WESTERN AUSTRALIA

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(HANSARD)

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Tuesday, 21 September 1999

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

SIR WILLIAM STEWART BOVELL

Condolence Motion

MR COWAN (Merredin - Deputy Premier) [2.02 pm]: I move -

> That this House record its sincere regret at the death of Hon Sir William Stewart Bovell and tender its deep sympathy to his family.

William Stewart Bovell was born in Busselton on 19 December 1906, the son of Alexander Stewart and Ethel Williams. He was also the nephew of George Barnard, the nationalist member of the Legislative Assembly for the local electorate of Sussex between 1924 and 1933. Sir Stewart was educated at Busselton central school and commenced a long banking career with the WA Bank, later of course the Bank of New South Wales, in 1924 serving in the southern districts, Victoria and the eastern wheatbelt districts and also at head office in Perth from 1924 to 1940. In 1941, Sir Stewart enlisted in the Royal Australian Air Force, serving in Australia and overseas until being discharged in 1946 having reached the rank of flight lieutenant. He then became a partner and manager in the family business of shipping agents, tax consultants and land agents and was involved in insurance until retiring in 1947 to contest the by-election for the Legislative Assembly seat of Sussex on the sudden death of the previous member, William Willmott.

Sir Stewart won the by-election against two independent challengers. In 1950 he was re-elected for the renamed seat of Vasse with some 65 per cent of the vote. From then until his retirement, he had very little real opposition except for an ALP candidate in 1965, when Sir Stewart still managed to capture some 70 per cent of the vote. However, when he retired in 1971, that party gained a considerable number of votes and managed to capture some 47 per cent of the vote but not enough to prevent Sir Stewart's successor, Barry Blaikie, from being able to hold the seat for the Liberal Party. That suggests that Sir Stewart had a very strong personal following in the Vasse electorate and in his lifelong home town of Busselton.

During Sir Stewart's 24 years in the Legislative Assembly, he served as the chief government Whip and secretary for the government parties from 1949 to 1953, opposition Whip and secretary of the parliamentary Liberal Party from 1953 to 1957 and opposition front bencher from 1957 to 1959. On the election of the Brand coalition Government in 1959, Sir Stewart was appointed Minister for Lands, Forests and Immigration, retaining those portfolios until his retirement in 1971. He was also appointed the Minister for Labour from 1961 to 1962.

Sir Stewart was appointed to various select committees including the inquiries into the land sales control legislation from 1948 to 1949, the disposal of potatoes in 1949, and other issues. He was also a member of the General Council of the Commonwealth Parliamentary Association. He represented the Western Australian branch of the CPA at the general conference in Nairobi, Kenya in 1954 and at the third Australian area conference in Melbourne in 1955. When he retired from Parliament, Sir Stewart was appointed as the Western Australian Agent General in London from 1971 to 1974, before retiring to Busselton where he continued to work for that community and, indeed, for the entire south west.

Sir Stewart was a life governor and vice chairman of the Board of Governors for the Church of England Cathedral Grammar School in Bunbury. He was a life member of the Bunbury Race Club, the Southern Districts Agricultural Society, patron of the Western Australian Polocrosse Association and Geographe Bay Yacht Club, and a lay canon at St Boniface Cathedral in Bunbury.

William Stewart Bovell was knighted in 1976 for service to Western Australia and the community. Members may have noticed that a number of members of this House are not present in the Parliament today. They are attending Sir Stewart's funeral at Busselton. On behalf of all members of this House, I extend our deepest sympathy to Sir Stewart's family and friends.

MR BARNETT (Cottesloe - Leader of the House) [2.09 pm]: On behalf of Liberal members of Parliament and the Liberal Party itself, I second this motion of condolence to the family of Sir William Stewart Bovell. As the Deputy Premier has outlined, Sir Stewart had a very long and distinguished career of service to this Parliament and to the wider community. From origins in the south west around Busselton, he proceeded through a career in banking, shipping and 24 years as a member of the Legislative Assembly of this Parliament. In many respects, he represented a style of politician who no longer exists. He was long-serving, had very high principles and always served this community and the Parliament well.

His career included distinguished service during the war, and during his parliamentary career he held a number of positions. He was clearly a person willing to do much of the extra work behind the scenes as well as assuming ministerial responsibilities. He had a long tenure as Minister for Lands, Forests, Labour and Immigration under the Brand Government. His service as Whip in opposition and as party secretary for both the Government and the Liberal Party reflects that. He was also state vice president of the Western Australian division of the Liberal Party from 1949 to 1952, and was a member of the Federal Council of the Liberal Party from 1949 to 1952. Of course, that was very much the formative years of the Liberal Party under its then leader Sir Robert Menzies. Sir Stewart Bovell had a long and distinguished life. He made a great contribution to this Parliament and to public office both here and as Agent General in London. He also clearly played a significant role within his local community, evidenced by his participation in religious activities in the church, educational issues and a wide number of sporting clubs and organisations. On behalf of the Liberal Party I pass on our regret and sympathy to his family and our recognition of a long and distinguished period of public service.

DR GALLOP (Victoria Park - Leader of the Opposition) [2.10 pm]: I join with the Deputy Premier and the Deputy Leader of the Liberal Party in recording this Parliament's sincere regret on the death of Sir William Stewart Bovell and offer our sympathy to his family. Sir Stewart was a member of the Legislative Assembly from 1947 until 1971, first as the member for Sussex, and from March 1950 as the member for Vasse.

During his long and distinguished parliamentary career he was a minister for 12 years, serving as Minister for Lands, Forests and Immigration and Labour. They were portfolios of significance for his south-west electorate. At various times he was also Chief Government Whip and Opposition Whip and served on various parliamentary committees. His maiden speech highlighted education, an issue that continues to be of central importance. He was concerned that many country children suffered from lack of educational opportunities compared with their city counterparts. He believed there should be equal opportunities for all children.

After his time in Parliament Sir Stewart served as Agent General for Western Australia in London for three years and in 1976 was knighted for his service to Western Australia and the community. He retired to Busselton and continued to work for the south west community. Our deepest sympathy is extended to Sir Stewart's family.

MR SHAVE (Alfred Cove - Minister for Lands) [2.11 pm]: As the Deputy Leader of the Liberal Party pointed out, the late Sir William Stewart Bovell was the longest serving Minister for Lands during 109 years of responsible government in Western Australia. It is therefore appropriate that I make a few comments as the present Minister for Lands. The Lands portfolio and department have existed throughout the period.

Sir Stewart took office in 1959 with the election of the coalition Government led by Sir David Brand. He remained the minister for 12 years until his retirement from politics in 1971. Sir Stewart is described as an honourable, conscientious and courteous minister who was hard working and approachable. Clearly he was a thorough gentleman at all times and greatly respected by his staff. The 12 years of his tenure with the Lands portfolio saw the release of an unprecedented number of land titles. Without this necessary work the massive industrial and agricultural development of that crucial decade could not have proceeded.

Sir Charles Court and Hon Les Logan, who served with him in the Cabinet, recalled with affection how devoted he was to the Lands portfolio. When another minister acted for him while he was absent Sir Stewart left the most meticulous notes and instructions. For him, the signing of every title deed was of significance because he believed that an undeveloped block of land might be equivalent to a site such as Boans Ltd occupied in Perth in 10 years' time.

He conducted himself in a way that was of a high standard as a minister and as a community leader in Busselton. Our State owes a debt to a man of this calibre.

MR MASTERS (Vasse) [2.13 pm]: In rising to pay tribute to the former member for Vasse, I wish to emphasise Sir Stewart's contribution to the local community of Busselton, although I admit that I did not know him all that well. He was first elected to the seat of Sussex in 1947, which was before I was born, and he retired from the seat of Vasse in 1971, before I had moved to the Busselton area. Nevertheless, I met Sir Stewart on a number of occasions over the years.

There is no doubt that he was held in high regard by his local community. I should pass on to this place some of the stories associated with him. For example, I am told that in the years before he became a minister his way of doing business was to stand on the corner outside Callow's newsagency in the centre of Busselton on a Saturday morning. Anyone who was unable to see him during the week knew they could see him between 9.00 am and 12 noon every Saturday in his de facto office.

When he returned from London in 1973, Sir Stewart brought with him the second love of his life after the town and community of Busselton; namely, his Rolls Royce motor car, which always seemed to have right of way around Busselton. Also, it was seen on occasions entering McDonald's or other fast food shops, where, as a bachelor who was not keen on cooking, he would occasionally buy coffee and a little fast food.

Sir Stewart took himself out of the political arena after he retired, and, to his credit, from advice I have received, it appears that he maintained a low profile within the Liberal Party. Nevertheless, he had a good rapport with his successor, Barry Blaikie, with whom I now have a good rapport: As Barry's door is always open for me, Sir Stewart's door was always open for Barry.

Sir William Stewart Bovell's contribution to the local community is far more profound than most people understand. The more I speak to Busselton people, the more I understand that Sir Stewart was a patron and active member in many ways in the local community. For example, he was heavily involved in both junior and senior football, to the extent that the local playing fields at Busselton were named the Sir Stewart Bovell Oval. He was actively involved in junior and senior cricket as a patron and financial supporter and, although I am told he never rode a horse in his life, he was patron of the Busselton Polocrosse Club. One of his most significant community contributions was as Governor of the Bunbury Church of England Cathedral Grammar School, which is held in high esteem among private educational facilities in the south west. He was patron of the Bunbury Race Club and Geographe Bay Yacht Club, and pursued a few other activities.

A few weeks ago, through the Minister for the Environment and the Department of Conservation and Land Management, I arranged with Sir Stewart the sale of a block of his land on the fringe of the Vasse and Wonnerup estuaries. That is not particularly noteworthy in itself; however, I was told that the land sold for significantly less than its market value. The final contribution Sir Stewart made to the Busselton community was to part with land which had been in his name for many decades in the knowledge that it would be part of the future environmental heritage of the Busselton area.

Finally, I pass on an amusing incident involving Sir Stewart. In the mid or late 1980s, when Sir Stewart was well into his 70s, I was umpiring junior football matches which Sir Stewart would regularly attend. At one under-14s' match, Sir Stewart was standing with his walking stick close to the boundary of the oval. The ball went towards him, and one unfortunate under-14 player threw himself at the ball. The player and Sir Stewart did a beautiful summersault over the boundary and virtually disappeared in the crowd. As a man in his late 70s, or thereabouts, the fall knocked the wind out of him. When the young lad picked himself up ashen faced, Sir Stewart, who was a little red in the face, to his credit, dusted himself down and continued to encourage and assist that young boy, who obviously caused him a little discomfort. Sir Stewart was a great supporter of junior sport, and the overall Busselton community.

