. Anyone subjected to more stringent search and seizure powers can run the risk of imprisonment.

I have proposed a couple of amendments to the Bill. One deals with a police officer having an obligation to advise the alleged offender of the search powers as they pertain to the legislation. I would not like to see a juvenile, who may or may not be considered to have a graffiti implement in his or her possession, falling foul of the law by resisting the search. An onus should be placed on the police officer to explain the search and seizure powers to the youth. That is the motivation for one amendment on the Notice Paper.

Another amendment relates to imprisonment. One should only apply imprisonment to individuals who have fallen foul of this law on numerous occasions in a serious way. Will the minister explain why he believes that the six months' imprisonment penalty is necessary?

Mr Prince: Have you looked at the Young Offenders Act?

Mrs ROBERTS: Yes.

Mr Prince: I understand your point with the amendment - I agree in principle - but it seems that your intention is covered by the Young Offenders Act and the Sentencing Act. Imprisonment is the sentence of last resort.

Mrs ROBERTS: Which section of the Young Offenders Act covers that matter?

Mr Prince: We are talking about a person under the age of 18 years. The Young Offenders Act swings into play with the penalty handed down by the court in dealing with the graffiti offence.

Mrs ROBERTS: Is the minister suggesting that because of the Young Offenders Act, no-one will receive the six months' penalty? If so, the Government is pretending to be getting tough on graffiti by having the penalty which will never be imposed.

Mr Prince: No. The penalty is already in the Police Act; namely, six months' imprisonment or \$500.

Mrs ROBERTS: That is not for carrying graffiti implements.

Mr Prince: It is in that part of the Police Act.

Mrs ROBERTS: It is not currently an offence to carry graffiti implements, so how can a penalty of six months' imprisonment apply to the carrying of such implements?

Mr Prince: The general penalty in this area of the Police Act is six months' imprisonment or \$500. However, any penalty is modified under the terms of either the Sentencing Act or the Young Offenders Act, or both.

Mrs ROBERTS: I have proposed the amendment because imprisonment is a very strong penalty for someone who is merely carrying graffiti implements. Given that it is a much lesser offence than many other offences in that part of the Police Act, the minister could have differentiated. That is why I seek to clarify the situation by suggesting a provision which states that a court which convicts a person of an offence under proposed subsection (2) must not sentence the person to imprisonment unless the person has previously been convicted of an offence under this provision on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such offence again. We are dealing only with the carrying of a graffiti implement. If someone is convicted of graffiti, other penalties apply, including, in a sense, compensation for the victims of the crime.

Mr Prince: Yes. That relates to personal damage. There is also the restitution power. If a person is aged over 18 years, the Sentencing Act deals with the sentence to be imposed across the entire criminal field, except where mandatory minimums apply. In dealing with a young person, the Young Offenders Act comes into play. I refer to part 7, section 46 and thereafter, which outlines how young people are to be dealt with. The basic proposition in both overarching sentencing laws - the Young Offenders Act and the Sentencing Act - is that imprisonment be seen as a last resort. I appreciate that you are trying to say we should not imprison a young person for graffiti unless he is a repeat offender. I agree with that. I think it is already covered in the Young Offenders Act.

Mrs ROBERTS: I will examine that between now and the committee stage. I have suggested another amendment to be inserted as section 65A covering search and seizure on reasonable suspicion, in the following terms -

(1) A police officer or constable may without warrant -

- (a) stop, detain or search any person who the officer or constable suspects on reasonable grounds to be committing an offence under section 65(2); and
- (b) seize anything the officer or constable suspects on reasonable grounds relates to the commission of an offence.

(2) When a police officer or constable proposes to carry out such a search under paragraph (1), the officer or constable must explain to the person that failure to comply with the demand is an offence against this Act.

That relates to the point I made earlier. I do not think it is appropriate to tangle up young offenders in more offences than those in which they are already involved, especially when they are being searched for, or are carrying, goods with the intent of committing an offence. It is appropriate they be searched and that the implements be seized. However, an explanation by the police officer or constable to the person that failure to comply with the demand is a further offence is another precautionary measure that should be in place. I seek the minister's consideration of that amendment.

One of the other differences between the legislation proposed by the Leader of the Opposition last year and this legislation is the way the implements are to be disposed of. If under the Young Offenders Act everything is to be seized and a police officer gives a caution to a young person, the police officer may retain the implement or release it to an appropriate person. Why would the police officer return "the thing" to anyone? If the thing is seized from an adult my understanding is that there is no need to return it. Proposed section 23B(2) provides that 48 hours after giving the caution, the thing should be made available for collection by an appropriate person, unless the thing can be retained under any other law. I also question the legalistic meaning of the word "thing".

I understand that will make more work for police officers, especially in recording things and making them available for collection. We already know that our Police Service is fairly hard pressed. The police must improve their response times and they need to be dealing with some of the serious crimes in the community. I am questioning the sense of creating extra work for police officers in recording things and making them available for collection.

Surely this issue could be dealt with under the Police Act, whereby the Police Commissioner could dispose of the thing as he sees fit.

Mr Prince: Are you referring to the Young Offenders Act?

Mrs ROBERTS: Yes.

Mr Prince: Apparently at present when an article is seized it must be auctioned. It is a bit hard to do that with a half-used can of spray paint.

Mrs ROBERTS: I am advised that it could be dealt with by amendment to the Police Act to permit the commissioner to dispose of the thing as he thinks fit rather than it being returned to anyone.

Mr Prince: That is the way the amendment reads at the moment.

Mrs ROBERTS: That can be considered. Perhaps I do not have the technicalities of the issue correct. The capacity is there to have it altered by amendment to the Police Act to permit the Commissioner of Police to dispose of it as he thinks fit and not necessarily return it to anyone. If it involves police officers doing a lot of work, recording details about, as the minister put it, half-empty cans of spray paint and returning them to people, it could involve police officers in a great deal of red tape.

Mr Prince: We are not seeking to do that. Clause 6 at page 4 of the Bill provides for the Commissioner of Police to be able to dispose of articles, other than by auction, that are either unlawful or valueless.

Mrs ROBERTS: I will examine that in more detail before we reach the committee stage. I raise that as a concern. I would not like to see police officers' time unduly wasted in recording these matters and ensuring their return to the young offenders.

Mr Prince: I agree.

Mrs ROBERTS: As I said at the outset the Opposition supports the creation of this offence to make the carrying of implements for the purpose of writing graffiti an offence. We support the penalties by and large, but I have questioned whether the Police Act sentence is appropriate and have raised a number of other matters, especially the search and seizure powers and reversal of evidentiary onus. These were not features of the Bill proposed by the Leader of the Opposition. I look forward to the committee debate.

MR BAKER (Joondalup) [12.06 pm]: I am aware that this and other Bills this week are the subject of time management, so I will be brief. I support the Bill; it is a step in the right direction. I have an interest in graffiti in the community. As many members will be aware, I have tabled a number of petitions in this place in recent weeks containing a substantial number of signatures. Graffiti is an issue which the community would like to see addressed quickly. As one constituent put it to me the other week, when graffiti is seen on walls, buildings and windows it is a continual reminder of general lawlessness in the community. The other view is that graffiti on a wall encourages further graffiti.

I am happy with the proposed amendments to section 65(1) of the Police Act provided for in clause 4. When I toyed with the idea of proposing some amendments myself to the Police Act I wondered how I would get around the problem of defining "a graffiti implement". The clause does not attempt to do that; it refers to "any thing". Proposed subsection 65(2) reads -

Every person who has in his possession any thing with the intention of using it to cause damage consisting of graffiti.

The advantage is that many people use various implements to cause damage consisting of graffiti such as large texta pens, spray paint, and paint on a paint brush. Myriad items are being used, mainly by juveniles, for this purpose. It was a good idea of the Attorney General's to use the words "any thing" rather than a definitive term.

Beyond that the clause refers to the intent. It is clear that we are striking at the possession of the thing coupled with the intent. That is another good idea. It may be that in many cases a person who intends to graffiti something, but has yet to manifest his intention, to a certain point could be charged with attempted criminal damage. The point is that the provision is broad enough to include attempts as well. The clause goes on to refer to the intent of using it, being "any thing", to cause damage consisting of graffiti. I note the use of the word "consisting". I should have thought that that word was broad enough to indicate that it is possible to have an intent to cause damage via graffiti and to do something else at the same time, but of course as long as the intent is to cause damage consistent with graffiti, that is broad enough to cause it to be the subject of that provision. I have been trying to think of a couple of hypothetical-fact situations to indicate why it is beneficial to use the word "consisting" rather than any other term. The only example that I could think of is one in which a person who might be painting a door as part and parcel of his employment then decides to graffiti part of the wall adjacent to the door using the same paint as was used to paint the door. Perhaps that is a silly hypothetical situation, but once again I commend the Attorney General on using the word "consisting".

Clause 4(2) contains the rebuttable presumption. As I have said before in the House, as time progresses, society will be more readily agreeable to accepting rebuttable presumptions as a way of getting around establishing certain offences beyond reasonable doubt. That provision is not new, of course. When I read the clause I was immediately reminded of section 11 of the Misuse of Drugs Act, which uses similar phraseology. Under the Misuse of Drugs Act, it is possible to be charged with possession of an illicit drug. It is possible also to be charged with dealing in the drug

and possession with intent to sell or supply. Section 11 of the Misuse of Drugs Act contains a rebuttable presumption in relation to certain quantities of certain types of drug. That section, which is headed "Presumption of intent to sell or supply", states -

For the purposes of -

- (a) section 6(1)(a), a person shall, unless the contrary is proved, be deemed to have in his possession a prohibited drug with intent to sell or supply it to another if he has in his possession a quantity of the prohibited drug which is not less than the quantity specified in Schedule V in relation to a prohibited drug.

The phraseology has been transposed in the Bill, and that is a very good idea. It must be remembered that the prosecution in a case involving an offence under section 65 at all times must prove beyond reasonable doubt the elements of the offence, but in view of the wording of the provision it is incumbent upon the person charged to raise evidence of what their innocent intention was, but nonetheless once again they do not have to prove beyond reasonable doubt that they did not have that intention; that burden rests at all times with the prosecution, and of course the standard at all times is beyond reasonable doubt.

Members have commented on the proposed search and seizure provision in clause 5. It is proposed to insert a new section 67B. Once again, that provision is not unusual at all; there is a similar provision in the Misuse of Drugs Act and there are similar provisions in other statute law in this State. It stands to reason that the police must have powers to act on the spot rather than have to run and get a search warrant only to find that the person has decamped or has ceased to be in possession of certain items. They must have the right on the spot when the person is found to be in possession of graffiti-style implements, to stop and detain that person and, more particularly, to search that person. There is a protective provision within proposed section 67B(a). A police officer who attempts to exercise those powers to stop, detain and search without warrant must believe on reasonable grounds that the person is committing an offence. If it transpires that the police officer stopped, detained and searched and that his suspicion was not based upon reasonable grounds, the argument will be that any evidence obtained was inappropriately obtained, hence that evidence will not be admissible. There is that protective provision. The phraseology "suspects on reasonable grounds" is used elsewhere in the search-without-warrant powers in the Misuse of Drugs Act.

The intention behind the amendment to section 65 of the Police Act is to act as a preventive measure rather than try to apprehend people after the event, which is very difficult to do, in terms of both detection aspects and the investigation aspects of the police officers' involvement. Rather than do that, we are trying to arm the police with sufficient powers to ensure that they can intervene in a graffitiing situation prior to graffiti being effected. I sincerely commend the Attorney General on the proposed amendment to section 65. Had it been suggested that many of the provisions in the antigraffiti petitions that I have tabled in the House would be implemented in legislation, it would have been very difficult for the parliamentary draftsmen to draft provisions giving effect to those suggestions. I should like to comment on other clauses, but I understand that the Bill will probably progress to the committee stage, so perhaps it is more appropriate that I reserve my comments until then, particularly bearing in mind that this and other Bills are subject to time management.

MR BROWN (Bassendean) [12.16 pm]: I also wish to make some observations on the Bill and to put some matters to the minister now rather than during the committee stage.

Mr Bloffwitch: That is very positive.

Mr BROWN: I thank the member for Geraldton. I first spoke on community concern about graffiti in 1993 in relation to another Bill that was being introduced at that time. I suggested a couple of measures which have not yet been taken. I have taken a particular interest in the matter over the past five years. As *Hansard* and my letters to the Premier will show, I have exchanged much correspondence with the Premier and asked various questions in the House, hence I am pleased to participate in the debate. As I said in 1993, a multifaceted strategy needs to be adopted in order to overcome the graffiti problems that we currently confront.

The first matter that I wish to raise is the extent to which the legislation is seen as part of an integrated strategy to combat graffiti vandalism. I am aware of other legislative changes that have been made and of the work of the graffiti task force; however, an integrated approach to a youth strategy seems to be lacking. There is no coherent strategy in the provision of services, particularly for young people at risk. Indeed, as I have said many times, we have seen the reverse - funding cuts for successful youth programs, arguments between departments and agencies over who should provide funding for them, and a constant state of turmoil. Recently, I was amused to receive another letter from the Attorney General stating that there is to be yet another review of the amount of money that goes to preventive programs. I am not sure how many there have been over the past four or five years, but if there have not been enough, there is now another one.

To combat graffiti effectively means not only increasing the detection rates, as this legislation seeks to do, but more importantly putting into place a strategy to encourage young people not to commit this type of offence. There does not appear to be any coherent strategy in place to deal with that matter.

Recently, I sought a meeting with the Police Service, Family and Children's Services, the Education Department and Homeswest to discuss a range of matters relating to crime in the Bassendean electorate, of which graffiti was one. The police and Homeswest were well represented, the Education Department was represented by the district superintendent, and, despite my having an agreement from the Minister for Family and Children's Services and undertakings from senior officers that someone from that department would attend, no-one bothered to turn up. That was a really good start to that meeting! The members of the community and the members of the community committee I set up who were at that meeting were not impressed because we had taken some months in getting approvals to set up this meeting and, when it was finally organised, senior people with a key responsibility for children did not even bother to arrive.

As a result of that meeting, we asked the Police Service and the Ministry of Justice to provide to the community a comprehensive briefing on the integrated crime prevention strategies that are being implemented in the Bassendean electorate area. We have not yet had a reply to that request but we will be pursuing it. We are pursuing it because, as I say, to most members of the community it does not appear as though there is an integrated strategy at all. That is not decrying the work of the police. It is fair to say that in the Bassendean electorate, as in a number of other electorates, the police are held in very high regard; and I am very pleased to have a good working association with the local officers at Lockridge Police Station.

However, we all know that the police cannot do this themselves. As the Commissioner of Police has recently said, one cannot rely on the end result to try to pick up these issues. We need to attack the problem much earlier than after the graffiti has occurred; we need to attack it a long time before. As I have said time and again at community meetings and elsewhere, there is a cost involved and the community has a choice. It can pay the cost after the event - which is negative - or it can pay it before the event in preventive programs and therefore have a positive influence on young people and the community. I believe, and I hope other people agree, that we must put in the resources up front.

I will be pleased to hear from the minister in his response whether this is forming part of an integrated approach by government agencies in recognising young people at risk and implementing effective programs across all of those departments and agencies; because currently it does not appear to be there. Even worse, there does not appear to be any commitment by departments and agencies to work together collaboratively. Part of that now may relate to the performance objectives that each department and agency must achieve and against which it is measured. Unless a department or agency has a performance objective to work collaboratively with others in dealing with these issues and to share some responsibilities that may not be directly that agency's, then it will not be measured and given appropriate recognition for resources it puts into such activities.

Until that is addressed and some very senior decisions made, not only at ministerial level but also at departmental level, and until we get it out of the heads of some ministers and some bureaucrats that their responsibility or work will not be measured in an independent little box but rather measured collectively across government, then we will not be successful. Despite banging away at this now for as long as I have been here, it does not appear to be happening.

Mr Prince: My colleague the Minister for Family and Children's Services and I had a great deal of pleasure this morning in launching a joint child abuse program, Family and Children's Services and the Police Service together. I was able to recite the cases that I handled 10 to 15 years ago when the turf wars that the member for Bassendean is talking about had resulted in things not being dealt with properly. Now those two agencies - the Health Department will be joining them - are working together.

Mr BROWN: I hope it is something that we will see because if we are to deal with this area effectively we must involve these agencies: The Police Service, Family and Children's Services, the Health Department, the Education Department, the Aboriginal Affairs Department; and one or two others including Homeswest.

Mr Prince: The Ministry of Justice and the Department of Local Government.

Mr BROWN: That is absolutely right.

Mr Prince: I will talk about the Safer WA campaign when I reply.

Mr BROWN: I have looked at press releases. They all look very nice. I understand ministers like to have their photos published in newspapers and have positive things to say.

Mr Prince: Not with a face like mine!

Mr BROWN: What really matters is what happens on the ground -

Mr Prince: Absolutely.

Mr BROWN: - not what happens in a press release. I tell the minister that it is not happening on the ground.

Mr Prince: I know; I was there.

Mr BROWN: Whatever anyone says, it just does not occur. The next matter I want to raise is the question of graffiti reduction, on which there has been some debate. Will the minister indicate, either now or later, the degree to which the program implemented so far has reduced graffiti?

Mr Prince: I am sorry, I do not have that detail with me. I will see if I can obtain it. It comes from the graffiti task force.

Mr BROWN: More particularly, how is that calculated? It is one thing to make a bold statement that graffiti is being reduced by X. It is another thing to back up that statement with calculations or some method by which that measure was achieved.

Mr Prince: What were the two matters the member requested?

Mr BROWN: By how much has the amount of graffiti reduced since the graffiti program was put in place in 1993-94; and what is the basis of the calculation? That is, how has the figure been calculated; because there has been some debate over that and it is important to have on the public record the basis of that calculation.

Mr Prince: If I can get that information I will give it to the member.

Mr BROWN: The next matter I wish to deal with concerns the genesis of the legislation now before the Parliament. There was nothing in the minister's second reading speech to indicate where this idea came from, whether it was a Western Australian idea or borrowed from elsewhere. I note that the South Australian Parliament introduced similar legislation in 1992. I took the opportunity last year of writing to the South Australian Attorney General to ascertain the impact of legislation in that State. I wrote to him in the following terms -

I understand legislative changes introduced at that time sought to place an onus on people carrying graffiti instruments after dark to demonstrate that such instruments would be used for legitimate purposes. The legislation, as I understand it, was designed to assist the police detect and prosecute those responsible for graffiti. The police had, I understand, complained at the time that the old legislation was too restrictive in that it virtually required culprits to be caught in the act.

It has been suggested to me that similar legislation could be effective in Western Australia.

Would you be kind enough to let me know if any assessment has been done on the effectiveness or otherwise of this law in preventing the spread of graffiti or detecting those responsible for it.

I sent that letter just under 18 months ago, in March 1997. The South Australian Attorney General replied in June 1997 as follows -

I regret that it is not possible to provide direct answers to your queries regarding the success or otherwise of the provisions of the Act which impose penalties in relation to carrying a graffiti implement, and whether this has resulted in any reduction to graffiti in South Australia. A full review of this provision has not been undertaken, and hence it is not possible to draw any conclusions regarding its effect on graffiti.

He then cites a number of statistics dealing generally with graffiti offences. I raise that because nowhere in the second reading speech or anywhere else is mention made of the degree to which the minister expects this legislation to have an impact on graffiti, either in prevention as a result of this deterrent or as a consequence of increasing the detection rate and so on. Will the minister indicate whether any similar legislation elsewhere has been analysed and what the results have been - has it increased the detection rate and, therefore, lowered the incidence of graffiti vandalism?

I have heard calls in my electorate for tighter control of spray cans. I raised this issue in 1993 and I will raise it again. I am aware that a voluntary code of practice for retailers has been introduced and is followed by many retailers. The code was developed by the Government, the Western Australian Small Business and Enterprise Association and the Retail Traders Association of Western Australia. The code calls for retailers to avoid display of such materials in places where they can be accessed by customers out of the sight of shop staff; to display only empty containers; and to remove such materials from self-service and to provide them only at a customer's request. Other States have introduced similar codes and South Australia has discussed reinforcing its code in legislation by providing that displays should contain only dummy cans, which are incapable of doing any harm.

I raise this in the context that it has been put to me. A number of people have had their property damaged on many occasions and they are irate about it. The following suggestions have been put to me and as a good representative I put them to the minister: First, there should be a ban on the sale of spray paint or other aerosol sprays capable of defacing property to any person under the age of 18 years; second, an adult purchaser should be required to complete a purchase order that records his name, address and type of product purchased; and, third, retailers should be required to retain the purchase order for 12 months. That would be a bureaucratic and difficult process, but correspondence I received from the Premier a while ago suggested that the sale of spray cans in Western Australia is worth about \$1m a year. I do not know how much a spray can costs, but that does not suggest a huge industry. If that is all we are considering, such an impost may not be significant.

I raise this issue because it has been raised with me by people who are frustrated at finding their premises constantly defaced. One lady rang me in sheer desperation a while ago and asked what I intended to do about the problem. I responded that I had raised the matter repeatedly in questions on notice and in correspondence with the Premier, but that the Government professed to have all the answers. I told her that I would continue to raise the matter. She had had her premises graffitied seven times over a short period. As I said to the Premier in my letter, that woman found no solace in his comment about the overall level of graffiti being reduced in recent years. When I suggested this originally in 1993, people threw up their hands in horror and said it was not appropriate. I now notice some softening in the Premier's attitude. I refer in particular to correspondence received from him dated 22 September 1995 or 1996 - the document is smudged - in which he stated -

I sympathise with the concerns of those who would like to see controls on the sale of spray cans. Unfortunately, however, it does appear that this approach would be extremely difficult if not impossible to implement, and would also generate significant problems for responsible spray can users.

While accepting the recommendations of the Graffiti Program Steering Committee, I have also asked them to monitor activity elsewhere on this issue, and to advise me if there is any cause for a change in our approach.

That suggests some softening. Of course, since that time we have considerably tightened up the legislation relating to the sale of secondhand goods. We now require dealers to record many details so that goods can be traced. That does not appear to be too onerous in respect of secondhand goods, so would this requirement be too onerous given the low number of spray can sales? No-one seems to be in the business of selling spray cans only; it is a minor article in the overall scheme of things.

Mr Prince: It is used primarily for handicrafts and so on.

Mr BROWN: Many people legitimately purchase spray cans for those purposes and for spraying bikes and cars. However, apart from perhaps 12 to 17-year-olds who have some money, on most occasions such materials are purchased by adults. They could easily be bought for their young sons and daughters if they were using them for legitimate purposes. This suggestion is not the be-all and end-all, but it could be done and it would be supported by my constituents.

The other matter I wish to raise with the minister concerns the proposed graffiti clean-up arrangements announced some time ago. Concern has been raised by local authorities about the shifting of responsibility between the State Government and local government. I refer here to correspondence from the Shire of Swan and a minute prepared by the shire in relation to the clean-up program. I will read it in part. Under the heading "Initial Clean Up Programme" it states -

This initial clean up will consist of two, possibly three teams, each of two people. Each team should ideally have a one-tonne vehicle and associated spray equipment. In other similar programmes, the supply of the vehicles and equipment has been Council's responsibility, with the labour being at the cost of the Government for the two crews. The crews are made up of workers from the State Government redeployment programme and will be paid initially by the Government Department from whom they previously worked. The third crew will be the Council's responsibility. While they may initially form part of this initial clean up programme, this crew will form the ongoing maintenance crew.

In similar programmes, one-tonne vehicles which were about to be traded by Council could be held back to be used as the vehicles in the programme. Each vehicle should be equipped with spray equipment, chemicals, blasting sand, protective clothing and a camera to record all tags prior to their removal.

Under the heading "Ongoing Maintenance" it states -

This is essentially the ongoing graffiti removal programme. This crew will be essentially funded by Council and be under its control to work throughout the Shire. It will also be part of an overall graffiti removal programme being put together by the Graffiti Task Force.

This will be the basis of a one point contact telephone number for the Perth metropolitan area being set up by the Graffiti Task Force. The overall strategy is to remove all graffiti within 1 working day of it being reported. The Council funded graffiti removal crew will be contactable from this graffiti hotline to respond to any jobs reported within the Shire of Swan. The crew will also be able to receive any complaints from Council's Customer Service Area.

The Government will provide some resources, such as redeployees and equipment, to go through an area and clean it up. Following that, the maintenance of the area will be the responsibility of the local authority. The Shire of Swan estimates that the cost of that will be around \$100 000 each and every year.

Crime has always been an issue for the State Government. This is a devolution of that responsibility to the local authority, and the cost of that will be met in council rates. Putting that alongside the proposed security patrols, again another cost is being imposed on the local authorities. The State Government very neatly is passing the financial responsibility to the next tier of government, and local authorities will therefore be required to carry a heavier and heavier burden in relation to crime prevention or reparation after the event. The local authority will be required to pay, but I am sure the Court Government will claim the kudos if the program works.

Mr Prince: People pay.

Mr BROWN: People pay for it; that is right. My real concern is that this responsibility is being passed down to local authorities. Some local authorities will have a greater capacity to respond than others. I have correspondence on this matter from the Town of Bassendean and the City of Bayswater. All councils will participate in the program, but the scope of the program may well be different, including the cost that will be incurred by property owners. Already a very active constituent in my electorate has collected a petition containing about 600 or 700 signatures saying that they want -

Mr Cowan: That should fix it.

Mr BROWN: Is the Deputy Premier denigrating one of my constituents?

Mr Cowan: No, I am not. I am saying the petition will not fix the problem.

Mr BROWN: Because many people do not have the financial resources to continually paint over graffiti, the aim of the petition is to ensure that private property, such as front walls and front and side fences which are the subject of vandalism and which abut public property, is in fact covered by the program. That is a real concern. Some councils so far have been hesitant about extending their graffiti removal programs that far. Quite frankly, if the program applies only to council buildings and government property and not to face walls, retaining walls and front walls of private property, the Government may as well forget it. It will not operate effectively. Therefore, if a graffiti removal program is to operate effectively, it must apply to those owners of private property who agree to participate in the program. However, some private property owners will be unable to make an active contribution, either financially or by way of labour, particularly in suburbs with a number of elderly people who simply do not have the physical dexterity to assist in any way. I look forward to the minister's response.

MRS van de KLASHORST (Swan Hills - Parliamentary Secretary) [12.47 pm]: Unlike the member for Bassendean, I support this Bill; it is very good news for Western Australia. Graffiti is a major problem in Western Australia. In fact, I have recently travelled to various countries with the Select Committee on Crime Prevention, and found that graffiti is a major problem in most cities. Graffiti is costly to remove. It is costly for the community, for Governments, for business and for individuals. It is a worldwide problem. Studies have been undertaken and a good deal of emphasis has been placed on finding ways and means of combating graffiti.

As the member for Bassendean said, the issue of crime prevention is not just about passing Bills responding to a situation; rather, we need to look at crime prevention almost from when a child is born. This Police Amendment Bill is a positive act by the Government to deal with the current problem; the issue of education, with which I shall deal in a moment, is being tackled in different ways. One method of dealing with graffiti is to remove it as soon as it appears. This has been proved effective worldwide, and is beginning to show results around Perth and in other areas where the practice is applied. The idea is to go through an area and remove all the graffiti. People are then asked to telephone or write to a central point to advise that graffiti has appeared overnight. The graffiti is then removed by contractors, volunteers, individuals or businesses.

Apart from removing the graffiti, liaison programs are very important. The City of Stirling is a typical example; it has many great programs. It is very proactive in schools and in the community. It is meeting young people at the source, and is working with them in an educative way to try to prevent them from doing graffiti. I know at that age it is almost too late, but a problem such as graffiti must be completely integrated. This Bill has been drafted from a police viewpoint which is that if the graffiti is cleaned off quickly, it will discourage further acts of graffiti. These methods are starting to work.

The Bill seeks to amend the Police Act 1892 and it represents a preventive or proactive stance by the police to do something about the young people in the community who are committing graffiti crimes. The Bill states that if a person is found in possession of anything which could be used to cause graffiti, the person can be stopped, detained and searched. For example, if at three o'clock in the morning, a young person - we know that most people who commit graffiti crimes are approximately 10 to 24 years of age - is walking along the street and the police have reasonable grounds to suspect that person has committed the offence of graffiti, the police can stop, detain and search him. If the police find a spray can or an implement - even a large felt pen - on the person, it is up to the person to explain why he has in his possession an implement that could cause graffiti. The operative words in the Bill are "reasonable grounds". I perceive reasonable grounds to mean finding a person with a spray can containing red paint or some other red colouring implement within a kilometre of red graffiti on a wall.

One of the problems in Midland is that, as the graffiti is being cleaned up on a regular basis, some of the offenders have been transferring to graffiti on glass. They have been using sharp implements to do their graffiti in the form of pictures on the glass windows of some of the main shops. This is causing major insurance problems for many people. If police search and find some sort of glass cutter or similar implement, they can charge the person and confiscate the implement.

As a community we are continually asking the police to assist us. We are saying that the police are not doing enough and that they are not sufficiently proactive. This Bill gives them the ability to be proactive in catching and arresting graffiti offenders. It should improve the clearance rate of graffiti offences.

I will respond to some of the issues raised by the member for Bassendean. As with anything, this Bill is just part of a whole. The whole starts with families when children are born. Parenting skills need to be considered so children do not enter into a life of crime. We must assist families and teach parenting skills so that children learn ways to use their energy other than roaming the streets and committing graffiti offences. The emphasis must be on teaching the children and providing other activities for them so that they do not turn to graffiti. The member for Bassendean indicated that this is not happening.

I am pleased to report that, in the Midland police district, we have a local crime prevention committee and I attend some of its monthly meetings. It has a massive crime prevention program and its initiatives include setting up youth centre activities and blue light discos. The member for Bassendean said that no government agencies are involved in this matter, but he needs to be aware that officers from the Police Service, the Ministry of Justice, the Education Department, and the Health Department and other agencies attend these crime prevention meetings. Officers from these agencies in Midland attend the meetings and they work together with members of the community, including the local shire councils, to try to prevent crime. Their initiatives include helping families and working with the schools. It is a proactive approach to crime prevention which targets the families which the agencies know need assistance.

We also have the Geraldton cyclic offending program which involves the various agencies working together to clean up Geraldton. The member for Geraldton will know this program is doing a considerable amount of work in his area. Even though the member for Bassendean felt the various government agencies were not involved, I can assure him in many areas they are. The only problem is that this is a long-term approach and the results are evident only when the person gets to the age when he falls into the criminal category, but he does not turn to crime because of these preventive methods. There is no way to evaluate how many children in this category do not turn to crime, because we collect only the crime statistics.

I am pleased to support this very positive action by the Government to do something about preventing graffiti. I commend the Bill to the House.

DR EDWARDS (Maylands) [12.56 pm]: I shall place on record some remarks about this Bill. I hope it is not the kiss of death when I make a short tribute to the member for Swan Hills. I looked at this issue in some depth in my electorate, particularly when the agencies were asked, "What model can we use in our suburbs to tackle the problem locally?" As well as the initiatives contained in the Bill, we also need to tackle the problem at the local level in the suburbs. One model that emerged was that which has been used in the member's electorate, so we borrowed part of it and have successfully instituted it in some suburbs in my electorate.

Graffiti is a very serious problem, not only for my electorate, but also for the broader community. It is an environmental problem that is obvious when one drives around the suburbs, particularly those suburbs with many brick walls. It is also an emotional problem because people who live in an area with a lot of graffiti feel that their suburb is being devalued and that it somehow reflects on them. There is a suspicion that it also reflects on their property values. It has been estimated that the cost of cleaning up graffiti in Western Australia is \$4m to \$5m per annum, but it is probably greater than that. Given the amount of graffiti I have had to clean off my office in the past six weeks - it has occurred regularly about twice a week - I am sure the cost is higher than \$4m or \$5m if my experience is a reflection of what is happening elsewhere.

The report of the graffiti task force suggested 50 graffiti artists operate in Perth and a thousand other people are committing graffiti offences. From my own direct and indirect experience of graffiti, I am not very fond of the term "artist". In fact, when Bassendean was in my electorate, a so-called graffiti artist did some very good work on a local building. I went to the official opening and other members accompanied me, but unfortunately within about two weeks, the building had been horribly defaced and approximately two months later, the graffiti art was painted over using a standard plain paint so that when graffiti occurred in future, it could be cleaned up quickly. The notion of graffiti art is not really constructive.

While looking at the problem in my electorate I have spoken to a number of teenagers. Initially I found it disconcerting when we talked about some of the tags because at that stage they often knew who was responsible for each tag. I understand now, with everyone getting smarter, teams of people are using the same tag so it becomes harder to pin down an offender when a certain tag appears. It was a lesson to me when I spoke to these young people to find out how much they knew about graffiti and why they were doing it. Their stories about the risk-taking involved disturbed me. These included climbing on railway bridges where the line was electrified and putting a tag on it and getting on top of buildings, which seemed to be a rather dangerous exercise which placed them at risk. Unlike other cities, we have been lucky in Perth and have not had any dreadful accidents, such as those which have occurred along the railway lines in Sydney.

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

Dr EDWARDS: As I was saying earlier, in general the approach to graffiti has had two arms: One arm for people who have considered clean-up and law enforcement, and another arm for people who have considered prevention and design strategies. I will make a few remarks about those two approaches. It is now generally regarded that clean-up needs to take place as quickly as possible after a graffiti offence has occurred. I am pleased that clean-up has been accelerated in our suburbs over the past few years. There is no doubt that when graffiti persists for months it continues to be an eyesore and it attracts offenders to do other pieces of graffiti around it. Similarly, today we are dealing with a new measure that will bring in better law enforcement. On prevention and design strategies, I am pleased that on the few occasions when cameras have been installed in my electorate, they have been great deterrents in hot spots, but I hope the Government will announce that it will provide more cameras, because more are needed than the one or two that we have dotted around electorates such as mine which have much graffiti.

I was interested also to read an article published in the newspaper earlier this year about a suburban high school that changed the lights in the boys' toilet from white to yellow and painted the walls from grey to pink. As a result, with those drastic colours, the incidence of graffiti reduced dramatically. As well as instantaneous clean up and law enforcement, we should be more clever and more innovative about our preventive strategies.

One pleasing aspect of this is the coating on fences and buildings that helps greatly in reassuring people that if a graffiti offence occurs, at least it can be washed off quickly and not be too damaging. There should be a broad strategy though. I hope the minister in his reply will expand on the remarks he made on the announcements earlier today about broader strategies.

After the last election, I inherited, as part of my electorate, part of the suburb of Dianella and it became clear to me that graffiti was the number one issue facing people living in that area. Numerous surveys conducted, either by me or by the Dianella inter-agency group, showed that that was what people were saying was the number one problem. There are two reasons that it is such a bad problem in that suburb. The first is the design of the suburb. There are many brick walls on streets like Grand Promenade. Therefore, they are huge areas of brick that invite people to deface them. In addition, the suburb has a number of very busy streets with good public transport services. According to what police have told me, this has added to the ease with which people can move around the area, commit those crimes and go undetected.

In the past three years I have worked closely with the Dianella inter-agency group. We have raised this issue repeatedly. We have had meetings with the police from all levels, with politicians and with people from government departments to try to tackle the problem. The Dianella inter-agency group is a group of local residents and service providers who are trying to act locally to rectify this very serious problem. About two years ago, the inter-agency group hosted a meeting that included, among other people, the member for Nollamara, the member for Ballajura, the member for Yokine and me. At that meeting we raised the problems occurring in the suburb and neighbouring areas and asked people from the graffiti task force who were there to go away and look at the issue and do something about it. Most importantly, we offered them bipartisan support and a number of solutions that could be implemented. I am sorry that it has taken so long for them to take those messages on board but I am pleased that finally this Bill is before the House.

I want to turn now to make some comments about the costs of graffiti. The report of the graffiti task force listed the

costs being incurred a couple of years ago to local government and other government agencies. Even then, the City of Wanneroo estimated that graffiti was costing it \$200 000 a year; Stirling \$377 000 a year; and even the Swan Shire Council \$48 000 a year. They were probably conservative estimates. We also need to remember that those figures are a number of years old. At the same stage the then Building Management Authority was incurring a cost of \$476 000; Main Roads \$80 000 to \$90 000; and repairing the damage on trains was estimated to cost between \$25 000 and \$50 000 a year. We can see that the monetary cost to the community from graffiti is very high.

However, also there are many other indirect costs which should be taken into the equation and used as pressure to do something about the problem. For instance, when these problems occur, local and state government administrative costs are incurred, and there are rises in insurance premiums, the cost of increased insurance claims, and all the costs associated with law enforcement and corrections. All of that adds up to a very powerful argument to do something about a problem that is raging through certain suburbs.

In addition to that, there is a very high emotional cost. I want to refer to one couple who live in my electorate and have been to see me many times about this issue. The couple moved into Dianella having purchased a very nice new unit. Unfortunately, it had a huge brick wall that faced onto a busy road. When it was graffitied, first of all they were not in a position physically to be able to clean it. Then there were arguments with the body corporate about who should be cleaning it and whose responsibility it was. When that was sorted out, there was the problem of the damage that was occurring to the brick each time they cleaned it. To top it off they were then broken into when they were at home which, as can be imagined, they found extremely traumatic. They decided to move. However, they have had great difficulty selling the property because of all the problems they have had. Therefore, for them there has been a huge emotional cost and every time they see the graffiti they feel that it is adding insult to injury and it is something out there making them feel very bad.

I will refer to correspondence sent to me from other constituents to highlight the frustration people have felt about this issue in the past few years. I have a copy of a letter from a male constituent that was sent to the Commissioner of Police on 14 June last year. The man is very actively involved in Neighbourhood Watch and his wife is the manager for the area. They decided that because nothing much was being done, they would go out around 3.00 am to see whether they could see graffiti going on. On a cold winter's morning they got up, drove around Dianella and to their amazement saw a number of groups of young people wandering around the streets. They did the right thing; they did not confront them; they phoned the police. However, when this letter was written 15 hours later the police still had not responded to that call. They refer in the letter to youths that they saw and how some of them were carrying bags containing spray cans. They also believed that they knew where the people lived because they saw them going into a house. Again, all this information was passed on to the police.