Question passed, members standing.

EAST TIMOR

Standing Orders Suspension

On motion by Mr Barnett (Leader of the House), resolved with an absolute majority -

> That so much of the standing orders be suspended as would enable the Acting Premier to move a motion forthwith in relation to East Timor.

Motion

MR COWAN (Merredin - Acting Premier) [2.20 pm]: I move -

(1) That this Parliament, on behalf of the people of Western Australia, endorses the participation of personnel of the Australian armed forces in the multinational peacekeeping operation in East Timor. In doing so, this Parliament extends its sincerest appreciation to those Australian men and women who, having committed themselves to the service of Australia's defence and security, continue to uphold a proud Australian tradition in their efforts to afford protection and self-determination for the people of East Timor.

We extend to the families and loved ones of Australian personnel in the multinational peacekeeping force in East Timor our best wishes and thoughts for their safety and a speedy return to their Australian homes.

We take this opportunity to reaffirm the faith and pride of the Western Australian people in the professionalism of the Australian armed forces.

(2) That the Legislative Council be acquainted accordingly and be asked to concur with this resolution, and that the joint resolution be forwarded to the Commander of the International Force for East Timor, the Prime Minister and the Minister for Defence.

It is not my intention to speak for a long time, because this motion says most of the things that need to be said by this House and, if we have the concurrence of the upper House, which I am sure we will, by the Parliament of Western Australia. I am sure that if any one of us were in the Federal Parliament and in a position to make such a decision, perhaps the most difficult decision he or she would have to make is to commit Australians to either a peacekeeping force or a theatre of war. In this case, I hope the peacekeeping force is able to keep the peace with the minimum amount of interaction with the people in East Timor that might lead to some form of conflict. Nevertheless, they must be prepared for that. It is appropriate for this House and the Western Australian Parliament to convey our feelings, thoughts and best wishes to those Australians who commit themselves so readily to either keeping the peace or defending the country.

DR GALLOP (Victoria Park - Leader of the Opposition) [2.23 pm]: I second the motion moved by the Acting Premier. In doing so, I shall make a couple of comments. Firstly, it must be noted that the Australian participation in the multinational peacekeeping operation is in keeping with some very important Australian traditions. Australia is not engaged in any act of aggression; it is involved in a peacekeeping operation. The operation is multinational and is being carried out under the auspices of the United Nations. That is an important principle that must be upheld. Finally, this operation has as its backdrop the vote of the East Timorese people for independence. In terms of our traditions, this peacekeeping operation should have the support of, as I am sure it does, the Australian people and the various Australian Parliaments.

I also note, as does the motion, that the forces going to East Timor as part of the multinational peacekeeping effort will act with great professionalism and great courage to make sure the interests of the people in that area are properly served, and to make sure that the vote they gave is backed up by protection through the United Nations. Certainly those forces go with our very best wishes.

We also offer our support to the families who wait at home. Our thoughts are with them. Their loved ones are part of the Australian forces and our support certainly goes to those families who wait at home. We hope their wait will be rewarded by the return of their loved ones and the return of peace and stability to East Timor.

MR BARNETT (Cottesloe - Leader of the House) [2.25 pm]: I offer my support and that of the Liberal Party for this motion. We are all conscious of the danger that is being faced by the Australian troops, both men and women, in East Timor. Those troops have gone to East Timor to restore peace and to provide safety and security for the people of East Timor. They have gone there also to allow the democratic process to run its course and the will of the East Timorese people to be expressed. This is the first time since the conclusion of the Second World War that Australia has taken a major leadership role in a multinational force to hopefully achieve long-term security in our region of the Asia Pacific area.

I make particular mention of the Special Air Service personnel based at Campbell Barracks in my electorate of Cottesloe, who were among the first Australian personnel to go into East Timor. I am very conscious that they will play a leading role and will be at the cutting edge of the situation in East Timor. Many of those men and their families live in my electorate, and my thoughts and, I am sure, the thoughts of all Western Australians are with them.

MS MacTIERNAN (Armadale) [2.26 pm]: I support the motion. The Australian troops and their families can be very proud of the task that they are about to undertake; that is, to restore to the East Timorese the freedom and peace that they have been so savagely denied for the past quarter of a century. I have no doubt that, notwithstanding the obvious dangers they are facing and the significant health risks in that area, they will find their work very rewarding and an experience they will never forget. I have every confidence that the East Timorese people will treat them with the same loyalty and friendship with which they treated the Australian troops who went into East Timor during the Second World War. The East Timorese are a singular people who, notwithstanding that they have repeatedly sustained the most unspeakable horrors, have an extraordinary calmness of spirit and capacity to put these events behind them and to look forward and rebuild. They carry sorrow but, it seems, not bitterness.

Over the past week, I have had the pleasure of meeting a number of the remaining commandos from 2nd/2nd commando unit. As members may be aware, the 2nd/2nd commando unit that went into East Timor in 1942 was recruited largely from the south of this State. These elderly gentleman, who can be picked out at East Timor rallies by the distinctive double diamond badge that they wear, have been staunch supporters of the East Timorese people since the invasion of East Timor by Indonesia in 1975. I have had the opportunity over the past week to talk at length to some of these gentlemen, and it has been an extraordinary experience. Their love for the East Timorese people still burns brightly, more than 50 years after they left the island. One gentleman, Ray Aitken, who is well into his 80s, to this day still speaks fluent Tetum and a number of dialects of Tetum, which is amazing. Those commandos, who were outnumbered in the order of 100 to 1, distinguished themselves by exhibiting great bravery and courage during the Second World War, and in that process they developed an extraordinary friendship with the East Timorese people that still survives today.

I have every confidence that the troops who are going into East Timor today, in circumstances that are more favourable for the East Timorese people than were those in the Second World War, will forge those same strong links with the East Timorese people. I have a particular debt of gratitude to those soldiers who are going into East Timor because they have taken upon themselves the burden of rectifying a situation that Australia should have been standing against for many years.

MR KIERATH (Riverton - Minister for Planning) [2.29 pm]: I support the motion. I had not intended to speak today; however, my son was one of the first troops to go into Dili yesterday morning. He rang me on Sunday and said that he did not want me to say anything publicly because Australian Army members in Townsville were being harassed by certain members of the media. He said if it got out that he was over there, he would be harassed. This morning my wife said that I should say something because, after all, he is my son. In the past week since we heard he was to go to Dili - I believe there was false start; somebody blabbed that troops were going in last Friday morning - as parents, we have had a rather emotional roller-coaster ride, which I suppose has been brought about by some of the images we have seen on television, and some of the hatred and hostility that is being whipped up by certain people. As a parent, it has not been good for me to watch that unfold.

When my son joined the Australian Army a year ago, I thought it would probably do him the world of good. My wife asked me whether there was any possibility that our son would be involved in any armed conflict. I told her no, that I could not see any armed conflict on the horizon, that people who joined the armed forces these days very rarely see this sort of activity. At that time I felt rather confident of that. I think, in time, history will probably judge Habibi, the President of Indonesia, with great acclaim for at least allowing a ballot to be held to the bring to an end the years of foreign occupation in East Timor. After seeing the entrenched interests by some of the military there, people will realise how courageous a decision that has been.

It is one thing to support Australia's intention; it is quite another to be a parent of one of the troops going into Dili. Attached to it is a whole range of emotions that I have never experienced before. As a parent, on one hand I am extremely proud that my son is going into Dili and doing his bit; we have an obligation to our neighbours and I am pleased to see the armed forces involved. On the other hand, my wife and I know there will be casualties and we hope one will not be a member of our family. To all those men and women from the various defence forces and the Australian Red Cross I convey my best wishes. I think the address of the Prime Minister on Sunday summed it up; he wished them all well and expressed the hope they will come back safe and well and as quickly as possible.

On a light note, some years ago at a sales seminar somebody gave this definition of mixed emotions: "A mother-in-law driving over a cliff in your brand new Rolls-Royce"! I know that sounds terrible; my mother-in-law is probably the best I could wish for. The humour in it helps to explain that sometimes two extremes can be wrapped up in one emotional situation. My wife, Pat, and I have felt that over the past few days. I am proud of my son and all the people who are prepared to go into Dili. When I have watched the interviews on television, I have been delighted to see their willingness to commit to a cause. It is rather ironic that a member of my family should be going into a conflict to aid a cause which the member for Armadale is strongly behind, but that is a lighter note for another day.

Ms MacTiernan: We are all Australians, Graham.

Mr KIERATH: That is good to see. I am very pleased that the United Nations was prepared to go into East Timor and help a nation achieve self-determination. I am not a prophet of doom who sees the United Nations as not being involved. Over the past decade, one pleasing outcome has been the ability of the United Nations to go into countries and protect those who, in many cases, are less fortunate than we are. As Australians, we have a privileged lifestyle. We tend not to remember the

difficult political situations. It is also pleasing to see the United Nations leading the way, with Australia playing its proper role in the region; that is, helping all its neighbours, even though sometimes that places us in difficult situations. Finally, as member of this Parliament, as a government minister, as an individual and, most importantly, as a father, I wish all those going into Dili the very best.

MR BRIDGE (Kimberley) [2.35 pm]: I rise to speak because matters of concern are occurring right now in the world. It takes about one hour and 15 minutes to travel by direct flight from East Timor to my electorate; in other words, it is just across the road. The motion today is designed to show to the people of the world, and particularly the relatives of the soldiers who have been assigned this important responsibility, the degree of support, care and concern that we want them to understand we have about the issues at home in Australia. We have an opportunity, through the parliamentary process, to carry this motion. It is correctly put forward and should be completely endorsed.

This motion, about the concerns that we are now confronting, is a message for Australians to understand that this must not be a nation which is essentially in a vacuum. If a canon were fired in the enormously large area of northern Australia, it would travel for 1 000 kilometres without touching anything. My advocacy over the past 10 years for development in the northern part of this country and for which I have talked at length with the media, politicians and the general public, is reflected significantly now. We should not only record our expressions of concern today but also as a nation deliver a profound message of support for the efforts of our armed forces in getting our backyard in order. We should consider the structural development of inland Australia, particularly northern Australia, to provide a platform from which we are able to deal with these issues in a satisfactory manner in future. I hope that we as politicians take that message on board. The media understands it is essential and the public at large supports us in pursuing it. I want these points clearly understood in the recording of my support for this motion, as they are central to anything that we may contemplate in the future of this country.

MR TRENORDEN (Avon) [2.37 pm]: The motion refers to self-determination for the people of East Timor, which is obviously a matter for them. I strongly support the armed forces going to East Timor. However, in recognition of the arguments about our own self-determination and the important debate on the referendum in November, the most important thing about the maturity and consciousness of our neighbour is to pay our debts to the world. The debt we owe to the people of East Timor is substantial. Not ignoring the very important issues that relate to Indonesia and the costs and other matters that have been raised in the community, the most important point is that Australia recognises its responsibilities and carries them out. I therefore strongly support the motion.

MR McGOWAN (Rockingham) [2.38 pm]: I also support the motion and pass on my best wishes to the Australian soldiers, sailors and airmen who have either gone to East Timor or who are on their way there. It is my belief that those representatives of Australia will acquit themselves very well on behalf of our country. Their training and commitment, their loyalty to their comrades in arms and most of all the absolute justice of their cause will enable them to perform very well under the heat of what must be very trying conditions. It is important that we also note the substantial commitment from people in Western Australia to this cause, particularly HMAS *Stirling* based in my electorate of Rockingham. In particular, three ships and one submarine from the HMAS *Stirling* base are involved in this expedition. The ships are the HMAS *Adelaide*, HMAS *Darwin* and HMAS *Anzac* and the submarine, which is in an area in northern Australia, is HMAS *Waller*. Approximately 700 people are on board those four ships, all of whom are based at the Garden Island naval base in the Rockingham area and most of whom have families living in the southern suburbs of Perth. They deserve our commitment and support. They are playing an important role in supporting our ground forces which have gone into East Timor, and their role will be crucial in this process. I also pass on my best wishes to their families who live in Western Australia and in the southern suburbs and who are going through a very concerning and trying period.

MR MARLBOROUGH (Peel) [2.24 pm]: I support this motion. Most of the other speakers have touched on the hope and aspirations that go with the military in its important role in East Timor. Sadly, that role has been brought about by a terrible sacrifice of human life, particularly in the past few months. Of further concern to all of us is that when we look at the Asian region and the sorts of Governments in many of those countries, this is only one of the many conflicts that we may face as a nation in the next 10 to 20 years. East Timor is an example of the problems that arise from keeping people oppressed and it is unfortunate that we as a nation have been drawn into such a conflict. As we approach the new millennium, the people of a democratic Australia are concerned that there are still people in the world who cannot express their religious and political beliefs, who are afraid to talk, who receive no education and who cannot work because of their political beliefs or racial background. It has been highlighted in Australia in the past six months more than at any time since the Vietnam War, that this part of the world of which we are a part is more volatile than ever. In contemplating that, we should recognise that the people who are presently representing not only Australia's but also, by their very presence, the world's view on East Timor, are predominantly young people, many under 20 years of age.

Often in this Parliament we debate our concerns about society at large, crime and young people. If ever one wanted an example of a positive role for young Australians, one need only look at what they are doing in East Timor today. If ever one wanted a role model to which we should all aspire, one need only look at the average 19-year-old Australian member of the armed services who yesterday and today embarked on a sea voyage or a flight to East Timor. At the forefront of Australia's involvement in East Timor - as in all areas of conflict in the twentieth century and historically - are young men and women, 90 per cent of whom are under 20 years of age. They are the people carrying the flag in East Timor today. As my colleague the member for Rockingham indicated, in the leadership role which Australia is playing we should not underestimate the role of Western Australia. Seven hundred naval personnel from the HMAS *Stirling* naval base are presently on the waters around East Timor. They have left behind many young families in the Rockingham-Kwinana region, who historically have neither seen nor been involved in conflicts so near to their doorstep. Therefore, it is beholden on this Parliament to indicate its support for the actions taken. We should be immensely proud of those servicemen and women

and the fact that young Australians are up there showing the way. We should be proud that they have been recognised by the United Nations as representing the nation that is most appropriate to lead the peace force in that region.

At the same time, we should be true to ourselves, and when we consider what has taken place in East Timor and the rest of the world in more recent times, regardless of our politics, in the new millennium we should not be out of step with each other when we see attempts to oppress people for their political views and their religious and personal beliefs under a form of government that does not reflect the type of democracy in which we live. These conflicts have the potential to keep occurring, and we are in a part of the world in which they will occur more regularly in the next century than has been the case during this century.

I close by offering my respect and support for the military personnel from all nations who are involved. Tremendous responsibilities are on those people, and I know they will have the capabilities to carry them out and make us all extremely proud of the role they are playing.

Question put and passed.

STATE GOVERNMENT INITIATIVES IN VOCATIONAL EDUCATION AND TRAINING

Statement by Minister for Employment and Training

MR KIERATH (Riverton - Minister for Employment and Training) [2.47 pm]: I rise to make a brief ministerial statement on vocational education and training. I thank my colleague the member for Joondalup for raising this issue with me. Last month I launched the science and technology innovation strategy, an initiative that represents a significant development in the evolution of the training sector. The strategy is evidence of the commitment of this Government and the training sector to use and develop science and technology and will encourage the development of an innovative culture that will have wide-ranging benefits for Western Australians.

A major focus of the strategy is to create more employment-based training opportunities in science and technology industries and to promote more research partnerships between training providers and industry. The strategy will actively encourage the development of other partnerships with industry and technical and further education colleges or private training providers through the creation of innovation funding. This will be available to support the development of cutting-edge training techniques and innovative research that leads to real technical applications in industry. The strategy also includes initiatives to develop the vocational education and training sector, entry-level training and lifelong learning initiatives, and skills for a more competitive industry.

To ensure the initiative meets industry needs, a management committee, with representatives from industry, TAFE and the private training market, has been established, to be chaired by Mr John Rothwell, Managing Director of Austal Ships Pty Ltd. Austal Ships won the national training excellence award for large employer of the year and has carved an international reputation in the high technology shipbuilding market. Last year the Government allocated $1m for this strategy in 1999-2000.

The Government is also focusing on improving vocational education and training opportunities for the estimated 15 per cent of Western Australians who have a disability. Last year the Department of Training, after consulting with TAFE colleges and concerned groups around the State, produced the building diversity framework. The Government's commitment to people with disabilities is demonstrated by the number of practical strategies implemented under the building diversity framework. These include -

> the purchase of $2m-worth of training in 1999, targeting students with disabilities;
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> the provision of an additional $600 000 annually to TAFE colleges, earmarked for students with special needs;
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> $150 000 over two years to develop a strategy to support people with disabilities to gain and complete apprenticeships and traineeships;
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> the development of good practice guidelines, which provide advice to registered training organisations seeking to meet the diverse needs of VET clients;
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> the Local Heroes role model program, which highlights the achievements of students who overcame obstacles to succeed in vocational education and training.

This is a landmark initiative which should enhance the lives of many disadvantaged Western Australians.

FOREST PROTESTS, WORKSAFE WESTERN AUSTRALIA

Statement by Minister for Labour Relations

MRS EDWARDES (Kingsley - Minister for Labour Relations) [2.50 pm]: On 16 September, the member for Maylands sought an explanation on the approach of WorkSafe Western Australia to forest protests. I undertook to provide a formal written response to Parliament. I confirm that I gave no direction to the WorkSafe Western Australia Commissioner or Peter Shaw, Executive Director of WorkSafe WA, that inspectors were not to investigate safety when there was a forest protest. The commissioner has also confirmed that no written direction was made to inspectors. The position is that where another government agency with relevant legislation and closer knowledge or expertise is involved, WorkSafe WA defers to that agency. This practice is followed to avoid confusing the situation by having two or more government agencies involved. Other examples of this approach occur in accidents on the road, at sea or involving aircraft.

In October 1998, the commissioner resolved to manage WorkSafe WA involvement in forest protests from head office. This was to ensure a consistent and coordinated approach if WorkSafe WA needed to become involved, because information was being received at various points. It was felt that because people were involved in an illegal activity, the issue was best left to the police who were already at the site. If it had not done that, the department could have been accused of wasting valuable resources in duplicating effort. What I have outlined is consistent with Mr Shaw's evidence to the Albany Court of Petty Sessions on 26 July 1999. Members should read the entire transcript of that evidence.

WorkSafe's involvement in genuine safety and health issues is governed by a comprehensive complaints policy. In June this year, the WorkSafe WA Commissioner himself took a number of calls from people indicating their concerns about entry to and exit from Swarbrick block. The specific concern was whether ambulance assistance could be impeded from attending an injured worker. The commissioner followed this matter through with police, who indicated that they were investigating two other possible alternatives. After walking an alternative route with the Department of Conservation and Land Management Walpole manager and the local St John Ambulance officer, the police advised the commissioner that access to the logging area could be achieved safely. With this information, the commissioner concluded that there was no purpose in sending inspectors to the area.

Having now been given all the details, it is clear that WorkSafe Western Australia adopted a responsible and commendable approach, given the gravity of the situation at the time.

[Questions without notice taken.]

BRAIN-INJURED PEOPLE, REHABILITATION

Petition

Mr Shave (Minister for Lands) presented the following petition bearing the signatures of 3 429 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned request that people with an acquired brain injury have the opportunity to receive ongoing rehabilitation, have a choice of age appropriate community accommodation and have opportunities to experience a quality of lifestyle that enables them to live an optimal level of independence in the community.
>
> 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 47.]

AGRICULTURAL AND RURAL LAND USE PLANNING POLICY

Petition

Mr MacLean presented the following petition bearing the signatures of 131 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned oppose the Town Planning Development Act 1928 Statement of Planning Policy No. 11 AGRICULTURAL AND RURAL LAND USE PLANNING POLICY and we call on the Parliament to oppose the said policy.
>
> This policy infringes on the land owners basic freedom to select the best land use practice available as well as infringing on the landowners rights of property use.
>
> 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 48.]