Sadly though, I received that letter one day and the next day I received another letter. In the other letter the people point out that they went out again the following night and noticed a great deal of damage near the intersection of Morley Drive and Alexander Drive. In fact, to my horror, I discovered that this area was tagged again after it was cleaned up by Perth City Mission four days previously. As they said in the letter, the work of Perth City Mission was totally undone by the tagging that went on between 1.30 am and 6.30 am over one weekend.

I want to put in a word of thanks for the work of Perth City Mission. It covers the northern suburbs area that I am aware of and it has been very active in my electorate in getting out there and helping people clean off the graffiti and telling them how to clean it off so that if it happens again Perth City Mission does not have to be there physically. It has also been active in trying to rehabilitate young people back into society and the work force and getting them out there and cleaning off the graffiti. That is also an important element.

I return to the same constituent. A couple of months later I received a letter from the constituent's wife. She pointed out the graffiti that had occurred in Dianella over one weekend. They went for a drive very early on a Friday morning and found two properties in a very small area that had been damaged. They went out again very early Saturday morning and found six properties damaged, including a whole load of bus shelters; again early Sunday morning yet more properties, including power poles, had been graffitied.

One of the very serious problems that the Dianella inter-agency group has been concerned about is street signs that have been graffitied. Firstly, there is the problem with the sign itself being obscured, particularly if it is a stop sign or a give way sign. It would be appalling to think that an accident was caused because a sign had been tagged and covered up. The second problem then is cleaning these signs. They are really very difficult to clean because the sign can be damaged if they are not cleaned properly and that will create an even greater problem. Initially we had many problems because Main Roads was not responding very quickly and we felt that should be a priority. However, I am pleased that in recent times action has been much swifter.

As a result of many calls for action - probably including some from you, Mr Speaker - last year the City of Stirling and the Government initiated a clean-up program in sections of that council district. I am very pleased that in the sections of my electorate covered by the program it had an immediate and dramatic result. Morale lifted in the streets

badly affected by graffiti. One of the side effects was that the graffiti vandals reportedly moved out. In Bayswater we noticed an increase in graffiti activity after Stirling implemented that program.

An article in the *Eastern Suburbs Reporter* contained details of the activities of the Bayswater all-night security patrol in August and demonstrated the value of those patrols. As a result of their work, four youths were charged because they were caught spraying graffiti, another two boys were found carrying spray cans and glue, and later in the same month the patrol officers again caught people spraying graffiti. What is alarming about these offences is that some of those caught doing graffiti were carrying weapons, including a loaded pellet gun, an axe handle and baseball bats.

Today we are dealing with legislative action that will help address the problem of graffiti and I am pleased that that is finally being done. As other members have said, we must also ensure that we have an integrated strategy to tackle the various components of this problem. I hope the minister will tell us more about his plans in that area. In addition, we must be innovative in establishing the causes of graffiti and take other steps to stop people indulging in this activity.

I will finish my contribution by telling members about a project in my electorate. Maylands has a railway station parcels office that is about to be heritage listed. It is old and significant, and it has been well preserved. In the past it was defaced with graffiti, at times almost every night. A couple of years ago the inter-agency group in Maylands took over the lease of the building. Once we secured the lease from Westrail, we were able to develop a conservation plan for the building and then received a new work opportunities grant to restore it. Some of the people who helped with the project were long-term unemployed or young people who had difficulty getting jobs. Some may have been involved in graffiti strikes. Once they started to restore the building - painting it, repairing it and putting on a new roof - they sent a very strong message to other young people in the area that they should not touch the building because this group had worked on it. Since then it has had only one graffiti strike in about eight months. That example illustrates that, along with the legislation before us, we must have a range of other activities and solutions to address this very pressing problem.

MS WARNOCK (Perth) [2.54 pm]: I welcome the opportunity to support this Bill, but I must add that it is long overdue. I recall that as a candidate in 1992 graffiti crime was one of the very first concerns that was brought to my attention in the suburbs. I also recall that soon after being elected, the Premier made this issue his own. I am sure all members recall his promising some action almost immediately and the establishment of a special organisation to investigate the problem as early as 1993.

For several years, Citysafe - the community policing organisation that I have mentioned several times in this House - had a graffiti subcommittee of which I was a member. When the Premier set up his special investigation, Citysafe thought that the big guns had arrived and that it could steer people who came to it with concerns about graffiti towards that investigation body. It seemed the logical thing to do because the Citysafe group was scratching around with no money trying to solve this very worrying community problem. It seemed obvious that given it had somewhere to funnel those concerns it should do so. However, as is obvious to every member of this House and almost every member of the community, despite some legislative action and investigation of the problem, much very sincere concern on the part of members and some activity in the suburbs - primarily on the part of local government - the graffiti problem has not gone away. In fact, as my colleague, the member for Midland, explained this morning, we have experienced an enormous percentage increase in reported graffiti crime. Far from going away, it has become appreciably worse.

The person who first brought my attention to the problem of graffiti and how distressing it is is still active on suburban committees fighting this problem. She was very angry about it when she first contacted me some six years ago and made the very strong point that people find it extremely distressing to look at ugly, unwanted scrawls defacing not only their own walls but sometimes the walls of every other house in their street. She described it as a visual assault. I still remember that telephone call; I was surprised by the level of anguish she expressed. She outlined how she had come to join a community committee because she was so concerned. I looked into the matter and wrote letters about it. However, I still clearly recall her distress and how she spoke about it in very emotive terms.

It is obvious that people find this situation very distressing and offensive; they feel that their world is being invaded, messed up and destroyed by passing vandals. It makes them extremely angry. I do not believe that many members have not had some personal experience of graffiti and how maddening it can be. People want something done about it, and this Bill will go some way towards helping in the prevention of this maddening crime.

People want the perpetrators caught and to be made to pay for the damage they have caused. However, their primary desire is that graffiti be stopped - that applies to most crimes. Anything that we can do to prevent it will appeal to people a great deal.

Just last week a cafe owner in Northbridge called me and asked me to look at his damaged windows. The windows

had been scratched with a sharp object and they are very costly to replace - he has already replaced them once. I said that I hoped they were covered by insurance. He said they were but that it is expensive in time and unpleasant for his clients. Instead of looking out on a beautiful garden, they must look at nasty scratches and obscene words. He is very fed up with it and, although the damage is covered by insurance, he very much resents the way it looks and the fact that he must go to enormous trouble to get it fixed yet again.

What he would like, and what most people would like, is for the crime not to happen. If this proposed new provision allowing for police to search for, seize and dispose of graffiti implements is passed speedily - we are not doing anything to delay its passage - perhaps it will help in preventing this maddening and distressing crime. As I said, this legislation has been a very long time coming. Far from having improved as a result of the efforts that have been set in train already, alas, the problem has been getting worse.

Another call I remember about graffiti came from a business proprietor in Mt Lawley. Several years ago he sent me his own plan for fighting graffiti, and I sent it to the Premier and his antigraffiti investigation body. I hope it was taken into account; it contained very commonsense suggestions, some of which have been mentioned by members today. I am willing to bet that that businessman is still having to repaint his wall regularly and that he is still as annoyed as he was. He called me after he had sent the letter and told me that it was still happening.

Travelling regularly around those areas as I do, I am aware there is still an enormous problem in that suburb and in most of the other suburbs in my electorate. We, as members of Parliament, have an obligation to every person we represent to do everything we can to reduce this very distressing crime - graffiti vandalism. It is destructive, upsetting, and not surprisingly, it reduces everyone's quality of life. I will quote from another letter sent to me, which is one of the many letters on file in my office about this particular matter. This letter was sent more recently than the others referred to, and was received in August 1996. It referred to an area in Brisbane Street, Perth. A group of business people, who are architects and interior designers, wrote about a development they had constructed in that area consisting of six commercial units and six residential units. The letter states -

During the last twelve months on almost every weekend the building has been continually attacked with graffiti. The cost in removing this has run into the thousands of dollars. When reporting the damage to Police, the same response is given that they are unable to do anything as they do not have the available resources. That our police force is unable to police and protect our streets from this type of vandalism is frustrating and difficult to accept.

The writers of the letter tell me the graffiti was usually carried out on Friday and Saturday nights - I guess most people report that - and that it appears the same perpetrators are involved as the same signatures or tags are repeated. They state -

The visual defacing is disconcerting as it devalues property and as a whole instills unease in the people occupying the building.

They find it heartbreaking to do that clean-up job after every weekend. They refer to other commercial developments in that area and say they want to start work on developing another three large projects within the Northbridge area. They write -

Our clients have been reluctant to proceed as they believe that the recurring graffiti will have adverse effects on the immediate sales and leasing of their premises. They are not feeling confident that the problem is being dealt with and that they can optimistically invest their money.

People are genuinely concerned that it is not worth moving into an area if it is heavily covered with graffiti. This is the letter I passed to the Premier stating that neither the Government nor local authorities can ignore this vandalism because it has already cost the community thousands of dollars. In fact, it has probably cost much more than that. The letter continues -

It will continue unless action is taken to apprehend the persons responsible. Vandalism of this type and on this scale has the potential to stop developments worth millions of dollars.

That was the concern of the people who wrote the letter, apart from the personal distress suffered by all the people involved. The writers of the letter were also concerned that the graffiti problem is likely to cost the community in a different way altogether, because people may decide not to invest in the area if their beautiful new buildings will be covered with graffiti every weekend. The further point is made in the letter that Northbridge is visited by thousands of overseas and interstate tourists every day, who enjoy the restaurants and leisure-time activities. They write that we cannot afford to have an area which is famous for its entertainment values, so close to the heart of the city, and promoted very extensively for tourism and lifestyle, being attacked week after week by graffiti offenders. The letter further states -

There is enormous potential for future development. Allowing graffiti to continue without any seeming effort by the Government to solve the problem is both sad and senseless.

The writers of the letter asked me to bring this to the attention of the Premier, which is exactly what I did. It is a fairly good example of the letters I have received over the years, and I am sure most of my colleagues have received similar letters. Graffiti causes a great deal of distress, loss of income, and enormous inconvenience to people who must have their walls repainted or windows replaced. People are absolutely fed up with it, which is why the Opposition strongly supports this legislation, which it hopes will go some way towards preventing these activities.

I briefly refer to a recent article written by a senior constable in the New South Wales Police Service and Youth Arts Officer at Newcastle Community Arts Centre. The article was written in February 1998, and it suggests that people are on the wrong track altogether. It refers to all major States in Australia having implemented antigraffiti strategies, which have been largely unsuccessful. It states that Governments will not be successful in stopping graffiti unless they, in some way or other, identify members of the young community who are doing it. He writes that it is not good enough to put reactive strategies in place, but that the community must become involved with the individuals who, in most cases, are seeking fame or notoriety when splashing their unwelcome tags all over walls, street signs, trains and so on. The writer suggests that several other things must be done in order to get rid of graffiti. The title of the article is "Hip Hop Graffiti Culture". It deals with the graffiti culture and states -

Reactive organisations such as the Graffiti Task Force (NSW) did nothing to address the cultural and social aspects of HHGC.

He wrote that unless the community becomes involved and gets behind it, it will not be entirely successful in getting rid of graffiti. He gave the example of Victoria which, unlike New South Wales, became involved in trying to find out why young people were doing it and worked in different ways to get rid of graffiti. This was much more successful. The article states -

This was shown when the Victorian Government addressed the cultural issue leading to a decrease in damage from \$20 million to \$2 million (1990-1996).

All sorts of things must be done, apart from passing new laws. I do not suggest this Bill should not go ahead, because it is important to put in place preventive strategies. However, it is clear that other things must also be done.

The article states that education of business groups is of vital importance and must include issues such as modern antigraffiti building design, explanation of modern antigraffiti tactics - for example, early removal, antigraffiti coating, and placement of surveillance cameras - and the necessary support of legal projects by the provision of legal walls. In other words, places must be provided which people can decorate and hopefully this will stop them tagging all over town. The article refers to local courts providing a valuable tool in addressing the problem. Through the use of legal projects and local council clean-up crews as referral agencies for offenders, the culture can be further addressed. Reference is made to an alternative strategy in America -

The establishment of a dedicated court, such as exists in the USA, to deal solely with graffiti offenders, places a greater emphasis on redirection of youth rather than on appeasing public opinion by handing down large sentences.

Because Western Australia still has a problem so many years after the establishment of the Premier's special antigraffiti task force and the measures the Government took way back then, the measures being discussed today must be implemented, and quite clearly the community needs better solutions to deal with this problem. The final quote from the article is -

To fully address HHGC, strategies must include community, juvenile justice, local courts, local and State government, business groups, youth and social organisations, public transport organisations, law enforcement agencies, members of the culture and particularly arts and education bodies.

The article contains a series of suggestions, and I mention those in the course of discussing this issue today. However, I have no hesitation in supporting this move today, as do other members of the Opposition, because it is long overdue.

MR GRAHAM (Pilbara) [3.09 pm]: As other speakers have said, the general thrust of this legislation is aimed at the graffiti problem in Western Australia. It has a couple of interesting aspects for me, one of which is the increasing tendency of the police to seek specific powers for specific crimes when general powers probably exist. This is probably the best example of an issue that the police could deal with under the general rights and the general powers of apprehension that they have now under the Police Act, the Criminal Code and the Young Offenders Act. The police have general powers to conduct investigations and inquiries. This increasing and disturbing tendency of the police to demand specific powers from the Parliament is a bit of an Americanism in that the American legislative

system encourages members of Congress to write one or two-line Acts of Congress, both State and Federal, to make specific things either legal or illegal. That is a tendency that the police in Western Australia are starting to pick up from their interaction with their American counterparts.

If that is the way the criminal law will be developed in Western Australia, we will be setting up a system whereby the Legislature will be continually chasing the problem. Some people argue that we will never catch it. I will give members a very good example of a series of court cases in Washington DC regarding the manufacture of drugs, and a series of very sharp initiatives by what one would loosely call "drug lawyers". Certain drug houses were charged with trading in amphetamine-based hallucinogens but were found not guilty because the chemical composition of their products did not match the chemical composition outlined in the legislation; therefore it was legal. The Legislature then had to match the legislation to the drug being sold. As the Legislature was doing that, the people who were manufacturing the drugs were changing the components - but not the hallucinogenic part of the drugs; they were changing the carriers and those sorts of things. It is probably at the very end of the scale that I am talking about; however, it happened in Washington DC for about 10 years. It got as far as the national Congress and investigations were undertaken into the ways and means of it. I know that the national congressional committee of drug enforcement wrote some papers on it in the late 1980s. It is that detail of the law, rather than the general power, that gives me specific concerns about where we are heading with the police.

Having said that, the Opposition supports this piece of legislation because it has been the instigator of it and has been pushing for it for some time now. I understand that today the minister said that a joint ministerial announcement was made about some wider action associated with graffiti.

Mr Prince: No, it was to do with child abuse.

Mr GRAHAM: Sorry, I misheard. I thank the minister for clearing that up because it would be extraordinarily interesting if that were to happen, as in 1993 the Government made a series of announcements about how it would deal with graffiti. I think it can be said that there is a fair amount of acceptance politically that the Government's package would have an impact. However, the Opposition at the time - despite its not having the resources of the Government - found a gap in the series of proposals that the Government had presented. It is interesting to note during the five years that this issue has been around the manner in which it has moved from person to person and portfolio to portfolio. It initially started in 1993 with the Premier making all the announcements and all the running on graffiti; he was running in and making regular statements to the House on the degree of the problem and his view of how the problem was being improved by the Government's actions. As the problem has proved to be sustainable, the Premier's comments and statements have decreased in frequency, something I find extremely interesting.

A series of speakers have spoken about the need for strategies to be put in place to deal with graffiti and graffiti offenders. I accept that is the case and that the Government has made an attempt. I am not critical at all of the Government for making the attempt. I am critical of the Government for the ways and means it has gone about it and the fact that for five years it has completely ignored the Opposition's call for this type of legislation. It will be easy for the minister to say, "But this is not a piece of opposition legislation; this is a piece of government legislation". As Mandy Rice-Davies said, "He would say that, wouldn't he?"; he is duty bound to say that, being the minister. However, the facts of life are that in 1993 the Opposition started it all with the announcement of the graffiti task force and pushing and pursuing this sort of legislation. The Opposition introduced it into Parliament twice, the last time in November last year, nearly a year from the date that the Government, with all its resources, has produced its legislation.

I say to the minister, in case he feels determined to give the Mandy Rice-Davies defence: In May 1996 the Premier undertook, in response to some questions that he was asked, to give due consideration to the Opposition's legislation. A couple of things flow from that. He was the person who was responsible for the administration of the graffiti task force and the ministerial task force; he was responsible for the changes to the law resulting from the work of those bodies. He undertook in early 1996 to give consideration to the Opposition's legislation, which had at that stage been sitting idle for two years. He did not do that, or if he did, he did not relay the results of his considerations to the Opposition. He has not communicated on any faults with the Opposition's legislation, and neither, for that matter, at any stage in the past five years has the Government pointed out any missing link in the Opposition's graffiti network of actions or identified anything in them that are faulty, flawed or misjudged. That course of action is not open to the Government or the minister to claim today because we are debating the very sort of legislation the Opposition has been pursuing for five years.

I wanted to make one other general point regarding graffiti. I am annoyed not only by the inconvenience, the cost, the messiness and the untidiness of graffiti on public buildings but also by the absolute lack of imagination that its perpetrators display. Like many people who travel a great deal I spend time reading the writing on the walls of public buildings. Those of us who visit other countries and have used the British underground, the American subway and other public transport systems can read the graffiti and catch up on the political pressures or movements in those

countries; that is even true of some of the eastern States' capitals. However, Western Australia has this mindless tagging that has little, if any, cultural or educational value and no political value. As little as I value the perpetrators of graffiti, I would be more sympathetic if they had some sort of political or civil aim. The Vietnam War produced some amazing graffiti around the cities of the world. As offensive as I find graffiti, if it at least had a purpose I - and probably others - might get some pleasure or enlightenment out of it. I find the current graffiti offensive. When one considers the kind of foul and obscene messages that are painted on the private property of restaurateurs and shopkeepers it is no wonder that people get angry.

It does not matter particularly what legislation we pass in this Legislature, it will not be effective unless and until the police go back on the streets. I make that point quite unashamedly. These laws will have no effect and no force unless and until the police get out there and catch the culprits.

Mr Prince: It is self-evident.

Mr GRAHAM: The police are very good at recovering stolen motor vehicles; their record at catching the thieves is pathetic. In the case of breaking and entering crimes such as burglary the police have a pathetic record of catching housebreakers. A thief in the suburbs of Western Australia has less chance of being caught than an underground goldminer has of being injured at work. A criminal in suburban WA has an 80 per cent chance of escaping capture, and that is the situation with the perpetrators of graffiti. In the first full year of operation the graffiti task force, which has received \$250 000 of government funds, caught 268 people. That is not a huge number.

Mr Prince: The figure is now over 1 400.

Mr GRAHAM: The police must get out there and capture them. They can do that only if they are out on the streets, and that is another debate for another day.

MR THOMAS (Cockburn) [3.24 pm]: I am pleased to participate in the debate and support the position adopted by my colleagues on this side of the House, which is to support the Bill.

Mr Prince: Is your tie an example of the subject matter or is it some cultural icon?

Mr THOMAS: It was purchased in company with the member for Roleystone in a foreign capital some time ago.

I am pleased to have the opportunity to speak but do so with a degree of reluctance. I feel strongly about this matter. I was a victim in recent months, and I found it upsetting. I have thought about it a fair bit. I am prepared to support this legislation - albeit reluctantly, because it is a draconian Act that will reverse the onus of proof.

Mr Prince: Only in an evidentiary sense.

Mr THOMAS: That is right. It will give the police the right without warrants to stop and search people. The amendment proposed in this Bill sits in a section of the Police Act which is fairly authoritarian and, for the most part, not enforced. Section 65 states that it is an offence to be a person having no visible means of support. I have always thought that to be outrageous. I suspect it would be an unfortunate state to be in, and it would be absurd for someone in that position to be fined \$500.

Mr Prince: I defended a case once and got him off.

Mr THOMAS: I am glad. Section 65(3) reads -

Every person wandering abroad, or from house to house, or placing himself in any public place, street, highway, court, or passage to beg or gather alms, or causing, or procuring, or encouraging any person to do so, or begging or gathering alms in any other place and not quitting such place whenever thereto bidden or requested.

Mr Prince: It sounds like a political candidate.

Mr THOMAS: That is not enforced too often! I found section 65(4aa) even more bizarre. It reads -

Every person who, not being an exempt person, has in his possession any protective jacket, vest, or other article of apparel designed to resist the penetration of a projectile discharged from a firearm;

It is an offence to have a bulletproof vest. I hope it would not be necessary for many people to have them, but it should not be an offence to have one. That is a rather strange section of the law I did not know existed until I looked at this legislation. This legislation, being strange, sits quite comfortably in that part of the statute.

Mr Prince: It was your Government that brought it in during 1992.

Mr THOMAS: It may have done; I do not recall it. I am not distressed about it. Why cannot someone wear a bulletproof vest? It would seem to be a citizen's right to do so if that is what he wants.

I have thought about graffiti because I was a victim of it. Somebody came around and painted one of my cars and part of my house and broke into the house.

Mr Prince: Not the Rover?

Mr THOMAS: No. I was pretty upset about it. They did not steal anything but damaged the place. To be frank the cops were hopeless and I saw no chance of anyone being caught. I went around myself and kicked in a few doors. I narrowed it down to one or two people who could have done it, and dealt with the matter myself.

Mr Carpenter: He took the law into his own hands.

Mr THOMAS: I have thought about this a great deal. Most of us here are middle class and middle aged. We tend to dislike, or even hate, the young people who do this sort of thing. Why do people want to damage the property of others? It is difficult to put ourselves into their position. If people continue to do that, we must have laws such as this to protect property and people, but it is not the solution. People of our age and position in every generation tend to think the younger members are not as respectful of people and property as we were at their age. No doubt our parents probably thought the same about us, and there is an element of truth in it.

Mr Prince: I will provide a quote: The young people of today are tyrants. They take no notice of their elders and do not respect them - Socrates, 400 BC.

Mr THOMAS: He got his comeuppance. I will not give the minister any hemlock! As I was saying, that is a tendency in every generation. There is a qualitative difference in the situation which applied when I was in the age group of those people who damaged my house. We must ask ourselves why it is happening. We must look at why these people are alienated. In the true sense, the word "alienation" means to be separated, not to belong, not to be part of a community. These kids do not feel the society around them is something of which they are part or to which they belong in any way. For the most part they are unemployed. The root of the problem is that they have no jobs.

Our generation is very fortunate. A couple of weeks ago one of my colleagues made the observation that people in our generation are the only ones in recent history who have been more fortunate than both their parents and their children. We have never known unemployment on any serious scale. Our parents experienced the Depression which resulted in the most severe unemployment in modern times. In my electorate youth unemployment is as high as 30 per cent. In some areas there is second-generation unemployment. The parents have not had jobs and these kids have no expectation that they will have jobs. In that situation people have a greater propensity to engage in antisocial conduct and be involved in the activities we find offensive.

I am prepared, with a heavy heart, to support this legislation. I do not like a situation where police, without a warrant, can wander around and search people. I prefer that it not be necessary. Nonetheless, if it is necessary to have such laws to deal with this problem at a policing level, so be it, and I am prepared to accept that situation. However, when passing these sorts of laws, we must be mindful of the fact that we are dealing with the symptoms, not the disease. In my observation of the society in which we live, youth unemployment is the most serious problem. Prior to its being closed by the Federal Government, the Commonwealth Employment Service had an office next door to my electorate office. A continual parade of people passed the window where I sit on their way in and out of that office. I could see some people who were not only unemployed, but also unemployable, and not likely to get jobs in the foreseeable future. We have a situation where some kids leave school and after a year or two they do not know how to get out of bed in the morning. They do not acquire the habits of work. Why should they change? They have nothing to get up for. Society has not offered them anything, and we should address that seriously.

In recent months there has been controversy over the proposal to build a major industrial facility at Jervoise Bay associated with the petroleum industry which could create, it is suggested, 1 600 jobs. Many people are opposed to that facility - the majority are in favour - because they do not want it built on Cockburn Sound, a very beautiful stretch of water which should not be used for industry. I have countered - I have plagiarised my colleague the member for Peel - by saying the most serious form of pollution in our area is 30 per cent youth unemployment. That is much more serious than a few hundred metres of coastline which will be used for industry. I accept it is a beautiful coastline, but it is much more serious to have large numbers of young people unemployed.

We can counter these problems only through economic measures and those that facilitate growth of employment and a prosperous society, rather than draconian laws, necessary as they may be. At the end of the day most people will not get caught. If thrill seeking is what they are after, people will be able to find a way to evade capture and to experience whatever buzz they get out of defacing property. Although the law might have some effect, at the end of the day it will not counter it. We must give people a meaningful place in society, a sense of belonging and an opportunity to achieve and to own property. When they do that, they will be less likely to be of a mind to despoil that of others.

MR CARPENTER (Willagee) [3.37 pm]: I concur with the general tenor of the remarks of the previous speaker.

I have some concern as to the legitimate motivation and effectiveness of the legislation we are debating. I notice the first paragraph of the second reading speech outlines the scenario where police until now have been powerless to prevent graffiti offences prior to their occurring. I ask the minister whether he has any idea, in general terms, of the frequency of incidents where the police have been aware of the likelihood of graffiti being placed on public property and have been unable to prevent it from happening.

Mr Prince: I can't answer that. I can ask the officers who may be able to do so. I suspect it will take time to search the records. The number of people who have been apprehended has gone up to over 1 500 in the past year, which is an increase of more than one-third over the previous year.

Mr CARPENTER: I am glad the minister has provided that information, because I intended to ask about the number of people who had been apprehended and charged.

Mr Prince: Some are charged and some are not.

Mr CARPENTER: It seems unlikely in most conceivable circumstances that the police would find themselves in a situation in which they were aware that graffiti was about to be placed on some public property but were unable to stop it. I find that scenario incredible.

Mr Prince: That would be very rare. If the police can catch a person in the act of committing the offence, they can arrest that person. The problem arises when they see the graffiti and a person nearby and believe the two are connected, but they do not see the person do it.

Mr CARPENTER: I believe - it may be a naive belief - that it is most unlikely that the police would come upon freshly painted graffiti, or whatever, with the offender within sight. The real problem is that while, as the minister said, 1 500 young people have been apprehended and charged with graffiti offences, the incidence of graffiti in the city has not diminished significantly. I wonder whether this legislation will do much to address that problem.

Graffiti is an interesting phenomenon. The word "graffiti" comes from the Italian word "graffito", which means a scratch or a mark, usually on a building or wall; and even earlier than the Roman times and the time of Pompeii, the Greek word "graphein" was used to describe writing, pictures or scratches placed upon a wall and in public view. The word "graffiti" came into the English language in the latter half of last century. Graffiti is a historical phenomenon, and it is more common at some times than at others. It is interesting that in Great Britain in the latter half of the last century there was a fair degree of social dislocation and unemployment, and graffiti appeared on the walls of public buildings, which concerned the people at the time. It is now 100 years later and we have a not-dissimilar scenario.

We support the legislation because we support moves to help eradicate what is in many people's eyes a social blight. My view of these matters is not dissimilar to the view of the previous speaker. My view is also that the absence of a visual deterrent contributes to the situation of graffiti taggers, as they are known, being able to go about their business. The absence of a visual deterrent in my area is an absence of law enforcement officers on the streets of the electorate of Willagee and the southern suburbs of Perth. I find that situation most disturbing.

I have had some questions on the Notice Paper for some time in an attempt to extract from the Government the number of police officers who are available on the streets. I have asked numerous questions, and they are perhaps quite complicated, so I appreciate that some time may be required to provide those answers. I had hoped to receive those official answers by now, but I have not. In the meantime, I have done my own research, and I have spoken to people who I am 100 per cent confident can provide me with some of the answers that I am seeking from the Government. I am glad that we have a new Police Minister, because the previous one probably got sick and tired of my talking about this issue.

The only police station that I had in my electorate was Hilton Police Station. That suburban police station once had attached to it 14 or 15 police officers. That station has now effectively been closed and the officers transferred to the new Murdoch Police Station, which is some considerable distance outside of my electorate. I was given a number of assurances about the closure of that police station. The first was that it would not result in a diminished police presence in the electorate of Willagee. The second was that the Hilton police station would not be closed. That second assurance has been honoured, but only in name. The doors of the police station are occasionally open, and sometimes a clerk or some other person, and occasionally a police officer, is inside, but no effective policing is done from that police station.

Brentwood police station, which was slightly outside my electorate but covered some of my electorate, was a little larger than Hilton police station and had 14 to 17 police officers. That station has also effectively been closed and the operations transferred to the new Murdoch Police Station, with the assurance that more police officers would be available for work because the resources that had previously been put into bricks and mortar could be freed up to provide a greater police presence on the streets.

The information with which I have been provided tells me that when Murdoch Police Station was opened with some fanfare in May or June this year, 40 police officers were attached to that police station. A case could be mounted that that did result in a higher police presence in the suburbs of which I am the parliamentary representative. In the interim, the police numbers based at Murdoch Police Station have been whittled away and reduced from 40 to about 22. Not all of those police officers are there at the same time. I have been given a breakdown of the number of police officers who are available on each shift. It is quite an eye opener to compare the number of police officers available with the area and the population over which they have jurisdiction.

Murdoch Police Station generally has 15 full-time police officers, 4 probationary officers who are fresh from the academy, and three sergeants, which on a normal accounting basis comprises 22 police officers. One youth liaison officer and one reserve officer are taken out of this number, which leaves potentially 17 or 18 officers on the streets at any one time. In addition, two or three police officers are on annual leave at any one time, which leaves 14 or 15 police officers effectively operating out of that police station, which covers 21 suburbs. It is interesting to note that according to the information I have, Brentwood police station had around this number of police officers attached to it before it was closed, although it had only two police sergeants rather than three. Murdoch Police Station covers an area that is twice the area that was covered by Brentwood police station and has 23 times the population.

I turn now to the breakdown of the shifts that operate out of Murdoch Police Station. On the day shift, two vans and four constables operate out of that police station, and the office has a senior sergeant and a sergeant, and the reserve officer and the youth liaison officer. On the afternoon shift, two vans, four constables and one sergeant operate out of that station. On the night shift, one van and two constables operate out of that station, which covers 21 suburbs. In other words, one police unit covers 21 suburbs at night. If there were a major incident such as a death, an accident or a crime, those two police officers and one van would be tied up for the best part of the night, leaving those 21 suburbs unattended from Murdoch Police Station. There is of course Fremantle Police Station, but that has always been there. I am assured by the people who provided me with the information that the capacity to police the area that I represent is much diminished. I have no reason to disbelieve that when I marry it up with the information that comes to my electorate office from my constituents. As I have said, there is one police van with two officers to cover 21 suburbs at night. From midnight on there is no-one at Murdoch Police Station. After midnight, calls are patched through to Fremantle Police Station. That leaves a very large area of the southern suburbs of Perth thinly covered.

Mr Pental: Very thinly. I am just checking that I am interjecting on the right Bill.

Mr CARPENTER: It is the graffiti Bill. One does not have to be very imaginative to see the connection.

Mr Prince: The member for South Perth is dealing today with the same Bill that he dealt with last night when we were dealing with another Bill.

Mr CARPENTER: I remember that.

The anecdotal evidence that comes to my office is that in the past few months the absence of police officers on the streets of suburbs such as Hilton and Coolbellup has had an effect. The effect has been an increase in crime by miscreants, for want of a better word, who know full well that very few police are around and likely to apprehend them in the act and that police are some distance away should they be called after the act. The suburb of Coolbellup had until a few months ago a relatively good crime record for recent times. I am assured that the crime rate was down to a couple of break and enters a week and at a not outrageous level for other crimes. I am told that the figure has grown to about 20 break and enters a week over the past month or two. That is up to 80 a month compared with less than 30.

The point I am labouring to make is that we can implement all sorts of legislation to improve the possibilities of apprehending people by increasing penalties, widening the breadth of potential crimes and providing police with greater powers of search and seizure, but if the police are not on the streets in the suburbs, it will not make a lot of difference. The new Minister for Police would be better off focusing attention on what is happening with the available police resources and whether they are being used to their maximum effectiveness. It seems to me that it is very possible that they are not. Providing police with the capacity to search and charge people who they believe may have been involved in graffiti will not have much effect if there are not enough police to enforce the law.

I noticed that in the second reading speech the minister said that graffiti in the community makes some people, particularly the elderly, feel intimidated. I am quite sure that is correct but what makes them feel a helluva lot more intimidated is when someone comes barrelling through their back door, knocks them over, pinches their purse and charges out the front door. They are much more intimidated by that than by waking up in the morning and seeing paint sprayed on the front fence or on the local shopping centre. If the primary objective is community safety and community reassurance, it might be better served by having a different focus. As I have said, I am not opposed to this piece of legislation but perhaps efforts should be focused in other areas as a higher priority.

I made the comment last night in the debate about another matter that Western Australia is the poorer for the lack of an effective and reputable civil liberties association. I repeat that because with this sort of legislation civil liberties matters arise. Circumstances will arise where young people feel they have been unfairly targeted or intimidated by police as a result of the capacity this legislation provides to the police. Members can stand up in this Parliament and have debates about that but it generally does not get reported and often gets lost in what is seen as political partisanship. We should be careful in the way we respond in these sorts of circumstances with what powers we give the police and who is playing watchdog on the police as they make use of the powers that we give them. It is a shame that in Western Australia the Civil Liberties Council of WA has been so discredited and is not worth listening to. It is a great shame that we do not have a reputable organisation to raise community concern and awareness about these sorts of issues.

In summary, the Opposition supports this piece of legislation and I hope that it achieves the objectives it sets out to achieve.

MR BLOFFWITCH (Geraldton) [3.56 pm]: I must pass a few comments on the Government's approach to graffiti. By giving these powers to the police the Government is moving in the right direction. I have had many police officers say to me that they see young fellows with a pen or a can sticking out of their pockets. Until now they would be reluctant to search them because, depending on who the child is, the police can end up in some strife if the child has not used those articles. By giving police these powers, we will be giving them the opportunity to get out there and pursue potential crime.

Our problem is that we do not have enough police on the ground. That is why a lot of graffiti is happening. Geraldton Police Station has 75 members of the Police Force attached to it, 25 of whom have been seconded for a robbery detail. Most of those pair up and away they go. The day shift of 10 brings the number of officers available down to 40. With three shifts there are approximately 12 or 13 officers on each shift. There are a couple of vans and four or five officers in the police station. The problem is that when a lot of people are employed who get six weeks' holiday a year, seven people are needed for every six to keep the continuity going. To ensure continuity of staff, instead of 70 people, 80 are needed to ensure that someone is available to man the phone or do the job all the time. There is no flexibility with these numbers. Geraldton could do with at least another 30 to 35 police officers. Geraldton could then end up having a couple of police wandering down the street and through the arcade keeping an eye on children, because those are the spots where graffiti artists strike. That is where children get stuck into defacing walls. Building walls are painted using brushes, paint cans and various other implements. A greater police presence on the streets would overcome many of these problems.

The member for Cockburn made the very good point that the majority of people who graffiti are unemployed. They do not have a lot to do in life, other than a little mischief. The tragedy is that they do not stop at graffiti - the next step is home burglary, and then gaol. People in my community are tired of people caught for graffiti being punished through community service orders. It costs about \$3 000 to restore the wall or damaged property, yet the culprit's penalty is three days' community work. The kids regard it as the greatest joke in the world. Nothing happens when they are caught. Where is the fear? What is the point? They carry out these acts with reckless abandon.

We must change our attitude to such damage. Society is asking us to make that change.

A member interjected.

Mr BLOFFWITCH: As for flogging these culprits, it is something that the community demands. I have always said I am in favour of flogging. However, its introduction must be a community decision on what, how and where it is done. At our next state election, I would like a referendum on corporal punishment. We should ask people whether flogging should be the punishment for graffiti, assault and various offences. If people say yes at that vote, as politicians we should follow people's wishes.

Mr Kobelke: If you believe in that, why not argue for it in the community? You're weak!

Mr BLOFFWITCH: I have argued for that policy in the party room. Like the Labor Party, we have many whips in our party room with people stating it is too hard and cannot be done. People in my electorate say, "We want you to do it, Bob." My surveys indicate that 75 to 80 per cent of people are in favour of that proposition. The way to silence all the do-gooders in the world is to hold a referendum. If people support that punishment, we should go ahead and apply it. Unless a little pain is given as a penalty for these activities, they will never be stopped. One is not dealing in most cases with a well-balanced kid with whom one can reason. We speak of someone who does not get out of bed in the morning, has no job and has little to look forward to in life. Unless a penalty of a punitive nature is applied, attitudes will not change.

Mr Carpenter: They will look forward to that! They will get out of bed to get a flogging!

Mr BLOFFWITCH: They will take more notice of that than two days' community work. It is the way to go.

Mr Carpenter: Did you hear the Minister for Police say that 16 countries, apart from Singapore, still flog people? Do you know the crime rates in those countries?

Mr BLOFFWITCH: I know that the crime rates in Pakistan are not very good. However, that is no wonder given the poverty and unemployment in Pakistan. If we had such poverty and unemployment, our crime rates would be 10 times the current levels. What sort of an example will we use? We could say that crime is much worse in Bangladesh than in Australia. A country in civil war would have much higher rates than Australia's.

Some trepidation must be involved about the punishment to be given. The current measures are ineffectual and mean nothing to anyone. In most cases we send the kids to Riverbank and juvenile detention centres. We are worried about the new no-go policy as these young people become ingenious in those places about how to take cars. We must address this issue. The punishment must fit the crime. We are doing nothing about graffiti at this stage. We should take stronger action.