VACATION SWIMMING CLASSES, OUTSOURCING

Matter of Public Interest

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

> That this House condemns the Minister for Education for deliberately misleading the Parliament and the public of Western Australia over his role in the outsourcing of vacation swimming classes in that he sought to conceal that the impetus for change came directly from his own office and goes against all the best advice from his department and an independent analysis.

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

[At least five members rose in their places.]

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

MR CARPENTER (Willagee) [3.36 pm]: I move the motion.

I believe the Minister for Education deliberately set out to misrepresent his role in the awarding of vacation swimming class contracts to the Royal Life Saving Society rather than their being conducted by the Education Department of Western Australia as formerly occurred. He was questioned about this matter in the Parliament last year and gave answers that I believe concealed the true nature of his involvement in this process. On Wednesday, 2 December 1998, the minister was questioned about the outsourcing and said -

> In 1997, as part of the ongoing monitoring and reviewing of all its programs, the Education Department completed an internal review of its swimming and water safety program. The outcome was that the in-term swimming program was identified as clearly core business, and would continue to be so. Vacswim and the teacher training was identified as non-core business by the Education Department.

I assert that is false. Such an assertion was not made in the Education Department. Documents the Labor Party has acquired through freedom of information legislation indicate that Vacswim "could be considered" non-core, but it was not "asserted" that it was non-core. The person who asserted that was the Minister for Education for reasons we have discussed in this House previously. He is ideologically committed to vacation swimming classes being outsourced rather than being run by the Education Department.

He went on to say -

> It was an internal management process, with which I had nothing to do.

That much is true specifically regarding the review of the program. However, it seeks to convey a wider impression that he was at arm's length from this process from the beginning, when he clearly was not. The documents we have obtained through FOI show that the minister was driving this initiative from the beginning, not that he was merely suggesting that vacation swimming classes be outsourced. He was directing it. A process was followed in the Education Department to legitimise a direction that the minister gave it. It is totally unacceptable for a minister to behave in the way this minister has on this issue, especially in light of the advice from his department that it should not happen and that no benefit would be gained from outsourcing. The minister knows full well that the truly independent reviews of this program did not recommend that outsourcing take place. They recommended that expressions of interest or proposals be sought, but the most reliable advice was that no benefit would be gained from it. In January, February and March this year, the minister received advice that outsourcing could cost users more. That is contrary to the position the minister has always maintained in public that costs would not be higher for families and people taking part in the program.

The minister outlined in this place his relationship with the Chief Executive Officer of the Royal Life Saving Society. When he was asked whether that relationship had anything whatsoever to do with awarding the contract for this work to the Royal Life Saving Society, he said that of course it did not. However, according to these documents, no-one external to the Government was pursuing this matter apart from the Chief Executive Officer of the Royal Life Saving Society, and no-one else within government was pursuing it, apart from the Minister for Education. All the independent advice from people involved in the program was that the outsourcing should not be pursued. However, the minister, for his own reasons, chose not to pay heed to that advice.

The first document obtained under the freedom of information legislation is a handwritten note dated 23 April 1997 of a phone call from Narelle Cant, in the minister's office, to John Garnaut, Chairman of the Education Swimming Program Council. The note states -

> Re: Outsourcing of Swimming & Water Safety.
>
> Narelle Cant, Ministers office, telephoned me 16 April 2.30 pm, and informed me of the following:
>
> 1. The teacher (instructor) training program will be outsourced for the 1997/8 summer period.
>
> 2. The Vacation Program will be outsourced for the 1998/9 summer period.
>
> 3. The In Term Swimming Program will remain under the management of EDWA.

He does not say that it is a proposal from the minister's office. His note indicates that he was told by a representative from the minister's office that it would happen. John Garnaut then wrote a note to Dianne Kerr, Executive Director of Education Services -

> Peter Browne rang me, in my position as chair of the Education Swimming Program Council Wed 23 April 11 am . . .

That was the same day on which John Garnaut penned the other note. It continued -

> He has asked that himself, Terry Werner, Narelle Cant, and a representative from the Supply Commission meet with me . . . Wed 30 April, 3.30 pm, at the Department of Education Services, to discuss issues relating to the Minister's direction to outsource EDWA swimming and water safety programs . . .

The minister told people that it would happen, and everything that followed from that period in mid April 1997 was done to legitimise that direction. It was not a proposal to be considered. The direction came from the minister's office. The minister should have been honest enough to admit that. He has misled people by saying that the decision was made on the best advice available. He said it was a proposal that should be looked at.

Mr Barnett: I have always said that.

Mr CARPENTER: The minister has not always said that. He said in this Parliament that he would assess the proposals put forward. That was untrue. The minister had already made up his mind that it would happen, on the basis of ideological reasons. He sought to disguise that because he did not want to be seen to be driving this if the monetary value was negative to the Government. He was subsequently told that would be the case, and he ignored that advice. The minister was doing it for reasons other than the best interests of the State. On 23 April, Dianne Kerr wrote a note to Cheryl Vardon as follows -

> I am writing to follow up our discussion of last week about the review and possible outsourcing of the Department's vacation and in-term swimming program and the training of the swimming instructors involved.
>
> I understand there have been two phone calls from Narelle - one to you and one to John Garnaut in his capacity of chairman of the Education Swimming Council. . . . The situation as far as I can work it out is - a decision has possibly been made within the Minister's office that the instructor training program and the vacation program will be outsourced; . . .

Everything that followed from that was a complete sham. There is more of that in the review carried out by Dianne Kerr of the vacation swimming program, and it was turned around by the minister's office to legitimise what he wanted. The events that followed were a sham to meet the minister's requirement. That is not the way to run a department or to represent the best interests of the State. The minister covered up his actions by statements in this House and in public that it was all for the good of the State and would deliver a better program. None of that was true. On 23 April 1997, Cheryl Vardon, then Director General of the Education Department, sent a message to Narelle Cant warning her about the process to take place after directions and decisions had been handed down from the minister's office. She said it had to be seen to be a legitimate and transparent process. She wrote -

> I am writing to follow up our telephone conversation of last week and the subsequent conversation with John Garnaut. As I understand it, the proposal is that the in-term swimming program should remain the responsibility of the Education Department, the vacation program should be outsourced by tender for the summer of 1998/99 . . .

That happened before any review had taken place, and after the minister got the people in his office to telephone other people and tell them what would happen. The note continues -

> Swimming instruction is a field where there is a range of commercial interests and where interest has already been publicly expressed by one party -

There was only ever one party - apart from the group that came in at the last moment - and that is contrary to the minister's assertion in this place on Wednesday, 2 December 1998 that there were dozens of expressions of interest. It was all done for the benefit of one party - the Royal Life Saving Society. The note continues on the subject of the interest expressed by one party -

> - in the teacher training program and in the vacation program both of which are seen as financially attractive. On the other hand, the in-term program attracts no commercial interest.

Of course, that remains under the auspices of the State. Peter Browne directed a note to Dianne Kerr on the same subject -

> The Office of the Minister for Education has again asked me to be involved in the outsourcing of the Education Department's Swimming Program.
>
> I would be grateful if you would confirm that this is also your understanding and, if so, when the first meeting will be held.

By that stage everybody knew what the minister wanted.

Mr Barnett: Of course they did; it was no secret. It was publicly known.

Mr CARPENTER: It was not publicly known. The minister went through the sham of saying that there would be a review and a decision would be made on the basis of the outcome of that review. However, he had already made his decision in the face of advice to the contrary, which was the best advice available to the minister up to the beginning of this year when he was warned that if it proceeded it would result in higher costs for the users of the program. Arthur Andersen had conducted a review of the potential outcomes and said there was no business case for this proposal to go ahead. John Garnaut penned a note to the minister and expressed his views about the matter. In 1977, Dianne Kerr, Executive Director of Education Services, undertook a review of the vacation swimming program. The conclusions she drew from that review could not be more clear-cut. She wrote -

> The three Education Department Swimming and Water Safety programs are considered core business by the Department.

I take members back to the statement by the minister in this Parliament on Wednesday, 2 December 1998, when he said -

> The outcome was that the in-term swimming program was identified as clearly core business, and would continue to be so. Vacswim and the teacher training was identified as non-core business.

Mr Barnett: That is correct.

Mr CARPENTER: It is not correct; it is patently false. The first position of Dianne Kerr was that all three components of

the swimming program were core business. That did not sit too comfortably with what the minister was trying to achieve, so there was a repositioning within the department. It knew what the minister wanted, but it did not go so far as to review the position and say that the vacation swimming program was not core business. It was very careful about how it worded the comments. Miss Kerr said this about vacation swimming -

> **CONCLUSION**
>
> The three Education Department Swimming and Water Safety programs are considered core business by the Department.
>
> External consultants reports indicate that there is an increase in risk to the Department and in cost to the Department of implementing any combinations of the outsourcing options.
>
> **RECOMMENDATION**
>
> The Department retains the current management strategy for the Swimming and Water Safety programs, and does not proceed with outsourcing as a management option.

It is kind of hard to misinterpret what is being said.

Mr Ripper: That is December 1997.

Mr CARPENTER: That is right. I repeat: It is kind of hard to misinterpret what Dianne Kerr, the Executive Director Education Services, is saying in that memorandum. She is saying that it is a core business and it should remain in the department because there are increased risks, including risks to the safety of children, if it is outsourced, and there are increased costs. In the face of that advice, why proceed?

Mr Barnett: I am the Minister for Education and in my view it is not core business. It's as simple as that.

Mr CARPENTER: Because the minister knows better.

Mr Barnett: That's what I am elected for. That's democracy.

Mr CARPENTER: The member for Cottesloe, who has a close personal relationship with a person who is busting his gut to get hold of the government money for running the swimming program, just happens to know that outside people would do it better. That is despite the fact that all the internal departmental people are saying it will cost more and there will be greater risks to the safety of children. The minister knows better. How would he know better? He does not know better on anything else, although he purports to know more about forests than the minister who sits next to him in the Chamber, and to know better than every other member sitting in Parliament about what they are doing. The minister does not know better. This is what he knows better: How to grease up to his mate who wants to get involved in this program. To his mate, I say good on him; good luck to him. If I was running a business and I thought I could get a bit more out of it if the Government stepped aside, I would be lobbying the minister, too.

Mr Barnett: What a disgusting thing to say. You are an absolute fool.

Mr CARPENTER: If I were in the minister's position, I would not be as stupid or arrogant as to say that I know better than all of the people in the department who are telling me that we should not go ahead with this process. The minister does not know better than those who have run this program for years.

Mr Tubby: You do not think they have a vested interest?

Mr CARPENTER: What vested interest?

Mr Tubby: Do you think the people who have been running the programs tend to have a particular point of view about their programs?

Mr CARPENTER: Does the member think that those on the outside are lobbying because they want to make money and that they have a vested interest? How foolish is that?

Mr Barnett: Go to the reports.

Mr CARPENTER: I will go to those reports. A person is retiring and he says that he has no vested interest, but that this will be a disaster if we go ahead with it. That is his vested interest. Of course, the member for Cottesloe knows better than all of the people who have been doing the review and all those who have no financial stake in the matter. They have a vested interest in making sure the program retains its status as the best in Australia. The people with a vested interest in this matter are those outside this place who want to get involved for financial reasons.

Mr Barnett: For what reasons?

Mr CARPENTER: For financial reasons.

Mr Barnett: What is their motivation?

Mr CARPENTER: They want to build their business, and the minister wants to be seen to be helping them. Of course, they do.

Mr Barnett: Their business! They want to build their business. That's a very disrespectful thing to be saying about the Royal Life Saving Society.

Mr CARPENTER: The minister is pathetic. He is the most thin-skinned, pathetic fool who ever sat over there. He suffers very heavily from an infallibility syndrome: Nothing he says or thinks can ever be challenged, because he is infallible. On this issue he is wrong. Everybody is telling him that.

Mr Barnett: Are you going to get to any substance in this?

Mr CARPENTER: I have already demonstrated that the minister misled the Parliament by saying that the Education Department said that this was not core business. When it knew that the minister was immoveable on this position, it changed the language. It never said it was not core business. The department wanted to keep providing this program. It had review after review on it. In the end no recommendation said that the program would be done better by anybody else.

Mr Barnett: Have you read the 1997 internal review?

Mr CARPENTER: The recommendation was that it was most likely that the risks would increase, the costs would increase, the municipal bodies who control the pools would start charging fees and that would mean that the users would pay more. That came out of all those reviews. In November 1998, Geoff Hayes, the manager of the swimming and water safety section of the Education Department wrote a memorandum to Jon Gibson of the Education Swimming Review Management Group, expressing major concerns about the capacity of the Royal Life Saving Society to deliver. Has the minister read that document?

Mr Barnett: I do not know which one you are talking about. It doesn't matter.

Mr CARPENTER: I will tell the minister again.

Mr Barnett: Whom is he writing to?

Mr CARPENTER: It is from the manager, Geoff Hayes, in the swimming and water safety section.

Mr Barnett: Who's writing that?

Mr CARPENTER: It was written to Jon Gibson, of the Education Swimming Review Management Group. I know the minister knows all this because he has seen the document. He knows everybody in the field expressed grave reservations about the capacity of the Royal Life Saving Society to deliver. Its experience in delivering everything else demonstrated that it did not have that capacity. It was keen to send out merchandise for people to buy, rather than to deliver any service. It sent out merchandise and said that if people did not send it back, they would get an invoice, and if it came back broken, they would be charged for it. The Royal Life Saving Society was unable to deliver on the commitment. In the end, even Arthur Andersen asked it to make a simple commitment and it was unable to deliver on it. All the advice to the minister demonstrated there were major problems with the Royal Life Saving Society delivering on the commitment it would have if it took over the program. For the life of me, I honestly cannot see why the minister proceeded. People speculate on this matter because there is no logical reason for the minister to proceed down this path in the light of the advice from the department and, ultimately, from the external review. In fact, it is contrary to the whole image that the minister tries to portray that he does everything on the best advice and on best management practices. No person in his right mind, with no ulterior motive, taking in this information would have proceeded, but the minister did.

Mr Barnett: What is the suggested ulterior motive that you seem to be implying, but cannot articulate?

Mr CARPENTER: I will tell the minister what it is. The minister had an ideological commitment, compounded by his relationship with Alex McKenzie. The minister did not want to let him down. The minister did not have the guts to say, "We have done a review and everybody is saying, sorry, Alex, mate, but you are not up to it." He did not have the guts to do that. The minister's first position was that he had an ideological commitment that everything is done better when it is outsourced, which is why he is busily flogging off every business asset he can lay his hands on, and that will be another disaster for the State. This fits into that pattern of thinking. The minister thinks everything will be done better if it is outsourced. It will not. A cost analysis was done for this program.

Mr Tubby: What is the converse of that?

Mr CARPENTER: If the potential increase in costs from the lane hire fees, which is being threatened, was set aside, and if the Royal Life Saving Society did not come first in the process, the other mob, who submitted an interest, demonstrated bigger savings to the State. The minister has made a foolish political decision to begin with, in that he was ideologically committed to outsourcing Vacswim. That was compounded by his personal relationship with Alex McKenzie, when he did not have the guts to say that the Government would not give the program to his mate. Now the minister has misled the Parliament and the people of Western Australia, who just happen to be the mums and dads who send their kids to swimming lessons, when the reviews of the initiatives say certain things are likely to happen: First of all, there will be increased risks to the safety of the children; and, secondly, that there will be increased costs of the program.

Mr Barnett: Hang on, sorry - increased risks to the safety of the children?

Mr CARPENTER: The risk analysis says that the risks will increase upon outsourcing. If the minister does not know that, he must not have read the documents.

Mr Barnett: You have very quickly become a most irresponsible member of Parliament, haven't you?

Mr CARPENTER: As the minister knows, the risk analysis states that outsourcing will increase the risk. I can read from the pages if the minister wants me to do that. He knows that is the case; that is why he has slunk back into his seat.

Mr Barnett: I do not see any risk at all in entrusting children to learn swimming under the guidance of the Royal Life Saving Society. If you are suggesting that there is risk in that -

Mr CARPENTER: That is because the minister knows better than the people who reviewed the whole project, at the taxpayers' expense. That is what they said. Why did the minister bother, when he knows better anyway? Why does he not just can the whole department, ring up everyone from his office and tell them, "This is what will be done. There are no problems. I know what is right"? The minister's problem is that he always knows better. There are some occasions on which all of us do not know better. On this occasion, the minister does not know better. He has made a mistake, which he should not have.

Arthur Andersen was the firm which was asked to do a review of the cost and a benefit analysis to determine whether there would be some gain for the State. There are reports which contain all the risk analyses, and which detail the fact that if we outsource this program and take it away from the auspices and direct control of the Education Department, we increase the risks and the potential costs of safety, because control is lost. This is the report by Arthur Andersen. It is not from Michael Mouse of Disneyland; it is from Patrick Foley, the senior manager of Arthur Andersen in Western Australia. I assume he is not a klutz. He knows what he is doing. He gets paid good money to come up with reports which are verifiable and reliable. He says -

> Without repeating the contents of the attached report in detail, the principle findings of the report are that there is no sustainable business case for the outsourcing of the Vacswim program due to the likely introduction of charges for venue and swimming pool lane hire.

However, the minister knows better. There is a report which backs up, to the letter, his analysis involving all the figures. The outcome of that was not the minister's saying, "Hang on, we should have another look at this." In the run-up to the 1999 new year, the minister had put enormous pressure on the department to make an announcement. All the freedom of information documents are here. The Education Department had to make an announcement that the Royal Life Saving Society was the preferred proponent before the minister went on holiday. He had already made up his mind - nothing would shift him. He was putting pressure on the people in the department to release that information to the public. It is completely and utterly stupid. What was so important about the fact that he was going on holiday? Who cares? Why was it so important to make the announcement before the minister went on holiday that the Royal Life Saving Society would get the project? The documents from his office state that the minister wanted an announcement before he went on leave.

Mr Barnett: That is right.

Mr CARPENTER: Why? Why was it so important that an announcement was made before the minister went on holiday? He is pathetic. This is not some joke festival. This program provides the swimming training for 60 000 to 65 000 children in Western Australia. Because the minister wanted to go on holiday, an announcement had to be made about who would manage the program, despite the fact that Arthur Andersen was about to say that no benefit would be gained.

I will finish because I know other members want to have a say. As a result of the Arthur Andersen report, Cheryl Vardon - vested interest - penned a note to the minister.

Mr Tubby: She always has a vested interest.

Mr CARPENTER: I thought the member for Roleystone was a prospect for the minister's job when the minister scuttles out of it, but I do not think he is. On 2 February, Cheryl Vardon wrote to the minister. She said -

> In summary, the risks posed by this implementation are:
>
> > The potential disappearance of the business case for outsourcing makes the motive for outsourcing seem to be ideologically based.

Perhaps she was listening to me. Of course it was ideologically based. Any fool can see that; even the fools on the government side know that. It continues -

> If costs for pool use are increased, the risk of either increased user charges or an increased Government subsidy are obvious.

It continues -

> An officer from the Leader of the Opposition's staff has approached EDWA seeking a copy of the latest Arthur Andersen report on pool costings. It is likely that an FOI request may follow to obtain access to the report.
>
> **Recommendations**
>
> > That in the light of the survey conducted by Arthur Andersen, the Minister consider the Government's position.
> >
> > That, consideration be given to meeting with representatives of WAMA to clarify issues of pool hire.
> >
> > That consideration be given to a staged transition for outsourcing with the immediate hand-over of teacher training followed by Vacswim if and when the business case can be more clearly established.

In other words, we should stop what we are doing, as we have hit a bit of a problem. The minister has behaved like a fool and he has been caught out thanks to FOI. It demonstrates that he is not on top of what he is doing. He suffers from

infallibility syndrome. Everything he says is right; he always knows better. He is wrong; what he has done is wrong; and he will cost the State because of it.

MR BARNETT (Cottesloe - Minister for Education) [4.05 pm]: The member for Willagee launched into a personal abuse style of debate, which is typical of his performance in this House and so be it. However, let us try to get to the substance of the issue. I will make a few brief comments because I know other members would like to comment on this issue. Vacswim has been run by the Education Department since 1919. One cannot escape the conclusion that although 63 000 students took part in Vacswim last year, that figure was down by 21 per cent on the 80 000 children who participated in 1989. That is a reality.

Mr Carpenter interjected.