I say to the Minister for Police that we need more police. This represents an expense to the state. No matter which police station one visits at night, one will find that instead of eight or nine officers, only three or four officers are on duty. The other police are off on long service leave, sick leave or annual leave. We do not have sufficient officers to do the job. If we are serious, we must get behind our Police Service and increase its numbers - a large increase. Something is wrong with police attachments and rosters. We must ensure that our streets are safe and are patrolled. Once this legislation is passed, we need sufficient police to apply it and act sensibly for the community, which wants us to address the problem.

I support the legislation and wish the minister well. The minister should consider putting a submission to Cabinet seeking more police officers. I am sure Geraldton is not the only area suffering from a lack of police officers. Superficially, it appears that police numbers are sufficient. The local station has 75 officers, with an allocation of 25 people per shift. That appears to be plenty. However, when it is broken down to who is, and who is not, at work, one is surprised by shift numbers. I do not know whether we must change the leave or rostering arrangement. Nevertheless, some changes are needed to place more police on the beat apprehending villains. I hope the measure is passed quickly.

MR KOBELKE (Nollamara) [4.08 pm]: Graffiti is a major problem in my electorate and undoubtedly the electorates of many members. It is a cause of great concern to many people, particularly those directly affected by having their property vandalised. I support the Government's move to create an offence of being in possession of a graffiti implement in suspicious circumstances.

However, we must recognise that graffiti is a symptom of the greater problem, although it is a real problem in itself to many affected citizens. If we do not understand the many reasons for young people's involvement with this vandalism, we will not solve the problem. We must look to the alienation and lack of self-respect and sense of belonging in the community which is evident among subgroups of our young people. If we do not address those matters, this legislation will have no effect. We must also ensure that the legislation, and its implementation, does not increase the problem by making cult heroes of some young people; that is, some people seem to gain esteem in their groups by tagging as many sites as possible. We need to ensure that the legislation's implementation recognises all elements of the graffiti problem.

The record of the Court Government in combating graffiti is lamentable. Graffiti has been a problem for many years. The Government clearly stated in its 1993 election campaign that it would do something about graffiti, but it has sat on its hands and done absolutely nothing. Graffiti went from being a bad problem to being completely out of control. Although the level of graffiti has waxed and waned, the overall increase in graffiti has been quite marked during the term of this Government, but in large measure it has responded with rhetoric. Some dollars were spent on the problem late in the piece when the Government was prompted to the point that it was forced to respond, but it has been very slow to tackle the graffiti problem.

We need to make a clear distinction between the Government's seeking the involvement of people at local level - the involvement of specific communities - in addressing the graffiti problem and the Government's abdication of its responsibility to deal with the issue. There is a fine but important distinction. The problem will be solved only if the Government involves local communities. That is essential.

The Government, in its total inaction over the past few years, has actually forced councils and community groups to become involved and to take action. They have dragged the Government along behind them. However, the Government has tried to put the spin on it by claiming credit for something that was largely driven by the local community. There has been an abject failure by the Government to take the lead and introduce proactive campaigns to which it is committed and then to involve the community. The Government should have been doing that rather than window dressing.

In my area, the City of Stirling has been greatly involved, and the Government has ridden on that and it has made a contribution. However, the problems which existed led the City of Stirling to take the initiative; the Court Government did not take the initiative. Thankfully, it fell in behind and it is providing support.

The Government has not even won the propaganda war. All the hype in the world does not work with graffiti. The Government can tell people what a marvellous job it is doing in fighting graffiti and it can put out press statements saying how the various programs are working and involving people, whether or not that is true, but the fact is that graffiti continues to go onto walls and buildings in the suburbs. It shows the lie in the words of government press releases and statements when the clear, objective evidence on the streets is that graffiti is a major problem which the Government has failed to tackle.

In my area, graffiti has been a major issue. It shifts from one suburb to another, but currently the commercial area around my office is graffitied almost nightly. On average, my electorate office is graffitied twice a week. It is usually something minor that can be cleaned off, but it is a regular, serious problem. I attended some meetings of the Dianella inter-agency group, which was set up by the member for Maylands, whose electorate also covers part of Dianella. That small group of people were determined that they would get something done, so they invited to their meetings the members for Yokine and Maylands, and other members of Parliament to pressure for something to be done.

After that meeting, 12 months or more ago, the member for Maylands, other Labor members and I put up a proposal which is similar to that in the Bill, but the Government knocked it back. It rejected our proposal to make it an offence to carry graffiti implements at night. The Bill extends the period to the whole day, and that causes some problems that we will be able to discuss during the committee stage. If there is to be an element of suspicion about what a person will do with graffiti implements, it is easy to establish that, if the law applies only in the hours of darkness. There will be borderline cases. Some people will be in possession of implements that could be regarded as graffiti implements and it might be difficult to ascertain their intent. In fact, they might be wrongly charged. We need to be careful that we do not make victims of people who are not involved in graffiti.

The City of Stirling has several teams operating throughout the municipality. The City of Stirling has made a large financial commitment to removing graffiti. Without that work, the area would probably look like a war zone, because it is bad enough as it is now. The three or four City of Stirling teams cannot keep up with the problem. The teams went through Mirrabooka and around my office three or four months ago, but they need to go there every week. Once the teams move out of an area, the graffiti takes over again. That reflects that, of itself, this measure will not solve the problem.

Opposition members have supported such a measure to make it easier for the police to charge people involved in graffiti. If they must catch people in the act, it will be extremely difficult to obtain a successful conviction, but by providing an offence of carrying a graffiti implement in suspicious circumstances we will give the police a weapon which will make more effective their programs to deal with people creating graffiti.

We are dealing with a small group of young people. The member for Geraldton talks about bringing back the lash and so on, but he does not realise the damage that such statements cause our young people. The outlandish and unworkable option of whipping people tends to be regarded as applying to all young people. The distinction between the perpetrators who need to be dealt with and the overwhelming majority of fine young people is not necessarily conveyed in the rhetoric. The picture that can often be conveyed to many young people is that they are not appreciated in our community and that they will be set upon if they do not meet a certain standard. That is totally the wrong way to look at this matter.

I am sure that the member for Geraldton recognises, although it is not clear in what he said, just how fine the majority of youngsters in our community are - consider, for example, their wonderful achievements and their contributions to our community. The emphasis on being punitive can be counterproductive. We need to recognise the real strengths of our young people and the huge challenges that they face, and be realistic in how we address the problem. We must focus on the small number of young people who, for whatever reason, are involved in unacceptable acts of vandalism which we need to stamp out, but we will do that only with a total approach. This Bill contains one element of the whole fabric which must be put in place to try to tackle graffiti. We certainly support it.

I have undertaken to the minister that I will not take too much time, as he wishes to respond to the debate today, so I will not go into details but I emphasise again our support for the Bill and repeat that the measure must be seen as one of a range of matters that must be put in place to tackle the issue. The Government must have an integrated approach. It must also have the will to do something and get away from the approaches that it has taken to many issues - that is, being involved in window dressing and getting the hype and media right but not effectively addressing the issues.

The problem is too big, it has gone on for too long, and it will not be fixed by a smart knee-jerk reaction such as this

legislation would be if it were not part of a totally integrated strategy. We support it and we look to the Government to develop a totally integrated strategy to which it is fully committed so that something can be done about graffiti.

MR PRINCE (Albany - Minister for Police) [4.20 pm]: I thank members for their support of this measure, albeit I understand that some issues will be raised during Committee. The member for Midland said that those concerns largely relate to what is seen to be an extension of police powers. However, all members have said and have appreciated that it is necessary in order to apprehend those who participate in this form of vandalism for police to have the power to detain and search before they can effectively charge the person under suspicion. It is for the person accused then to rebut the suspicion. The debate in Committee on those matters of principle will be interesting. The proposed amendments will deal with the matters I have just mentioned.

In respect of the passionate rhetoric from the member for Nollamara -

Mrs van de Klashorst: You mean the rubbish.

Mr PRINCE: Yes. It was more succinctly put earlier by the member for Bassendean. We have an integrated antigraffiti strategy as a result of the very good work done by the task force authorised by the Premier in 1993. The graffiti task force has been working since then and the result of its work is a significantly lower recorded incidence of graffiti in the city area than that in comparable places elsewhere in Australia and in other similar places around the world.

There is certainly an endeavour to deal with this criminal activity in all three areas that I described yesterday when dealing with the Criminal Code Amendment Bill (No 1). That is, we must deal with the causes of crime that are largely to be found in early childhood and poor parenting. We must deal with the environment in which crime can occur so that the opportunity for crime is minimised as far as possible. The immobiliser scheme, the redesign of roadways and street lighting and in this instance the introduction of laws that enable police to work in an environment in which they can apprehend people without seeing them committing the offence are all part of that endeavour. As legislators, we must deal with the question not only of the law but also of the offence and the punishment. It is the police function, in respect of the environment and the enforcement of the law, to be seen to apprehend offenders and to work with the tools they have been given by this Parliament in terms of both the law and resources. That is part of an integrated crime strategy.

The Safer WA Committee, which is now a standing committee of the Cabinet, chaired by the Premier and the Deputy Premier, includes as permanent members the Ministers for Justice, Police, Family and Children's Services and Local Government. It has the ability to co-opt all other ministers from time to time as their portfolios become relevant. Education, Housing and so on come to mind.

As far as I am aware, this is the first time any State has decided to deal with the issues of community safety and security and of lack of obedience to the law - of disorder, not law and order - using a total, across-government integrated approach. This is a real step in the right direction that will lead to some positive results in time.

The member for Bassendean wanted to know the degree to which the legislation will have an impact. In the time since he spoke I have not been able to obtain the figures. However, I will provide them as soon as possible if they can be found.

He also raised the question of control of the sale of the implements used for graffiti, particularly spray cans. The other materials that come to mind are glue, methylated spirits and other totally legitimate objects than can be used for self-harm or to harm others or the property of others. Glue, methylated spirits and cans of spray paint are traditionally used in these activities. If they are sprayed into a paper bag and inhaled, that constitutes substance abuse. One proposal is that we control the sale of these items and thereby their abuse. The difficulty obviously arises in controlling them in a way that enables them to be sold for their proper purpose but not at the same time create a black market because they effectively become unobtainable. Those approaches have not been successful in the past.

The member for Bassendean was also critical of what he thought was an attempt to shift responsibility - particularly for clean up - to local government. In fact, local government has a distinct responsibility and that is accepted, although it has taken some time for some local government authorities to accept it. They have the means and ability to deal with this issue; the State Government does not. We can simply resource bodies such as the Police Service and introduce appropriate laws and attempt to guide them through this place.

The campaign in the Stirling City Council area has led to a major increase in reports of graffiti, which is what it set out to do. It has resulted in a 67 per cent increase in reports in the Mirrabooka district alone from 1 549 to 2 297 reports.

Other local authorities are also reporting in; for example, the City of Wanneroo began reporting in July 1997 and its 1 468 reports to June 1998 account for over half the reported statewide increase. People are now reporting graffiti

strikes whereas they have not done so previously, particularly local government authorities. We must always look at the data from that point of view; that is, we are receiving reports from many people who have not previously bothered to do so.

In 1997-98, the Police Service dealt formally with 1 543 people charged with graffiti offences - some of whom may well have been dealt with more than once - compared with 1 082 in 1996-97. That is an increase of approximately 500 cases or over one-third in one year. That demonstrates that the police are doing a very good job in apprehending and dealing with many of the people committing this type of offence.

However, it is true that the legislative powers available are insufficient. The current law requires the police to see the offence being committed or to have a confession before they can act against a perpetrator. People who have a spray can, a wax crayon, a lipstick or a glass cutter in their pockets where it cannot be seen and who are not seen committing an offence cannot be apprehended. This legislation will give the police the power to stop, search and then accuse. If the person can then give a legitimate reason for having those implements, that is the end of it. This is not new; there are many other examples of this type of power in the Police Act, although I grant that they are old. In this case, the evidential burden is passed to the person accused.

With regard to local authorities generally, I mentioned the Stirling campaign. The City of Stirling spends \$90 000 per year to get rid of graffiti and aims to do so within 24 hours of its being reported. A report dated 9 August from the Subiaco City Council indicates that that council has allocated \$50 000 to clear the city of graffiti. That program covers not only publicly-owned buildings but all buildings in the area. I know that other local authorities are doing the same thing.

This campaign also involves the Perth City Mission, which organises murals and so on. Many people are involved in this campaign and we are gradually winning the fight. However, to be able to do so and to do it well, we must empower the police to deal with the relatively small number of primarily young people who cause a disproportionate amount of damage in our society. That is by no means a labelling of all young people, because the overwhelming majority are excellent citizens getting on with life and having a fabulous time. I will be more than happy to hand over this State to them when they reach maturity. It is the relatively few who offend whom we are endeavouring to reach with this legislation.

A number of members referred to police powers and the way in which the legislation is structured. I look forward to that debate during the committee stage.

Question put and passed.

Bill read a second time.

SPECTACLES SUBSIDY SCHEME

Grievance

MRS van de KLASHORST (Swan Hills - Parliamentary Secretary) [4.31 pm]: I grieve to the Minister for Health on behalf of not only a constituent in Swan Hills who contacted me on this issue, but also the people who are carers in our community. Australia has approximately 1.5 million carers comprising relatives and friends who take on the responsibility of looking after people who are of frail age, chronically ill or disabled or who need care for some other reason. The Government has made some changes which will take effect in the next few years to make it easier for carers who choose to study, or to train somebody to do voluntary work while looking after someone. My constituent mentioned an anomaly in the scheme that perhaps has been overlooked by the Government. Carers who receive a pension are not eligible to receive a 50 per cent subsidy for spectacles if they need to replace them. The WA spectacles subsidy scheme is administered by the Western Australian Health Department and is available to six out of 24 pensioners. The spectacles subsidy is available to age pensioners and their spouses, disability support pensioners and their spouses, and some Department of Veterans' Affairs pensioners and Seniors' Card holders, but, unfortunately, not to carers. As it presently stands, a person who is caring full-time for a spouse and receives a carer's payment does not receive a spectacles subsidy. In my constituent's case, he received all other concessions, but not this subsidy. This is inequitable, especially in light of the emerging demographic change in our society as we become an older population. In the future, many more carers will be looking after this older population. I ask the minister to consider changing the rules, regulations or whatever in order that people who care for others, and who do not receive a very high pension, are eligible to receive the \$50 subsidy for a pair of spectacles every two years, as are other pensioners.

MR DAY (Darling Range - Minister for Health) [4.34 pm]: The member for Swan Hills has brought this matter to my attention in the past few weeks and I thank her for some notice of the matter. The spectacles subsidy scheme originally was introduced on 1 November 1989 by the then Government and it is administered by the Health Department of Western Australia. It operates by paying a subsidy to eligible claimants. That subsidy is based on

half the cost of the spectacles to a maximum of \$50. Application for the subsidy can be lodged only once every two years in general cases unless changes occur in either the physical or medical condition of the applicant's eyes which justify the subsidy's being paid on a more frequent basis. The eligibility is based on the claimant being a resident of Western Australia and in receipt of a specific social security pension or being the holder of a Seniors' Card issued in Western Australia. The eligibility for Seniors' Card holders was introduced in July 1989, but apart from that change since the scheme's initial introduction, no significant changes or adjustments have occurred to the criteria by which the subsidy can be paid. The total cost of the scheme in the 1997-98 financial year was \$2.535m, of which \$2.3m was for the subsidies and \$235 000 was for the administration costs of the scheme. The scheme is targeted at people who are disadvantaged and Seniors' Card holders. When it was originally introduced, those who were eligible were recipients of the age pension, wives' pension, disability support pension, wives' disability support pension and some veterans' affairs card holders. Some of the original eligible people at that time were receiving pensions which no longer exist, in particular the wives' pension and the wives' disability support pension.

I agree that the scheme needs to be looked at very carefully to determine whether it meets the needs for which it was originally designed and to consider whether any changes should be put in place. In fact, a couple of reviews of the scheme have been carried out over the years, and one has recently been undertaken by the department. I will be considering the results of that in the next few weeks with a view to taking it to Cabinet with recommendations for some changes to the scheme along the lines that the member for Swan Hills has suggested. I agree that it is a reasonable concern that people who are carers of other people, who are themselves on low incomes, and who, on the basis of fairness, would expect to be the recipients of the \$50 subsidy should be sympathetically considered for inclusion in the scheme.

Concerns have been expressed about the current operations of the scheme, in particular that it is not targeted as well as it could be, and that the guidelines of the scheme are not met as consistently as they should be, and also that it is more expensive in its operation than it needs to be. All of those matters need to be considered carefully, and I will ensure that they are in the next few weeks with a view to introducing the eligibility of the scheme for people who are carers, and recipients of the mature age allowance, so that they can be considered and treated equitably as the member for Swan Hills has sought. There is much merit in the member's argument and I look forward to making some positive announcement about changes to the scheme once the matter has been considered by the Cabinet.

BIBRA LAKE BUSHLAND

Grievance

MR THOMAS (Cockburn) [4.39 pm]: I address a grievance to the Minister for Housing which relates to a matter in my electorate, in the suburb of Bibra Lake, about some land that is currently owned by Homeswest and which is proposed to be sold and subdivided for housing. That land is currently bushland and is valued by the community for its qualities as bush, and the local community wishes very much to have it retained as bushland. Last week or the week before, along with my colleague, the federal member for Fremantle, Dr Lawrence, I was privileged to address a meeting at the local primary school on a Saturday morning. I would say that virtually every resident in Bibra Lake was there.

It was a very well-attended meeting, chaired by a primary school student. Everyone voted for a motion - it was carried unanimously - to have the land retained as bushland. I can understand the minister might ask why this piece of bushland should be retained, and not any other. I have been in government, too. I remember Hepburn Heights and many areas where people wished to have houses but did not want anyone else living there and wanted the bush retained. It seems unfair because the land their houses occupy was once bush, but then they say that they do not want any further clearing.

A very good case can be made for the retention of this land. The suburb of Bibra Lake is built out. With the exception of this piece of bush, there will be no further development on that side of the lake. It was an R & I Bank subdivision in the 1970s and all the lots were taken up and built on. This land was originally envisaged as a technical school site and was retained. When what was formerly the lakes hospital site was developed, a technical and further education college was no longer needed, and the land ended up being transferred to Homeswest.

As I understand it, Homeswest says that it wants to be paid for this land, that it has value. Our position and that of the community is that it is government land and to insist on the payment being made within government, from one area to another, is simply an accounting exercise. The land should be retained. It is opposite a primary school and is very valuable to the students as an educational resource. It complements the ecotype of the land around the lake. The lake is one of the major wetlands in the metropolitan area and the reserve contains fringing vegetation. As members will no doubt be aware, we get a transect of vegetation which changes as we move away from a wetland. This is open banksia-jarrah woodland and it complements the land that is conserved and retained in the fringing vegetation around the lake. Within the bushland there is a representative sample of all the vegetation types that were there before the subdivision occurred.

The final reason for the retention of the bushland is that it acts as a buffer from a Western Power switch yard. It is immediately behind this bushland, and it is an eyesore. Nobody would want to look at it or to live in a suburb that adjoins that facility. The bushland provides a very convenient screen between the residential areas and the Western Power switch yard. As I was standing addressing the public meeting on Saturday a week ago -

Mr Osborne: You should have been at the football.

Mr THOMAS: No. It was in the morning. I went to the footy in the afternoon and, sadly, saw South Fremantle beaten in the derby. As I was saying, I could just see the Western Power switch yard over the top of the trees. When the land is cleared, it will become much more apparent and will detract from the ambience of the suburb. Bibra Lake is a very attractive suburb, a small isolated pocket until the freeway extended as far south as it has in recent years. People enjoy the ambience of living in a lakeside suburb. They want to retain a representative sample of the vegetation that was there before the area was developed, and the lakeside ambience; they do not want the impact of the Western Power switch yard being opened up to full view in any part of the suburb.

When the Bibra Lake subdivision was developed the powerlines were placed underground, before underground power was mandatory. It was done, presumably, by the then R & I Bank of Western Australia as part of the subdivision. That is reflected in the streetscape which is much more attractive as a consequence of having underground power. That has increased the value of the land in that area and the people have paid for it. They paid for the amenity of having their power underground. They certainly do not want that ambience detracted from by having a major Western Power switch yard exposed. For all these reasons, this area of bush should be retained, and I urge the minister to instruct Homeswest to desist from the declared intention of selling the subdivision.

DR HAMES (Yokine - Minister for Housing) [4.47 pm]: This is a rather sad case for me because I agree with many of things the member has said about the desire to protect that bit of bushland. In fact, I gave a commitment to the member for Cockburn that I would do my very best to have that land retained as bushland. I was approached by the Minister for the Environment at the time, after she had been contacted by various people, to try to get me to do my best to retain that bushland, and that is exactly what I have done. I have done my absolute best to retain it.

Initially the suggestion was that we speak to the Cockburn City Council and get it to purchase the bushland. As an ex-councillor for the Bayswater council, I know it is not within the financial realms of a council to buy a piece of bushland like that. I never expected that suggestion to have much of a chance.

Mr Thomas: You could put the zoning back to rural and you might be able to afford it.

Dr HAMES: That is right. It is zoned as residential so obviously it is a fairly valuable piece of land. I went to the Minister for the Environment to see whether we could include it in the scheme that covers Bibra Lake and have it classified as a reserve, as part of the lake, and do a land swap with the Minister for Lands. There was only a comparatively small parcel of land and the school was between it and Bibra Lake. It was very difficult to tie it into the Bibra Lake subdivision. We went to the Minister for Planning to see whether we could have this land recognised as regionally significant bush space, in which case his department would be obliged to purchase it and we could use the funds to purchase land elsewhere.

In doing that, we relied on the bush plan that was being developed. The member will recall the bush plan committee comprised a group of people, many of whom had environmental interests and expertise, who were involved in going through all the bushland in Western Australia in the metropolitan area, and working out what was regionally significant bushland and what was not. Unfortunately this piece of bushland was not included in the list of significant regional bushland, the reason for which I do not know. Nevertheless, these people, who were independent of government, put in a lot of time and effort working out which bushland was significant. It did not include this piece of land. I was stymied from that side as well.

One of Homeswest's problems is that, as a statutory authority, it has a responsibility to maximise the dollars it gets for its land so that it can spend that money providing housing for people on low incomes. We spend extensively in that area. A great many of the Homeswest landholdings are located in areas that have been bought well in advance of the suburbs being developed and that is why we are able to obtain the land so cheaply. This enables us to generate funds for the New Living program and to develop other housing for low income people. As a statutory authority, its board has a requirement to maximise the income of Homeswest for the provision of housing. It is not the job of Homeswest to provide land for regional bush space.

Recently in America I compared the public housing system there with our system. We are absolutely streets in front of America, and California in particular, which has a very similar population within its suburbs; for example, we can compare Sacramento with Perth. The population and weather are very similar and the land costs are reasonably similar; yet where we have 40 000 housing units in Western Australia which house 80 000 people, the relevant authority in Sacramento has about 3 000 or 4 000 units. The public housing system in America has massive numbers

of people on its waiting lists compared to our system. We do a very good job in comparison. Through our Keystart loans scheme for new home owners we provide about \$40m a month. The American system provides about \$20m a year for new home owners. We are streets ahead. When those involved in the American public housing system look at our system and I tell them about our New Living program, they are extremely envious. Homeswest provides 1 200 new housing units a year. The American system provides zero. They do not build new houses because they do not have the funds. Most of the funding for the American public housing system comes from the Federal Government. The system there does not have the independence which we have to go out and develop new properties, to be involved in the marketplace and to generate funds.

When those involved in the American system look at the funds we are able to generate through Homeswest and the housing we are able to provide, they cannot believe that we have such good opportunities. When it comes to the crunch and I have to spend the money on the New Living program, on the 1 200 new housing units a year and on upgrading all of the Homeswest properties to a reasonable standard, Homeswest must generate funds to do it. When it comes to a property such as the one we are discussing, we are really left with no choice. The member must recall that the property was provided initially as a land swap in place of the money that was owed by the developers of the velodrome in Midland.

Mr Thomas: It was acquired by the Government for \$10 000 some 20 years ago. It was poor quality farmland.

Dr HAMES: Whatever the case may be, we now have a property worth a lot of money that could be used for residential development. That is what we are stuck with.

We have gone out to tender on that property. We have had six tenderers, most of whom want to purchase the property and develop it. There is a 10 per cent requirement for public open space. The best course of action for those residents to follow is, when the development goes through the planning process with the local council, for the council to do some sort of deal, possibly retaining that 10 per cent as bushland rather than it being developed as parkland and perhaps increased density could be achieved in some areas by a swap which would allow 20 or 30 per cent to be bushland instead of housing. Another alternative is for the council to buy a small portion of the land to be retained as bushland. I have done everything possible and there is nothing more I can do. The matter has now gone to tender and a decision will be made in the near future. The residents will need to maximise the opportunities available to them.

EDDYSTONE AVENUE, HEATHRIDGE - BRIDGE

Grievance

MR BAKER (Joondalup) [4.54 pm]: My grievance is directed to the Minister for Local Government in his capacity as the minister representing the Minister for Transport. It relates to the need for a bridge at Eddystone Avenue, Heathridge, crossing over the Mitchell Freeway extension road reserve. As many members are well aware, the Government has already announced that the Mitchell Freeway will be extended north from its present termination at Ocean Reef Road all the way through to Hodges Drive, Joondalup. The distance of the extension is some 2.6 kilometres.

It has been proposed for a number of years that this bridge be built, for many reasons. I will address those later. The point is that the community has an expectation that the bridge will be built. It has always been included in Main Roads WA's master plan for the Mitchell Freeway extension, whether north to Hodges Drive, to Currambine, Quinns Rock or wherever. In fact, in many street directories members will notice a dotted line appears between the current termination of Eddystone Avenue all the way across the freeway reserve to Joondalup Drive.

The issue has become very timely indeed because I understand that in the last week of September Main Roads will be calling for tenders for the construction of the proposed extension of the Mitchell Freeway to Hodges Drive. It is important to ensure that the tender includes a request for a quotation for the construction work associated with this bridge. However, I have been told that at this stage that will not be the case.

Many members will be well aware that in January last year Main Roads confirmed that at long last it had managed to secure funding from the Federal Government to pay for the construction of the freeway extension. The funding of \$25m was to be paid over four years, commencing at the start of the last financial year. It stands to reason therefore that at least one instalment has already been made towards the total construction cost. It is also the case that Hodges Drive, which is the proposed northern termination point for the freeway extension, is already in the process of being upgraded. I understand that the City of Joondalup is footing the bill for that upgrade, which is almost complete.

I understand the primary reason Main Roads has not included the bridge in the tender specifications which will be issued later this month is that basically no money is available for the bridge. I find that somewhat surprising because surely when the Government approached the Federal Government for funding for the Mitchell Freeway extension,

it would have made it clear that the Eddystone Avenue bridge was an integral part of the proposal. Beyond that, I understand that the cost of constructing the bridge is estimated to be in the vicinity of \$3m to \$4m on the basis of a dual lane bridge over the freeway reserve. Once again, my concern is that if this bridge is not included in the tender specifications, the construction of the bridge will be put on the backburner indefinitely. Being realistic, we will never see it come to fruition.

I also understand Main Roads has recently conducted traffic studies in the area. As a result of those studies it does not believe there is a need for this bridge until the year 2010. I dispute that. I believe there is a need for the bridge today, as I speak. All the suburbs in the south western corridor of the north west metropolitan area are well developed. A small parcel of land at Whitford remains to be developed which will involve perhaps another 400 or 500 houses. That area has been well developed. The number of vehicles in the area has peaked. It is very timely for this bridge to be constructed. The bridge is also needed to provide an additional access point into the Joondalup central business district and business park areas, particularly for those people who live in the suburbs of Beldon, Craigie, Mullaloo, Kallaroo and Duncraig.

If money is the issue, there may be a way around the problem. I understand that, as part and parcel of the freeway extension, Main Roads must buy from LandCorp large tracts of land adjacent to the freeway reserve. As a result I understand that LandCorp will be paid approximately \$2m. I cannot see why LandCorp could not be directed to contribute the money it realises from the sale of the blocks towards the cost of construction of the bridge. A cynic might say that it is merely an internal accounting entry and that it is all government money and government land.

Another compromise option that perhaps might be explored is to publish two separate tenders; one relating to the freeway extension excluding the Eddystone Avenue bridge and another for the extension coupled with the bridge. In that way, when the funds become available, I hope sooner rather than later, the bridge could proceed forthwith. My concern is that if the freeway is extended and years down the track it is decided to construct the bridge, it will cause a great deal of interference to vehicles travelling along the Mitchell Freeway and also, of course, to the northern suburbs rail line. The delays caused by the need to construct a bridge over peak hour traffic would be a disaster.

The bridge is an integral link in the strategic road network in the Joondalup area. There is a very strong community expectation that construction will proceed. The bridge construction and its associated traffic flows into the Joondalup CBD area would also assist in enhancing the ongoing development of Joondalup as a regional city centre. It will no doubt attract more demand for goods and services in the area and in due course provide more employment for the children of northern suburbs residents. My concern is that time is of the essence. I understand that the tender specifications are to be published in the last week of September. To put it succinctly, if we miss out this time, we will miss the boat for all time and the bridge will become a plan that never came to fruition.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [5.00 pm]: As the acting minister, I have been provided with some notes by the Minister for Transport on the request for construction of a bridge on Eddystone Avenue across the Mitchell Freeway. It never ceases to amaze me that the member for Joondalup is so persistent in his requests for projects for his electorate, particularly extensions to freeways and road infrastructure and services for his community. The number of questions which he asks in this place probably outstrips any other member in the House. He is to be commended for that.

Mr Johnson: A very active member.

Mr OMODEI: A very active member, indeed. I will respond to the member's request for LandCorp to contribute to this construction. The issue of having two separate tenders and the specification within those tenders and the issue of the bridge on Eddystone Avenue being an integral part of the Joondalup area are very important points. I am sure that the minister, when he reads my response, will take them on board.

It is a tough call, as the member for Joondalup would already be aware. Tenders will be called for the extension of the Mitchell Freeway from Ocean Reef Road to Hodges Drive in September 1998. The freeway extension will be completed and opened to traffic by 2000. However, the extension work does not include the construction of a bridge at Eddystone Avenue. At this stage, Main Roads Western Australia has said that there is no justification from a traffic access point of view for the construction of the bridge linking the eastern and western sections of Eddystone Avenue across the freeway reservation. A link between these two sections has never previously existed. I know this is not what the member wanted to hear, but it certainly will be something he will continue to pursue.

The traffic studies that have been conducted indicate that a bridge over the freeway at Eddystone Avenue may be required by 2003-2006. In the meantime, Heathridge residents can continue to access Joondalup via Ocean Reef Road and Hodges Drive as is now the case. The distance along the freeway reserve between the crossing points at Ocean Reef Road and Hodges Drive is approximately 2.6-2.7 kilometres and is only marginally longer than the other freeway crossing points such as Whitfords Avenue and Ocean Reef Road or Hepburn Avenue and Warwick Road or those found in places on the Kwinana Freeway.

The construction of a bridge at Eddystone Avenue will cost about \$5m. No funds are available in the Main Roads program that would enable its construction at this time. However, it will be possible to advance the construction if the City of Joondalup is prepared to provide funding. The council has been invited to discuss the possible funding options with Main Roads. The City of Joondalup is already contributing to the cost of the upgrade of Hodges Drive. There is no doubt that the City of Joondalup is in a sound financial position and there is a sufficient rate base for Joondalup to be involved -

Mr Kobelke: That is another way of saying you can milk them.

Mr OMODEI: Members must admit that Joondalup is already well developed in its regional development. Therefore, its rate base will be significant. However, in the end it will be up to the council at Joondalup whether it will come on board to contribute to infrastructure in its locality. The member for Joondalup can play an active role in getting the various parties together, including Main Roads and the city, to achieve what he wants to achieve in the long run.

Mr Carpenter interjected.

The ACTING SPEAKER (Mr Sweetman): Order, member for Willagee!

Mr OMODEI: The member for Willagee was not here. I have been singing the praises of the member for Joondalup. He is one of the most active members in the Parliament when it comes to his constituency. The member for Willagee must admit that.

Mr Kobelke: Why can't he get the Government to pay for the bridge?

Mr OMODEI: The bridge will be on the program around 2003-2006. The member for Joondalup wants to bring that forward and do it in conjunction with the other works that are taking place now. That is commendable.

Mr Carpenter: You are saying pay for it yourself.

Mr OMODEI: I will raise these issues with the Minister for Transport. If the member for Joondalup persists in the way that he has - he is most diligent in pursuing these matters - he may be successful in the future. I wish him the best of luck.

Mr Carpenter: You are giving them nothing. You have abandoned them.

Mr OMODEI: I have a map of the area and a plan of the proposed Eddystone Avenue bridge which I will table.

[See paper No 155.]

BILLABONG FINE FOODS TRAINEESHIPS

Grievance

MR KOBELKE (Nollamara) [5.06 pm]: My grievance is to the Minister for Labour Relations. I thank her for accepting it. I asked to grieve to the Minister for Employment and Training, who seems to have disappeared. The grievance relates to a matter of traineeships which was the former portfolio of the minister but also moves into areas which are clearly part of her portfolio because there are problems with the safety of the workplace and the conditions of employment.

This relates to three ladies, two of whom came to see me a few weeks ago, who have been treated in a totally unacceptable manner; a situation which should never occur in Western Australia in 1998. These three women were unemployed and they decided to take up a vacancy in a job that offered them a traineeship. Their desire was to gain a qualification which would improve their job prospects and hopefully offer more secure employment. They did this even though it meant that they would be on a lower, training, wage than they would receive in another job.

The women went to Billabong Fine Foods in Middle Swan and started work at the end of March or the beginning of April 1998, as they did not start on the same day. On 8 April, a commonwealth officer from the Department of Education, Employment, Training and Youth Affairs came to Billabong Fine Foods and signed them up for a small business traineeship. They understood that the traineeship, or new apprenticeship as they are now called, involved a training agreement for a 12-month period, which was put on the forms which they signed. It indicated that they were to be employed under the food manufacture processing award with a training wage providing a gross weekly pay of \$335 a week; that is an annual wage of just over \$17 000.

An officer from the Western Australian Department of Training went to their workplace on 9 April but did not speak to any of the trainees. It was only some time later that they became aware that the person who had come into the workplace and had spoken to their boss was an officer from the Department of Training and was there in relation to their traineeships. The ELT, or entry level training, incentive is a commonwealth subsidy to an employer to take on

people who have been unemployed or are receiving a certain form of benefit. Billabong Fine Foods received a payment of \$3 200 for one of these trainees which related to 13 weeks, including a commencement payment. In the case of another of the women, whose documents on the traineeship and the ELT I have seen, a payment of \$5 250 was received which covered a 20-week period plus the commencement payment.

No training sessions were provided in the time the women worked at Billabong Fine Foods. They told me that the training module manuals were sighted only once; that is, when they were delivered to the workplace and put in a cupboard or stored away. They were never used or filled in as required during the time they worked there. One of the trainees was made a supervisor of the whole workplace only four weeks after she started. The three trainees, with one casual employee, were regularly left without any supervision other than the trainee who is now designated as the supervisor. They regularly worked extended hours, staying back at night to finish orders. They even came back on Saturdays, when they were needed, to complete a batch of product. They were not paid for the extra time they worked. The women were subjected to sexual harassment the details of which I will not go into. However, I am helping them to take that matter further.

There are issues of health and safety in the workplace. They have told me that drains were uncovered and hoses left lying on the floor of the work area. A tenderising machine was used with the safety guard jammed open with a knife so that it could be used more efficiently. On Thursday, 16 July, the trainees were told that they were no longer required at that workplace. That occurred only 15 weeks after the commencement of their traineeship, which was to run for one year.

The women sought help, but they had a dickens of a job trying to find which government agency would assist them. They finally got through to an officer of the Western Australian Department of Training, at Albert Facey House, which has responsibility for the control of these traineeships. They related their problem and were promised that someone would attend at the workplace the next day when they met with their employer so they could sort out the matter.

No-one turned up to hear of their predicament or to ensure that the basic requirements of the traineeship were met. They continued to work but found out later that their traineeship had been cancelled. They were not told that their traineeship had been cancelled and their contract of employment varied. This in fact could have meant that they should have been paid a higher wage because they were then employed under the award rather than a traineeship.

They found out about the cancellation of the traineeship by coincidence. A telephone call was made one day, after the event, from a government officer. The call was answered by a trainee, who rightly answered the telephone as the senior person because she was the designated supervisor. The caller - the government officer - perhaps not realising she was talking to the trainee, informed her that certain paperwork had to be undertaken to reinstate their traineeship, as it had been cancelled. They had been told nothing of that.

About 7 August they were not paid their weekly pay. Of course, the women complained and a week later they were paid; nonetheless, they were not paid at the expected time. On 12 August, the two remaining trainees were sacked, as one had left a short time earlier. When they were sacked it was not because of lack of work because they understand someone else was put on to do the work. They have grounds for an unfair dismissal case and I have directed them to someone who can help with that.

Under the laws implemented by this Government, the previous minister said that unfair dismissal is a matter of getting people back into the workplace. Who would want to go back into a workplace in which sexual harassment had occurred; the workplace was unsafe and no training was provided, even though that was supposed to occur at Australian qualification framework level 2; there was no supervision - most of the time they supervised themselves - and when they went to state and federal government organisations for help, no inspectorate checked that the right thing was being done. They do not even know whether their superannuation was paid by their employer.

MRS EDWARDES (Kingsley - Minister for Labour Relations) [5.13 pm]: Although essentially the issues relate to the employment and training portfolio, a couple of the matters fall within the labour relations portfolio. The story the member for Nollamara outlines is horrific. No doubt the three women felt they would be receiving training which would lead to their gaining qualifications that would be recognised Australia-wide and which would lead them into proper employment. Obviously from what they have told the member that did not occur.

Strict rules and guidelines apply to traineeships, particularly to supervision. I will pass on the information to the Minister for Employment and Training for his immediate investigation. We do not want traineeships to lose credibility. We want to continue to build on traineeships and have them as a launching pad to apprenticeships. It gives a great number of people, particularly those who want to go back into the work force or be retrained, the opportunity of doing so without the long process that is normally required for an apprenticeship.

I will endeavour to have the safety issues investigated at the workplace. With respect to the unfair dismissal, I

suggest that either the member for Nollamara or the women concerned contact Jenet Connell, the Executive Director of Fair Workplaces at the Department of Productivity and Labour Relations. She will be able to assist the member to assist his constituents regarding the unfair dismissal issue as well as the superannuation issues. Other matters may arise in the conversation.

The other concern - the member quickly raised it with me prior to his raising it in this place - is the sexual harassment complaint. If the women wish to seek some advice on the matter, perhaps anonymously to begin with, they can do so by telephoning the inquiry line 9264 1933. They can have information posted to them and then investigate whether they want to go into the department and have a chat and seek further support. If they wish, they can lodge a complaint at the Equal Opportunity Commission. If they need any further advice or support, the member should not hesitate to let me know and I will see what I can do to assist these women who, from what the member said, have found themselves in an unfortunate set of circumstances. That is not something we tolerate.

The ACTING SPEAKER (Mr Sweetman): Grievances noted.

POLICE (IMMUNITY FROM CIVIL LIABILITY) BILL

Second Reading

MR PENDAL (South Perth) [5.18 pm]: I move -

That the Bill be now read a second time.

One of the most responsible and difficult occupations in today's society is that of a police officer. Daily, members of the WA Police Service find themselves in potentially life-threatening situations in which they are expected to exercise the wisdom and judgment of Solomon. However, it is not just the potential for physical injury or death that is faced by police when they commence a shift. Always present is the possibility that, in exercising their judgment when carrying out their duties, they may be subject to civil proceedings which have the potential to cause financial disaster to themselves and their families.

Police officers are human. Like everybody else they make mistakes and errors of judgment. Due to the very nature of the work, it is likely that in the stress of the moment a police officer may do something with the best of intentions that is later found to be wrong. I emphasise that the word "wrong" is limited in the legal sense, to civil wrongs or, as the lawyers call them, torts. When a breach of the criminal law is involved, it is only right that police officers, like any other citizens, be held personally accountable for their actions.

It is pertinent to ask why the police are in a position of facing personal liability should they commit a civil wrong. Why should the Crown in right of the State of Western Australia be able to simply wash its hands of the moral duty to support those who have the responsibility of enforcing our laws? The simple answer is that it is an accident of history.

The office of constable was created in England by Sir Robert Peel in 1829 well prior to the establishment of an organised police force. As a result, the constable was considered to hold a public office by virtue of which he exercised an original rather than a delegated authority. Thus, when a constable intervened in a disturbance to prevent a breach of the peace, something which was and still is his duty to do, his duty was and is imposed upon him by the law and not as a consequence of a duty that arises from a relationship of employer and employee.

The employer-employee relationship is the crux of the issue. As a constable in the England of the Middle Ages he held a public office terminable at the will of the king; it could not be said therefore that the relationship of the employer and employee existed. This is clearly not the case now. Police officers, or constables, are part of an organised and structured body that we call the Police Service. They are subject to disciplinary action for failing to exercise their duty by virtue of the Police Regulations 1979.

Unfortunately, the courts have not recognised this factual change to the general working environment of a constable. In 1905, the High Court of Australia found that the State of Tasmania was not vicariously liable - as employer - for a wrongful arrest made by a member of the Tasmanian police simply because the officer was performing his duty. This position has been followed by the Supreme Court of this State in *Pense v Hemy*.

Nevertheless, in more recent times, some judges of our Supreme Court have indicated that the time has come for reconsideration of whether the Crown can claim immunity from liability for tortious conduct of a police officer. While not definitive, comments made by the judges concerned clearly indicate that the time is right for a reconsideration of the status of the Crown in police tort cases. In *Middleton v Western Australia* (1992) 8 WAR 256 Master Hawkins of the Supreme Court noted that in the last decade the High Court had adopted a trend of making the Crown more amenable to the legal process. In another case, the same judicial officer examined the question of the duty of a police officer to make an arrest under statute. His view was that the statute conferred merely a power to arrest, not a legal duty.

Despite this questioning of the principle established in *Enever*, the simple fact is that the case is still good law in this State. Indeed, in recent times it has been used by the State as support for the argument that police officers are not in an employer-employee relationship. However, the simple fact is that the Western Australia of 1998 is a totally different society from that of 1906. I put it to members that we can no longer as a community or a Parliament abrogate responsibility to serving police officers by simply saying the law provides the State with protection. By doing that we let down not only our police officers, but also those members of the public who are the unfortunate victims of a civil wrong.

This Bill is designed to sweep away the protection given to the Crown by anachronistic laws. It is only right that this be done, as currently it is expected that the police officers individually should incur the expense and possibility of financial ruin of a civil suit. The fact is that there is simply not in place a blanket immunity from civil actions that provides protection to them, but at the same time permits an aggrieved citizen to obtain compensation.

For many years police in this State were under the impression that section 138 of the Police Act 1892 in conjunction with paragraph H of schedule 2 of the Interpretation Act 1918 as preserved by the Interpretation Act 1984 gave an absolute protection to officers who committed a civil wrong in the course of their duty. This provision provides that -

No action shall lie against any . . . Officer of Police, Policeman, Constable . . . on account of any act, matter, or thing done, . . . in carrying the provisions of this Act into effect against any parties offending or suspected of offending against the same, unless there is direct proof of corruption or malice, . . .

On the face of it, this provision would seem to provide blanket protection. However, a decision in the Supreme Court of Western Australia some years ago threw this view into doubt. In the 1990 unreported decision of *Romito v Williams*, His Honour Justice Ipp interpreted paragraph H as only providing protection where the police officer is carrying out his or her duties against a person offending or suspected of offending against the Police Act. If this view is correct, and to date it has not been tested by the Full Court of the Supreme Court of Western Australia, the ramifications are obvious. Although the Police Act contains a number of offences, the bulk of proscribed criminal conduct in this State is contained in the Criminal Code of 1913. It could well be that an officer carrying out duties in respect of an offence under that Act is not able to avail him or herself of the protection of paragraph H. Because of the current uncertainty of the legal position in this respect, it is submitted that statutory reform is urgently required.

I believe most fair-minded members would see the position in need of change. An example of bipartisanship in recent years took place on 21 August 1991 when in another place, the then opposition spokesman on police, Hon George Cash, asked Hon Graham Edwards, then Minister for Police -

- (1) What is the Government's policy on vicarious liability imposed on police officers under the current laws?
- (2) Does the Government intend to amend the law on vicarious liability?

In reply, the minister said -

As the member is fully aware, the Government has been working to resolve this position for some time. The few difficulties have been, I think, all but overcome and I will be in a position to give a substantial answer to that question over the next two or three weeks.

That was seven long years ago. It would seem that the few difficulties have not yet been overcome. Both the previous Government and this Government have done nothing to further the issue. This lack of action is in stark contrast to other legislation which has been passed through the Parliament. Section 106 of the Public Sector Management Act 1994 ensures that civil actions cannot be brought or maintained against persons performing functions in their official capacity or for other purposes according to the needs of the legislation. In effect, this means that unsworn employees of the Police Service are offered protection not available to their sworn colleagues.

Section 49 of the Anti-Corruption Commission Act 1988 provides that the commission and its officers are not liable for civil damages in performing their functions, in good faith, under that Act. Similarly, section 107(2) of the Fines, Penalties and Infringement Notices Enforcement Act 1994 stipulates that an action in tort - civil action - does not lie against a person who, in good faith, is carrying out a function of the Act. Most significantly, section 107(4) provides that the Crown is not relieved from liability merely because its servant or agent is. This is exactly the type of protection that should be available to police officers. One might ask why bailiffs and sheriff's officers are, quite rightly, provided with a protection that is not available to police officers who carry out equal, if not more onerous, tasks.

Of interest is the current practice that exists in this State when civil actions are contemplated or commenced against individual officers. The Commissioner of Police has indicated that he will support officers in civil actions where they are acting properly and in good faith. It is said this support will extend to the payment of legal costs. While this

expression of support is welcomed, it does not address the problem that may arise where, for example, the Crown Solicitor faces a conflict of interest in representing the State of Western Australia or the Commissioner of Police, or both.

By way of example, in 1996 a young woman commenced a civil action in the District Court of Western Australia against three police officers, alleging a breach of statutory duty and negligence arising from an incident that occurred at the Perth Royal Show. The State of Western Australia was named as a fourth defendant. In keeping with the commitment outlined above, the Commissioner of Police approached the Crown Solicitor's Office with a request that the officers be provided with representation. This was declined. The basis of the refusal was not that the officers acted out of malice or ill-will, but rather that, on the facts of the matter, they were not performing a duty of their office. As a result, the officers were faced with the prospect of finding their own legal representation. While this was ultimately done by the Police Union, it is submitted that the responsibility for representation should rest with the State. If the Crown Solicitor is unable to provide representation due to a perceived conflict of interest, then the Government should fund private legal representation or make a lawyer available through the Legal Aid Commission. It is simply not right that officers be placed under stress worrying about the financial repercussions of funding their own legal assistance.

A similar situation occurred in 1988 when a police officer from the Rockingham traffic office was threatened with a civil action as a result of carrying out speed detection duties in Rockingham Road, Rockingham. This officer checked a motorcycle at a speed well in excess of the limit. The officer stepped onto the carriageway to indicate that the vehicle should stop, and the rider halted and fell from the motorcycle. Subsequently, the rider indicated his intention to commence proceedings against the officer and the State. Ultimately, a writ was issued against the State of Western Australia but the matter was settled out of court. This is a clear example of the pressure placed upon an officer who, in attempting to apprehend a motorist driving in such a manner that his conduct was later held by a Court of Petty Sessions to amount to reckless driving, is faced with the possibility of financial disadvantage.

It should be noted that in this case the police officer concerned was able to avail himself of the immunity protection provided by section 101 of the Road Traffic Act, which provides that a police officer is not individually liable for an act done when carrying out provisions of that Act. Instead, any such liability rests with the Crown. However, what would have happened if the officer had been trying to stop a vehicle because he suspected the driver had committed an armed robbery? If the rider had not been committing any offence against the traffic laws, arguably the protection of section 101 would not have been available to the police officer. We must ask whether it is fair and just that officers be inhibited in carrying out their duties because of the spectre of civil litigation.

There is some evidence that the public supports legislative changes that ensure the State is responsible for the payment of legal costs and compensation when a civil action is brought against a police officer. In December 1997, Patterson Market Research conducted a survey in which 406 respondents were told: Under current law, if a police officer on official business is sued by an accident victim, he has no support for legal costs or any compensation claims from his employer - the Government. The respondents were asked whether they supported changes to the law to provide that support for police officers acting on official police duties. Of those surveyed, 93 per cent indicated they supported a change to the law, 3 per cent were not in favour and 4 per cent did not know. It seems that the community has more sympathy for the plight of our police officers than both past and present Governments have had.

Finally, it must be stressed that the proposed legislation is not without precedent. It is effectively, although not comprehensively, modelled on section 51a of the Police Act 1952 of South Australia. This section was placed into the Police Act by an amendment Bill in 1981 by the South Australian Tonkin Liberal Government. During debate, Hon Frank Blevins spoke for the Opposition at the second reading of the Bill and said: It is perfectly proper that policemen, in the conduct of their duties, do not incur civil liability. He said that if liability occurs, it occurs to the Crown and that is the proper place for it to reside.

These comments, and indeed the bipartisanship they embody, are equally appropriate to Western Australia. The procrastination has gone on for too long; we now have the chance to correct the inequity. I thank many people for their input to this Bill, including Mr Graham Pidco, Ms Ann Blake, and members of the Police Union. I commend the Bill to the House.

Debate adjourned, on motion by Mr Osborne.

GOODS AND SERVICES TAX

Motion

DR GALLOP (Victoria Park - Leader of the Opposition) [5.38 pm]: I move -

That this House expresses its concern that -

- (1) the Premier has supported the unfair Howard goods and services tax which fails to serve the interests of Western Australia and its people; and,
- (2) the Premier has compounded his error by releasing a pro GST financial analysis which is partisan and misleading.

Many important issues are being debated within the Australian community currently as part of the federal election campaign - issues related to the comparative fairness of the proposals put forward by the Government, on the one side, and the Labor Opposition, on the other. Proposals can be compared by the impact they will have on various groups and industries within the community and the various regions throughout the nation. An important debate is also going on about the impact of the different policies of the Labor Opposition and the Government on Australia's macro economy and the future of job creation in Australia.

As part of that whole debate, there is an important subsidiary debate; that is, how these packages will impact on the States within our system of government. There are two elements of that equation. The first is, of course, that each of the States of Australia has slightly different economic interests and slightly different traditions of history and development. Therefore, changes in the way the national Government operates will impact differently on the various States. The other part of the equation is the impact these packages will have on the operations of the State Governments and their ability to do the things that must be done on behalf of the people they represent. The latter issue has been debated in this Parliament previously, and the former issue needs to be debated as well.

Let us consider the Government's attitude to these issues. It is instructive that from the day that the Howard package was launched into the political arena we have heard little from the government side of this Parliament. The important issues have been exposed as a result of the questioning of the Opposition rather than the proactivity of the Government in its own desire to promote the Howard tax package. We have also seen in this Parliament a complete lack of attention on the part of the individual ministers to the issues that are affected by that tax package. For example, the Minister for Housing, the Minister for Local Government and the Minister for Health - to name just three - have not given this Parliament an analysis of what the Howard GST package will mean for the constituents that they purport to represent as ministers of the Crown.

In Australian politics, the conservative side of politics has taken the people for granted in this tax package. The last thing that members opposite want is a serious and detailed debate about the implications of that package.

Mr Trenorden: It has been ongoing for 10 years.

Dr GALLOP: The member for Avon acknowledges my point. There are important issues for the State of WA that members opposite should be engaged in analysing and debating. We have had complete silence from members on the other side. I am fairly certain that the only reason that we have had any response from the Government at all on this matter is the prompting of the Opposition. On the weekend, the Government released its analysis of the impact of the Federal Government's GST tax package on the State of Western Australia. It was interesting that the Premier released that package 30 minutes before the finals game between the West Coast Eagles and the Western Bulldogs. He snuck out, spoke about his package and ran back in again, so he would not be subject to scrutiny over it. The Opposition has had a chance to look at the GST analysis, and has found it wanting.

Mr Kierath: Did you watch the game?

Dr GALLOP: I missed the game. I attended the grand final of the Hills competition. I congratulate Swan View on its very good win over Swan Valley. The passion that members of that football club showed towards their lost colleague, Bruno Furina, made it an emotional occasion.

The package was released on Sunday and the Opposition has now had a chance to look at it. I will say four things about that package: Firstly, it is biased in the sense that it is selective. Some things are considered and others are not, and it is interesting to contrast the two. Secondly, it is biased in the analysis that it uses when it projects into the future. Thirdly, it is inconsistent in the comparisons that it makes. Fourthly, it is deficient in that it fails to analyse what John Howard claims are the benefits of a GST. I will go through each of those points of the Government's defence of the Howard package inasmuch as it relates to the State of Western Australia and look at each of those issues.

First, the analysis was biased because it was highly selective. Let me note four issues that were not addressed in that so-called analysis. The one subject that the Premier of Western Australia has spoken consistently about over the past three or four years is vertical fiscal imbalance. That is the situation in which the revenue raised at the commonwealth level of Government is much greater than that needed to carry out the Commonwealth's constitutional responsibilities, and the revenue raised at the state level of Government is much less than that which is required to carry out the constitutional responsibilities that are given to the State. This is an important issue and the Premier spent the past three to four years arguing that it is the most important issue in intergovernmental relations. The report that the

Premier issued on Sunday did not contain one mention of vertical fiscal imbalance. The fact is that when one turns to analyse the issue of vertical fiscal imbalance, one finds that a huge risk is involved in the State Government's support for the Howard tax package. It is exactly the same risk that was taken at the turn of the century when Australia federated. Australia had to work out a tax system and it was decided that excise and customs, which had traditionally been raised by the colonies, would pass to the Commonwealth but would come back to the States.

This was a wonderful new arrangement. The new States would get a secure source of revenue so they could project into the future knowing that they could meet their requirements. However, after 10 years the Commonwealth, which had the constitutional power to raise those excises and customs, took them over completely and the States lost their revenue. At any time in the future, a Commonwealth Parliament can pass a law taking all of the GST and using it for its own purposes. Meanwhile, the Premier would have given up a range of state taxes which it currently has available to collect revenue. There can be only one conclusion from that: The vertical fiscal imbalance has been worsened by this package.

The power of the Commonwealth relative to the States has been increased. It is interesting to read a quote from the former head of Treasury and former National Party senator, John Stone, who was interviewed on this subject. He made a very interesting point. He said -

I can't emphasise too strongly - this GST stuff is the greatest blow to federalism since 1942, since the Commonwealth took over the income taxing powers of the States. This is from the Prime Minister, who, when he laid down five so-called principles of tax reform last August, was it - he made the fifth of them a need to reform Commonwealth/State financial relations this doesn't reform them - this abolishes them.

The document released by the Government on Sunday is highly selective; firstly, because it contains no analysis of vertical fiscal imbalance - we know why that is; and, secondly, because it does not look at the impact of the package on important consumer groups within our community. For example, pensioners, a significant group in our community who are on low and fixed incomes, will be impacted upon by a flat and regressive tax. There is no analysis in the Treasury document of the impact of the tax on Western Australian pensioners and how they spend money. There is no analysis in the document of the impact on regional Western Australia; there is just a passing reference to mining and agriculture.

Members of the Opposition have just visited the Kimberley and the feedback from people we met was that they fear the GST will add to costs which are already higher than in the metropolitan area because they live some distance from Perth.

Mr Graham: It has to!

Dr GALLOP: They made the point that they are already paying \$1.60 for *The West Australian* and will have to pay a further 10 per cent on that.

Mr Trenorden: You know that is not true. What about the transport costs that will come off the cost?

Dr GALLOP: Am I right in saying that if costs in the country are already higher than they are in the city, adding 10 per cent will merely compound that problem? If it will not compound that problem, I would like to see the argument defined and illustrated in a clear way.

Secondly, the Treasury document contains no analysis of the impact on regional Western Australia. Given the number of members opposite who claim to represent regional areas, I thought they would have been much more proactive in insisting that there be some analysis. That can be contrasted with the attitude that has been taken by two members of the Queensland National Party on the deregulation of the petrol industry - which the Labor Party has opposed - who say that petrol prices will increase as a result of that deregulation. What have we heard from the Government on this issue? When we asked the Deputy Premier a question yesterday, he said the Government would have a look at it. What urgency is there on the part of the Government in respect of these issues?

Mr Graham: We never thought we would be asking for help from the Queensland National Party, did we!

Dr GALLOP: I like to think that on all of the issues that I heard Bob Katter mention this morning, he is following the Labor Party. He mentioned Australia Post, Telstra and petrol prices. The Labor Party has set the agenda on all those issues.

Thirdly, the document produced by the Government on Sunday did not mention three key industries in Western Australia. The first is tourism. Tourism is a major new growth industry, and it will certainly be impacted upon by a GST. The second is the housing industry. The document contains the nice reference that housing prices will increase. They certainly will, and this is a matter that the Opposition will continue to pursue. The third is the racing industry. The hospitality industry in Western Australia accounts for 9 per cent of our gross state product, and the construction industry accounts for 8 per cent of our gross state product, yet they each copped only one sentence in

the analysis that the Government put out on Sunday. Fourthly, the document contains no analysis of the impact of the Howard Government package on state government taxes and charges in Western Australia.

That highly selective document put out on Sunday does not mention vertical fiscal imbalance, and it fails to analyse the impact on pensioners in regional Western Australia, the impact on the key industries of tourism, housing and racing, and the impact on state government taxes and charges. The Opposition's claim that that document is selective has certainly been proved by the comments I have made about those four issues.

I turn now to the bias in that document in respect of the assumptions that are made. The Opposition has conducted a careful analysis of that document and the assumptions that are made in it. We need to compare the future under a GST and the revenue that will go to the State with the current system projected into the future. That is not easy to do. It is a very bold Government that projects to 2012 in respect of these issues. I find it interesting that when all things were considered and the Government did its own analysis, it found that only after 2005 would the State receive any benefits. A wonderful quotation from John Maynard Keynes that is often used in economics is: In the long run, we are all dead. What matters to people is what will happen and what they can influence in the short to medium term. This Government cannot show that any benefits will flow from a GST in the short to medium term. The assumptions that it makes are highly questionable.

Mr Bloffwitch: In your view.

Dr GALLOP: I am putting my view on the table for debate. I turn now to the Government's analysis of what will happen with the current system projected into the future without the GST. We receive financial assistance grants from the Commonwealth. The Premier told us yesterday that the so-called Treasury analysis is based upon its own estimates of what that revenue will be. We find that puzzling, because the results of that analysis show that Western Australia's share of financial assistance grants from the Commonwealth in 2000-01 will be 9 per cent, and in 2001-02 will be 8.8 per cent. It is interesting that when we look at the share we will receive from the GST revenue, those figures are different and are actually 9.8 per cent in 2000-01 and 9.6 per cent in 2001-02. How can we receive a higher share when the same formula is applied to one and not to the other? The commonwealth budget papers show increases in commonwealth general revenue assistance to the States of 5 per cent for 1999-2000, 3.6 per cent for 2000-01, and 4.8 per cent for 2001-02. We understand that Western Australia's share of that increase may not be at the same rate because of the horizontal fiscal equalisation principle, but the differences are so great as to lead us to ask questions. The Government's analysis of what the increase will be in those three years is 1.1 per cent, 1.1 per cent and 1.8 per cent. Is it not convenient! The commonwealth budget figures show a percentage increase over those years. The Government is saying in its analysis that we will receive a much smaller share of that increase. We can legitimately ask questions about that.

Mr Graham: The Premier is arguing for a retrospective pay cut!

Dr GALLOP: I hate to quote myself, but I think I was heard saying on Sunday that the Government is asking us to buy a house in Peppermint Grove today in the expectation that in four years, we will win Lotto. That is the logic this Government is asking the people of Western Australia to accept. It is asking the people of Western Australia to take a punt on the basis that they will win Lotto in the future.

Let us look at debits tax and financial institutions duty. The problem with analysing this issue is that the budget papers do not show separate figures for debits tax and FID. However, they do show the figures for taxes and licences generally. The forward estimates in our budget papers for taxes and licences generally show increases of 4.1 per cent in 1999-2000, 3.9 per cent in 2000-01, and 3.3 per cent in 2001-02. The Government's projected increase for FID and debits tax for those same years is 2.9 per cent, 2.9 per cent, and 3.1 per cent. We should note also that in the past three years, FID increased by 4 per cent in 1996-97, 4.6 per cent in 1997-98, and 4.9 per cent in 1998-99. Again, it is convenient that the assumptions that the Government is making about taxes and licences in its budget papers do not translate into the same percentage increases when it is dealing with FID and debits tax and is analysing the impact of different tax packages on Western Australia.

The real corker is stamp duty. This is a classic. The Government's analysis for mortgages duty, marketable securities duty, cheque duty and conveyance duty on business property states that next year, we will receive \$64m, \$24m, \$9.5m and \$85.8m; and we will get the same amount for the next 12 years. That is just ludicrous. That assumption cannot be sustained. How can we say that over a decade, Western Australia will receive the same amount of money from those four duties? The figures for the past 10 years, which included the recession of the early 1990s, were 94 per cent for conveyance duty, 37 per cent for marketable securities duty, and 32 per cent for mortgages duty. The Premier gave an explanation yesterday in the Parliament of the fact that stamp duty will not change for 12 years. It is a beauty! The Premier's explanation is that property prices are currently at their peak. Is the Premier saying that the price and volume of transactions in relationship to those economic issues will be stationary for 12 years? That is ludicrous. How can the Premier expect us to accept that assumption? It is strange, though, that when it comes to the next 12 years when the Government will be collecting the GST under the Howard package, there will be an

increase of 71 per cent. It is strange that one indirect tax will go up over the next decade by 71 per cent, but another four indirect taxes will not go up at all.

Sitting suspended from 6.01 to 7.30 pm

Dr GALLOP: I move now to business franchise fees. As a result of the High Court decision of which all members are aware, fuel, tobacco and liquor excise powers were passed to the Commonwealth. Agreement was reached by the Commonwealth and the States to pass that money back to the States. In analysing the current system projected into the future, we must make certain assumptions about how much money will return to the State. The Labor Party assumed that this revenue will grow in line with the taxes and licences outlined in the Government's forward estimates. This shows an increase of 4.1 per cent in 1999-2000, 3.9 per cent in 2000-01 and 3.3 per cent in 2001-02. The Labor Party assumed that if taxes and licences are to increase by that percentage in each of those years, business franchise fees can be expected to rise by the same figures. However, the Government adopted a different approach. It said that safety net revenue will increase by only 22.2 per cent over the first decade of the twenty-first century. That assumption deserves serious questioning.

Increases have occurred in the rate at which these taxes are applied. Importantly, over the past decade, revenue from fuel excise has increased by 171 per cent, tobacco by 322 per cent and liquor by 42 per cent. The assumptions that by the first decade of the twenty-first century, these revenues will increase by only 22 per cent is bold and questionable.

I have outlined some of the assumptions which do not stand up. Two other issues must be addressed. I refer to the amount of conveyancing duty relating to business transactions, and the amount of gambling revenue given up by the State to ensure no price increases when a GST is applied. I acknowledge that it is difficult to find a good, universally agreed figure on those matters. Nevertheless, when the Government put forward its analysis, it assumed a low percentage in both areas. It assumes that the revenue from conveyancing duty on business transactions will be 20 per cent of the total figure. That must be an underestimate.

Also, difficulties arise in the amount of money to be forgone in gambling revenue. We simply assumed that 50 per cent would be forgone, but the Government put the figure at 35 per cent. These are difficult issues. However, other States believe that gambling revenue and the amount the State forgoes to ensure that prices do not rise through the imposition of a GST has been seriously underestimated by the Howard Government. The States will have problems in those areas.

The questions regarding stamp duty are placed in the highly dubious basket. The assumptions on conveyancing and gambling fall into the questionable basket.

Let us move to the other side of the equation; namely, the amount of money to come back to Western Australia once the proposed GST is applied. The Government of Western Australia assumes that the State will receive 9.8 per cent of the total take in 2000-01, and 9.6 per cent in 2001-02. Interestingly, when the Government analyses the State's share on the financial assistance grants in the current system, we will receive only 9 per cent and 8.8 per cent in those years. Remarkably, under the new system to be established by the Howard Government, 9.8 and 9.6 per cent will apply. That represents a real inconsistency in the application of the horizontal equalisation formula regarding what will happen in the future under the current system and the situation under Howard's proposal.

It would appear that the Government has built into its analysis some sort of personal undertaking that no State will be worse off. We have the balancing item producing the zero result for the first four years. Most commentators are puzzled by the fact that the Government's analysis shows zero net benefit for four years. Is it not convenient to get a zero figure for four years? I cannot be certain about this; however, I think the reason for the zero figure is that the Government built into its assumption about the way the GST revenue may be provided to the States the argument that this will be the balanced item which guarantees that our State will not miss out during the first four years. That argument has one problem: John Howard has taken it into account by saying that the States will be subsidised in the early years of the process in order to achieve a balanced budget. It looks very much like the Government has double counted on this issue to ensure that it achieves a zero net benefit for four years.

On the basis of our analysis of the Government's document released on Sunday, the Government has underestimated the revenue to be received from a continuation of the current system, and overestimated the revenue to be obtained from the share of the GST. No better example can be found of this than the formula applied to the future financial assistance grants allocation, which is horizontal equalisation, being different from the formula applied to the revenue to be received from the GST package.

The Opposition's argument has been confirmed by comments made by the Premier of Victoria, Jeff Kennett, who said about a GST on Victorian radio -

I'm still not sure that the States are going to come out ahead in this. In fact, quite the opposite. I think we're probably going to lose a bit. But if that's the price we've got to pay for a better, fairer system, a more transparent tax system, then I think it's worth supporting.

There it is: The cat is out of the bag. The Premier of Victoria has acknowledged that the new system will disadvantage the States, but from his point of view it is a good system anyway and he will support it.

The Government of Western Australia had a major problem, and it was that when it considered the matter it discovered that we will lose in the short to medium term. Therefore, it had to shift the argument to the long term, but, as John Maynard Keynes said, in the long term we are all dead. In the early to medium period the Western Australian Government will lose out from the goods and services tax package. Therefore, is it not convenient that, when the Government finally produces its document, in the four years when we claim that we will lose out, when Jeff Kennett says that we will lose out and when the Queensland Government says that it will lose out, the Western Australian Government says that there will be zero net benefit. In other words, until 2005 there will be no benefit, but, miraculously, after 2005 all those benefits will flow through to the people of Western Australia. The figures have been put together in a convenient way for the Government. We stand by our claim that in the first few years we will lose out on the package, and that will impact on the health system, the education system and public services generally in Western Australia.

The final issue that I raised in my introduction was that the Government's analysis was deficient in that it failed to analyse what John Howard claims are the benefits of a GST. I now make a very serious criticism of the Government's analysis on Sunday. Why do government agencies analyse matters? It is because they know something about what goes on in Western Australia and they can test what is said by commonwealth authorities about the implications of various issues for our State. We have a state Treasury, a state Department of Commerce and Trade, a state Department of Resources Development and a state taxation department because they know more about issues at the state level than does the commonwealth bureaucracy.

Is it not interesting that in respect of three very important issues in the package, the Government of Western Australia simply accepts what the Canberra bureaucracy says about what will be the implications of a GST? The first is the growth dividend that is assumed to come from the tax changes. Is it not convenient that in the analysis there is a growth dividend - an assumption about what the GST will mean for economic growth and how it will benefit the people of Western Australia because it will impact on the return that we can get from the taxes we charge?

Mr Ripper: It is pure ideology.

Dr GALLOP: It is absolutely pure ideology. I would have expected the Government of Western Australia to subject that Canberra-based argument to some analysis, but did it do that? No. Let us consider the savings that are expected to come from indirect tax reform. There is the argument that we have a wholesale sales tax system, that we will have a GST system, and that we must work out what the implications of replacing one with the other will be for the costs of government. Some bodies in our State can analyse that issue. They know something about it. I refer to our own state agencies, be they the agencies that directly deliver services or the state Treasury Department.

The Government of Western Australia made no effort to analyse those issues, despite its having the information and knowledge to do so. How convenient it is for the Government to accept what John Howard's bureaucracy in Canberra says about what the implications will be in terms of expected savings from indirect tax reform. No-one in the Canberra bureaucracy knows as much about the implications of those matters as people in the Western Australian bureaucracy, but how convenient it is for our Premier to accept what comes out of Canberra. He is just a poodle for John Howard in the federal election campaign.

Let us consider the first home buyers scheme. Again, what does our Premier do? He accepts the figures that come from Canberra. I would have thought that any decent analysis of such an issue would consider the demographics of the States and how they vary from one State to another and how the number of young people seeking a home varies from one State to another, and that it would subject a Howard analysis to some scrutiny. No, it is too inconvenient, too difficult and it might complicate the argument to actually do the work that the Government of Western Australia should do on such issues. The Government has done a grave disservice to the people of Western Australia by not analysing what John Howard says are the benefits that will come from a GST.

Let me repeat the four central points that I wished to make. The Government's analysis is biased in that it is highly selective and it completely ignores the impact on some important industries and groups in society. It is biased in the sense that the assumptions that it uses are either absolutely ludicrous or highly questionable. They are highly questionable in respect of some issues, and without doubt they are ludicrous in respect of others. The Government's analysis is inconsistent in its application of the formula for the distribution of commonwealth money to our State. As I have said, it is deficient in that it fails to analyse what John Howard has said.

What did we get from the Government on Sunday? We got 22 lines on economy and industry effects. There is much knowledge, information and talent within the Government of Western Australia. The Government had four weeks to consider what the package would mean for industry and the economy of Western Australia. We got gems such as the mining and agriculture sectors in Western Australia should benefit significantly. There was no analysis, no argument and no facts and figures. Then there was another line that tourism will suffer, but less in Western Australia. There was no analysis, no argument and no facts and figures. That came from a Government that has at its fingertips knowledge of those issues. Of course, it is not convenient for the Government to produce knowledge on the impact of a GST on our tourism industry, therefore it does not include it. Housing is one of our major industries in Western Australia, but there were only four words on it - housing prices will suffer. That is all that the document states about the impact of the GST package on the Western Australian economy. In fact housing prices will rise and there will be an impact on employment in that industry in Western Australia. There will be an impact on the ability of young people to access homes in Western Australia.

What have we from the Government? We have four words of analysis. What a shoddy document. What a disgrace that the Government of Western Australia, in a major election campaign, puts out such a pathetic piece of work on the future of our State. We are left with highly questionable and unsustainable assumptions about the future. What do we find after the questionable assumptions and the lack of analysis? We find that Western Australia will benefit only after 2004. Members opposite are happy to sell out the State of Western Australia on the basis of a package that will produce no benefits until after 2004-05.

Opposition members move around the State and talk to people in our community. We talk to people about those issues and we are confident that what we say about the GST is what they say, think, feel and know about such flat regressive taxes and the way in which they impact. In fact, Western Australia will lose: The Government of Western Australia will lose and the taxpayers of Western Australia will lose. It will be harder to access government services in this State. People on lower incomes will find life much tougher should this package be implemented. Significant industries in Western Australia, such as tourism and housing -

Mr Johnson: There will be no impact at all on tourism.

Dr GALLOP: What is the member's basis for that claim?

Mr Johnson interjected.

Dr GALLOP: Those three words are in the treasury document: Tourism will suffer.

Several members interjected.

Dr GALLOP: The member had better get his act together.

Why has this happened? All of this is happening because the Premier wants to help John Howard's re-election campaign. John Howard has been a total failure as Prime Minister of Australia.

Mr Kierath: The people will get the chance to judge.

Dr GALLOP: They will.

Mr Kierath: Will you accept their decision?

Dr GALLOP: Will I accept their decision?

Mr Kierath: I don't think so.

Dr GALLOP: Does the minister accept the Western Australian Appeal Court decision today?

Mr Kierath: I have not looked at it yet.

Dr GALLOP: He has not looked at it! Of course we will accept the decision of the people in a democratic election. Who created democracy in this country? Who fought for democracy in this country? The Australian Labor Party!

Several members interjected.

Dr GALLOP: I will conclude by drawing a contrast.

Mr Court: Who created democracy?

Dr GALLOP: It was not the conservatives. It was the Labor movement - the radical movement.

I will conclude my remarks with a contrast between Jeff Kennett and the Premier of Western Australia. Jeff Kennett

favours the GST, as is his right. This Premier also favours the GST, but there is a big difference: Jeff Kennett acknowledges his support of it but he also admits that the States will lose out. He is honest about it, but the Premier of Western Australia is not, and the document he released on Sunday is very shoddy.

I will also contrast the Premier's comments over the past four years with what he has accepted in this package. In June 1998, he said that the State Government wants the Federal Government to surrender a component of income taxes to the States so that grants can be largely abolished. What does the Premier get under the Howard tax package? No share of income tax. In August 1998, in response to the High Court decision that invalidated state franchise fees, he said that it would greatly exacerbate the mismatch in the State's revenue raising powers compared with the Commonwealth's, which is one of the major problems in our federation. What did he get from the Howard tax package? Greater revenue raising powers for the Commonwealth Government.

In August this year the Premier challenged the Federal Government to hold the necessary referendum to amend the Australian Constitution to restore certainty and balance in financing arrangements within the Australian Federation. What did the Premier get under the Howard tax package? No referendum on state taxing powers. In a media statement in February 1996 about the Commonwealth Grants Commission, the Premier said that the commission operates on the principle that more grants should be allocated to the poorly performing States, which is hardly an incentive to perform well. He went on to say that the Commonwealth Government is wringing the neck of the goose that lays the golden egg. What did he get from the Howard tax package? A bigger share of Western Australia's funding will be subject to the Commonwealth Grants Commission process of horizontal fiscal equalisation, which he acknowledges works against our interests. Also in February 1996, the Premier called on the Federal Government to accelerate the untying of grants to the States as part of the reform of commonwealth-state responsibilities. What did he get from the Howard tax package? A continuation of tied grants. That is not a bad achievement: Five-nil to the Commonwealth vis-a-vis the Premier of Western Australia.

We have a major decision to make as a community in the next few weeks in the federal election. The Opposition's view is that our society needs more fairness, not less. If one compares the Labor package with the conservative package, one sees that our package delivers more fairness. Labor believes we need more support for industry rather than less, and that is what we will get from a federal Labor Government. Members on this side believe that we need more help from the Federal Government for elective surgery waiting lists in Western Australia, and that is what we will get from a federal Labor Government.

The most revealing feature of the federal election debate thus far is the silence of the Western Australian Government. Government members have not engaged in any debate on these issues. The only time the Premier has come out is to respond to opposition questioning and pressure on this issue.

Several members interjected.

Mr Trenorden: You put up nothing in opposition to the GST. Your opposition is worth nothing at all. All you do is bitch and moan.

Dr GALLOP: I have put my cards on the table and I have presented my analysis. Let us hear one from members opposite.

Both the federal and state Liberal Governments want the election campaign to flow along without any analysis or debate. The Federal Government is counting on the fact that it has a 27-seat majority and that it will hang on even if it loses a few seats. The people of Western Australia deserve better than that from the Ministers for Local Government, Housing, Regional Development, Seniors, Health, Police, Agriculture and Works. None of them has come into this Parliament with an analysis of the implications of this major tax package on the people of Western Australia and the particular interests they are duty bound to support in this place.