Mr BARNETT: No, I listened to the member and he can listen to me now. I have yet to finish the first 30 seconds of my speech. The whole process of looking at Vacswim dates back to 1995. A ministerial review was set up by my predecessor, Hon Norman Moore, which concluded that Vacswim and the in-term swimming and swimming training should remain with the department for three years and then be looked at again. In 1997 the department - not the minister - completed an internal review of its swimming and water safety programs. As a result of that, the department identified -

Mr Carpenter: You are missing out something. Aren't you missing out your telephone calls?

Mr BARNETT: No. In that internal review in 1997, the department identified that Vacswim and swimming teacher training were not core business of the department.

Mr Carpenter interjected.

Mr BARNETT: In 1997 that was the internal process conducted by the department.

Mr Carpenter: No, it was not.

Mr BARNETT: The member can have another say later. Two reports were conducted in December 1997 - a costing analysis by Bird Cameron and a risk analysis by Coopers and Lybrand. There were further internal examinations. Arthur Andersen looked at the outsourcing process in August 1998. In September 1998 we went out to the community with a request for proposals for outsourcing the program. I will make it very clear: The Opposition seemed to make a point about some ideological fetish of the minister. I do not apologise for that. The philosophy on this side of the House is that if things are not core activities of government departments, by all means let us encourage outside organisations to become involved, and that is what we have done.

Mr Carpenter: At what cost?

Mr BARNETT: There is no apology for that. This happens to be a Liberal-led Government which has a philosophy of involving private organisations in the delivery of services. There is no apology for that whatsoever. If there is a philosophical difference, thank goodness for it. I would hate to be on that side of the House with the Opposition's philosophy. There is a philosophical difference. However, the process was done very carefully.

The real issue was that if the program was to be outsourced, we had to look at the issues of risk, safety, quality of service and price to families. All of those issues are important, and should be assessed, before any decision to outsource is made or confirmed. Another critically important issue that the Opposition seems to ignore is that the tender process had to be absolutely scrupulous, and it was exactly that. I do not make any apology for outsourcing Vacswim. We looked at it, and the department looked at it and the in-term swimming program which involves about 150 000 children. The bigger program in terms of participation of individual children is the in-school program with 150 000 children, and we have identified that as being core business of the Education Department and that will remain with the department. It is the vacation program which has been outsourced. All sorts of studies have been done.

Mr Kobelke: Do you have the figures on the in-school program?

Mr BARNETT: Not with me but it is clearly core business. Financially there is not a huge difference between running Vacswim internally or externally. The saving to the department through outsourcing is about $80 000. That is significant but it is not the prime motivation. The motivation is to involve outside organisations. We ran a tender process and the Royal Life Saving Society won; good on it. I do not know what members opposite have against the Royal Life Saving Society but they seem to have some prejudice against the society and ascribe to it all sorts of improper motives. The Royal Life Saving Society commenced operation in Australia in 1894. It operates in over 40 countries and is a not-for-profit organisation; it is about water safety in all respects. I do not have a problem with the Royal Life Saving Society and I do not know why members opposite do; they have implied all sorts of improper motives. The society is an organisation supported by literally hundreds of volunteers, by swimming clubs, by water polo clubs and by surf life saving clubs - all sorts of organisations interested in water sport and water safety. The society wanted to get involved in Vacswim, it went through a tender process and it won. The tender process was overseen by CAMS and was absolutely scrupulous.

Mr Carpenter: Did its tender show the biggest savings?

Mr BARNETT: I will find the answer for the member and he can ask me that question tomorrow. I do not have it in front of me. However, the Royal Life Saving Society won the tender process. If the member opposite is suggesting that the tender process was not squeaky clean, let us see if he has the courage to publicly accuse the people involved in the tender process of compromising it. I am telling the House now that they did not. The process was squeaky clean. I, as the minister, and my staff took no part at all in the tender process. Yes, the Government supports outsourcing. Yes, I think the Royal Life

Saving Society will do a great job. However, the member opposite is trying to suggest that because Alex McKenzie and the Royal Life Saving Society happen to be located in my electorate - it is hardly surprising that it is at Challenge Stadium - and I happen to know Alex McKenzie - not all that well but I know him - there is something improper in this. What a crummy, low life Opposition we have. What does it have against Alex McKenzie and the Royal Life Saving Society? Members opposite cannot articulate it. They come into this House and use the privilege of this House to imply improper motives. The Opposition can have a go at me if it wants, but it should not attack the Royal Life Saving Society of Australia and the hundreds of volunteers who are devoted to water safety and the safety and education of children about water.

I am proud the Royal Life Saving Society will work with the Education Department on this program. I will not say much more because other members will be dying to have a go on this topic. However, I make it clear that the department has not privatised Vacswim. A contract was negotiated with the Royal Life Saving Society after it won a proper, competitive tender process. The society will begin to run some limited courses during October. The price to parents will remain the same - $22 for 10 lessons. The quality of the program will remain the same at least and hopefully will improve significantly. The Education Department is not exiting the program. The banners will say the "Royal Life Saving Society and the Education Department are running this program" and I hope that the department and the society working together will reverse the decline in participation. I was not prepared to sit back and watch participation in water safety and learn-to-swim programs over summer holidays continue to decline. I was prepared to do something about it and there may be a risk. I think the Royal Life Saving Society will do a great job. Already well-known swimmers and surfers are involved. The program is being promoted on television for the first time. The schools will cooperate fully and I am optimistic that it will be a great success and we will see the program continue and the participation rate rise.

Mr Ripper: Who is paying for the television ads? Is it paying?

Mr BARNETT: Yes, the society is paying for the television advertisement. The department - the Government - is saving an estimated $80 000. However, it is not doing this for the $80 000, it is for improving the program. The program will continue to operate in all country areas in which it has previously operated. We will see the direct involvement of swim clubs, water polo clubs and surf clubs in the program. I will give the House an example of what that might mean. Often children with disabilities cannot participate in this program. We have already been advised that in some areas members of water polo and swim clubs will help those children on a one-to-one basis. They will do that because the program will be run by the Royal Life Saving Society and supported by their water polo or swim club. That is the level of community involvement and the quality improvement we will see. The program will continue at the same price to parents but its availability to all children, including those with disabilities and those in remote areas, will be enhanced. I am confident that this will succeed. The department has taken great care and looked at all of the issues; there have been endless reports.

I conclude where I started. If the Opposition thinks there is a weakness in this and the weakness is the fact that the Government has a philosophical position of supporting non-profit community-based organisations such as the Royal Life Saving Society, and if it thinks we have a problem with involving the Royal Life Saving Society and having the Education Department work with it and swimming clubs, water polo clubs and surf clubs, I am afraid the Opposition has the problem, not this Government. The Government supports those non-profit organisations. It supports water safety and swimming lessons. That is what this is all about. The member for Willagee is absolutely miserable. He does not show any commitment to water safety, he does not show any commitment to supporting great organisations, great Australian institutions like the Royal Life Saving Society, he is not there. It was interesting to be at the launch of the program recently and to see the range of different sporting identities and community-based groups who wanted to work with the Royal Life Saving Society and the Education Department. This program will be promoted far more aggressively through schools. The parents' format will be computerised. They will not have one child having a lesson at nine o'clock and another at 12 noon. Hopefully, it will all fit together.

Mr Carpenter: You can guarantee that, can you?

Mr BARNETT: The member for Willagee is an absolute dill.

Mr Carpenter: You are standing up just talking absolute nonsense.

Mr BARNETT: When the member for Willagee entered the Parliament, people thought he might bring with him some skills of presentation given his background. However, what we have seen today is him immediately gravitate to the lowest base form of parliamentary attack. He could not provide substance; all he could provide was some form of personal abuse of me which I am getting fairly used to at the moment. He sought in the most cowardly, indirect way to associate improper motives with the Royal Life Saving Society. I dare the member to stand in front of Alex McKenzie and say that; he would not dare.

Mr Carpenter: Say what?

Mr Barnett: What you said about him today.

The ACTING SPEAKER (Mrs Hodson-Thomas): Order, members!

MR MARSHALL (Dawesville - Parliamentary Secretary) [4.17 pm]: In my contribution to this debate I will provide some background to Vacswim. Everyone in the aquatic sport industry I have spoken to considers the change to be an excellent idea and is looking forward to it. Contrary to what the member for Willagee believes, the Royal Life Saving Society educates people to not need to be rescued. It is highly respected and professional and, like the Minister for Education, I am proud that a professional body has become involved in Vacswim. I am disappointed that in moving this motion, the member for Willagee has endeavoured to big note himself at the expense of a government minister. Any professional sportsperson knows that one should always change a losing game. There is no doubt that Vacswim with its declining numbers has been

a losing game. That was recognised in 1995 and the Government of the day commissioned a special committee to investigate why. It was an independent committee made up of representatives of the Ministry of Sport and Recreation at Perry Lakes, non-government groups, the Education Department and the aquatic industry. The committee made a number of recommendations and I thought three were excellent. The first was there should be closer liaison between the Education Department and the water safety groups, something which was not occurring. It is all very well to learn how to swim but what happens after that? That was the question. The courses lacked the professionalism to provide an extra awareness of what goes on and that is the difference between being ordinary and being exceptional. The second point was swimming classes should be organised in the July school holidays and that is still to come forward. The third and most important point was that the Education Department should continue to run Vacswim for another three years from 1995 to give it a chance to improve but if the numbers did not improve, the course had to be revamped.

In the past three years the number of students has gone down from 78 000 to 63 000. No-one could run a business like that, and Vacswim is big business. Some 349 swimming venues are used of which 185 are in the country. Over 1 500 teachers are involved in the courses. There is also the pool hire and the kiosk sales. It is important that Vacswim is not administered by an amateur authority. The Education Department exists for the purpose of teaching. Vacswim is a combination of business and teaching, which is accounted for in the difference with this new idea. We need professionalism.

We all agree that all youngsters need to be able to swim. I was very pleased to hear the member for Willagee say that his children attend Vacswim. I would be interested to know if he ever went to Vacswim in his young days, or if he can swim and has had a real interest rather than being only a knocker. Once the disciplines of swimming are learnt, a world of recreational opportunity evolves from recreational swimming to competitive swimming. When I say "competitive swimming", I am of course thinking of the Olympics and of Olympic events, such as water polo and diving. There is also life saving, scuba diving and fitness clubs with swimming.