The people of Western Australia deserve from our Premier some honesty and a serious analysis which will stand up to scrutiny and which has some independence and credibility. What they have from him is a disgraceful performance of his responsibilities as the Treasurer of this State.

Members of the Opposition will not let this issue go through to the wicketkeeper. We will analyse it, argue about it and take it into the community. We will ensure that when people vote on 3 October they understand fully what these issues mean, not only for themselves as individuals and their families but also for the State of Western Australia, the future of our nation, the future of our children and the defence of the elderly in this community. I assure the people of Western Australia that this Labor Opposition will do its work; I cannot say the same about the Premier or the team he represents in this Parliament.

MS WARNOCK (Perth) [8.00 pm]: Members have been given the macrocosmic picture and now they will be given the microcosmic one, but it will be just as acute. Most of the attention of the local racing industry this week is, not surprisingly, centred on the Kalgoorlie round. It has been a great year for the Kalgoorlie Racing Club and a good

year for racing in general. However, despite the present high spirits, a cold wind is blowing through the racing and gaming industry. That cold wind is the GST.

Dr Gallop: There may be high spirits in the industry, but what about the nightmares they have when they contemplate their minister, Hon Max Evans?

Mr Trenorden interjected.

Ms WARNOCK: They have not heard a lot from the minister in the last month or so. I thank the member for Avon; I know his biases there. Despite the high spirits in the industry at the moment, the cold wind blowing through it is the GST. Many people in the business have not heard a great deal about the GST. It is our belief that that is what the Government planned. It says, "Trust us and it will be all right." The Federal and State Governments have tried to keep the lid on this tax as it will apply to the racing and gaming industry. I have no doubt that there has been a conspiracy of silence.

Mr Kierath: Into conspiracy theories now, are we?

Ms WARNOCK: Yes, we certainly are this evening.

Mr Kierath: That is desperate.

Ms WARNOCK: Wilson Tuckey, the federal member for O'Connor, has been giving people the "Do not worry, trust us" message. According to my informants, that message has not been getting through and it will not wash with the people in the racing industry. Difficult as it has been to talk to people in the racing industry on the telephone today given that most of them are in Kalgoorlie, nobody in the racing or gaming industry here has seen anything in writing from either the State or Federal ministers with responsibility for this area. I remind the House that racing is the fourth or fifth largest industry in the country and an employer of tens of thousands of people.

Mr Cunningham: They are running for cover.

Mr Court: All of whom have four-wheel drive vehicles towing their floats around.

Ms WARNOCK: Alas, these people have a great deal to be concerned about and vague government statements that a GST will not harm racing are nonsense. I will explain why.

Mr Trenorden: It will not do as much harm as the Turf Club.

Ms WARNOCK: Racing is taxed in a particular way. Most of the industry's income comes from the Totalisator Agency Board's profits. In Western Australia, while a tax is paid on off-course turnover, the State Government has wisely allowed all WA clubs in the three racing codes to retain as extra income the betting taxes from the on-course tote and bookmaking. That is a sensible decision. I have no doubt that a GST would reduce this part of the codes' income. If the off-course turnover tax is not reduced to offset the new GST, it will cost the racing codes about \$12m; that is, 10 per cent of the \$120m profit made by the TAB.

Federal Treasurer Peter Costello has apparently said the States should reduce the current level of tax on tote betting because they will keep the GST. The Federal Treasurer has wisely and generously offered this information but has anybody in the business had any assurances about this? Absolutely not; we have not heard a word! I rang a number of contacts today to check that my information was not out of date. I last spoke to them about this matter a couple of weeks ago. Today the situation is the same; they do not have any information about the GST.

Apart from those taxes already mentioned, the racing industry will be affected in other ways. There will be a 10 per cent slug on trainers, vets and jockeys' fees, a 10 per cent hike in racecourse entry fees, a 10 per cent cut in prize money for owners -

Government members interjected.

Ms WARNOCK: That is as far as we can tell because the Government has told us nothing. There will be a 10 per cent tax on the sale of horses. Those figures do not include the tax on the servicing of mares by stallions, the cost of food, horse blankets, medicine and so on.

Government members interjected

Ms WARNOCK: It is a service and it will be taxed. Members should think about it! Plenty of goods and services are bought and sold within the gambling industry. The imposition of this new tax will be devastating. I obtained this information from the racing industry. I have yet to meet an enthusiast for the tax.

Most racehorse owners are not in the business full time - this is a characteristic of the horse racing industry - and, unlike other businesses, they will not be able to claim this tax. I guess many people will simply leave the industry

which will be very bad news for racing. This tax has the potential to knock the stuffing out of the racing industry. Everybody in the business believes that. Although the racing industry has picked up a little this year -

Government members interjected.

Ms WARNOCK: Government members should be quiet and listen and they might actually learn something. I am not making this up.

The SPEAKER: Order! If my very well behaved colleague, the member for Wagin, sits in his seat, he may get away with a little but not too much. There are too many interjections. The member is trying to make a point and deserves to be heard.

Ms WARNOCK: As I said - although it may have been very difficult to hear me - this tax has the potential to knock the stuffing out of the racing industry. Although racing has picked up this year, some country and provincial tracks are marginal. I do not think anybody in the country could honestly say that is not true. Some clubs simply cannot afford the ramifications of this new tax and, in my view, they will give racing away.

It is not good enough for the State and Federal Governments simply to say "Trust us, everything will be okay." That seems to be the technique so far. The member for O'Connor has been whispering in people's ears, "Trust us, everything will be okay." However, nothing has been put in writing and people are very alarmed. It has frightened the horses.

Several members interjected.

Ms WARNOCK: It is not good enough for the State and Federal Governments simply to say "Trust us." It will not work. They have not provided any written assurances or information for the codes. The people in those codes are worried. I rang them today to check. Most of them are in Kalgoorlie but enough of them were available to assure me that their feelings have not changed; they are still deeply concerned about this tax and they are prepared to fight it.

One of my colleagues in the eastern States who is also concerned about these matters and who has spoken extensively about them believes that it might lead to a return of the starting price bookie industry. That would not surprise me.

Mr Trenorden: That will be taxed too; it is a service.

Ms WARNOCK: Seriously, people will be so concerned about having to cope with the new taxes that they might return to the SP bookies.

Government members interjected.

Ms WARNOCK: They might do that or they might even go overseas. Electronic gambling is readily available, so why will people stick around and deal with a GST when they can go offshore? We should be careful of the SP bookies and the GST. I believe it will be a devastating tax for the racing industry and I am not alone in believing that. Members need only ask some of the people in the industry.

MR COURT (Nedlands - Premier) [8.09 pm]: I will make some points in response to the comments made by the Leader of the Opposition. The first point I make is that the Leader of the Opposition asked for a Treasury analysis of the coalition tax package. An analysis was provided and then he proceeded to say it was a partisan analysis and he has spent the past few days ridiculing Treasury. On one hand he says he wants some analysis, and yet when it is provided, he then comes into this Parliament and makes some outrageous allegations against Treasury doing it in a partisan way.

Dr Gallop: What role did your office play in it?

Mr COURT: My office did not play any role in it. I answered that question in Parliament.

It is funny that the tourism issue arose because he said there was a quote in the analysis that was terrific. He said even the Treasury analysis says this, so that when it suits him he uses it, but when it does not suit him, he does not use it. The second thing that is interesting is that we are in the middle of an election campaign.

Mr Thomas: We are not.

Mr COURT: The nation is. The Leader of the Opposition has chosen not to use question time to run on some of the key issues in the federal campaign.

Dr Gallop: That is nonsense.

Mr COURT: I have not heard the Leader of the Opposition make one comment which explains how the Labor Party

package will help Western Australia. The reason he has not made a comment is because absolutely nothing is in the package that will give Western Australia a better deal than we currently have.

Dr Gallop: Health, education, roads, rail.

Mr COURT: I will talk about health. Under Labor, the Medicare Agreement provided that if there were a drop of 2 per cent in the private health insurance numbers, a step-in arrangement would be put in place whereby the Commonwealth would renegotiate and look at providing additional funds to the States. Did it ever provide any additional funds to the States after that agreement? Absolutely not. For 13 years it had the opportunity to give the States a better health funding deal and it did not do it.

Dr Gallop: It did; the figures show it. You gutted the public hospital system and the federal Labor Party propped it up. That is what happened.

Mr COURT: I found the Leader of the Opposition's address quite interesting until he said that the Labor Party had created democracy in Australia.

Ms MacTiernan: It was your party that was arguing for universal suffrage, was it? Give us a break!

Mr COURT: If I want to do modern history, all I have to do is look at the preselection process in the Australian Labor party to find that no democracy exists. There is a group of people who say, "You, you and you; you will be our next candidates."

Several members interjected.

The SPEAKER: Order members! There are far too many interjections, specifically from the member for Armadale, who has had about three-quarters of the interjections today; it is far too many.

Mr COURT: It boils down to members opposite being so ashamed that they are not prepared to promote their own taxation package. Otherwise during an election campaign, members of the Opposition would come into this Parliament and say, "This tax package does this, this and this for the Australian people. This package gives Western Australia a greater share of revenues, etc." They cannot say that because it does not do it.

I will respond to the comments that were made about the Treasury analysis and its being consistent with the forward estimates that were published in the Budget in April. Any suggestion that the figures have been made up is something that I find quite outrageous and I suggest members opposite check their facts before they continue to make those comments. They claim that Treasury is underestimating Western Australia's share of financial assistance grants in 2000, 2001 and 2002, but they are the very same estimates that the Government used in April when the Budget was handed down. I did not hear them say the Government was underestimating those estimates then.

Dr Gallop interjected.

Mr COURT: No, the Leader of the Opposition has made the allegations. I will refute them.

Dr Gallop: It is an allegation of inconsistency.

Mr COURT: It is so inconsistent that the Government has the same figures now as in April when it brought the budget down.

Dr Gallop: What about the way you analysed the share of the GST? Will you get on to that and talk about that?

Mr COURT: I will but the Leader of the Opposition will not like the answer. The projected low growth in the state budgets reflects the narrow and the actual declining base that we have in taxes. The whole idea of our getting away from the narrow inefficient base that we have is to try to get the State locked into getting a share of a significant growth revenue, not the revenues we currently have that in many cases have been declining. We have a declining tax base and it was made worse by the most recent decision of the High Court whereby we have effectively lost access to -

Dr Gallop: This is a non-argument. We are talking about commonwealth grants to the States. Get down to it. You have no idea how to conduct an argument. I will give you a lesson if you want! Talk about the issue. How did you calculate the share that is going to the States and why is it inconsistent with the share coming from the GST?

Mr COURT: I will continue with my comments because I sat in silence while the Leader of the Opposition -

Dr Gallop interjected.

The SPEAKER: Order! Some members may think that because I have been extremely generous with the interjecting that I have allowed that that should continue. It should not. It is a disgrace! I have allowed the Leader of the Opposition to make considerable interjections because he contributed to the debate, and he wants to follow through

with what he said and that is fair enough. Many members have made no contribution to the debate and all they want to do is sit in their seats and blurt out interjections. There is too much of it, and it must stop.

Mr COURT: With a declining tax base, the time has come for the States to get access to growth revenue. I will continue to respond to the comments made by the Leader of the Opposition. The estimate of no growth in stamp duties reflects the state of the markets concerned; for example, the share market is currently at a cyclical high and reductions in revenues are more likely than increases. There is a low inflation environment compared with that in the past 10 to 15 years and in view of the highly volatile and uncertain nature of those revenues, Treasury has said that a constant estimate is prudent.

Dr Gallop interjected.

Mr Kierath interjected.

The SPEAKER: Order! I formally call the Minister for Planning to order for the first time.

Mr Thomas: Hear, hear!

The SPEAKER: Order! I formally call the member for Cockburn to order for the first time.

Mr COURT: To say that all state taxes should grow by 4 per cent fails to appreciate that strong growth in some taxes is offset by low growth in the debits tax and the narrowly based stamp duties. Those opposite are accustomed to a high inflation environment and cannot get used to the fact that some of our taxes have been declining. The Treasury's recent track record in forecasting revenues has been very good. Last year, for example, the actual revenues from taxes and licences varied from the Treasury budget estimate by only 0.7 per cent. That was after adjusting for the impact of the section 90 decision by the High Court of Australia and the sale of the gas pipeline. The Leader of the Opposition has been very quick to come into this Parliament and say that Treasury has been either optimistic or pessimistic. I believe, to its credit, in the past six years it has been quite accurate in its estimates. Some of the criticism levelled by the Leader of the Opposition reflect his inadequate understanding of the financial assistance grants; for example, he ignored the fact, and then tried to correct it, that we get a declining share of the financial assistance grants pool. He revised his analysis to correct that fact, but did not revise it correctly.

In relation to the sensitivity of the Treasury analysis to the changes in the underlying assumptions about future revenue, he very conveniently forgot another factor: Treasury made an estimate of what the GST revenues might be. It has said that it has made a conservative estimate. If the GST revenue - members opposite should listen to this - grows at the rate of consumption expenditure over the past decade, which the Leader of the Opposition has been wanting to use for many of his arguments, the benefit to Western Australia will be around \$4.8b, not \$2b. Treasury has been conservative in its assessment of the revenues that will flow from that. The Leader of the Opposition nods his head.

Mr Ripper: Are the figures quoted in the analysis real figures or nominal figures?

Mr COURT: When comparing now with 2000?

Mr Ripper: In the Treasury analysis are you using real figures; that is, figures that have been adjusted for inflation, or are you using nominal figures, and are you using real or nominal figures for both sides of the argument?

Mr COURT: One aspect which those opposite cannot come to grips with is that we are now in a low inflation environment. Of course, we must adjust for inflation.

Mr Ripper: Have you done it consistently on both sides of the argument? I think not.

Mr COURT: The point I am trying to make is that the Leader of the Opposition has said - I will summarise it - that Treasury has underestimated the revenue growth if it kept the state revenues and overestimated the revenues that would come from a GST. The point I am making is that the Treasury has been conservative -

Dr Gallop: On one side, but not the other.

Mr COURT: No. It has been conservative in its assessment of what the revenues from a GST would be. In relation to the assumptions, the Leader of the Opposition has taken it upon himself to say that Treasury has it all wrong. He knows more than Treasury, even though in the six years we have been in government it has been remarkably good in its forecasts. That is not easy and I think the next couple years will probably be the most difficult because of the uncertainty. The next point I make relates to vertical fiscal imbalance.

Dr Gallop: No mention of that in the analysis.

Mr COURT: The Leader of the Opposition said that in our preferred tax package, we wanted the Federal Government to remove a section of income tax and to allow the State to move into that area. As members know, in

our analysis eventually we would prefer to see the states being able to have varying rates of income tax. We have also said that we would like a share of a broad-based, indirect tax. We have been given not a part of a broad-based, indirect tax, but all of that broad-based, indirect tax. The Leader of the Opposition knows that, because of High Court rulings, unless we change the Constitution we cannot get access to those revenues.

Mr Graham: Do you concede in this package that you lose the taxing power?

Mr COURT: Those opposite do not understand. We do not have the taxing power. The High Court has said that we are not able to raise these taxes.

Mr Graham: The deal is to give up some of the state taxes in return for something else.

Mr COURT: This is the interesting argument: Kim Beazley was on radio the other day saying that if the States want growth revenues, they should increase the taxes they already have or bring in some new taxes. That is his argument.

Mr Graham: Do you concede the state loses its taxing powers to Canberra? It is a simple question.

Mr COURT: The member reckons that we should use stamp duty as our growth tax.

Dr Gallop: That is not what he said.

Mr COURT: That is what he is saying. The point I make is that if we change -

Mr Graham: Do you concede that Western Australia loses its taxing power under the arrangements you have agreed to - yes or no? It is not a difficult question.

Mr COURT: Members opposite should listen to what I am about to say. We cannot have a broad-based, indirect tax which is state based. We cannot do that. The Federal Government has been prepared to give all of that broad-based revenue to the States. In an ideal world we would like to see a change to our Constitution, and I hope it happens, so the states can raise those taxes. Without a change to the Constitution, we have been given all of the revenues. Theoretically the Leader of the Opposition is right.

Mr Graham: You lose both in practice.

Mr COURT: I am sorry but I am responding to the Leader of the Opposition's issue on vertical fiscal imbalance. Theoretically he is correct when he says that the Federal Government is raising the moneys. However, because all of those moneys are being given to the States, the States have a say over the rate and the base of the tax. It cannot be changed without the approval of all of the States.

Dr Gallop: The Commonwealth has a veto.

Mr COURT: All of the States and the Federal Government are involved. All of those revenues come to the States. Let us compare that with Kim Beazley's offer: In his major taxation reform package he has offered to sit down with the States and talk about it after the election.

Dr Gallop: He wants to consult about it.

Mr COURT: That is all he can do.

Dr Gallop: He is not Prime Minister yet. He cannot consult until he is Prime Minister.

Mr COURT: In a democracy, before an election one tells people what one wants to do.

Dr Gallop: He has.

Mr COURT: He has said that he will sit down and talk with the States.

Dr Gallop: John Howard told you what you had to do. Kim Beazley is telling you what he will talk to you about. It is different.

Mr Thomas interjected.

Mr COURT: I am making the speech. In 1984 the States were told by the then Labor Government, and it was in legislation, that the States would have a guaranteed percentage of the total commonwealth tax revenues. If the States had received that, it would have meant that during the 1980s and the 1990s, when growth revenues were flowing, the States would have been able to share in those revenues. People cannot have that with a Labor Government. It changed the legislation and the States were never given access to those revenues. People judge Governments on their performance. The Labor Party had 13 years in which to give the States a better revenue deal. The Leader of the Opposition has said on many occasions that every time he meets with Kim Beazley, he lobbies to make sure that the States will get access to a growth revenue. However, Kim Beazley has not given him that.

Dr Gallop: He cannot. He is not Prime Minister, is he?

Mr Minson: What will he give us? He will sit down and talk to us.

Dr Gallop: What else can he do?

Mr COURT: Is the Leader of the Opposition seriously saying that Kim Beazley cannot tell us what growth revenues he will get until he is Prime Minister?

Dr Gallop: He needs to consult. He wants to talk to the States about it. Did John Howard talk to you about his package?

Mr COURT: Yes he did.

Dr Gallop: He announced it to you.

Mr COURT: No he did not.

Dr Gallop: Yes he did. When did he tell you about the package? It was two days before it was announced.

Mr COURT: The Leader of the Opposition explained a moment ago why all that members opposite want to talk about is the coalition's tax package. They cannot talk positively about their tax package, because the Labor Party deal for Western Australia is that its members will sit down after the election and talk about the possibility of giving States a share of growth revenue. That is hardly something that excites the States.

What does the Labor Party say it will do and what has it done? In 1993, after a very effective scare campaign on the Fightback package, Mr Keating was re-elected as Prime Minister. Within months a horror budget was brought down by Treasurer Dawkins. Things were a lot worse than they thought they were. After that campaign, we had two lots of sales tax increases. I recall what they did for leaded fuel for cars and the like. Members opposite say that they do not want a service tax, yet the only State Government that has introduced a bed-tax is the New South Wales Labor Government.

Dr Gallop: I think there is one in the Northern Territory.

Mr COURT: I said "State". The Leader of the Opposition might be right in a couple of years' time.

We must judge people on what they do when they are in government. The promised tax cuts did not come. The Labor Party fought a campaign on Fightback, but the first thing it did was to increase sales tax. The Labor Party has a credibility problem.

The Labor Party has chosen to say that the Treasury analysis is a government, partisan analysis. I have said to the Leader of the Opposition that the Government did not do the analysis. Interestingly he has not asked for a Treasury analysis of his Labor Party's package.

Several members interjected.

The SPEAKER: Order!

Mr Brown interjected.

The SPEAKER: Order! I formally call to order the member for Bassendean for the first time.

Mr COURT: One would have thought that a party that wanted to assume government would spend its time in Parliament during an election campaign telling us the positive things that it wanted to do for this country. Members opposite have tried to use the old scare tactics again. I believe that this time around it will not work and that they have made a mistake in not sitting down and working out a genuine reform package. They have withdrawn into their shells away from a reform agenda, not only on taxation, but also on a number of other issues. The public will have the opportunity to make a choice. I agree that it is difficult to sell major tax changes at an election. People chose in 1993 not to accept a major tax reform change. However, there is a much better understanding today that major problems exist in our tax system, and that the coalition has come up with a genuine attempt to bring about major change. Of all the States that will benefit, Western Australia will benefit the most. The package in areas like transport costs and diesel costs will bring about huge savings for people running businesses.

Mr Graham: That is not what Bob Katter says.

Mr COURT: The big winner will be the member's electorate.

Mr Graham: If you are a gambling man, I bet you that in 10 years' time the transport charges will be the same percentage of costs as they are now, and the GST will be in place if you mob are in government.

Mr COURT: A big reduction in transport costs for long-haul transport must be a plus. If the current sales tax rates come off the prime mover, it will be a big plus for that operator. He will get back all the GST inputs into that transport operation. The member knows that. He knows it will lower transport costs into his area.

Mr Graham: Let me explain to you what they will do. Do you remember the Medicare rebate and the tax cut that was going to private health to lower the cost of health insurance? What did the health insurers do? As soon as you applied the tax cut they raised the price. Surprise, surprise! No truckie would ever do that, would he? You must believe in fairies at the bottom of the garden.

Mr COURT: I will just respond to the Deputy Leader of the Opposition who wanted to know what dollar figures the dollars are in.

Mr Ripper: Whether they are real or not.

Mr COURT: They are dollars of the day.

Mr Ripper: Of which day?

Mr COURT: They are dollars of the day; they are not adjusted for inflation at the beginning and the end. That analysis is done in the same way as the Commonwealth has done its analysis.

Mr Ripper: Is the analysis in 1998 dollars or dollars of the day?

Mr COURT: I said it was in dollars of the day. It is all very well for the Opposition to ridicule Treasury's analysis. It is the first time in six years that the Opposition has adopted that attitude towards Treasury.

Ms MacTiernan: Why don't you call in the Treasury officials and let us ask them how they prepared their report?

Mr COURT: It is outrageous that members opposite want to know who were the people who worked on the analysis in Treasury.

Ms MacTiernan: We want to talk to them.

Mr COURT: They want to know the names of the public servants working on specific projects.

Mr Ripper: We thought Ian Fletcher might be one of them.

Mr COURT: He does not work in Treasury. We cannot support this motion. If members opposite want to spend their time during an election campaign knocking the coalition package when they do not have the nerve to promote their own package, their approach speaks for itself.

MR BROWN (Bassendean) [8.42 pm]: Mr Speaker -

The SPEAKER: I thought the member for Bassendean had made his speech.

Mr BROWN: Perhaps I spoke earlier today, Mr Speaker.

The SPEAKER: Perhaps it was an interjection or two.

Mr BROWN: I am pleased to support the motion moved by the Leader of the Opposition. Shortly I will talk about the impact of a GST on the tourism industry. During the debate this evening a number of government members indicated by interjection that it would not have any impact on the tourism industry. I am sure people in the tourism industry to whom I speak will be interested in that view because it is not the view they expressed to me about the impact of the GST. In fact, if we try to apply logic to some of the Howard Government's rationale for introducing a GST and changing the tax mix and the so-called job creation that will lead to, it is obvious that the logic does not stand up.

I will first indicate to the Premier why members on this side of the House are comfortable with supporting the Federal Labor Party's package. When we examine the Howard Government's package closely, it is obvious that it delivers 50 per cent of the tax cut to the top 20 per cent of the income earners; that is, this is not tax reform for the sake of efficiency. This is tax change about redistribution of income from the poor and the middle income earners to the rich.

On examination of the figures and the way this tax package works -

Mr Court: Your figures show that \$5.3b of the tax cuts go to the 80 per cent of people who earn less than \$50 000. You admit that. In the coalition's tax package \$6.4b of the tax cuts go to those taxpayers - \$1b more goes to the people you say you are helping.

Mr BROWN: I will explain a minor, teensy-weensy oversight the Premier has made in the equation: The difference is that although another amount of money will go to people earning less than \$50 000, under the Labor package they will not be subject to a GST. I know that is a very small issue but -

Mr Court: They still pay a wholesale sales tax.

Mr BROWN: But they do not and will not pay the 10 per cent on haircuts, services, etc, that they will pay under the Howard Government's tax package. The Premier is not exactly stupid; I am sure he understands that. He knows how much revenue will come from food and basic foodstuffs. The Prime Minister has refused to rule out a tax on basic foodstuffs. He has refused to go down the path of a number of other Organisation for Economic Cooperation and Development countries with a GST and impose a lower rate on food.

If the Prime Minister came forward and said that a GST of 2 or 3 per cent on food and 10 per cent on other items would apply we could acknowledge that it will not have such a discriminatory effect on people on low and middle incomes. However, he will not do that because that will mean putting a higher rate, such as a 12.5 or 15 per cent GST on goods and services other than food. Everyone knows how much will be collected from a tax on basic foodstuffs. That is why the Prime Minister has included it and why, when it was suggested to him as it was suggested to the Liberal leader in 1993 during the election campaign that food should be removed, both of them rejected that view. Fortunately, Dr Hewson finally capitulated and removed the GST from food, not because he wanted to but because the Australian people demanded it. He would have faced an even more difficult political fight for his survival if he had left a GST on food. The fact that he took a GST away from food at the last moment was not enough to save him.

Although the Premier talks about people on this side of the House not being prepared to support the Labor package, I am happy to support the Labor package. I am happy to go to the thousands of low and middle income earners in my electorate who will do much better out of the Labor package than the coalition package and explain to them why, logically, that is the case.

The member for Murray-Wellington talks about delivering. The Court Government has delivered on a number of issues. It has delivered on tax increases. This is a Government that talks about ethics in business taxes and its having a higher position on these issues.

A little taxi driver came into my office last week with the account for his third party insurance and registration on his taxi. The account was for 12 months registration from the beginning of this year for which he paid six months registration. In August he brought back his next account which again was for six or 12 months. Do members know what was the difference between the account rendered earlier this year and the account rendered later this year? The increase for this small business person whom the Government professes to represent, who must do many more trips to stand in exactly the same financial position, was \$300; that is, more than a 30 per cent increase.

That scungy mob over there talks to us about tax reform and about small business while it imposes on the poor little unsuspecting taxi driver more than a 30 per cent increase. If the average fare is \$20, to stand in exactly the same position as he stood last year, this little taxi driver who gets 50 per cent of his fares, must now do another 60 trips a year. That is 60 trips a year to stand still. This is the Government, this mob over there who claim to support small business; this group who stand up and say, "But we have all the ethics when it comes to taxation. Trust in us; we are the God fearers; not the people on the other side."

Mr Bloffwitch: How did it go up by \$300?

Mr BROWN: I can tell the member for Geraldton and the rest of his colleagues that I will bring in the taxi driver's receipts. They are downstairs; I will bring them up and I will quote them to him.

Mr Bloffwitch: This is another of the member's exaggerations.

Mr BROWN: I am glad the member for Geraldton is on the record as saying that. I promised my taxi driver friend that I would raise the matter in this House and I am happy to go back and tell him that the member for Geraldton does not accept that he is telling the truth. The taxi driver has brought in the documents from the Department of Transport. Therefore, when people on the Government's side -

Mr Court: Does he own a taxi licence?

Mr BROWN: Yes.

Mr Court: What is the value of the licence?

Mr BROWN: I do not know what is the value of the licence. However, in six months it has gone up, Premier, from \$860 to \$1 160. That is a \$300 increase - more than 30 per cent.

Mr Wiese: Sixty trips at \$20?

Mr BROWN: That is half. Does the member understand the way it works, if he is leasing his cab?

Mr Wiese: What is 60 by 20?

Mr BROWN: No, it is half.

Mr Wiese: Sixty by 20 is 1 200. Half of 1 200 is 600. He is making 100 per cent profit.

Mr BROWN: Thirty trips. No, he is not making any profit.

Mr Court: Hang on. We have gone from 60 trips to 30 trips.

Mr Wiese: This is all arithmetic. The member for Bassendean has never understood finance in his life.

Mr BROWN: The member for Wagin would be surprised. However, we will deal with that another day. When members opposite are holier than thou they should look at the impost that the Government has imposed on small business people.

I want to talk about the impact of the GST on the tourism industry. As I said before, I am interested that a number of members of the Government do not see the GST having any impact on the tourism industry. That is not what the tourism industry tells me because the industry is a price sensitive industry and a GST being applied to that industry will increase prices. According to the Tourism Council of Australia, prices will increase with the impact of a 10 per cent GST. It will increase travel agents' costs by 8 per cent, hotel prices by 8 per cent, restaurant prices by 6 per cent, domestic airfares by 8 per cent and bus travel by up to 4 per cent. The Government can take issue with those increases but they have been calculated by the Tourism Council of Australia. What does that mean? The member for Hillarys said that that was terrific because people will be coming from overseas to Australia, paying taxes and adding to our tax pool.

Mr Bloffwitch: As we do when we go to every other country.

Mr BROWN: That is right, insofar as people from other countries agree to do that. However, that fails to acknowledge that tourism is a price sensitive market, therefore, whether we are able to attract international tourists here will depend on the cost of the product. To the extent that that product continues to increase, if it increases, is the extent to which there will be an impact on international tourists that we are able to attract into Australia and Western Australia. If members want to know about the price sensitivity of that product, they should look at what happened to the Australian dollar in recent times. The Australian dollar has increased in value compared with a number of Asian currencies and decreased in value compared with a number of European currencies or the UK currency and the US currency.

Treasury indicated in its analysis a few months ago of the currency crisis in Asia and its impact on the Western Australian economy that there will be pluses and minuses for the tourism industry. It indicated that the lower Australian dollar, compared with the US and UK currencies, will provide an impetus for people in those countries to travel to Australia. Indeed, we have seen that in tourism arrival figures. There has been an increase in visitors coming from the UK and the US. In part, the Government sought to claim that its advertising campaign in the UK has been responsible for the increase in UK visitors. However, interestingly, when one compares that increase with the US increase, where there is no advertising campaign, we see that the increase in both markets has been substantial.

Therefore, we see that price sensitivity is a critical motivating factor for the true tourist - as opposed to the business traveller or people visiting family and friends. If the price of the product is increased, people will be dissuaded from picking up the product; that is, coming to Australia and enjoying a holiday.

Mr Bloffwitch: I bet you do not.

Mr BROWN: It is interesting that the member for Geraldton says that. All of the evidence indicates that the industry is a price sensitive industry and that it will have an impact.

Mr Bloffwitch: Does the member for Bassendean not travel overseas because of the GST? What a lot of rot.

Mr BROWN: I am glad that the member for Geraldton is saying that the Treasury analysis about the tourism industry being price sensitive and a GST having an impact is a lot of rot.

Mr Bloffwitch: I am talking about tourists not coming here because of a GST. They came when there was a wholesale tax.

Mr BROWN: I am interested that members of the Government again do not accept those arguments; I will convey that to the industry. The second thing that has been raised with me by members of the tourism industry is if the price of tourism is increased in Australia, a number of Australians will take a holiday overseas instead of in this country. We all know that currently, considering the value of the Australian dollar, there are some real bargains in south east Asia. Hopefully, that will not remain and that position will eventually change. Ultimately, genuine tourists looking for holidays - not business travellers or people visiting family and friends - will consider the price sensitivities of the market and some will elect to holiday elsewhere as a result of the increases that will occur by virtue of the GST. One

can argue about what percentage and how many. Of course, every tourist who elects to holiday in a destination other than in Australia, or Western Australia, means economic activity lost to this State.

It is important to consider the arguments because members of the Government have said, by way of interjection, that this price sensitivity is not a big issue for the tourism industry. It is interesting that although the Federal Government forgets the price sensitivity argument for tourism, it likes to use that same argument for promoting the GST and other tax reform arrangements because the Prime Minister has claimed the reform will have the impact of lowering the price of exports. If that is the case, it defies the logic in relation to tourism. According to the interjections from government members, because these things are not price sensitive, it will not have any impact at all. Members opposite cannot have it both ways with this argument. The argument of the Howard Government is that it will be a factor in exports. In that case, it will equally impact on the number of people who are attracted to the tourism industry in Australia.

It is important also, when referring to the impact of the GST on the tourism industry, to understand the nature of that industry. It is a service industry which provides a great deal of employment. It is not a high capital industry, as are a number of export industries. It provides significant employment, and labour is a key factor in this industry. That means any slowdown that occurs as a result of the imposition of a GST will impact not only on the operators and owners in the tourism industry, but also on employment opportunities within the industry.

My concern with the GST and the way it will operate covers a number of issues, one of which obviously relates to the tourism industry. The other is simply the question of equity. There is far greater equity in the Labor-Beazley package than in the Howard Government tax package. In the Beazley package most of the benefits will go to people earning \$50 000 or less a year. In the package promoted by the federal coalition Government, those who earn \$75 000 or more a year will receive a tax reduction of \$86 a week, which is an increase in income of approximately 7 per cent. People on lower incomes, between \$15 000 and \$20 000 a year, will receive a tax reduction between \$15 and \$20 a week. There is not only a significant difference in the amount of income received, but also the percentage increases will be quite different. Those on lower incomes will receive a lower percentage reduction in tax. From an equity point of view, I am perfectly happy to strongly support the Beazley package because I believe it can be justified. The great bulk of people in the community are receiving incomes in the order of \$50 000 or less a year, and for the sake of equity, Governments should target the most assistance to people in those income brackets.

MR BARRON-SULLIVAN (Mitchell) [9.04 pm]: Before I get into the detail in my response to this motion, I indicate that the Opposition's approach to this whole issue raises a fairly serious question. The motion before the House is very one-sided. Obviously, in the political process I am not suggesting that the Opposition would move a motion condoning the federal coalition Government's tax package, but obviously missing from the Opposition's motion is any reference to the Australian Labor Party's tax package. It is quite clear as we move towards the date of the federal election, that it is being fought on the basis of a comparison between the tax packages put forward by the two alternative Governments.

I give the member for Bassendean his due for speaking firmly and strongly in support of the ALP package. He tried to cover a number of aspects and drew comparisons between the counter-provisions in the coalition's tax package. I believe that is the role of an Opposition. An effective Opposition should consider in detail any major policy initiative put forward by a Government, particularly when such initiatives have federalist implications, as in the case of the tax package currently being debated. The federal coalition's tax package covers 207 pages, including the index, and contains a great deal of detail about tax initiatives. Before the House currently is one scattergun motion which attempts to address the whole issue in a couple of hours. Far be it from me to tell the Deputy Leader of the Opposition his job - I do not believe in teaching my grandmother how to suck eggs - but I agree with the Premier, in that I expected debate this week to revolve around issues relating to the tax package, its impact on this State and the connotations for federal-state financial relations.

Mr Ripper: If you are very lucky you will have some years to practise the art of opposition.

Mr BARRON-SULLIVAN: I would rather watch the Opposition in action.

The motion touches on the question of the fairness of a goods and services tax. It goes without saying that we are not talking about a goods and services tax; the member for Bassendean acknowledged that and the Leader of the Opposition touched on other points as well. We are talking about taxation reform, which is the most serious question to confront this State and nation and take us into the new century. It is not about a GST and a four-line motion at the bottom of page 3 of the Notice Paper; it is about extensive debate on taxation reform.

Mr Kierath: What is the Labor Party's attitude to that? It is frivolous.

Mr BARRON-SULLIVAN: The Labor Party's attitude seems to be totally politically oriented. It is not prepared to look at the detail of the two packages and to draw comparisons. The difficulty is that I cannot hope to cover all the

different aspects of this issue in the 27 minutes allotted to me. So far I have drawn attention to the fact that the member for Willagee and his colleagues have been unable to provide a detailed analysis of or comparison between the two tax packages. They have asked the Premier to provide them with that.

Several members interjected.

Mr BARRON-SULLIVAN: I will be interested if the member for Willagee utters a word in this debate tonight. I will do something fairly simple in this debate tonight because in the time available I am unable to dissect the whole of the ALP tax package and to draw comparisons with the coalition's tax package to indicate the relative fairness of each one. Therefore, I will refer to only one point of each package; that is, the capital gains tax. I listened to the Leader of the Opposition earlier tonight and was interested that he did not mention the capital gains tax once. I do not think he mentioned what was in the coalition's tax package on capital gains.

Mr Kierath: He would not mention the ALP's; it would frighten people to death.

Mr BARRON-SULLIVAN: Precisely. However, I will mention the ALP's policy because it is interesting reading. I encourage members on both sides of the House to refresh their members and to reach eagerly for page 61 of the ALP's tax package.

Mr Pandal: What does that say?

Mr BARRON-SULLIVAN: It refers to capital gains tax reform. I love the word reform in this case.

Mr Kierath: It means more tax!

Mr BARRON-SULLIVAN: It certainly does. It means an additional \$300m tax collected in the first three years. I will read what the ALP says it wants to do with the capital gains tax. It states -

A Labor Government will remove the exemption that would otherwise apply to capital gains accruing on assets from 1 January 1999 that were acquired prior to 20 September 1985.

We all know what happened on 20 September 1985. That is the date that the ALP brought in the capital gains tax. What is the logic behind this policy change? Let us hear the explanation.

Mr McGowan: He is misleading the House.

Mr BARRON-SULLIVAN: I am sorry if am misleading the House by reading the ALP policy. I will mislead the House a little longer with the ALP policy. This is a beauty. It reads -

Labor considers that this approach was appropriate at the time of the introduction of the CGT in order for the community to become accustomed to the new arrangements.

In 1985 the Labor Government of the day promised that it would never do this. Members have now heard that they did not do this so we could all become accustomed to the new tax. To continue -

However, this exemption is no longer appropriate as it provides an unfair windfall to those who continue to hold assets acquired prior to 20 September 1985 (pre-CGT assets) compared to other taxpayers holding the same or similar assets which are subject to CGT.

People will be taxed on a "windfall gain".

Mr Carpenter: Will it apply to the family home?

Mr BARRON-SULLIVAN: I thought members might be interested to know what the definition of "windfall" is, so I consulted the member for Vasse's dictionary. Members should bear in mind that the Labor Party is referring to this as an "unfair windfall". The first of the two definitions is of an apple or other fruit blown to the ground by the wind. Knowing how the ALP puts its tax policy together, it might have thought it meant that. However, it was referring to the second definition of "an unexpected piece of good fortune". The ALP is saying that all those Australian families and small businesses that worked hard prior to 1985 to earn assets to provide for their retirement or to build up a business base would in some way or other obtain a windfall out of it. I argue that they deliberately worked hard and put their savings aside; they deliberately invested in real estate or put their money into their small business. That was their intention. It was not a windfall by any means. I suggest that the Labor Party might consider some new spin doctors when it tries to justify a policy of this nature. Clearly the real reason for this anomaly - it is not a windfall - is that the federal Labor Government at the time brought in a capital gains tax.

The justification for that aspect of the ALP's tax package defies any logic. However, the impact will be clear, and is spelt out on page 61 of the Labor Party's taxation package. A table shows what that capital gains tax reform will cost the community. In the first two years of implementation, 2000-2001 to 2001-2002, the total cost will be \$300m.

However, when one reads the fine print the policy does not end there. The policy states -

Over time significant revenue will be generated from this initiative. The above profile is considered conservative . . .

It sure is. When one compares the original estimates in 1985 of how much the Government would accrue from capital gains tax with the actual figure, it is far in excess of expectations. The member for Willagee asked earlier whether the ALP's capital gains tax policy was intended to apply to the family home. I would like to ask the member for Willagee that question, because this policy contains no exemptions. If one takes a literal reading of the policy it would apply to the family home. That is the problem, because 13 years ago the ALP said that what it is doing now would never happen. Now it is keeping quiet on whether it will apply to private homes.

Mr Carpenter: As of this moment, does it apply to the family home?

Mr BARRON-SULLIVAN: This policy is silent on that. The ALP's policy also says -

All pre-CGT assets must be valued as at 1 January 1999. All real gains made from the valuation date will be subject to CGT.

Mr Kierath: That does not sound like an exemption to me.

Mr BARRON-SULLIVAN: Nor me. Even if I were to accept, in my total naivety, that this would not apply to the family home, it does apply to small business.

Mr Bloffwitch: Very friendly to small business!

Mr BARRON-SULLIVAN: Exactly. It certainly applies to assets that people have purchased to make provision for their retirement. Will the member for Willagee support that policy?

Mr Carpenter: Yes.

Mr BARRON-SULLIVAN: Does the Deputy Leader of the Opposition support the capital gains tax provisions on page 61 of the federal ALP policy?

Mr Ripper: Absolutely. It is income earned; it should be taxed and it is a rot that it is not taxed.

Mr BARRON-SULLIVAN: So the small business people who are providing for their retirement in the electorates of Belmont and Willagee are rotting the system; they are benefiting from a windfall?

Several members interjected.

The SPEAKER: Order!

Mr BARRON-SULLIVAN: So, by golly, the Labor Party will tax them for it.

Ms MacTiernan: Why have one regime pre-1985 and one after?

Mr BARRON-SULLIVAN: The member for Armadale likes the idea of death duties.

Ms MacTiernan: I referred to a wealth tax, like in every other OECD country.

Mr BARRON-SULLIVAN: The member for Armadale would make a better spin doctor for the ALP than its tax planners, because the two issues read the same way. However, that is the Labor approach.

Ms MacTiernan: Tell me why someone should be treated differently from someone who bought their deli in 1983?

Several members interjected.

Mr BARRON-SULLIVAN: Mr Acting Speaker (Mr Baker), should I sit down and let the cross-Chamber debate ensue?

The ACTING SPEAKER: Order!

Mr BARRON-SULLIVAN: The other angle, which has been covered extensively in the media recently, is that capital gains tax assets acquired prior to 20 September 1985 must be valued as at 1 January 1999. That will cost a fortune. It will be a hassle of the first degree.

Ms MacTiernan: Are you saying it will be compulsory?

Mr BARRON-SULLIVAN: I am reading from page 61, and I can see nothing to indicate that it will not be, because the Labor Party's policy states - I will quote it again so that all members of the Opposition can understand it - that

all pre capital gains tax assets must be valued as at 1 January 1999. Sure, we are all waiting to see the fine print, but when it comes to taxation and the Labor Party, that is a pretty dangerous combination.

Several members interjected.

Mr BARRON-SULLIVAN: It is interesting that the member for Armadale is talking about an anomaly between a system that was introduced in 1985 and one which is in operation now. The reason the anomaly exists, and the reason that small businesses, farmers and people saving for their retirement have to put up with this complexity and these costs, and have to put up with a capital gains tax, is that the Labor Party brought it in in 1985.

Ms MacTiernan: Do you believe we should not have a capital gains tax?

Mr BARRON-SULLIVAN: If I could hop into a time machine and go back to 1985, I am sure we could still have a genuine system which dealt with tax avoidance without imposing a broad capital gains tax, but of course the Federal Government at the time had no regard for small business, farmers or anyone else.

Ms MacTiernan: Do you want to remove capital gains tax? Is that your opinion?

Mr BARRON-SULLIVAN: Let us not consider my opinion. Let us look at the impact on ordinary Western Australians who are saving for their retirement. Members do not need to take my word for this. A media release dated 27 August from the Financial Planning Association of Australia Limited states that -

The Opposition's tax and social spending package will not assist Australians to save for the future.

It quotes Mr David Butcher, the chief executive of that association, as saying that -

"It is disappointing that no broadly based reform of direct and indirect taxes is proposed. Most importantly, this package does not include measures to address the most urgent issue facing Australia: the ability of Australians to save for retirement . . .

Mr Butcher said also -

"In addition, the removal of the capital gains tax exemption for assets acquired prior to 1985 will adversely affect many long term investors . . .

When he says "long term investors", members of the Opposition should realise that we are talking about everyday Australians who are working hard to put the dollars aside to buy an investment property - a unit or a couple of units, or a house.

Mr Carpenter: What proportion of Australians have an investment property?

Mr BARRON-SULLIVAN: I will not pretend to know the exact answer now.

Mr Carpenter: You do not know what you are talking about. You have just talked about the vast majority of people who are putting away money for their retirement, but when I ask you how many, you have no idea.

Mr BARRON-SULLIVAN: Does the Financial Planning Association of Australia know what it is talking about? This is not just my opinion. These people are in the business of financial planning. These people have said that the ALP's federal policy - and I will repeat part of the quote for the benefit of the member for Willagee - will adversely affect many long term investors. It is pretty clear to me. The other thing that is not in this media statement, and the other thing that this policy initiative will do, is create further instability in the area of retirement savings. We had a situation during the 1980s where from one day to the next, the superannuation policies of this nation were changed, and a lot of people said, "Good grief, what is the point of putting money into super, because in a few years they will increase the tax rates, or remove the exemptions and concessions?" The ALP wants to do the same thing with another key way in which people can provide for their retirement; that is, through the capital gains tax system.

Mr Carpenter: Would you say that the greater number of Australians have retirement packages tied up in superannuation rather than in investment properties?

Mr BARRON-SULLIVAN: I suggest that thousands of Australians have bought properties in lieu of superannuation, or in addition to superannuation, and many accountants and so on will argue even today that bricks and mortar is a better investment than superannuation. I am not suggesting that it is or is not. I am suggesting that thousands of Australians will be affected by this policy, which is supported by the member for Willagee, the deputy leader of the Opposition, and the member for Armadale; and I am sure their constituents will not be delighted to hear that.

I will tell members what I do support. I support the coalition's approach. That is, after all, what this motion is about. I do not know whether the member for Willagee has a copy of this policy document in his office. If he does not, I will be more than delighted to send him one. It contains a concise summary of the coalition's approach to this matter,

and it is in stark contrast with that of the Opposition. The coalition's approach is to extend capital gains tax rollover relief and retirement exemption provisions for small business proprietors. This will enable the same exemptions to apply in cases where the land and the buildings which form part of the business operations are owned by different entities. For example, someone might operate a business where the land and the buildings were in the name of a company structure. The policy provides that the fixtures in the building shall be deemed to be part of the land and buildings. That indicates the sort of detail that we find in this policy. That can be compared with page 61 of the Labor Party's policy, which is totally lacking in detail. Members on this side cannot even categorically tell me whether it will apply to a family home, and whether everything will need to be valued as at 1 January 1999, or whatever. The ALP's policy is a two-thirds of a page feeble excuse to raise an extra \$300m over two years; and that is a conservative estimate. It is no wonder members on this side are quiet! The ALP approach will break a 1985 promise. It will hit small business for six, and it will hit families and ordinary working Australians who are planning for their retirement. It may even eventually apply to the family home. Who knows? The ALP's policy certainly does not say that it will not. I had intended to ask at this stage which capital gains tax policy the Opposition supports, but it has made it abundantly clear that it supports the Beazley tax package. It supports a \$300m grab on the retirement incomes of ordinary working people, small business and farmers.

Mr Osborne: They call it unearned income!

Mr BARRON-SULLIVAN: The member for Bunbury is right. They call it a windfall. How demeaning! They say that the actions of people who are saving for their retirement will give them a windfall. Those people have planned for that income and have worked hard to put money aside for that investment, and they call that a windfall gain! I would call this the politics of envy, but when we look at small business, I would also have to ask how many members of the Opposition have come into Parliament with a strong small business background and a strong understanding of just how hard small business people work?

Mr Kierath: I cannot see one of them.

Mr BARRON-SULLIVAN: Precisely. I visited a bicycle retailer this morning because the more time I spend here debating rather than working for my constituents the greater the risk of putting on a bit of flab, so I am considering buying a bicycle. I talked to the owner of the bicycle shop and we exchanged notes about running a business. It would be good if some of the Opposition members went out and spoke to people more regularly. They would find out the aspirations of these people and how hard life is for a couple who are running a small business when the wife also has a part-time job and they are only earning \$35 000 or \$40 000 a year. The Opposition wants to impose more tax on that business when that couple sells it.

The word "disgraceful" is used from time to time. Before I was elected, I told my constituency that I would be a good boy in Parliament; that I would behave and adopt very high standards. However, if ever the word disgraceful applied to anything in a public policy it applies to page 61 of the Beazley Labor tax package. It is no wonder that, when he was skirting around a variety of issues to do with the tax reform debate, the Leader of the Opposition did not have the gall to talk about capital gains tax.

MR THOMAS (Cockburn) [9.31 pm]: I will mention briefly one aspect of the GST that will disadvantage Western Australia. Earlier, when the Leader of the Opposition was speaking he said that the Premier had sold out the interests of the State by accepting the Prime Minister's proposals in an unquestioning way. The Leader of the Opposition set out to comprehensively show how the Government of Western Australia will be disadvantaged by the coalition's tax package. I suggest that the Government is being an economic and fiscal quisling by selling out to the Federal Government and not protecting the interests of the State in relation to energy prices.

In the Opposition I have responsibility for energy. Recently I have been comparing the prices of electricity in this State with those in other States. We pay more for electricity in Western Australia than do any of the other States, with the possible exception of the Northern Territory if members want to regard it as a State. The States that are comparable with Western Australia are New South Wales, Victoria, Queensland and South Australia. Western Australia has the most expensive electricity. I have excluded Tasmania from that list because it is quite different in having access to hydroelectricity. It is unfair to compare its utility with ours. I also excluded the Northern Territory because of its size and lack of economies of scale which mean it would be unfair to include it. I pulled out the figures the other day and discovered the prices which have fallen again since these figures were calculated. If one takes Western Australian prices as 100 per cent being the index against which to make comparisons, Victoria has domestic electricity prices for families of 86 per cent of those applicable in Western Australia.

Mr Wiese: Is that because it is privatised?

Mr THOMAS: No, it happened before it was privatised but it has competition which we do not have. South Australia has not privatised its service and has prices which are 77 per cent of Western Australia's. It does not make a case for privatisation.

Mr Bloffwitch interjected.

Mr THOMAS: Mr Acting Speaker, the member for Geraldton is not listening to what I am saying. He wants to interject and I am more than happy to discuss the matter with him but he is not listening. I said that I was excluding Tasmania because it has access to hydroelectricity and it is not fair to Western Australia to make comparisons. To continue, Queensland does not have hydroelectricity but does have prices that are 68 per cent of Western Australia's and New South Wales' prices are 67 per cent of ours.

Mr Bloffwitch: What about the Snowy Mountains scheme? It is very big.

Mr THOMAS: Sure, that is a portion of it, although in comparison it is not so big. It may be said that that geographical and other inherent factors in Western Australia cannot be undone. However, that is wrong and I will argue in the weeks to come -

Mr Bloffwitch: If more gas lines come down, we will find we get cheaper gas prices. Unfortunately we have a small market to take delivery of it.

Mr THOMAS: We already have more gas than the other States and they are way ahead of us.

Several members interjected.

Mr THOMAS: Sorry, we are way ahead of them. I do not want to debate energy policy tonight, but rather taxation policy. A disadvantage of living in Western Australia relative to our fellow Australians in other States is that households in Western Australia pay a higher price for electricity.

Mr Bloffwitch: But it is a nicer place to live.

Mr THOMAS: Many advantages compensate for that disadvantage although we have a worse Government in some respects but, on balance, I agree with the member for Geraldton that it is a better place to live than those other States.

However, the fact is that it would be even better if we had electricity prices like those in New South Wales. According to my figures, that State, with a good Labor Government and a non-privatised electricity system, has the cheapest domestic electricity in Australia.

Looking at those figures, one must ask what impact the GST will have. I ask that question of the member for Geraldton who has been eager to participate in this discussion. What impact does he think the GST will have on the disparity in energy prices between Western Australia and other States?

Mr Bloffwitch: I would hope with all the tax decreases and the equipment that must constantly be replaced we would see a decrease in energy costs. You will not accept that when \$10b comes out of it, we will see a decrease.

Mr THOMAS: I fervently hope that that will be the case. However, when I checked it out, sadly I found that that was not the case.

Mr Bloffwitch: Who told you this, Kim Beazley?

Mr THOMAS: No, I read it myself. If a GST affected the input costs in the electricity industry, it would affect all States equally because it is a national scheme. The exclusive points in Western Australia which mean we have higher energy prices in this State would be a constant before and after the introduction of the new tax regime. One has to say that it will exacerbate the differences between the States. It will be 10 per cent on top of Victoria, South Australia, Queensland and New South Wales. Given that those rates vary, magnifying those figures by 10 per cent will result in a situation where the differences between the States will grow.

Mr Trenorden: Even you have to admit that what you just said is not true. It is not just 10 per cent on the current costs. You are not going to say that is the actual situation?

Mr THOMAS: Yes, I am.

Mr Trenorden: Then you are in cloud-cuckoo-land.

Mr THOMAS: No, I am not in cloud-cuckoo-land at all. I am saying that the families, the households, of Western Australia are paying the most for electricity in Australia. Members on the government side seem to be happy about that. It is a matter we will debate at some time. They say there are reasons for it; that is, they have hydroelectricity or they are cleverer than we are, for whatever reasons.

Mr Bloffwitch: They have a bigger market over there.

Mr THOMAS: South Australia is not big.

Mr Bloffwitch: You are right.

Mr THOMAS: That is right.

Mr Bloffwitch: But they have access to a very cheap source of gas.

Mr THOMAS: The member for Geraldton can make excuses for the poor performance of his Government. I understand that.

Mr Bloffwitch: The price of LPG has nothing to do with the Government.

Mr THOMAS: Who is responsible for Western Power and AlintaGas?

The Minister for Energy, who is not here tonight, has responsibility for delivering electricity to the householders of Western Australia. I refer to two corporations owned by the Government for which the Minister for Energy has responsibility.

My simple points are unanswerable. I refer first to the disadvantage of the relative price of energy; namely, the significant difference between the lowest and highest energy costs from 67¢ to 100¢ a unit. Energy bills are a significant part of household incomes. Western Australians are significantly disadvantaged by higher energy costs imposed on households. The second unanswerable point is that the differences and disadvantage faced by Western Australia when compared with other Australians will be exacerbated by a GST. That is unanswerable, and the Government cannot run away from that reality.

MR BLOFFWITCH (Geraldton) [9.41 pm]: A point forgotten in the debate about whether a GST will be good or bad for this country is the \$10.6b - not \$10.6m - which this reform will extract from industry costs. We discussed earlier today how that \$10.6b could be used for job creation and providing other opportunities. It would make an enormous difference to this country. For too long we have been saddled with the \$10b to \$11b in costs on our export industries, such as our white goods industry.

I have spoken before about the demise of the Australian white goods industry. Is it any wonder with the imposition of such costs? The New Zealand company Fisher and Paykel is now a world leader in white goods, and all our firms went broke. New Zealand has had a GST for years. Businesses in Australia pay an input tax on every piece of equipment and everything they buy; however, when a GST is in place, they will not pay one red cent. That creates employment and other opportunities.

No mention is made in this debate of the opportunities a GST will provide to young people, and to unemployed people of all ages. I am very proud to support this proposal. It will be the turning point of this country. The Leader of the Opposition said that the State's revenue will reduce under this system. A GST is different from a wholesale tax. If a person registers as a business under the current scheme, he or she must pay wholesale sales tax at 22 per cent, 32 per cent or, on two or three items, 12 per cent. With a GST, if one does not register the business, one will pay the tax. However, if one registers the business, tax is not paid on these business input costs. What happened in New Zealand? They thought 180 000 businesses operated in that country, yet registration under a GST indicated that 350 000 businesses operated. The NZ Government was overwhelmed by the amount of revenue which was generated from those businesses.

We believe we have about 70 000 businesses in this State. I imagine something like 120 000 businesses will register when registration applies under this tax reform. Operators will know that they can obtain a deduction, and all the companies which never bothered to register or let the authorities know that they were in the marketplace will register. What will the figure be? I suspect it will be many more businesses than anybody expects.

Mr Ainsworth: Members opposite would call that a windfall!

Mr BLOFFWITCH: Indeed.

Mr Ainsworth: They would put a tax on it!

Mr BLOFFWITCH: The beauty of the system is that those people who register become much more competitive within their industry as hurdles are removed.

The first thing I like about the package is that it will get rid of financial institutions duty on my banking. It will abolish stamp duty on every motor vehicle I sell through my business. All the horrible little taxes which have no relation to profits or sales, and which are an absolute drain on a business, will go. Also, I will receive a deduction for everything that I buy and use in my business to which a GST applies.

People forget that when the wholesale sales tax was first introduced - I first went into business in 1970 - anything I bought for my business attracted a 15 per cent sales tax deduction. This was not for sales to retail companies, but for business sales. As such, it enabled me to claim that 15 per cent off purchases. That was fair as I was not using the item for retail sale. However, we then changed the rules. As well as increasing the wholesale sales tax to 22 per

cent, no-one received a deduction any more. That was about the time that Kelvinator, Pope's, Crosleys and all the white-good companies closed up shop in Australia and moved to Taiwan and other countries. We drove them out. Governments of the persuasion of members opposite - those of my persuasion did not do much better - drove those companies out.

The only person with a vision for this country was John Hewson: It is a pity that we did not adopt his policy, which was a fairer GST than the one before us now. Under his package every Australian would have enjoyed lower petrol and diesel prices, and no payroll taxes would have applied to businesses. The amount of money I pay in payroll tax could employ three people. That is the opportunity we lost because of the scare campaign about the Fightback package. We also lost a multitude of businesses which were weighed down by wholesale tax expenses. Crippled businesses went overseas in droves. Let us reverse that trend and provide the opportunity for our business community to show that, given the opportunity, it is as good as any operators in the rest of the world.

I have listened to the argument about how bad a GST will be for small business. Applying a deduction for every cent of tax paid must be good for those businesses. Under this package a good-sized deli or supermarket turning over \$100 000 a month may receive an extra \$30 000 or \$40 000 a month in cash flow. We could say, "Keep the money for three months. At the end of the third month, make your first month's payment." Depending on the turnover, it could be \$80 000. The cash flows are just enormous. Members are right: It will take education and some talking to business. It is not their money to be spent. However, I feel much more comfortable in giving them the opportunity to improve their bank balance and liquidity within a market which is becoming tighter and tighter. We are giving business a real chance to do something positive. Why would we politicians knock something that gives us an enormous opportunity to create employment and to do positive things for a business world that is not travelling too finely at the moment? Retail sales are not exactly booming and most retailers are not earning.

Many small business people are not even earning the basic wage. They are not even earning the minimum \$300 a week. Many of them are struggling to survive. We should do anything that we can do to reduce their bank charges and stamp duty and to remove such imposts from them. They do not have payroll tax for two or three staff, so that will not affect them. However, we should remove other costs and then say, "You will receive a deduction for any service-type item, so for the first time your business is absolutely tax free. Your business will not pay one dollar of tax." Opposition members say that that is bad, that it is unfair and that it is not right. That is the type of opportunity that we must offer our business people to get employment going and to get rid of the scourge of the 8 and 9 per cent unemployment. Not too many places that have a GST have unemployment rates of 8, 9 or 10 per cent. Most are about 3 or 4 per cent.

Mr Carpenter: What a load of rubbish. Run a line through European countries and see what the rate is.

Mr BLOFFWITCH: Most Russian countries do not have a GST. In Germany the rate is 5.5 per cent or 6 per cent. My daughter has been in Britain for two years, and she changes her job whenever she wants. There is no problem in getting a job in most European countries, and that is because businesses are given the opportunity to operate efficiently without the burden of huge taxation imposts. I was amazed when I heard that \$10.6b is the impost that we put on businesses. With such a barrier, it is little wonder that they suffer and do not boom. We will give them an opportunity, and I believe that it will be positive.

I agree that it is a complicated issue. As the member for Perth said, questions must be asked about prize money in the racing industry. No, there will not be a GST on prize money. That is certain. The very simple exercise is this: "Your input is \$10 000. If you win the race you will receive \$10 000, so your output is \$10 000. You pay \$1 000 in GST. That is what they ask you to pay. Your output is \$9 000. You can claim the \$1 000 that you received as an input and all that you need to do, if you own a horse, is to obtain a number and you can then claim all those things as a microbusiness."

Mr Carpenter: You are slowing down.

The ACTING SPEAKER (Mr Baker): Order!

Mr Carpenter: Come on, Bob. Give us a chance; we have five minutes left.

Mr BLOFFWITCH: No, we have next week on this matter. This is exciting; I want to keep it going. It is a marvellous opportunity for us to put some positive points in favour of a GST. I admit that it is easy to scare people by saying, "Your bananas will cost 10 per cent more; things will cost 10 per cent more." The figures show that prices should increase by approximately 1.9 per cent. When we think of the relief that that will bring to fleet operators, diesel operators and whoever else, it is no wonder that we have come up with such a figure. Let us say that the figure is 2.5 per cent. We will give pensioners a 4 per cent increase. That is a positive effect. It is a 4 per cent increase that they would not receive under Mr Beazley, but they will certainly receive it under our Government.

There will be a little pain. We are thinking of the opportunities that we need in the world market to compete and to

do something. All Australians would be prepared to make a small sacrifice. If, in a couple of cases, it is inconvenient and it hurts me, I would never have a problem with that. I would think that it has given me an opportunity to operate in a world market and it has given an opportunity for my business to become extremely competitive and to do many positive things. That is worth the little pain that we might have to go through.

We all forget that Mr Beazley says that he will provide some relief to those earning up to \$50 000. What would happen to my mechanic when he worked five nights a week because he wanted to earn \$60 000? He will get no benefit for the extra \$10 000. What about the blokes who work in the mines and earn \$75 000 a year? They will be exempt too, because they are earning too much. They are paying the majority of tax. They provide the welfare system. They support all our taxation burdens. The other side is saying, "Do not give them a reward. If anything, punish them. Punish the bloke who, through overtime, has earned his \$60 000 and bought a house in Mandurah - that nice little holiday shack or that retirement shack. No, we are going to charge him a capital gains tax, no matter if he has had it for 10, 20 or 30 years." We talk about promises - "I promise that we will never tax the pre-1985 properties, so don't panic and sell them; I promise you that we will never do it." With the stroke of a pen he says, "I must raise another \$300m or \$400m and do away with that." Opposition members say that we can trust the Opposition. How can we trust the opposition members when they do such things? How can we trust them when we hear such statements? I have still not heard that it does not apply to the family home. They say it is not included now, so it will not be included. Is it or is it not? I have not read anywhere that it is not. What about the farmer and his business? What about the rollover that I now get as a business person if I turn my business into another business? Has that gone as well? I must value my business at the end of the year. Where is the incentive for those of us employing people?

[Leave granted for speech to be continued at a later stage.]

Debate thus adjourned.

POLICE AMENDMENT BILL

Committee

The Deputy Chairman of Committees (Mrs Holmes) in the Chair; Mr Prince (Minister for Police) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 65 amended -

Mrs ROBERTS: I move -

Page 3, after line 13 - To insert the following -

- 2(a) A court that convicts a person of an offence under paragraph (2) must not sentence the person to imprisonment unless the person has previously been convicted of an offence under this section on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such an offence again.

Page 3, lines 15 to 25 - To delete the lines.

I have already raised much of this in the second reading debate. It is a good idea to clarify that a prison sentence should not apply for the mere carrying of graffiti implements as opposed to the creation of graffiti. The minister has drawn my attention to a section of the Juvenile Offenders Act he believes covers this issue. I intend to continue with this amendment so that when anyone looks at this clause, which deals with graffiti, the situation is clear.

Members will note that lines 15 to 25 provide -

A person is presumed to have the intention referred to in paragraph (2) if -

- (a) the person had possession of the thing in circumstances that give reasonable grounds for suspecting that the person had the intention; and
- (b) the contrary is not proved.

I raised my concerns about the reversal of the evidentiary onus in the second reading debate. On that basis I believe those lines should be deleted from the Bill, especially when we do not know what will be in the regulations stipulating what is a graffiti implement. I pointed out that an enormous range of things could be considered to be a graffiti implement. Any definition of graffiti is necessarily very wide. I also pointed out in the second reading debate that glass cutters, compasses and so on have become usual graffiti implements. However, lipstick, glue and Vaseline are also smeared on shop windows. We do not know at this stage what will be regarded as a graffiti implement.

It would seem at first glance to be unduly harsh as a result of the reversal of the evidentiary onus for people to be required to demonstrate why they have these many very ordinary household objects in their possession. Some people might be adversely affected by a clause such as this just because they are out at a certain hour of night and because they are wearing a beanie. They might be a young person who dresses a little differently from other people and they might have one of these seemingly ordinary objects in their possession. They must be able to prove that the objects that they have in their possession are not intended to be used to commit a graffiti offence. Nothing the minister said in his response to the second reading debate has alleviated my concerns. I will be interested to hear his response.

The DEPUTY CHAIRMAN (Mrs Holmes): I remind the member for Girrawheen that it is improper to read the newspaper while sitting in his seat.

Mr PRINCE: I will deal with the two matters raised by the member for Midland separately. The first dealt with imprisonment. By placing this amendment in the Police Act, where it is sought to be placed under the heading "Miscellaneous offences", as a subsection to section 65, every person who shall commit any of the listed offences shall on summary conviction be liable to a fine not exceeding \$500 or to imprisonment for any term not exceeding six calendar months. Section 66 of the current Police Act, which deals with subsequent offences against section 65, other miscellaneous offences, provides that every person who shall commit any of the listed offences shall be liable to a fine not exceeding \$1 000 or imprisonment for any term not exceeding 12 calendar months. In other words, for the first offence of any of the miscellaneous offences under section 65 the maximum fine is \$500 and the maximum term of imprisonment is six calendar months, and for subsequent offences the maximum fine is \$1 000 and the maximum term of imprisonment is 12 months. The Government seeks to place this offence of having possession of graffiti implements without lawful excuse within the framework of the Police Act.

The member for Midland raised a reasonable point and asked whether a juvenile would go to gaol for a first offence and, equally importantly, whether a person over the age of 18 years should go to gaol for a first offence.

With regard to juveniles, I refer to section 7 of the Young Offenders Act, which contains the general principles of juvenile justice. Section 7(h) provides that the general principles that are to be observed in performing functions under this Act are that detaining a young person in custody for an offence, whether before or after the person is found to have committed the offence, should only be used as a last resort and, if required, is only to be for as short a time as is necessary.

Mrs Roberts: Is that not part of the sentence?

Mr PRINCE: Yes it is. Detention in custody is a last resort and it is only to be used when all other forms of punishment - whether by way of refusing to record a conviction and discharge, recording a conviction, fine, community service order, or some form of supervised release, otherwise known as probation - have been exhausted. When it has been decided that nothing else is appropriate or the history of the offender is such that nothing else can be done, then the offender can be imprisoned. That general principle of sentencing is in our criminal law, whether it be the Young Offenders Act or the Sentencing Act. It has been in the Criminal Code or in judgments of the Court of Criminal Appeal of this State for 30 years. To my mind it is absolutely inconceivable that any first offender, particularly a juvenile, could ever be imprisoned for this offence. It would go against not only the statute law we have made in the past five years, but also the case law which goes back, to my certain knowledge, at least 30 years.

Section 6 of the Sentencing Act states under the heading "Principles of sentencing" -

- (1) A sentence imposed on an offender must be commensurate with the seriousness of the offence.

The seriousness of an offence must be determined by taking into account a whole series of things, including aggravating factors and mitigating factors. I reiterate in the strongest possible terms that imprisonment is the sentence of last resort when all else has either failed or is not appropriate. I cannot conceive of a situation in which a first offender who is 18 years of age or older would be imprisoned.

Mrs ROBERTS: The minister has answered the first part of my query about juveniles quite fully but he has not covered 19 and 20-year-olds or the second part of my amendment.

Mr PRINCE: In the past, section 19 of the Criminal Code contained a statement that imprisonment was the sentence of last resort. That statement was then placed in the Sentencing Act. Imprisonment is the sentence of last resort for adults, except in cases of wilful murder, murder, manslaughter and very serious offences where the sentence starts, and usually finishes, with imprisonment. This Bill deals with an offence at the other end of the scale, where imprisonment is the sentence of last resort and would never be used for a first offender. A person who has been frequently convicted of this offence or the offence of doing graffiti - in other words, the vandalism offence and the damage offence - and consequently is an habitual, repeat offender, who will not learn, could go to gaol. However, it is inconceivable under the current law that a first offender would go to gaol.

Consequently, I do not think it is necessary for this statement to be made. Indeed, it would be confusing to make this statement because from an interpretation point of view it would require a court to consider whether there is any conflict between this statement and the law as currently written in the Sentencing Act and Young Offenders Act. The member's intent is quite right, and the law already exists to do exactly what she wants. Consequently, I cannot accept that amendment.

The proposed deletion of the lines is a more vexed question because it deals with the reversal of the onus of proof in an evidential sense, not that the accused person must prove their innocence. The prosecution still has the burden of proving beyond reasonable doubt all the bits and pieces that make up this offence. However, the prosecution can call upon the defendant to explain. It is evidential change and it is not without precedent, because it is found in a number of other sections in the Police Act. I draw the member's attention to section 65(4) which states -

Every person found in possession of any weapon or instrument or thing capable of being used for the purpose of disguise, who being thereto required, shall not give an account of his means of support, . . .

That is an evidential change that has been in existence for 100 years. Subsection (4a) refers to any person who, without lawful excuse, carries or has on his person any rifle, gun and so on. Again, there is an evidential change. The person carrying a weapon of some description is under an evidential burden to give a satisfactory excuse for so doing. Subsection (5) states -

Every person having in his possession, without lawful excuse, the proof of which excuse shall be on such person, any deleterious drug.

That is exactly the same provision using slightly different words; namely, it deals with a person found with a deleterious drug. It may be a prescription drug but, under the current law, if that person cannot give a lawful excuse when caught with this drug, the proof of which lawful excuse is on that person, it is an offence. This is precedent for this process to be used. Section 66(4) of the Police Act contains another example relating to housebreaking implements. It refers to a person having in his possession without lawful excuse any picklock, key, crow, jack, or bit. The section provides that the proof of the excuse shall be on the person. With a relatively cursory examination and the assistance of my advisers, I have found five examples of this provision in that portion of the Police Act. I concede that it is unusual and it is not the normal rule. Usually the prosecution carries not only the burden of proof beyond reasonable doubt of the evidence, but also the evidential burden of proving everything. The proposed amendment says that if someone is caught with a spray can or any other implement it is up to that person to provide a reasonable excuse as to why he has it - in other words, a good reason; and if he does not have a good reason, it does not mean that he is guilty. It means that the evidential burden has not been discharged and the court may convict.

Ms McHALE: What would be the circumstance if a juvenile did not pay the fine imposed for carrying something that could be used for graffiti?

Mr Prince: Under the Young Offenders Act the Children's Court will impose a fine only if there are means to pay, otherwise it is pointless. Even though the Police Act says \$500 or six months the Children's Court does not have to impose either a fine or imprisonment; it can place a person on a community release order or on probation; it may order a monetary penalty which might be modest. It depends entirely upon an examination of that individual and his or her means. In other words, because the Young Offenders Act covers all criminal law in relation to children it overrides the sentencing provisions found in various criminal law Acts and enables the Children's Court to have a wider discretion.

Ms McHALE: What if a fine is imposed and that fine is not paid?

Mr Prince: The Children's Court has the power to impose a fine, but it would not impose a fine if it were not able to be paid.

Ms McHALE: Could that lead to detention in some circumstances?

Mr PRINCE: It is possible under the Young Offenders Act but it is highly unlikely. It does happen with adults with the suspension of drivers licence provisions, but that is highly unlikely with juveniles. I do not know of any examples. We cannot imprison for non-payment of fine without going through the process of suspending licences and executing against goods in relation to an adult. A 14 year old would not have a licence, so the provisions of that Act do not work on a child. If the court imposes a fine it must be something they can pay. If they do not pay the court will impose an alternative penalty - say, community work, like cleaning off the graffiti. A number of members mentioned the City Mission, which does that sort of thing.

I will finish what I was saying about reversal of the evidential onus of proof - not the burden of proof. Let us consider a situation where someone has a spray can, a glass etcher, a lipstick or something else on and about their person but has not been caught using the thing on a wall. However, they are not exactly walking out of Bunnings with it to do

some handicraft work. It is nine o'clock at night and it is the Warwick Grove Shopping Centre. In those circumstances the police officer has reasonable grounds to suspect that this person with those implements on him, in that place, at that time, has them for no lawful purpose. The officer can require that person to give a good reason why he has the thing, and if he cannot, he commits an offence. If the person pleads not guilty and takes the matter to trial he must satisfy a Magistrate's Court, Children's Court or adult court that he had a lawful excuse to have those objects on him at that hour and in that place.

Mr McGowan: What is the standard of evidence?

Mr PRINCE: The normal rules are that the accused person would have to satisfy the court on the balance of probabilities.

Mr McGowan: They would not have to raise evidence?

Mr PRINCE: The Crown has to negative it, because the burden of proof of the prosecution lies with the Crown.

Mr McGowan: The standard procedure is that they do not have to raise it on the balance of probabilities, which is a reverse of the onus.

Mr PRINCE: I am talking about an evidential onus on the balance of probabilities. They raise an excuse and it is up to the Crown to negative it.

Mr McGowan: So it is not on the balance of probabilities?

Mr PRINCE: That is right. Section 69 of the Police Act is an interesting section when one considers a person suspected of conveying stolen goods. Case law says that if the person stands up in court and says that he or she stole, that is a satisfactory explanation for the terms of section 69. Mind you, they then get done for stealing, but that is beside the point.

Mr McGowan: My point relates to the similar situation of self-defence. They can raise evidence and it is incumbent on the Crown to disprove it beyond reasonable doubt.

Mr PRINCE: The point about this provision is that if the police can catch the person doing it they charge them with committing that act of vandalism. That is damage and they are charged with that. Here we are not talking about the person caught in the act; we are talking about a person who is reasonably suspected of an intention to cause damage through graffiti and the intention is presumed if, in circumstances that give reasonable grounds for suspecting the person, they have had the intention and the contrary is not proved. There is an objective test there of the circumstances. That is reasonable grounds for suspicion and then there is an evidential burden change to the accused person to prove to the contrary. As I said there are at least five examples of a similar situation existing in the Police Act in nearby sections. I do not find anything in that sense unusual, although I concede it is not the norm with regard to criminal law. However, this is the crux of this legislation. If we cannot have this it will not work because the police will not be able to apprehend the person in the sort of circumstances I have just outlined, by way of example, and be able effectively to prevent graffiti.

Mr McGOWAN: Subclause (2) proposes to amend section 65, so it is incumbent upon the prosecutor to show that there were reasonable grounds to suspect the person was in possession of the implements before any case can be made. There is still a requirement for a case to be made?

Mr PRINCE: Absolutely. The police must produce to a magistrate evidence on oath that at a certain place, at a certain time, the defendant before the court was found and had on his or her possession this item - one spray can found in the pocket of the windcheater he or she was wearing - and at that time and place the police officer had reasonable grounds to suspect the person had the intention to use it to cause damage. That is, it is a half-used can of black spray paint in the pocket of the windcheater; it is nine o'clock at night at the Warwick Grove Shopping Centre and no Bunnings or other hardware shop is open at that time.

Mrs Roberts: What if he has been to his mate's place to borrow a can of black paint because he has run out of spray for his model aircraft?

Mr PRINCE: In that case the person concerned says that and the police officer will check out his story. The police officer will go and talk to the mate or the parents, or whatever the case may be, and if the story checks out, that is the end of it. If the person who is accused can give no explanation, and basically either stands silent or ums and ahs and says that he is not doing anything, or something to that effect, the officer can charge the person and bring him to court. If the accused stands and produces an explanation which puts the burden back on the prosecution, it is then up to the prosecution to negative. It is not a case of, "You have it, that's it." It is not an absolute finding of guilt merely by reason of possession. There is still the requirement for the excuse, if there is one, to be considered and allowed, or not allowed. In an evidential sense, the burden remains at all times with the prosecution. There is

sufficient safeguard for the youngster who is wandering through the Warwick Grove Shopping Centre with a half-used can of spray paint legitimately not to be prosecuted. It might be a little difficult if it is a male with a tube of lipstick, who normally does not wear it, or with a glass etching device. There may be excuses that would exculpate that person, though perhaps unlikely.