Unfortunately, as a result of past Vacswim experience, it could be seen that only a small percentage of the participants were coming out of the classes and getting involved with aquatic clubs. As I have said, the numbers were declining. There was enough negative experience with that program to indicate a change was needed. The 75-year-old program had served Western Australia very well but the system was stale and needed to be revamped. Anyone who thinks otherwise is showing an ignorance of progress or does not understand professionalism in the teaching of sport. School teachers over the past years have done a marvellous job but the program, although still owned by the Education Department, must open up other avenues which will encourage children to join swimming clubs. There is tremendous competition for the junior sport dollar. Swimming in the summer time has competition from tennis, softball, cricket and all the other sports. We must have a specialised marketing group that can concentrate on getting out there and lifting the numbers. The job of the Education Department is to teach. I have yet to find an offshoot of that professionalism entering the market. Teachers generally are not marketers. That is where the whole system was going wrong.

We need to lift the promotion of these classes. I see advantages and pluses occurring with a professional body running the program. Interest in the sport will increase. Every participant will be encouraged to join an aquatic club, which is important. International swimmers will be introduced to the classes, and they will show what a gold, silver or bronze medallist has achieved at the Olympics. For example, they will show what a diver can do. By setting an example, they will lift the horizons of students. They will bring new ideas to the scheme. Professional sportsmen travel the world and interact with higher-class professionals throughout the world. They can adopt their ideas and introduce them into their own programs which means everything will lift. A holiday school teacher can teach a child to swim, which is important, but it stops there; there is no glamour or inspiration that makes students think that swimming can be creative. For example, ballet swimming is a creative event in the Olympics.

Bearing all of this in mind, the matter of public interest the member for Willagee has brought to the House, is simply a stunt and a waste of time. The new format will be good for swimming. To debate who introduced the idea is very amateurish. I was told that the only thing one can steal in life is an idea. Why should we not share the idea? Who cares who introduced it as long as we are going in the right direction, swimming prospers and youngsters learn to swim better? The member for Willagee in this instance should grow up and appreciate all the good things that will occur in the new Vacswim program. He should try to see the big picture and make a more positive contribution to this House. I oppose the motion.

MR BAKER (Joondalup) [4.26 pm]: I also oppose the motion. Quite frankly, I am surprised that we are debating an issue of this kind given the time of day. Surely, far more important issues could have been raised during the time allocated for debates relating to matters of public importance.

Mr Barnett: They have a roster - education, health, environment. They try to get something new and then go back. That is their strategy; it is very sophisticated.

Mr BAKER: That may be part of the explanation. The subject of this motion is old hat. The reason the Labor Party has decided to run with this motion is that it does not have much to run with and it thought that after the Victorian election it would try to invent a motion that somehow involves some contracting out aspect of the WA Government's performance in the past six months or so. The Labor Party has decided to run with it to see if *The West Australian* will report it. Members opposite thought they would then draw analogies between what has happened in Victoria and what is happening here.

Central to this motion is not the Minister for Education's alleged misleading of the public and this House; at the core of this motion is the way in which the Labor Party has sought to mislead the public and this House on the Government's intentions concerning the outsourcing of school vacation swimming classes. At all times the Labor Party has portrayed the Government's intentions as being solely aimed at giving taxpayers' revenue to the private sector. One can see this simply by looking back through the *Hansard*, particularly at the remarks on 2 December of the members for Belmont and Willagee.

When the subject matter of this motion first cropped up, they made allegations of commerciality, alleging that the Government wanted to privatise, commercialise, and sell Vacswim to profiteers and private interests.

Members opposite are really upset about the fact that, in this case, a private interest was not the successful tenderer but rather a public, benevolent, charitable body. This occurred despite the fact that even before the decision was made Labor Party members were telling all the parents and citizens associations in the Perth metropolitan area that the successful tenderer would be a commercial body, which would exist for the sole purpose of making a profit and, hence, students' Vacswim fees would go through the roof. Of course, that was not the case at all. Labor Party members are very disappointed that it was not the case because they realise that the whole issue has lost its momentum. It has no relevance to the average, right-minded, reasonable thinking member of the community whose children are participating in this very important program.

As further proof of that, let us look at the Royal Life Saving Society Australia to see exactly what sort of commercial entity and private contractor we are dealing with. As the name of the association indicates, it is incorporated under the Associations Incorporation Act 1987. One of the key features of the Act is that associations can only incorporate under it if they exist and form, not for the purpose of securing a pecuniary profit to their members and not for the purpose of trading with a view to securing a pecuniary profit. Immediately we can see that for an association to be incorporated under that Act, it must be a not-for-profit organisation; in other words, it must be a non-commercial, non-profit organisation. Of course, the Labor Party did not mention that fact when it started to put the boot into the Royal Life Saving Society several months ago.

Another aspect is that this association is a registered charity under the Charitable Collections Act 1946. The point must be made that not all associations incorporated under the Associations Incorporation Act can seek registration as charities under the Charitable Collections Act; for example, the local cricket club, the local football club and the local swimming club cannot. In this case this association could. The obvious question is why would that be? Is it because the Charitable Collections Act says so? The answer is clearly yes. The Act sets out a very succinct definition of "charitable purpose". It is clear that the reason this association was able to be registered under the Act is that it was seeking to relieve distress and seeking to save lives in the community through teaching people how to swim.

The point has to be made that this association is a charitable organisation. It is a public, not-for-profit, benevolent, charitable organisation. I am well aware that the Labor Party, when it was embarking on its campaign, started flooding P&Cs in the Perth metropolitan area with a petition. It was a pro forma petition-

Ms Anwyl: Didn't you present one in Parliament? One of your colleagues did!

Mr BAKER: No, I did not. After the announcement was made, the P&Cs that I spoke to realised that to table the petition would be false and misleading. I did not do it because they did not want me to do it. The petition kept harping on the phrase "contracting out". The reason was that even after the decision was made to outsource the services to the Royal Life Saving Society, the Labor Party wanted to cause people in the community to think that the entity dealing with the Vacswim program was a commercial, profiteering organization. They knew full well that it was not the case. The public and this House were misled not just during the tender process, but after the tender announcement was made - after it became apparent that the Royal Life Saving Society was the successful tenderer. If anyone has misled the House and the public of Western Australia, it is the members for Willagee and Belmont, who participated so keenly in the debate concerning an associated motion late last year.

The motion, as the member for Dawesville has said, is just a stunt. It has no merit. If anything, the Government could draft its own motion today and censure the Labor Party for misleading the House and the public on this issue. The Labor Party's problem is that all the P&Cs I have spoken to now realise that they have been misled and are upset about it. They realise that they were initially conned. When they were told the truth about the nature of the Royal Life Saving Society they were very upset. They were conned until, thank God, someone with the correct information put them right. It is the Labor Party that has been misleading the House and the public. I think we have put the issue to bed once and for all. Surely the members opposite have something better to do during private members' time than to peddle such old rubbish.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [4.32 pm]: The Minister for Education asked what the Labor Party had against the Royal Life Saving Society. He said that it was a wonderful organisation and implied that only the Opposition is critical of the Royal Life Saving Society. I quote from some documents. One is a memo from Geoff Hayes, manager of the swimming and water safety section of the Education Department. It is dated 13 January 1999 -

> So far I have visited over 70 centres and it is quite obvious that there is a lot of anti RLSS feeling . . .

On the second page, a section of his memo is headed "Non performance of RLSS". It says-

> The Society has not made any friends this year by again failing to deliver on a number of fronts . . .

He then lists five points on which the Society has failed to deliver. People might say that he has a vested interest but I do not think the same could be said of the tender review committee.

Mr Barnett interjected.

Mr RIPPER: A memo from the Director General of Education to the Minister for Education dated 2 December 1998 states -

> The Tender Review Committee advised that because of the relatively low scores achieved by the Royal Life Saving Society in key areas an emphasis must be placed on risk management issues during the contract negotiation phase.

That gives the lie to the minister's statement that it is absurd to consider the increased risk with regard to the Royal Life Saving Society operating the tender.

Question put and a division taken with the following result -

Ayes (18)

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

Noes (29)

Mr Barnett	Dr Hames	Mr Masters	Mr Shave
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr McNee	Mr Sweetman
Mr Bloffwitch	Mr House	Mr Minson	Mr Trenorden
Mr Board	Mr Johnson	Mr Nicholls	Mr Tubby
Mr Bradshaw	Mr Kierath	Mrs Parker	Dr Turnbull
Dr Constable	Mr MacLean	Mr Pendal	Mrs van de Klashorst
Mr Cowan	Mr Marshall	Mr Prince	Mr Osborne *(Teller)*
Mrs Edwardes			

Pairs

Mr Riebeling	Mr Court
Mr Bridge	Mrs Holmes

Question thus negatived.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL 1997

Council's Message

Message from the Council notifying that it did not insist on its amendments Nos 1 and 2, that it disagreed with the substituted new amendment No 3, and that it proposed a new amendment as an alternative to the Assembly's substituted new amendment, in which further amendment the Council desired the concurrence of the Assembly, now considered.

Consideration in Detail

The further amendment made by the Council as an alternative to the Assembly's substituted new amendment to the Council amendment No 3 in the Workers' Compensation and Rehabilitation Amendment Bill 1997 was as follows -

No 1

Amendment No. 3

Clause 32, page 19, line 19 to page 20 line 10 - To delete the clause and substitute the following clause -

Amendments about awarding of damages and related matters (sections 5, 61, 84ZH, 84ZR and 192, Part IV Division 2 and Schedule 1), and saving and transitional provisions

32. (1) Section 5(1) of the principal Act is amended by deleting the definition of "prescribed amount" and substituting the following definition -

" **"prescribed amount"** means -

(a) in relation to the financial year ending on 30 June 2000, $119 048;

Note: This is the nearest whole number of dollars to the amount obtained by multiplying by 208 the average of the amounts that the Australian Statistician published as the all employees average weekly total earnings in Western Australia for pay periods ending in the months of May, August and November 1998 and February 1999.

(b) in relation to any subsequent financial year, the nearest whole number of dollars to -

(i) the amount obtained by varying the prescribed amount for the preceding financial year by the percentage by which the amount that the Australian Statistician published as the Wages Cost Index, ordinary time hourly rates of pay (excluding bonuses) for Western Australia (the **"WCI"**) varied between the second-last December quarter before the financial year commenced and the last December quarter before the financial year commenced; or

(ii) if the calculation under subparagraph (i) cannot be

performed in relation to a financial year because the WCI for a relevant quarter was not published, the amount obtained by varying the prescribed amount for the preceding financial year in accordance with the regulations,

with an amount that is 50 cents more than a whole number of dollars being rounded off to the next highest whole number of dollars; ".