Mrs Roberts: Is that a case where one exposes himself as transsexual or something?

Mr PRINCE: One never knows. The member talked about the jar of Vaseline, and I will not trespass into those areas. This is the crux of this legislation. If this part does not pass, it simply does not work. It is neutered.

Mr McGOWAN: The only concerns I have are about the sentencing provision. I accept all the things the minister said about that. In the case of adults, on odd occasions some magistrates are particularly harsh and unreasonable in the way they deal with people.

Mr Prince: You want to be a bit careful.

Mr McGOWAN: The minister should not be silly. I will not name any magistrates. All I am saying - the minister has seen this - is that some magistrates behave in quite bizarre, harsh and unreasonable ways when dealing with people before them. Anyone who has any experience with the law could name a few like that. The amendment by the Opposition has some validity in this context. Some people who are tasked with enforcing the law have some very bizarre ways of doing that.

The next issue relates to the types of graffiti implements. My electorate does not have a large graffiti problem, as far as I can tell. In some parts of the northern suburbs it is rife.

Mr Prince: It in some parts; in others, we would not know it happens.

Mr McGOWAN: I have not seen much of it in my electorate, but I have been told that in some parts of the inner northern suburbs it is quite a fad. If there are different implements or methods for painting or -

Mr Prince: Tagging.

Mr McGOWAN: If they could be used, there could be an injustice. Earlier, mention was made of lipstick. It is often an item in the possession of people, particularly young women. It seems to me that an injustice could be caused to an individual who is arrested and charged because that person is carrying lipstick. I seek the minister's clarifications on those two points.

Mr PRINCE: I do not sympathise with the member's views. In my experience magistrates have different views in the way matters should be interpreted. They see cases slightly differently. After all, they are human. Overwhelmingly they try not to be capricious and they try to be fair, balanced, equitable and consistent from person to person. In more recent times, in the past 10 years, through magistrates conferences they have tried very hard to have consistency across the whole of the magistracy which previously has been a bit difficult in the sense that they tended to operate individually. There are differences and what appear to be peculiar judgments from time to time. That is why we have an appeal process.

Mr McGowan: When you sit in a court, as I used to quite often, in the Magistrate's Court -

Mr PRINCE: Here or in New South Wales?

Mr McGowan: Some are very harsh and have very little understanding. They do all sorts of things and treat the court as their fiefdom.

Mr Baker: You can appeal and get an order from the Supreme Court that will say that the magistrate is a whacko.

Mr McGowan: It is a long process to get to that result. The minister knows the point I am making.

Mr PRINCE: I do know the point the member is making; however, the justice system is the only one that acknowledges errors and corrects them, and does so over and over. We can start at the Magistrate's Court and go from there to a single judge Supreme Court, to the Court of Criminal Appeal, to a single judge of the High Court of Australia and to the full court. What other system in our society admits it can err and tries to fix it? The justice system is the only one. We cannot seek to knock out sensible legislation like this on the basis of a few bizarre judgments by the odd - I use the word of the member for Joondalup - whacko magistrate. It makes no sense at all.

I cannot accept the amendment put forward. I understand the reasons behind it and we have had a good debate about them. I am pleased I satisfied members with regard to the sentencing side of things. Surely they can see that unless the police are able to apprehend a person and say, "I think on reasonable grounds you have this implement for an unlawful purpose and it is up to you to prove to the contrary" this legislation will not work. We already have the legislation that says that if people are caught in the act, it is an offence. Here we are trying to prevent people from

doing it when the intention is that they will. If those opposite want to try to knock out this clause - I will vote against the amendment - I think we have the numbers on our side. It would be better if they could concede that this is the crux of this legislation and understand that without this, it does not work.

Mrs ROBERTS: I am not confident that what the minister has suggested is the case. Surely there would be many circumstances where, without a clause which says that a person is presumed to have had the intention, that person could be appropriately charged and a successful conviction gained for the possession of graffiti implements. Surely there must be circumstances where police officers or others happen upon individuals in the vicinity of some graffiti that has been done, where the paint in the possession of that person can be matched to paint which may have been placed at the same location, not just five or 10 minutes before, but maybe the night or the week before, because that person happened to have same spray can.

Mr Prince: We are not talking about paint that has particular chemical composition in only this can. We are talking about things that are mass produced. The person need only say that he saw it, or he touched it, and that is why he has paint on his fingers, and a conviction will not be forthcoming. The person may say, "Yes, I have paint on my hands, but I got that from spray painting my bicycle at home. I used the same Dulux brand of black paint that is on the wall", and a conviction will not be forthcoming. Those excuses can be used and are likely to be successful in defeating a prosecution for committing that act of graffiti. Unless the police see the person spraying with the can, there is not a reasonable probability of conviction. If the legislation is not structured in this way, it will not work.

Mrs ROBERTS: Is the minister suggesting that if the Bill did not contain this presumption of the intention, it would not be possible to obtain successful prosecutions for the possession of graffiti implements?

Mr Prince: Yes. If the police asked the young person why he had the graffiti implement and he confessed and said he was going to tag the wall down the road, they would not need this presumption. However, if the person did not confess that that was his intention, the police would be left with a young person at Warwick Grove Shopping Centre, or whatever, at nine o'clock at night, with a half used can of black paint in his pocket, who said he was not going to do anything with it. Come on!

Mrs ROBERTS: I note that section 65 will also be amended by the addition of subsection (2), and by the addition of a further paragraph at the end of that section. Those two additions are separated by approximately 23 pages. I believe that may lead to confusion. I wonder why the more simple option was not taken of inserting after section 65(1) a subsection in the following terms -

Every person who has in his possession any thing in circumstances that give reasonable grounds for suspecting that the person had possession of the thing with the intention of using it to cause damage consisting of graffiti.

That would be more simple than splitting it as it proposed.

Mr PRINCE: I can see the member's point with regard to the drafting. If we had put the definition of intention immediately following the definition of the creation of the offence, it might have been easier to read. Anyone who is game to delve into the Police Act must be more than prepared to wade through voluminous paragraphs with no punctuation that go on for a page and a half.

Mrs Roberts: That is no excuse for making it even more complex. It could be an argument to the contrary.

Mr PRINCE: It is my and the Government's intention that this Act will be repealed, hopefully in the next calendar year, and replaced by a number of Acts. I do not like the way this is drafted, but this was the style 100 years ago, and we are simply maintaining that.

Mr BAKER: Concern has been expressed about the rebuttable presumption that is contained in subclause (2). All that does is require a person who is charged with an offence of this kind to raise evidence of a reasonable explanation for how he happened to be in possession at the time. That person has the evidentiary burden. At all times, there are two burdens, the legal and the evidentiary, and the Crown carries both from start to finish. In this case, all the defendant has to do is raise evidence, and the evidentiary burden shifts back to the prosecution.

That is exactly the situation that applied in respect of the Police Act Amendment (Graffiti) Bill that was second read by the Leader of the Opposition in this place earlier this year. Clause 4 of the Opposition's Bill stated in proposed section 65A that any person who, between sunrise and sunset, without lawful excuse, in a public place, etc, has in his possession any items that are capable of being used to cause damage to property commits an offence. The key words are "without lawful excuse". Any person so found would need to raise some evidence or explanation for why he was in possession of those items at that time. In that regard, there is no difference between the Labor Party's Bill and the Government's Bill.

Mrs ROBERTS: The key difference from my point of view is that the Bill moved by the Leader of the Opposition

did not have attached to it a penalty of imprisonment. We were talking in that circumstance about a situation where a person could be subject to a fine. That Bill contained absolutely no provision for a person to be sentenced to a term of imprisonment for the offence of merely carrying a graffiti implement.

Amendments put and negatived.

Clause put and passed.

New clause 5 -

Mrs ROBERTS: I move -

Page 3, after line 25 - To insert the following new clause -

5. Section 65A inserted

After section 65 the following section is inserted -

" 65A. Search and seizure on reasonable suspicion

(1) A police officer or constable may without warrant -

(a) stop, detain and search any person who the officer or constable suspects on reasonable grounds to be committing an offence under section 65(2); and

(b) seize anything that the officer or constable suspects on reasonable grounds relates to the commission of the offence.

(2) When a police officer or constable proposes to carry out a search under paragraph (1), the officer or constable must explain to the person that failure to comply with the demand is an offence against this Act. "

I have a question that I did not raise in the second reading debate. New section 67B in clause 5 states that a police officer or constable may without warrant stop, detain and search any person whom the officer or constable suspects on reasonable grounds to be committing an offence under section 65, 66 or 67. What would happen with regard to search and seizure if the suspect were a female and the officer or constable who can search without warrant were a male? Under what circumstances would that search be conducted?

Mr PRINCE: The member has raised an interesting point. This is a matter of delicacy which the police have addressed and carried out almost faultlessly, as far as I can recall. The standard operating procedure is that if the suspect is a female, a female will search; if the suspect is a male, a male will search. If it were a male officer and a female offender, a male officer could detain the female suspect, and by "detain" could say either, "Wait here until my female officer companion arrives", or, "Get into the van and we will go to the station", and a female officer would then search the female.

Mrs Roberts: What legal right does that male officer have to make the female suspect get into the police van to go to the station?

Mr PRINCE: Under this amendment when it became law, he would have the power to detain. The same would apply if it were a female officer and a male offender. The officer concerned will need to have the power to detain, otherwise it will not work. That should explain the gender side of things. With regard to the amendment to add the words "the officer or constable must explain to the person that failure to comply with the demand is an offence against the Act", the police have powers to search under sections 43 and 49 of the Police Act for things such as stolen property. Police also have powers to search under section 236 of the Criminal Code. We debated last night with the Criminal Law Amendment Bill (No 1) the power to take samples, for example, which is obviously a search in a sense. A number of other search powers are contained in other legislation. The Misuse of Drugs Act is probably an instructive Act to look through. It gives the power to search an individual without warrant and before arrest. I suppose the classic approach is an officer saying that he suspects the individual of using drugs and then searches. The male and female aspects come into such a search. If the member thinks about it, a large spray can is fairly difficult to hide unless someone has a voluminous garment with a big internal pocket.

Mrs Roberts: An individual could have a backpack.

Mr PRINCE: A wax crayon, felt tip pen or a small glass etching tool would not be obvious and would be very easily concealed. They would be able to be found only by a pat down search of all pockets and so on. I grant that it is unusual, but a police officer or constable must have the power to search a person's body, in the sense of clothing and so on, before an arrest. It is unusual because the normal rule is that a search occurs only after arrest. There are a number of other examples under the Misuse of Drugs Act and the Police Act where this can be done.

As to the member's wanting the police officer to say "explain this" it would be a very courageous police officer who did not. Frankly, if an officer started pawing an individual the same size as the officer and one who was going to object, the officer would be asking for trouble. What police officers need to do and what they do is to say that they will search the person; that they have the right to do it; that the person can acquiesce and help by turning out his pockets or they will do it anyway.

Mrs ROBERTS: The principal reason that we have suggested this amendment requiring a police officer who is proposing to carry out a search to explain to a person that failure to comply with the demand is an offence against the Act is that it is, as the minister has said, an unusual practice to search someone before an arrest. A juvenile or adult with a little knowledge of the law as a result of other dealings with the law may well think that they cannot be searched unless they have been arrested. One would think that the cautionary thing to do, if police officers are generally doing it anyway, would be to have that clause in the Bill making it a legislative requirement for the police officer or constable to advise the person who is about to be searched that the officer has the legal right and that failure to comply with the demand is an offence against the Act.

Mr Prince: I understand what you are saying and the reasons for it. As a general proposition it is entirely right that a police officer should always explain that the officer has this power, whether under this Act or any other Act. My experience and observation of police officers tells me that they usually do that. Most of the time they say, "Turn out your pockets" because they do not want their hands diving into a pocket and winding up stuck on a needle, for example. When a person has turned out his pockets and everything is out, an officer may then go to a more intrusive search. That is usually conducted back at the police station. If a police officer is so silly as to not say anything and promptly start diving into somebody's pockets and the person then resists - the person is resisting a police officer in the execution of his duty, which is an offence in itself - there would be hell to pay in court when the person said that he was standing there talking to the officer when the officer suddenly stuck his hands in the person's pockets. The person would then say that he resisted, which is a natural thing to do.

Mrs ROBERTS: The officer might tell the person to turn out his pockets because the officer intended to search him. If the person refused to do so, he might not be aware that he was breaking the law.

Mr PRINCE: No police officers who were carrying out their duties properly would do anything other than say that they required a person to turn out his pockets and that they had the power to do it. Even if the person said that the officer did not, the officer would say to the person that he had the power under the Police Act and under the graffiti laws and that Parliament passed last year, or whenever, and the person should turn out his pockets and that if he did not, the officer would take him down to the police station and the search would be conducted there. In practical terms that is what happens and will happen on the streets. I suspect that if it is desirable in a legislative sense to ensure that police officers do tell people, when we rewrite the Police Act we should come up with a Bill which deals with police powers. Then we could say that before the police search anybody they should tell them that they have the power, so a general overriding rule covers all Acts. I will be put on record for this: I will be quite happy to put that into one of the Bills I hope to bring in next year. If we put it in this Bill, it will be an anomaly and the odd one out.

Mrs ROBERTS: My point for suggesting it is that often legislation is drafted by people with a police perspective rather than the perspective of a juvenile. Juveniles tend to react in certain ways to police officers. The minister's whole explanation was based on what the police would do and what would protect the police. A police officer would not put his hand in someone's pocket for fear of getting a needle stick injury or the like. Perhaps some emphasis should be on the person concerned. Many cases with graffiti will involve juveniles. Contrary to what the minister has suggested - that we should not make an exception in this case, given that we are likely to be waiting at least a year for the new Police Act - this is a worthwhile area in which to make an exception. We are mainly dealing with juveniles who need such advice more than most. We are dealing with an offence of a misdemeanour nature by somebody who has not necessarily done any graffiti at all but is merely in possession of a graffiti implement.

Mr BAKER: In subsection (2) of the member for Midland's proposed new section 65A, the last line refers to "an offence against this Act." Will the member refer to the section in the Act which creates that offence?

Mrs Roberts: I am referring to the Police Act.

Mr BAKER: On the Notice Paper the member's proposed new subsection (2) states -

When a police officer or constable proposes to carry out a search under paragraph (1), the officer or constable must explain to the person that failure to comply with the demand is an offence against this Act.

Mrs Roberts: The amendment refers to the Police Act, therefore it would be an offence under the Police Act.

Mr BAKER: To which section is the member referring? Will the member cite the section of the Act which creates the offence?

Mrs Roberts: It is section 65A, to which the minister himself has referred.

Mr BAKER: A police officer does not have to make a requirement of a person prior to searching the person. Under the provisions of the government Bill he can simply detain and search.

Mrs Roberts: If a person fails to comply -

Mr BAKER: That is not an offence in the Government's Bill.

Mrs Roberts: Perhaps we will hear from the minister on that point.

Mr BAKER: The member referred to demand. My understanding is that the police officer need not demand someone to do something as he exercises the power.

Mr PRINCE: Under section 20, if any person shall disturb, hinder or resist any member of the Police Force in the execution of his duty the penalty of \$500 applies. If the police officer, presuming the amendment becomes law, says "I want to search you", and that person resists the search, he is restricting the officer in his duty. That will be punishable by a fine.

Mr Baker: But it is not an offence under proposed section 65B.

Mr PRINCE: It is an offence under the Police Act, as the member for Midland said. If proposed subsection (2) of the member's amendment says it is an offence against the Act, it will clearly refer to section 20. It hangs together. With respect, I understand what the member for Midland is saying. It represents good police practice, and experience indicates that it happens in most circumstances. I appreciate the comments, particularly regarding juveniles. However, if this amendment were passed, we would wind up with only one offence - the carrying of graffiti implements - with a statutory requirement to advise before search. This would not be in relation to graffiti itself, unlawful wounding, stealing or anything else where the power of search can arise. That seems to be anomalous. It is good practice: My advisers are taking notes, and I am more than happy to ensure that this principle is in the police practices Bill when it comes before the Parliament, I hope, later this year.

Mrs Roberts: The member for Joondalup suggested that there was no requirement for the police officer to advise that he was about to search a person; he could go ahead and use the powers to do it.

Mr PRINCE: The police officer must say, "I'm going to search you." The member wants to take it a step further so the officer says, "I am going to search you, as I have the power to do so. If you do not permit me to do so, you will commit an offence." It is not a bad thing for a police officer to do. Mostly they do that. Perhaps we should put the requirement in a police conduct or powers Bill. We do not have such provision, for example, for the search of a person for another purpose. The principle has merit, but it would be an anomaly in this Bill.

Mrs Roberts: It has merit for a crime which mainly will be committed by juveniles.

Mr PRINCE: It has merit as an overriding requirement. Therefore, it should be in a police powers Bill.

New clause put and a division taken with the following result -

Ayes (15)

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

Noes (27)

Mr Ainsworth	Mr Cowan	Mr MacLean	Mr Trenorden
Mr Baker	Mr Day	Mr Minson	Mr Tubby
Mr Barron-Sullivan	Mrs Edwardes	Mr Omodei	Dr Turnbull
Mr Board	Mrs Hodson-Thomas	Mrs Parker	Mrs van de Klashorst
Mr Bradshaw	Mrs Holmes	Mr Pandal	Mr Wiese
Dr Constable	Mr Johnson	Mr Prince	Mr Osborne (<i>Teller</i>)
Mr Court	Mr Kierath	Mr Sweetman	

Pairs

Mr Marlborough	Dr Hames
Mr Riebeling	Mr Barnett
Ms Anwyl	Mr Shave

New clause thus negatived.

Clause 5: Section 67B inserted -

Mrs ROBERTS: Clause 5 relates to search and seizure powers. I draw the minister's attention to section 68 of the Police Act, titled "Seizure of property and searching", which reads -

Any constable or other person apprehending any person charged with an offence against section 65, 66 or 67 may seize any horse or other cattle, or any money, goods, or vehicle in the possession or use of the person so apprehended and charged, and may take and convey the same -

Proposed section 67B appears to be in conflict with section 68.

Mr PRINCE: I indicate that section 68 refers to "apprehending any person charged with an offence". It refers to search after arrest, and proposed section 67B refers to search before arrest.

Mrs Roberts: Do different sets of rules apply?

Mr PRINCE: Yes. I do not think there is a conflict.

Mrs ROBERTS: During the second reading debate I sought clarification on the necessity for including all the offences listed under sections 65, 66 and 67 of the Police Act, especially since many of the offences seem to be, in some cases, fairly outdated or strange. I think the minister said in part of his response that it would need to be reviewed in the Police Act.

Mr Prince: Absolutely.

Mrs ROBERTS: Why do we need these stop, detain and search prior-to-arrest powers for those categories of offences listed under those sections of the Act?

Mr Prince: With this amendment to the Act we will wind up with search powers for a can of spray paint or a lipstick, but not for guns, knives, daggers, bullet-proof vests, car stealing implements, house breaking implements or explosives.

Mr ROBERTS: Fortune telling?

Mr Prince: Police cannot search for fortune telling.

Mrs ROBERTS: They can search for the cards.

Mr PRINCE: We enacted this amendment dealing with spray cans and felt pens, etc. It is a nonsense to have search powers for that and not have search powers to enable a police officer to search for a gun, a knife, a dagger, a bullet-proof vest, casting or house breaking implements. There is no express power to search under the Act.

Mrs Roberts: Will those matters not be dealt with in the Police Act?

Mr PRINCE: Some of them will be, but not in relation to house breaking implements or explosives.

Mrs Roberts: The whole issue gets more and more complex.

Mr PRINCE: It does, which is why this Act must go. As I have said before, this Act is old and out of date. It is very interesting to read if one is interested in history. However, as a modern piece of legislation to be used in the courts at the latter end of the twentieth century it is out of date. We should not be using something drafted in the latter end of the nineteenth century that is based on English law written in the 1850s. Under the circumstances, it has stood the test of time very well.

We should not lose sight of the fact that we are seeking to bring in an offence of carrying graffiti implements. We could have brought in a stand alone Bill. However, provisions are already in the Police Act that deal with damage by graffiti. It is therefore the logical place to put it. The member for Midland and I are wrestling with, commenting on adversely and criticising the way this Act was written. The member is quite right in raising that sort of anomaly. If we do not extend this power of search to sections 65, 66 and 67 generally, a police officer would have the power to search a juvenile for a lipstick she might have been going to use on somebody's window but could not search her for a house breaking implement, a gun or a knife. It is crazy and it is out of date. It should have been dealt with long ago and we will do that.

I ask the member to accept my assurance that the general power of search should exist in relation to those matters as well. It amounts to the fact that we can catch somebody walking down the street having knocked off a house with a jemmy under his arm but we cannot charge him.

Mrs Roberts: We could charge him for housebreaking.

Mr PRINCE: Yes, but we could not connect him to the house unless we could get hold of the jemmy and get the paint flakes off it that match a window frame.

Mrs Roberts: Could he be charged with possession of a jemmy?

Mr PRINCE: Yes, under section 66(4) "being in possession of housebreaking implements", the proof of which excuse shall be on the person. There is logic to extending the power of search to those offences.

Clause put and passed.

Clause 6: Section 76 amended -

Mrs ROBERTS: This clause has some unusual wording. The addition of subsection (2) to section 76 does not seem to make sense in that it refers to any goods or chattels which have lawfully come into the possession of any member of the Police Force, etc. However, proposed subsection (2) states -

Despite subsection (1), if -

(a) possession of the goods or chattels is unlawful . . .

The confusion seems to be that the proposed subsection is referring to any goods and chattels which have unlawfully come into the possession of a member of the Police Force.

Mr PRINCE: Anyone can lawfully possess a can of spray paint. If, however, we are talking about a self-loading rifle or a handgun, per se, possession of that is unlawful. Therein lies the difference. That is why the clause is written that way.

Mrs Roberts: Is there no conflict with existing section 76?

Mr PRINCE: No. It is saying that if possession of the goods or chattels is unlawful - the classic case is the firearm which one is not permitted to possess; it is unlawful to do so - the Police Commissioner may dispose of the goods in such manner as he thinks fit. Otherwise he must auction them, which would be a bit difficult when nobody is lawfully allowed to possess them.

Mrs ROBERTS: The Young Offenders Act is to be amended. If a thing is seized and a police officer gives a caution to a young person, the police officer may retain it or release it to an appropriate person. Why would the police officer return a thing to anyone?

Mr PRINCE: Under section 23A of the Young Offenders Act, if a caution is administered to a young person for an offence, the police officer administering the caution must give the young person a certificate. There is no offence committed, consequently the police officer cannot hold the offensive item, be it a spray can, chemi pen, or glass cutter, and must return it. In that scenario the police officer has determined not to take the matter on by way of formal charge to the Children's Court; he has determined that for this individual he will give a caution and hand him the piece of paper that is the formal caution.

Without this amendment we would have the ludicrous situation of the officer handing back the can of spray paint to the juvenile because he could no longer hold it. The amendment simply says that if the police officer determines to caution a person because of his or her age and because it is a first offence and so on, he can hang on to the can of spray paint or take it home and give it to mum and dad - that is, releasing it to an appropriate person - but that must be done within 48 hours. It is simply to avoid what would otherwise be an anomaly. The person is told, "You have committed an offence but I will exercise my discretion as a police officer. This time, here is a caution."

Mrs Roberts: Why are there different circumstances, as in clause 6, in which the commissioner is able to dispose of the goods and chattels in such a manner as the commissioner thinks fit, and the other provision under the Young Offenders Act?

Mr PRINCE: It depends on whether the police officer is dealing with a juvenile and determines to issue a caution rather than proceed with a formal charge. If he proceeds with a formal charge, the amendment comes into play and the goods that have been held by the police are disposed of by the police officer.

Mrs Roberts: During the second reading debate I asked why the minister wanted to put the extra requirement on police officers to do the paperwork, to give back the glass cutter, can of spray paint, lipstick or whatever in the 48 hours and all the rest of the rigmarole. If the person has a caution and has lost the graffiti implement, why not say, "So be it"? Why should it be disposed of as the commissioner sees fit? In some circumstances the commissioner may think fit to give back the stuff and in other circumstances he might chuck it in the bin.

Mr PRINCE: It will be a matter of giving the Commissioner of Police discretion to return the thing to the police.

Mrs Roberts: But there is a compulsion.

Mr PRINCE: Yes. We have been talking about matters of little value in the sense of a can of paint and so on. Conceivably, someone could knock off dad's spray can and use it. Relatively portable spray cans are worth hundreds of dollars. In such circumstances, the police officer could say that it is not reasonable to seize it from dad.

Mrs Roberts: My argument is that the catch-all phrase in clause 6, "may dispose of the goods or chattels in such manner as the Commissioner thinks fit", would allow a police officer to give back more expensive goods that belong to the juvenile's parents or whatever.

Mr PRINCE: Under clause 6, that is when a person has been charged, presumably gone to court and been convicted. The Commissioner of Police then possesses the item. The Commissioner of Police may determine the value and dispose of it or auction it. If it is something that people cannot lawfully possess, he can dispose of it. If they can possess it, he can auction it. If, however, the police constable determines not to charge but only to caution, it may be that the thing has some intrinsic value, and it may be that the youngster has knocked it off from mum or dad, and mum or dad would really like to have it back because it has some value; so the police officer takes it back to the parents and says, "There you are, I caught him with it. I have issued him with a caution and that is how I have disposed of the matter."

Mrs ROBERTS: Does the minister acknowledge that the requirement states that, after 48 hours, after giving a caution, police officers must make the thing available for collection by an appropriate person? Does the minister acknowledge that it will involve extra police work?

Mr PRINCE: It will involve a minor amount of paperwork. Two serving police officers tell me that it is part of the current procedure and paperwork now. It will not involve them in anything more; it is another offence that they will be able to process. They are telling me that it does not involve them in anything further.

Mrs Roberts: So they will have everything recorded?

Mr PRINCE: Yes.

Mrs Roberts: They must make it available for collection?

Mr PRINCE: Yes. We must put it in the right context. Let us consider a child aged, say, 11 or 12 years who has never before been picked up by the police. The boys or girls in blue have scared the living daylights out of the youngster by apprehending him or her with the can of spray paint, or he or she has knocked off a diamond-tipped glass cutter which is worth about \$200. They have issued a formal caution, which is an impressive piece of paper, and taken it home and said to mum and dad, "There you are, there is your glass cutter."

Mrs Roberts: The legislation catches everything. It catches the diamond-tipped glass cutter and the valueless can of paint.

Mr PRINCE: Yes, it does, and it should.

Mr Thomas: It might be an apprentice glass cutter.

The CHAIRMAN: Order!

Mr PRINCE: It is highly unlikely, but under the Young Offenders Act the form of the certificate of caution is quite complex. Seven or eight matters need to be put into it. It is a form that must be filled out. Basically, it is a one-stop recording exercise, which the officers are doing anyway. All they are doing is handing the thing back or retaining it, depending on the circumstances.

Mrs Roberts: How does the minister define making something available if the police have to make contact with persons to say that it is at the police station? What if they fail to make contact with someone?

Mr PRINCE: The obligation is on the police officer to make contact.

Mrs Roberts: What if they go to the house and nobody is home?

Mr PRINCE: They can leave a message or make a telephone call. They make all reasonable efforts to make contact.

Mrs Roberts: I am aware of instances in which it takes police officers weeks to issue a restraining order. They leave notes, ring up and visit, but nobody is home.

Mr PRINCE: The member is talking about a situation involving domestic violence. We are talking about children who are probably quite young - that is, about 10, 11 or 12 years. It is in the police officer's interest, having cautioned the child as opposed to charging the child, to make sure that the child is returned to the parents with caution in hand. He would say, "I have caught your son/daughter doing this; I have cautioned, and this is what he or she was using",

and effectively he would turn the matter over to the parents to be dealt with. In those circumstances, there is the contact. It is in the context of a relatively young juvenile.

Clause put and passed.

Clauses 7 and 8 put and passed.

Clause 9: Section 23B inserted -

Mrs ROBERTS: I seek some clarification with respect to section 23B(1). It states -

- (1) If a police officer -
 - (a) under a written law, seizes from a young person a thing relating to an offence . . .

I wonder how the term "thing" is defined.

Mr Prince: An inanimate object.

Mrs ROBERTS: So it is any inanimate object?

Mr Prince: It is a physical thing as opposed to an intellectual thing.

Mrs ROBERTS: Even though it is not specified?

Mr Prince: Yes.

Mrs ROBERTS: To what offences does it relate? Does it relate only to graffiti or absolutely everything?

Mr PRINCE: In this context it relates to graffiti implements. It can be applied obviously to anything else that has been seized from a young person in the commission of an offence. In that sense it could be housebreaking implements, a jemmy or a hammer, possession of which is not of itself unlawful. However, it would not relate to a dagger. We are enacting this Bill in the context of graffiti but it obviously has a slightly wider application. When we talk about a "thing" we mean a physical thing as opposed to a chosen action or a piece of intellectual property, which is not necessarily an inanimate thing.

Ms McHale: Could the word "object" not be used?

Mr PRINCE: No.

Ms McHale: Why not?

Mr PRINCE: Because "thing" has been used in statutes for a very long time; everybody understands what it means. An "object" would have to be defined as a thing that could be seen and grasped as opposed to something that is an intellectual object.

Mrs Roberts: Why would that be the case? It seems that although this proposed amendment to the Young Offenders Act specifically relates to graffiti, we now find it applies to all other offences with which young offenders could be charged.

Mr PRINCE: It is only in relation to when a young offender is charged that a "thing" is involved and a caution is administered. That is the only time this ever comes into play.

Mrs Roberts: Would there not be many circumstances where a "thing" would be involved?

Mr PRINCE: Yes, a few.

Mrs Roberts: Why is it that there is a particular set of rules for returning things within 48 hours to juveniles when it does not apply to adults.

Mr PRINCE: As the inspector points out, currently if a police officer picks up an 11 year old in possession of a nice, big, long knife and decides to issue a caution, he must return the knife. That is a bit of a worry.

Mrs Roberts: Yes.

Mr PRINCE: This amendment will enable the police officer, if it is appropriate, to issue the caution, not give the knife back, and perhaps take it home and give it to dad who has a collection of them which he thought was locked up safe and is not.

Mrs Roberts: You say to an appropriate person.

Mr PRINCE: Yes, like parent, uncle, aunt, relative, friend, whatever the case may be.

Mrs Roberts: It seems strange to have it applied to all things. I do not know what the whole range of things would be; however, again it raises my concern about how much paperwork this will mean for police officers.

Mr PRINCE: No more.

Mrs Roberts: Will they have to return all things concerning all offences within the 48-hour procedure?

Mr PRINCE: I do not think police should be able to ignore the fact that this thing, whatever it is, belongs to somebody else and just dispose of it.

Mrs Roberts: They do with respect to adults.

Mr PRINCE: It depends what it is. On conviction the thing is seized and forfeited. Here we are talking about a caution where the officer has determined not to proceed with a charge. There will not be a conviction or forfeiture of the property to the Crown. There will be an exercise of a prerogative of mercy in some respects. The police officer could say, "I am not going to charge you because you are very young, but you should know better. This is a warning. Here is a piece of paper. I do not particularly want to give you back this 12-inch dagger but at the present moment as a police officer I have to do that." That is perhaps an anomaly we should have thought of back in 1994. We did not. Here it is and we are able to correct it in relation to graffiti implements and other things.

Mrs Roberts: One of the concerns that I have had is that this clause, like some other clauses, encompasses much more than just graffiti and none of that was spelt out in the second reading speech.

Mr PRINCE: For that omission, I apologise. I did supply clause notes which alluded to much of this.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 11.35 pm

QUESTIONS ON NOTICE

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

GOVERNMENT DEPARTMENTS AND AGENCIES

Staff and Programs

16. Mr GRAHAM to the Minister for Police:

What are -

(a) departmental staff in departments under the Minister's control located in the following towns -

- (i) Port Hedland;
- (ii) South Hedland;
- (iii) Tom Price ;
- (iv) Paraburdoo;
- (v) Telfer;
- (vi) Marble Bar;
- (vii) Nullagine;
- (viii) Karratha;
- (ix) Halls Creek;
- (x) Wiluna;
- (xi) Dampier;
- (xii) Roebourne; and
- (xiii) Wickham?

(b) the classifications of those staff; and

(c) the programs currently being funded in the towns listed in departments under the Minister's control?

Mr PRINCE replied:

- | | | | |
|-----|--------|----------------------------|---------------------------|
| (a) | (i) | Port Hedland Station: | Sworn - 9; Unsworn - 0.5 |
| | (ii) | South Hedland Station: | Sworn - 38; Unsworn - 1 |
| | | South Hedland Detectives | Sworn - 4; Unsworn - 1 |
| | | South Hedland PCYC | Sworn - 2 |
| | | South Hedland CPCPC | Sworn - 1 |
| | | South Hedland School Based | Sworn - 1 |
| | | Prosecuting | Sworn - 1 |
| | | Forensic | Sworn - 1 |
| | | Northern Regional Office | Sworn - 3; Unsworn - 3 |
| | (iii) | Tom Price Police Station | Sworn - 6 |
| | (iv) | Paraburdoo Police Station | Sworn - 2 |
| | (vi) | Marble Bar Police Station | Sworn - 4 |
| | (vii) | Nullagine Police Station | Sworn - 4 |
| | (viii) | Karratha Police Station | Sworn- 32; Unsworn -1 |
| | | Karratha Detectives | Sworn - 3 |
| | | Karratha District Office | Sworn - 14; Unsworn 3 |
| | | Karratha Airwing | Sworn - 1 |
| | (ix) | Halls Creek Police Station | Sworn - 17; Unsworn - 1 |
| | (x) | Wiluna | Sworn - 7; Unsworn - 1 |
| | (xi) | Dampier Police Station | Sworn - 5 |
| | (xii) | Roebourne Police Station | Sworn - 13; Unsworn - 0.5 |
| | (xiii) | Wickham Police Station | Sworn - 5 |
| (b) | | Commissioned Officers | 5 |
| | | Senior Sergeants | 7 |
| | | Sergeants | 20 |
| | | Constables | 115 |

Detective Sergeants	2
Detectives	5
APLO	19
Unsworn	12

There is no police station at Telfer, whilst Wiluna is in the Central Police Region their staffing numbers have been included in those of the Northern Police region. The figures provided include Regional and District Office Staff.

- (c) The Western Australia Police Service funds numerous initiatives designed to reflect the safety and security needs of the Community. The expenses associated with these initiatives are met from within the annual budget allocations. For details of the Northern Police Region's key achievements and programs funded from regional resources, please refer to tabled paper. [See paper No 152.]

Wiluna Sub-District has undertaken a number of initiatives and programs including:

The 'Wiluna Agreement' - an alcohol accord restricting the sale of take-away alcohol.
 Domestic Violence Committee.
 Weekend bush camps with juvenile aboriginals.
 Local Emergency Management Advisory Committee.
 Alcohol/Drug/Substance Abuse - education program.
 Combined outback patrols in conjunction with Leinster Police Sub District.
 Bicycle education program for aboriginal children.

All funding for these programs is controlled from normal sub district budget allocations. In relation to the bicycle program equipment has been donated by the local aboriginal community.

STATE FINANCE

Taxes and Charges

53. Dr GALLOP to the Minister for Local Government; Disability Services:

In relation to all the portfolio areas for which the Minister has responsibility -

- (a) what fees and charges have been increased in the context of the 1998/99 Budget and the announcements made immediately prior to the Budget;
- (b) what is the rate of increase for each of these in dollar and percentage terms;
- (c) what is the estimated total additional revenue each of these increases is expected to raise;
- (d) are there any other increases in fees and charges proposed for the financial year 1998/99; and
- (e) if so, what are the details of these other increases?

Mr OMODEI replied:

In relation to the Department of Local Government and the Disability Services Commission:

- (a) Nil.
- (b)-(c) Not applicable.
- (d) No.
- (e) Not applicable.

In relation to the Metropolitan Cemetery Board:

- (a) The Board resolved at a meeting held at Karrakatta on 28 May 1998 that there be no increase in fees for 1998/99, as the CPI index for the 12 months ended 31 March 1998 decreased by 0.2%. However, the following three fees at Pinnaroo Valley Memorial Park and Midland and Guildford Cemeteries have been increased, to bring the fees charged in line with Karrakatta, based on the same service provision.

Adult Internment Fee
 Grant of Right of Burial (Gravesite)
 Renewal of Grant prior to Expiry

- (b) The rate of increase for each of these in dollar and percentage terms is:

Fee		Increase	%
Adult Interment Fee	Pinnaroo	\$55.00	13
	Midland	\$55.00	13
	Guildford	\$55.00	13
Grant of Right of Burial	Pinnaroo	\$70.00	11
	Midland	\$20.00	3
	Guildford	\$20.00	3
Renewal of Grant Prior to Expiry	Pinnaroo	\$105.00	11
	Midland	\$30.00	3.5
	Guildford	\$30.00	3.5

- (c) \$71,100.
- (d) No.
- (e) Not applicable.

In relation to the Fremantle Cemetery Board:

- (a) Fremantle Cemetery Schedule 'A' Scale of Fees and Charges from 1 July 1998.
- (b) Burial interments \$15.00 = 3.1%; Cremation \$20.00 = 3.5%; Average increase of all fees and charges 2.5%; no rise for some items.
- (c) Burial interments \$6,315; Cremation \$32,980; Other \$7,590; Total \$46,885.
- (d) No.
- (e) Nil.

STATE FINANCE

Taxes and Charges

62. Dr GALLOP to the Minister representing the Minister for Transport:

In relation to all the portfolio areas for which the Minister has responsibility -

- (a) what fees and charges have been increased in the context of the 1998/99 Budget and the announcements made immediately prior to the Budget;
- (b) what is the rate of increase for each of these in dollar and percentage terms;
- (c) what is the estimated total additional revenue each of these increases is expected to raise;
- (d) are there any other increases in fees and charges proposed for the financial year 1998/99; and
- (e) if so, what are the details of these other increases?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

Department of Transport

- (a) Categories of fees and charges which have been increased are shown in Attachment 1. [See paper No 153.] Vehicle licence fees increased are set out at (b).
- (b) Dollar and percentage increases are also shown in Attachment 1. [See paper No 153.] As the formula for the calculation of fees for vehicle licences has changed this year, it is not possible to provide a direct comparison with previous years. With the exception of motor cycles, the new fees as listed hereunder, are calculated per 100kg of tare weight.
 - * Caravans (motor propelled), motor car, motor carrier, motor wagon, omnibus or tow truck \$12
 - * Tractor (prime mover type) \$12
 - * Converter dolly trailer, semi-trailer or other trailer not being a plant trailer \$ 6
 - * Caravan (trailer type), fork lift truck, mobile crane, plant trailer, tow motor or tractor plan \$ 3

- * Motor Cycles with engine capacity not exceeding 250cc (fixed fee) \$24
- * Motor Cycles with engine capacity exceeding 250cc (fixed fee) \$36
- (c) Estimated additional revenue expected to be generated by increases is, Maritime Services \$1.3 million, Motor Vehicle and Drivers Licences \$81.1 million, Omnibus Licences \$0.9 million, and Transperth fares \$4 million.
- (d) No.
- (e) Not applicable.

Bunbury Port Authority

- (a)-(c) Not applicable.
- (d) Yes, shipping services charge and water supply to ships.
- (e) Shipping services to increase by 4.7 per cent from \$3 820 to \$4 000 per vessel. Increase in revenue \$56 881. Water supply to increase by 10 per cent from \$1.00 to \$1.10 per tonne increase in revenue \$3 000.

COTTON GROWING TRIALS, WEST KIMBERLEY

78. Dr EDWARDS to the Minister for Primary Industry:

What expenditure has been incurred to date by Agriculture WA advising, monitoring and assessing cotton growing trials in the West Kimberley?

Mr HOUSE replied:

Expenditure on cotton studies in the West Kimberley for 1996/97 was approximately \$18,000 and anticipated expenditure in the current financial year is \$62,000.

GOVERNMENT DEPARTMENTS AND AGENCIES

Staff and Programs

91. Mr GRAHAM to the Minister for Police; Emergency Services:

What are -

- (a) the numbers of departmental staff in departments under the Minister's control located in the following towns -
 - (i) Port Hedland;
 - (ii) South Hedland;
 - (iii) Tom Price;
 - (iv) Paraburdoo;
 - (v) Telfer;
 - (vi) Marble Bar;
 - (vii) Nullagine;
 - (viii) Karratha;
 - (ix) Halls Creek;
 - (x) Wiluna;
 - (xi) Dampier;
 - (xii) Roebourne; and
 - (xiii) Wickham;
- (b) the classifications of those staff;
- (c) the programs currently being funded in the towns listed in (a), in the departments under the Minister's control?

Mr PRINCE replied:

Please refer to answer for PQ 16.

SEX PROGRAMS ON TELEVISION

Effects on Children

111. Mr NICHOLLS to the Minister for Health:

I refer to an article on page 6 of *The West Australian* of 13 June 1998 following a Senate debate on the negative

effects on children of television programs featuring explicit sex in which a professor, an ethicist and a sex specialist, all Western Australian psychologists, expressed authoritative sounding views on the psychological benefits of children watching explicit sex on television. I ask -

- (a) will the Minister advise or ascertain whether the Psychologists Board of Western Australia endorses the views of these psychologists who appeared to be speaking for their profession in the article quoted;
- (b) if the Board does endorse these views, what would be the outcome for psychologists who believe that the opinions quoted contradicted community standards and who wished to persuade clients that sex programs were not beneficial for children; and
- (c) if there is no official opinion from the Board or from the Australian Psychological Society whose code of practice it adopts, will the Minister invite the Board or the Australian Psychological Society to make a statement to that effect to counteract the concern that the published article is likely to arouse?

Mr DAY replied:

- (a) The Board makes no comment on the views expressed.
- (b) Not applicable.
- (c) The Board's role is to administer the Psychologists Registration Act 1976 and attend to the registration of practising psychologists and deal with complaints by clients against psychologists. It is not the proper role of the Board to express any opinion on behalf of the profession.

WOMEN'S HEALTH WORKSHOP

232. Ms WARNOCK to the Minister for Health:

In relation to the Government Two Year Plan for Women (1996-1998) -

- (a) has Healthway arranged a special research practitioners workshop to bring together the major researchers addressing women's health issues to identify potential programs for implementation resulting from research findings;
- (b) if yes -
 - (i) when did this workshop occur;
 - (ii) who attended the workshop;
 - (iii) from where did these researchers come (within Western Australia, outside Western Australia?); and
 - (iv) what qualifications do these researchers have;
- (c) what was the outcome of the workshop;
- (d) were any recommendations made as a result of the workshop;
- (e) if yes, have any of these recommendations been implemented;
- (f) what programs have been identified;
- (g) have any of these programs been implemented; and
- (h) if not, why not?

Mr DAY replied:

- (a) Yes.
- (b)
 - (i) 9th April 1997.
 - (ii) Health promotion researchers and practitioners.
 - (iii) From within Western Australia.
 - (iv) Various qualifications in a range of relevant areas eg. Medical, Human Movement, Public Health, Endocrinology, Cardiology, Epidemiology, Education.

- (c) Five working groups were formed to address identified priority areas.
- (d) Yes.
- (e) Recommendations have been fed into a national consultancy being undertaken by the National Health and Medical Research Council to develop an implementation strategy for the prevention of overweight and obesity.
- (f) Outcomes from national consultancy are yet to be released.
- (g) No.
- (h) Awaiting the outcomes of the National Consultancy.

TUNA FARMING, ESPERANCE

247. Mr BROWN to the Minister for Fisheries:

- (1) Is the Minister aware of concerns raised by the South East Travel Association about tuna farming in or around Esperance?
- (2) What does the Minister understand the concerns of the Association to be?
- (3) What steps, if any, is the Minister taking to alleviate those concerns?
- (4) Has the Minister initiated any discussions with the Minister for Tourism about the concerns raised by the Travel Association?
- (5) If so, what is the nature of those discussions?
- (6) If not, why not?
- (7) Will the Minister ensure that whatever arrangements are put in place they will not damage the tourism industry in the region?

Mr HOUSE replied:

- (1) I understand that the South East Travel Association has issued a press release outlining its concerns with respect to a tuna farming proposal for Esperance.
- (2) I understand that their concerns relate to the impact of fish farming on the tourism industry. Specific concerns include the lack of baseline environmental knowledge of both the Recherche Archipelago and the environmental impacts of fish farming generally.
- (3) I have recently published a Ministerial Policy Guideline, *"Assessment of applications for authorisations for Aquaculture and Pearling in coastal waters of Western Australia"* which the Executive Director of Fisheries takes into account when assessing coastal water aquaculture proposals. These Guidelines require the Executive Director to take into account a range of matters in his decision making process including the possible impact on commercial activities, including tourism.

The Executive Director has recently withdrawn two of the three proposed sites from consideration as possible sites for tuna farming. The two sites withdrawn were the sites north and south of Woody Island. The sites were withdrawn due to the potential impact on the tourism and recreational activities associated with Woody Island. The decision was made taking into account public submissions received.

Fisheries WA is now seeking to identify alternative sites which may be suitable for tuna farming in the Esperance area. Identification of these sites will be undertaken in conjunction with the Recherche Archipelago Consultative Group. This group includes representatives from the tourism industry in Esperance. All comments received relating to both the remaining site and any new sites identified will be taken into account in the assessment process. When further sites are identified, a revised proposal will be referred to all interested groups for comment and advertised for a further public comment period.

- (4)-(6) No. A formal process has been established to consider all pearling and aquaculture applications, and the application in question is being considered according to that process.
- (7) I can assure the honourable member that any potential impacts on tourism operations are considered in assessing aquaculture proposals.

GOVERNMENT DEPARTMENTS AND AGENCIES

Language Policy

321. Dr GALLOP to the Minister for Health:

- (1) What steps has the Government taken to familiarise -
 - (a) Government Departments; and
 - (b) private sector receiving Government funding,
 of the Government's language policy, especially with service providers?
- (2) What supervision is undertaken by the Government to ensure that nursing homes which receive Government subsidies comply with the Government's language policy?
- (3) What quality control is undertaken by the Government to ensure that nursing homes receiving government subsidies use properly qualified interpreters and translators when dealing with clients' needs?
- (4) How many nursing homes receiving government subsidies employ their own interpreters and translators?
- (5) What is the standard of their qualifications?

Mr DAY replied:

- (1) I respond to this question from within a health service provision context only. Other Government Departments are accountable to implement and comply with language policy directly to Parliament. A Multicultural Access Unit for the WA public health system is located within the North Metropolitan Health Service and has developed Language Services in Health Care Policy Guidelines. These guidelines are widely distributed through a network of Multicultural Access Contact Officers, in the system and within each Health Service. These guidelines and various resource kits are provided upon request on a cost recovery basis to private sector health providers including Commonwealth funded Nursing homes.
- (2) The Private Sector Licensing Unit located in the Health Department of Western Australia has the responsibility for the State Licensing of Nursing Homes. Regular inspections of facilities and audits of policy, procedures and processes form part of the licensing process. The State Inspectors require the Nursing Home operators to demonstrate what policies, practices and processes relating to Language Services are in place. Additionally, the Commonwealth Department of Health and Family Services administer funding and service outcome standards compliance in the Commonwealth funded Nursing Homes. In 1997, the Commonwealth announced the introduction of a new system of quality based service accreditation in Aged Care Facilities (formerly Nursing Homes and Hostels) that are funded by the Federal Government Residential Aged Care Program.

The Commonwealth Department of Health and Family Services Standards and Guidelines for Residential Aged Care Services are required by law to be complied with. Standard 3.8 CULTURAL AND SPIRITUAL LIFE requires an expected outcome of Individual interests, customs, beliefs and cultural and ethnic backgrounds are valued and fostered. This standard demonstrates the requirement that cultural and linguistic diversity should be recognised, respected, fostered and valued in policies and practices relating to all aspects of the service.

With respect to the Standards Monitoring of the Commonwealth Subsidised Aged Care Facilities, there is a requirement for operators to demonstrate what policies, processes and practices are in place to ensure compliance with Standard 3.8 which specifically addresses the issue of language services to non-English speaking residents.

- (3) Not applicable. Aged Care facilities receiving Government subsidy are required to comply with the Standards to achieve the desired outcome, therefore each facility implements strategies specific to the organisation to achieve the desired outcome. Specification of how an organisation would achieve the outcome is contrary to Quality Based Service Accreditation concepts.
- (4)-(5) Not applicable.

NATIONAL DAIRIES WA LIMITED

432. Mr BROWN to the Minister for Primary Industry; Fisheries:

- (1) Has any department or agency under the Minister's control have shares in National Diaries WA Limited?

(2) How many shares does the department or agency own?

(3) What is the purpose of the share ownership?

Mr HOUSE replied:

The Chief Executive Officers from agencies under my control have advised as follows:

(1) No.

(2)-(3) Not applicable.

PHARMACEUTICALS

Distribution to Third World Countries

514. Mr PENDAL to the Minister for Health:

I refer to the past practice of Western Australian pharmacists and Rotarians collecting and re-labelling appropriate un-used pharmaceuticals for ultimate distribution to third world countries and ask -

- (a) did the State receive an approach from the Federal Government to discontinue this practice;
- (b) if so, when did such an approach take place;
- (c) what were the grounds given for the Federal Government wanting the practice to cease;
- (d) is the Minister aware of any pressure exerted on the Federal Government or international agencies by drug companies; and
- (e) does the Minister agree that the previous supply of free, unused drugs to places like Papua New Guinea, Kenya, Cuba and Chernobyl was a valuable humanitarian gesture by Australian pharmacists and if so will the Minister undertake to make representations to the Federal Government for a resumption of the work?

Mr DAY replied:

- (a) The Commonwealth's Therapeutic Goods Administration provided a copy of a draft WHO Guidelines for Drug Donations. [See paper No 154.]
- (b) May 1995.
- (c) The draft WHO Guidelines set out the problems encountered by developing countries with inappropriate donations.
- (d) No.
- (e) The draft WHO Guidelines clearly identify the difficulties experienced when unused drugs are distributed without consultation and agreement by the recipient country. If pharmacists and Rotarians wish to distribute un-used pharmaceuticals to developing countries they should do so by obtaining the recipient country's agreement and by complying with the WHO Guidelines.

POLICE

Workplace Agreements

727. Mr BROWN to the Minister for Police:

- (1) Is the Minister aware of an article that appeared in *The West Australian* on 4 August 1998 in which the Western Australian Police Union warned of future division in the Police ranks after the first batch of recruits on individual workplace agreements were sworn in?
- (2) At a time when crime is a major problem in Western Australia and cohesion is necessary in the Police Service, why is the Government insisting on creating division in the Police Service by requiring new recruits to sign workplace agreements?

Mr PRINCE replied:

- (1) Yes.
- (2) No division has been created in the WA Police Service by the requirement for new recruits to sign workplace agreements.

DIGGERS AND DEALERS CONFERENCE, KALGOORLIE

Jaywalking Infringement Notices

735. Mr PENDAL to the Minister for Police:

- (1) Will the Minister confirm that during the Diggers and Dealers Conference in Kalgoorlie recently that an extra nine police officers from Perth were sent to Kalgoorlie?
- (2) Is it correct that in a three-day period at the time of the conference some 85 infringement notices for jaywalking were issued in Kalgoorlie?

Mr PRINCE replied:

- (1) No extra police officers were sent to Kalgoorlie.
- (2) No. Over this three day period: 9 infringements were issued for the offence of 'contravening a no walk signal' and 125 cautions were issued for the same offence.

HOME BURGLARIES AND ASSAULTS

779. Dr CONSTABLE to the Minister for Police:

In each of the last five years in Western Australia -

- (a) what percentage of burglaries were committed while homes or premises were occupied; and
- (b) what percentage of assaults were committed in victims' homes or places of work?

Mr PRINCE replied:

- (a) REPORTED BURGLARY OFFENCES

	1993/94	1994/95	1995/96	1996/97	1997/98
Occupied Premise/Dwelling	7650	9911	9294	12365	13896
Burglary Offences	52085	60309	56412	58062	59063
%	14.7%	16.4%	16.5%	21.3%	23.5%

- (b) The Western Australia Police Services' statistical database (the Offence Information System) is not capable of determining the statistics required by the member. The Offence Information System can determine the number of assaults committed in a dwelling (residence), however it cannot determine if the dwelling belonged to the victim or someone else. Regarding the number of assaults which occur at a person's place of work, the Offence Information System is not capable of providing this information.

QUESTIONS WITHOUT NOTICE

WORKSAFE WA INQUIRY

Draft Report

105. Dr GALLOP to the Minister for Public Sector Management:

- (1) Did the Commissioner for Public Sector Standards prepare a draft report on his WorkSafe inquiry and did that draft report make adverse findings against WorkSafe commissioner Neil Bartholomaeus?
- (2) If so, what were those findings and why were they not included in the commissioner's final report?
- (3) Who requested changes to the draft report?
- (4) Upon whose advice was the draft report changed?
- (5) Will the Premier table the commissioner's draft report?

Mr COURT replied:

I thank the Leader of the Opposition for some notice of the question. The Commissioner for Public Sector Standards has advised as follows -

- (1) Yes. A draft report was prepared and sent to WorkSafe for comment as to factual errors; it included no findings.
- (2) Not applicable.
- (3) No-one requested changes. The commissioner altered the draft in the light of comments received from WorkSafe.
- (4) No advice was sought or received about changing the draft report. The changes were made wholly on the commissioner's volition. The changes were not major and did not alter the substance of the report.
- (5) The draft report has no status, apart from being an element in the commissioner's monitoring process. It was prepared and referred to the public sector body in question to discharge fairness and natural justice obligations and to pick up factual errors.

I reinforce the point I made in a ministerial statement this morning: It is easy for the Leader of the Opposition to call for the sacking of Mr Bartholomaeus. However, the Leader of the Opposition knows that a proper process must be followed under the Public Sector Management Act, and that is being done.

Mr Kobelke: You have dragged your feet at every turn to avoid the proper process.

Mr COURT: The Opposition might want to execute Mr Bartholomaeus; however, he must be treated with the same fairness as anyone else in the public sector.

REGIONAL BUYING COMPACT

106. Mr OSBORNE to the Minister for Services:

I thank the minister for visiting my electorate earlier this year on a selling-to- government forum to highlight preferences available to regional suppliers under the Government's regional buying compact.

The SPEAKER: Order! Can we get on with the question?

Mr OSBORNE: The forum was well received by my constituents.

The SPEAKER: Order! The member has the opportunity to ask a question not to tell us how well things are going.

Mr OSBORNE: Will the minister provide examples of how the Government is continuing to enforce this policy?

Mr BOARD replied:

I thank the member for Bunbury for the question.

Mr Brown: I will bet you do.

Mr BOARD: I will tell members who is thanking us at the moment.

Mr McGinty: It's not the small businesses you are cutting.

Mr BOARD: It is small business, particularly regional small business in many of the electorates of members opposite. We have had an opportunity to travel throughout the State as part of the selling-to-government forums, to show small businesses and regional businesses, in particular, how they can access government contracting. About 11 of those forums have been held in Western Australia and they have been well received. People from literally thousands of businesses have attended. The forum in Bunbury was a strong one.

About 70 per cent of all regional contracts are now going into regional areas. Many are applying our regional compact which has given a 10 per cent advantage for government contracts. It is an important program because it creates regional growth of which the Deputy Premier has been very supportive. It also creates jobs and opportunities, particularly for young people in the regional areas. In the not too distant future I will bring to the Parliament a report about the success of the regional buying compact and its overall performance. We are monitoring this program and at this stage we are running about 15 per cent higher than we were this time last year, before we introduced the program.

WORKSAFE WESTERN AUSTRALIA

*Six-month Ban on Safety Complaints by Unions***107. Mr KOBELKE to the Minister for Labour Relations:**

To help the minister, my question is slightly longer than the one I asked yesterday on this matter. I refer to the finding by the Commissioner for Public Sector Standards that the six-month policy implemented by WorkSafe in June last year in relation to safety complaints by unions was in breach of the Public Sector Management Act, the code of ethics as well as WorkSafe's code of conduct. Who directed WorkSafe to implement that policy?

Mrs EDWARDES replied:

I do not have the answer to that question. From my reading of the Saunders report, the commissioner put out the media release at that time.

WA POLICE SERVICE FIGHTS AGAINST DRUG ABUSE

108. Mr BAKER to the Minister for Police:

How is the cartoon character "Gurd" being used by the Western Australia Police Service in the fight against drug abuse in our community?

Mr PRINCE replied:

I was delighted to be present last week at the launch of that cartoon character at a school in the member's electorate, and he was there, too. It is an initiative that has been developed by a young police officer and an unsworn member of the Police Force, a lady with some qualifications in psychology, in talking to teenagers particularly at risk of getting into the drug cycle. The cartoon character has a number of different manifestations; for example, it could be used on a T-shirt and all sorts of other paraphernalia. It is being specifically addressed to enable alcohol and drug education get through to kids between nine and 14 years of age. It is part and parcel of the Government's drug strategy. It emphasises a coordinated State Government approach not just to illicit drugs, but also alcohol and other legally available substances, and is very much intended to break down the barriers that exist between some youth who are at risk and the police. It encourages the assistance of parents, who are very supportive of it. The staff at this school were highly supportive, as are businesses and the general community. It has been developed in consultation with the Western Australian Drug Abuse Strategy Office and the school drug education project. It is another first-class example of a method of getting the message across to the youth at risk. It is not the only answer, but it has been developed with young people and is seen to work, and I hope it will be replicated more widely across the State.

MAIN ROADS WA LEAKED DOCUMENTS INVESTIGATION

109. Ms MacTIERNAN to the Premier:

Given the Premier's support for the private investigation by Main Roads Western Australia into leaked documents, and his claim yesterday that he is always concerned at cost blow-outs, will the Premier now provide the following information -

- (1) How much has been paid to date to International Investigation Agency for the work performed for Main Roads WA?
- (2) In addition to the above, are there any outstanding accounts; and if so, for what amounts?
- (3) Has International Investigation Agency now completed the work it was contracted to perform?
- (4) When was the contract with International Investigation Agency and Main Roads formally signed?
- (5) What costs in addition to those paid to IAA have been incurred?

Mr COURT replied:

- (1)-(5) I thank the member. I did receive notice of that question this morning. However, I have not received the advice from the minister's office.

Ms MacTiernan: That is the same answer the minister gave yesterday in the upper House! You are a disgrace.

Mr COURT: The member has asked the question today, and I have asked the minister's office for the information.

Ms MacTiernan: You did not answer it yesterday, and you will not answer it today. These are not hard questions.

Mr COURT: With regard to the costs, the minister's office does not have all of that information available for me.

Mr Ripper: Why not? Will you table it this afternoon?

Mr COURT: I will give the member the information as soon as it is available today.

Several members interjected.

The SPEAKER: Order! We are having too much interjection. I am allowing the member for Armadale to pursue the matter, but we do not need interjections from the member for Collie and others.

Mr COURT: I cannot open my mouth without the member's interjecting! If that information becomes available this afternoon, I will give it to the member immediately, because she wants to know all of the accounts that may be in the system, and it is important that that information be provided. I will repeat the comment I made yesterday: In my judgment, a large amount of money has been spent on this exercise, and I certainly hope the matter will be concluded quickly. I will provide that information as soon as it is given to me.

GELORUP QUARRIES BUFFER ZONE

110. Mr BARRON-SULLIVAN to the Minister for Planning:

I refer to the proposed study with regard to new buffer arrangements in the vicinity of the Gelorup quarries in the Shire of Capel and ask -

- (1) When will this study be undertaken, and have terms of reference been prepared?
- (2) Will all stakeholders, including local residents, the quarry operators, local councils and landowners, be consulted as part of this process?

Mr KIERATH replied:

- (1)-(2) I thank the member for the question. Submissions to undertake the study closed on Friday, 28 August, and the consultant's report is expected within 12 months. All the stakeholders, including local residents, etc, will be consulted as part of that process.

Dr Gallop interjected.

Mr KIERATH: I am happy to take any questions the Leader of the Opposition cares to ask me.

TRUTH IN SENTENCING

111. Mr BAKER to the minister representing the Attorney General:

I refer to recent calls from the Western Australian community, particularly the elderly, for truth-in-sentencing law. What is the Western Australian Government's response to those community demands?

Mr PRINCE replied:

I thank the member for notice of the question. The Attorney has provided me with a reply, which I shall summarise. The Government is aware of community sentiment with regard to sentences handed down by the courts. Without compromising in any way the fundamental independence of the judiciary, the Government has indicated that a more easily understood, transparent and structured process is required in order for the public to be better informed and guided in respect of sentences.

We propose to address these matters in three strategies. First, legislation will be introduced into the Parliament in the future to give effect to the recommendations of the report of the Review of Remission and Parole carried out by Chief Justice Hammond. He proposed a number of significant reforms to bring about clarity in the process and to ensure that the time served by a prisoner more closely approximates the term imposed by the court. Secondly, the Government is proposing to publish details of sentencing outcomes imposed by superior courts. We already table workload and listing intervals for superior courts and major courts of petty sessions. We propose to supplement that information with details of various penalties imposed by the superior courts with regard to a number of key criminal offences. The first set of information is anticipated for tabling before the end of this year.

Thirdly, the Government is also developing a presumptive sentencing matrix. The purpose of such a matrix is to ensure greater consistency and transparency in sentencing outcomes and to ensure that the public is more readily able to relate seriousness of offences to the penalty imposed. In other words, the main elements of any offence, being the seriousness - that is, the amount of harm or damage - and extent of culpability of the offender, should be clearly reflected in the penalty imposed.

MAIN ROADS WA LEAKED DOCUMENTS INVESTIGATION

112. Ms MacTIERNAN to the Minister for Works:

Given that there is now documentary evidence that Main Roads WA -

- (a) failed to obtain quotes from more than one private investigator before awarding the contract to International Investigation Agency Pty Ltd;
- (b) made payments of between \$50 000 and \$63 000 when only \$15 000 was authorised;
- (c) did not have a formal agreement for at least the first six months of the contract;
- (d) increased the contract from \$15 000 to \$80 000 on the basis simply of a handwritten note scrawled at the bottom of a departmental memo; and
- (e) made no checks on the legal status of the investigator until after the contract was let,

will the minister order a formal investigation into this shambles which has severely breached State Supply Commission policies?

Mr BOARD replied:

The member for Armadale should know exactly how the State Supply Commission works and how it draws up policies and guidelines. Its role is to produce policies for across government and guidelines for government to follow. Main Roads has a fully delegated authority; in other words, the Department of Contract and Management Services which works for government on contracting is not required to do any contracting for Main Roads. Main Roads does its own contracting under that fully delegated authority.

Ms MacTiernan: Main Roads is obliged under section 17 of the Act to comply with State Supply Commission policy.

Mr BOARD: Yes, it is.

Ms MacTiernan: What will you do about the fact that Main Roads has clearly breached the Act?

Mr BOARD: The Chairman of the State Supply Commission has already discussed this matter with the Commissioner of Main Roads. They have discussed the contracting regime and the way in which they have been applying government policy. I have no intention of asking questions of the State Supply Commission and nor do I direct the State Supply Commission in its investigations. It was set up as a commission and acts as an independent body. If the chairman of the State Supply Commission felt that it warranted an investigation, the commission would carry one out.

UNIFORM ELECTRICITY TARIFFS

113. Dr GALLOP to the Premier:

Given the Premier's claim yesterday that the leaking of documents was "illegal and unprofessional" and given his support for the actions of Main Roads WA in engaging a private investigator at enormous cost to the taxpayer to track down the source of leaked documents, why did he not establish a similar inquiry into the leaking last year of a cabinet submission on uniform electricity tariffs which was circulated in country regions before the National Party caved in on that issue?

Mr COURT replied:

I do not care where it comes from within Government, it is improper for information to be leaked. Whether it be a cabinet document or any other document that a public servant is leaking, it is against the law and should not occur.

Dr Gallop: What did you do?

Mr Kobelke: It is obviously all right for a minister to leak information.

Mr COURT: The chief executive officer in Main Roads obviously made a decision that he was concerned about leaked information and took appropriate action.

Dr Gallop: There is a cover-up going on here, I think.

Mr COURT: I do not think there is. I said it does not matter whether it is a leaked cabinet document, it is improper. Would the Leader of the Opposition not agree?

Mr Carpenter: We have pensioners queuing up for hospitals and you are spending \$80 000 persecuting someone at Main Roads.

Mr COURT: We are spending \$1.6b to deliver health services.

Mr Carpenter interjected.

The SPEAKER: Order, the member for Willagee! We have heard the interjection.

Mr COURT: In relation to that specific example, no action was taken.

Dr Gallop: I wonder why.

Mr COURT: The CEO made a decision to follow the matter through.

EATON WATER SUPPLY

114. Mr BARRON-SULLIVAN to the Minister for Water Resources:

Some notice of this question has been given. I refer to recent problems of fluctuating water pressure and concerns about future water supply shortages in Eaton, one of the fastest growing areas in the south west. When will the Water Corporation fund a major upgrade of the water supply infrastructure which services Eaton?

Dr HAMES replied:

This matter is being addressed by the Water Corporation in two ways: First, funds are allocated in this year's budget to elevate the tank to deal with problems of fluctuating pressure. Second, some major work is needed to improve the supply of water to Eaton, and funds are provided in this budget for preliminary work. The provision of further funds is proposed in next year's budget for the major work; namely, a new, larger link main to Australind, and a new storage tank at Australind. Those measures are expected to address the problems experienced by Eaton residents.

PORT HEDLAND SEWAGE DISCHARGE

115. Mr GRAHAM to the Minister for Water Resources:

Having found my glasses, I refer to reports in the Port Hedland media that the Water Corporation is releasing daily large volumes of sewage into the town's river and harbour.

- (1) Does the minister approve of these daily releases, which are in excess of 300 000 litres a day?
- (2) What action will the minister take to stop this disgusting practice?
- (3) When will the Government commit the required funds to enable the grossly inadequate sewage farms in South Hedland to be upgraded?

Dr HAMES replied:

- (1)-(3) It is most unlike the member for Pilbara to not approach me directly with problems to have me inquire into them. He has done so on many occasions in the past, and many of those problems I have been able to resolve for him.

I am not aware of the problem to which the member referred, and I have not seen that report. However, the Water Corporation does not indiscriminately release untreated sewage into any river in Western Australia. All water is treated to the degree at which it is environmentally acceptable, and this occurs at all wastewater treatment plants. We are spending massive sums of money in Western Australia, as the members for Vasse and Peel would be aware, on this issue. Each year, \$240m-plus is directed to a range of capital works projects, a large proportion of which upgrade wastewater treatment plants.

I will be happy to read the article the member waved at me. I am afraid that as the member needs glasses to read short distance, I need them for long distances - I could not see much more than a blur!

Dr Gallop: It is just as well he does not have a hockey stick, as you do not have one!

Dr HAMES: I indicate - Hansard can stop reporting - that he hit me first!

I give a commitment to the member that I will discuss the issue with him after question time. It is not appropriate for insufficiently treated waste water to go into any river system; I will ensure it is not happening. If problems exist, we will resolve them.

PROCEEDS OF CRIME

116. Mrs HOLMES to the Minister for Police:

- (1) Does the minister agree that it is appropriate that the proceeds of crime, particularly those related to illicit

drug dealing convictions, should be used to fund specific projects, such as drug education and treatment programs, as part of the WA strategy against drug abuse?

- (2) What steps are being taken to implement this proposition?

Mr PRINCE replied:

- (1)-(2) I agree entirely that any proceeds that come from illicit drug dealing convictions should be used for drug education and treatment programs and to resource the Police Service. It would be most appropriate. We recently received a fairly significant amount of money from the Commonwealth as a result of a joint commonwealth-state exercise. Unfortunately, it was many years after the event; nonetheless, we are grateful to Senator Vanstone for the money. There are however, technical problems with the Crimes (Confiscation of Profits) Act 1988 which is being reviewed under the auspices of the Attorney General and the Director of Public Prosecutions. We hope that, as a result of that review and suitable amendments to the Act, far more of the proceeds of crime in that sense will be directed into programs that will go to heal some of the harm caused by drug trafficking.

SALARY PACKAGING

117. Mr KOBELKE to the Premier:

I refer to today's decision by the Industrial Appeal Court to dismiss this Government's appeal, which sought to uphold its unfair and discriminatory policy of offering salary packaging only to public sector employees on workplace agreements, and ask -

- (1) Which minister was responsible for this unfair policy?
- (2) Will he now change that government policy to offer salary packages to all public sector employees without discriminating against those employed under awards?

Mr COURT replied:

- (1)-(2) I have been advised by the Minister for Labour Relations that the Government will change its policy on this matter so that it is in accordance with that ruling.

Mr Kobelke: Who was the minister responsible for implementing the policy?

Mr House: The Government.

Ms MacTiernan: Who is the minister for choice?

Mr McGinty: The one you do not like; the one you dumped.

Mr COURT: I have just been advised by the minister that the policy will be changed.

It is interesting that although we are in the middle of a federal election campaign we have not received any questions on matters that might affect Western Australia. I have not heard the Leader of the Opposition in these question times say one thing positive about Labor's taxation package and what is in it for Western Australia.

Dr Gallop: Tune in tonight, Premier.

Mr COURT: The Opposition leader has so little confidence in what the Labor Party is doing in this election campaign that he cannot even use the forum of Parliament to promote what he thinks he is trying to do.

ROAD HIERARCHY STUDY

118. Mr BARRON-SULLIVAN to the minister representing the Minister for Transport:

I refer to community concerns about a range of road safety and traffic management issues in the Eaton-Australind-Bunbury-Gelorup area and to the fact that Main Roads intends to undertake a major traffic management study, known as the road hierarchy study, and ask -

- (1) How will this action help resolve outstanding road traffic and safety issues?
- (2) Will the community and local councils be consulted as part of this planning process?

Ms MacTiernan interjected.

The SPEAKER: Order, member for Armadale.

Mr OMODEI replied:

The Minister for Transport has provided the following response -

- (1) The aim of the proposed road hierarchy study is to predict future traffic volumes, identify major road requirements and establish a network plan for future development compatible with land use planning. It is not intended to address local problems such as the requirement for intersections, treatment or street lighting.
- (2) Yes.

GOODS AND SERVICES TAX

119. Ms WARNOCK to the Minister for Seniors:

Last month, the minister said in the House that her office would not conduct its own analysis of the impact of the goods and services tax on Western Australian seniors but instead would provide input to the Treasury Department's analysis. Precisely what input has her office provided to the Treasury Department and why is there no mention of seniors in the Treasury Department's analysis which was released by the Premier on Sunday?

Mrs PARKER replied:

I welcome that question from the member for Perth. It is important to compare the benefits of the two tax packages as they relate to seniors. My office has discussed those matters with the Treasury Department, and it released details of the tax packages on the weekend. The analysis of the coalition Government's tax package indicates a \$2b benefit for Western Australia. From that benefit a range of services could be provided across the community. One would expect seniors to be significant beneficiaries of that general position as well as beneficiaries of the specifics.

By comparison, the Australian Labor Party's package is unfair for older Australians. There is broad agreement among commentators that the ALP's tax policy completely overlooks older Australians. It contains no pension increase, no tax cuts for older Australians, no increase in pensioner rebates, no help with health insurance, no savings bonus, and pre-1985 assets attract capital gains tax. Opposition members should consider their tax package. It is no wonder they will not ask questions across the board. Office of Seniors Interests discussions and input and the Treasury Department's analysis indicate that the ALP's package for senior Australians is lacking.

GOODS AND SERVICES TAX

120. Ms WARNOCK to the Minister for Seniors:

As a supplementary question, when does the minister intend to produce an analysis of the GST's impact on Western Australian seniors or does she simply not care? We are not interested in the Labor Party's package just now. What about her package?

The SPEAKER: I remind members that they may ask just one supplementary question.

Mrs PARKER replied:

I can well understand that the member for Perth is not interested in talking about the ALP's tax package. I would be ashamed of it, too.

CORPORAL PUNISHMENT

121. Mr BAKER to the Minister representing the Attorney General:

Will the Attorney General heed the clear demands of the community and consider reintroducing corporal punishment and hard labour as sentencing options available to judges when sentencing repeat violent offenders?

Ms MacTiernan: Give him the Youth portfolio.

The SPEAKER: Order! I am trying to call the Minister for Police. The member for Armadale has had more than a fair go today. I call the Minister for Police.

Mr PRINCE replied:

I thank the member for some notice of this question. The Attorney General has provided the following reply:

There are 16 countries which retain whipping or caning as legal punishment. In Western Australia both corporal punishment and hard labour were removed from the statute book in 1992. Whipping was last imposed on a juvenile in 1931 and on an adult in 1962.

Corporal punishment may not in itself be an effective deterrent to crime. Although Singapore, which has a limited form of corporal punishment, is rated as one of the safest countries in the world in terms of public confidence that people and property are protected, other countries that use corporal punishment do not so rate. It would appear that there are many societal factors to take into account.

Although section 257 of the Criminal Code retains provision for parents to use, by way of correction, such force as is reasonable in the circumstances, the Government has no plans to reintroduce corporal punishment as a judicial penalty. In relation to hard labour the community is best protected by the current policy, which ensures that persons sent to prison are effectively contained while providing programs targeting recidivism and reintegration into the community. In the past, hard labour as a sentencing option has not been seen to provide greater protection.

Current maximum penalties for violent offences are already quite severe. For example, for robbery while armed the penalty is life imprisonment; for robbery in company it is 20 years; for acts intending to cause grievous bodily harm it is 20 years; for assault occasioning grievous bodily harm it is 14 years; and for serious assaults it is 10 years.

MOTOR VEHICLE IMMOBILISERS

122. Mrs ROBERTS to the Minister for Police:

I refer to the minister's new compulsory vehicle immobiliser policy and his contemptuous claim on the front page of today's edition of *The West Australian*, where he is reported as stating -

It is \$80 paid once, and if you cannot afford that you would wonder whether or not the person should have the vehicle (in the first place) . . .

Is it not the case that the Government's policies, including the \$50 registration levy, the 4¢ a litre fuel levy and the massive hikes in registration and licensing fees, have made it harder for struggling families to own and operate a motor vehicle? Does the minister acknowledge the arrogance which is implicit in his comment and will he now reconsider that new burden on low income families?

Mr PRINCE replied:

I have great sympathy with people on limited or low incomes with regard to running motor vehicles. I made the comment in the context that, even if a vehicle cost \$1 000, in order for it to be driven on the road and driven safely for the people in it and for everybody else on the road, whether it be a motorist, cyclist or pedestrian, it must have tyres, brakes and other safety equipment. The vehicle must be licensed and registered, which costs about \$250 a year as well as other running costs. On top of that we are saying, "Your taxes are returning to you \$40 to help you to install an immobiliser in the car to protect it from theft." For most people their car is the second biggest investment that they will ever make. For people on limited incomes it is probably their most valuable possession, and they should be prepared to spend \$80 once to protect their asset.

Mr Brown: You have no idea of the pressures on low-income people.

Mr PRINCE: Yes, I have. I have worked with them for years. I know how hard it is. That is why I say that if they can afford to install immobilisers in their cars they will protect them. They are the ones who are most damaged by the theft and destruction of their cars.

Several members interjected.

The SPEAKER: Order! There are far too many interjections. The minister has finished his answer.