(2) Section 61(7) of the principal Act is amended by inserting after paragraph (b) the following -

" (ba) if section 93E(20) applies to the payment of compensation; or ".

(3) Section 93A of the principal Act is amended by deleting the definitions of "Amount A", "Amount B", "future pecuniary loss" and "non-pecuniary loss". ".

(4) After section 93B(3) of the principal Act the following subsection is inserted -

" (3a) This Division does not apply to the awarding of damages if the disability results in the death of the worker. ".

(5) Sections 93D, 93E and 93F of the principal Act are repealed and the following sections are substituted -

" **Assessment of disability**

93D. (1) In this section -

"relevant level" means a degree of disability of 30%.

(2) For the purposes of section 93E, the degree of disability of the worker is to be assessed -

(a) so far as Schedule 2 provides for such a disability, as a percentage equal to -

(i) if only one item of that Schedule applies to the disability, the percentage of the prescribed amount provided for by that item, as read with section 25; or

(ii) if 2 or more items of that Schedule apply to the disability, the sum of the percentages of the prescribed amount provided for by those items, as read with section 25;

(b) to the extent, if any, that paragraph (a) does not apply, as the degree of permanent impairment assessed in accordance with the AMA Guides;

(c) to the extent, if any, that neither paragraph (a) nor (b) applies, in accordance with the regulations,

or if more than one of paragraphs (a), (b) and (c) applies, as the cumulative sum of the percentages assessed in accordance with those paragraphs.

(3) If section 25 applies, the percentage under subsection (2)(a) is calculated in accordance with the formula -

$$\frac{PD}{100} \times TD$$

Where -

PD is the percentage of the diminution of full efficient use.

TD is the relevant percentage set out in Column 2 of Schedule 2.

Example 1

A worker loses 40% of the full efficient use of one eye. The percentage under subsection (2)(a) is:

$$\frac{40}{100} \times 50 = 20$$

Example 2

A worker loses the little finger of the left hand, 30% of the full efficient use of one eye and 10% of the full efficient use of the right arm below the elbow. The percentage under subsection (2)(a) is:

$$6 + \left[\frac{30}{100} \times 50\right] + \left[\frac{10}{100} \times 80\right] = 6 + 15 + 8 = 29$$

(4) If the worker and the employer cannot agree on whether the degree of disability is not less than the relevant level, the worker may, subject to subsection (5), refer the question to the Director.

(5) A question can only be referred under subsection (4) if the worker produces to the Director medical evidence from a medical practitioner indicating that, in the medical practitioner's opinion, the degree of disability is not less than the relevant level.

(6) As soon as practicable after receiving a referral under subsection (4) the Director is to notify the employer in accordance with the regulations.

(7) If within 21 days after being notified under subsection (6) the employer notifies the Director in accordance with the regulations that the employer considers that the degree of disability is less than the relevant level, a dispute arises for the purposes of Part IIIA.

(8) The Director is to consider the dispute in consultation with the parties.

(9) Except in a case to which subsection (10) applies, if the dispute is not resolved by agreement the Director is to refer the question for resolution under the provisions of Part IIIA (other than Division 2).

(10) If the dispute relates to a disability mentioned in section 33, 34 or 35, the dispute is to be referred to a medical panel for determination as described in section 36 and so far as applicable this Act applies in relation to the reference as if it were a reference under section 36 except that the only question to be considered and determined on the reference is the question that was referred.

(11) Unless notification is given by the employer under subsection (7), the employer is to be regarded as having agreed that the degree of disability is not less than the relevant level.

Restrictions on awarding of damages and payment of compensation

93E. (1) In this section -

"agreed" means agreed between the worker and the employer, whether under section 93D(8) or otherwise;

"degree of disability" means the degree of disability of the worker assessed in accordance with section 93D(2);

"determined" means determined or decided on a reference under section 93D(9) or (10);

"termination day" means the day that is 6 months after the day on which weekly payments commenced.

(2) Weekly payments of compensation ordered by a dispute resolution body to commence are to be regarded for the purposes of this section as commencing or having commenced on -

(a) the first day of the period in relation to which weekly payments are ordered to be made; or

(b) the day that is 5 months (or such shorter period as is prescribed) before the day on which the order is made,

whichever is later.

(3) Damages can only be awarded if -

(a) it is agreed or determined that the degree of disability is not less than 30% and that agreement or determination is recorded in accordance with the regulations; or

(b) the worker elects, in the prescribed manner, to retain the right to seek damages and the election is registered in accordance with the regulations.

(4) In this section -

"Amount F" means twice the prescribed amount.

"Amount G" means -

(a) for the financial year ending on 30 June 2000, $20 000; and

(b) for any subsequent financial year, the amount recalculated as Amount B,

under subsections (11) and (13);

"Amount H" means -

(a) for the financial year ending on 30 June 2000, $60 000; and

(b) for any subsequent financial year, the amount recalculated as Amount H,

under subsections (11) and (13);

"non-pecuniary loss" means -

(a) pain and suffering;

(b) loss of amenities of life;

(c) loss of enjoyment of life;

(d) curtailment of expectation of life; and

(e) bodily or mental harm.

(5) The amount of damages to be awarded for non-pecuniary loss is to be a proportion, determined according to the severity of the non-pecuniary loss, of the maximum amount that may be awarded.

(6) The maximum amount of damages that may be awarded for non-pecuniary loss is Amount F, but the maximum amount may be awarded only in a most extreme case.

(7) If the amount of non-pecuniary loss is assessed to be Amount G or less, no damages are to be awarded for non-pecuniary loss.

(8) If the amount of non-pecuniary loss is assessed to be more than Amount G but not more than Amount H, the amount of damages to be awarded for non-pecuniary loss is the excess of the amount so assessed over Amount G.

(9) If the amount of non-pecuniary loss is assessed to be more than Amount H but less than the sum of Amounts G and H, the amount of damages to be awarded for non-pecuniary loss is the excess of the amount so assessed over Amount G - [amount so assessed - Amount H].

(10) No entitlement to damages is created by this section and this section is subject to any law that prevents or limits the awarding of damages.

(11) By operation of this subsection and subsection (12) or (13) each of Amounts F, G and H is recalculated for each financial year with effect from 1 July (the recalculation date), commencing on 1 July 2000, by varying the respective amounts for the preceding financial year -

(a) by the percentage by which the weighted average minimum award rate for adult males under Western Australian State Awards published by the Australian Statistician varies between 1 April in the calendar year preceding the

recalculation date and 31 March in the calendar year of the recalculation date; or

(b) if the relevant information is not so published, in accordance with the regulations.

(12) If an amount recalculated under subsection (11) as Amount F is not a multiple of $1 000 it is to be rounded off to the nearest multiple of $1 000 (with an amount that is $500 more than a multiple of $1 000 being rounded off to the next highest multiple of $1 000).

(13) If an amount recalculated under subsection (11) as Amount G or H is not a multiple of $500 it is to be rounded off to the nearest multiple of $500 (with an amount that is $250 more than a multiple of $500 being rounded off to the next highest multiple of $500).

(14) On or before 1 July in each year the Minister is to publish a notice in the *Gazette* setting out Amounts F, G and H as they will have effect on and from that 1 July.

(15) Failure to publish, or late publication of, a notice under subsection (14) does not affect the operation of subsection (11), (12) or (13).

(16) Issues as to whether damages for non-pecuniary loss may be awarded and as to the amount of those damages that may be awarded are to be determined by reference to Amounts F, G and H as in effect on the date on which the determination is made.

(17) Subject to subsections (18) and (19), if weekly payments of compensation in respect of the disability have commenced an election cannot be made under subsection (3)(b) after the termination day.

(18) Despite subsection (17), if -

(a) medical evidence complying with section 93D(5) was produced to the Director not less than 21 days before the termination day; and

(b) a dispute arising under section 93D(7) has not been resolved before the termination day,

an election can be made under subsection (3)(b) within 7 days after the dispute is resolved.

(19) Despite subsection (17), the Director may, in such circumstances as are set out in regulations, extend the period within which an election can be made under subsection (3)(b) until a day to be fixed by the Director by notice in writing to the worker.

(20) Subject to subsections (21) and (23), if an election has been made under subsection (3)(b) compensation under this Act is not payable in respect of the disability, or any recurrence, aggravation or acceleration of it, in relation to any period after the day on which the election is registered or any expenses incurred during such a period.

(21) Subsection (20) ceases to apply if, after the election is made, it is agreed or determined that the degree of disability is 30% or more and that agreement or determination is recorded in accordance with the regulations.

(22) Subsection (21) relates only to the degree of the original disability, and any recurrence, aggravation or acceleration of it is not to be taken into account.

(23) If an agreement or determination under subsection (21) is recorded, the worker may apply for any compensation which, but for subsection (20), would have been payable under this Act in relation to a relevant period or expenses incurred during a relevant period.

(24) In subsection (23) -

"relevant period" means any period -

(a) which is after the day on which the election is registered and before the agreement or determination under subsection (21) is recorded; and

(b) during which the degree of disability is agreed or determined to have been not less than 30%.

(25) If the liability for an incapacity resulting from the disability has been redeemed under section 67, damages are not to be awarded in respect of the disability.

Restrictions on awarding and amount of damages if disability less than 30%

93F. (1) Unless an agreement or determination that the degree of disability of the worker is not less than 30% is recorded for the purposes of section 93E -

(a) the amount of damages to be awarded is to be a proportion, determined according to the severity of the disability, of the maximum amount that may be awarded; and

(b) the maximum amount of damages that may be awarded is Amount A, but the maximum amount may be awarded only in a most extreme case of a disability of less than 30% in degree.

(2) Subsection (1) has effect in respect of the amount of a judgment before the operation of section 92(b).

(3) No entitlement to damages is created by subsection (1) and that subsection is subject to any other law that prevents or limits the awarding of damages.

(4) If -

(a) section 93E(3) does not allow damages to be awarded in respect of the disability; or

(b) damages in respect of the disability have been awarded in accordance with subsection (1),

the employer is not liable to make any contribution under the *Law Reform (Contributory Negligence and Tortfeasors' Contribution) Act 1947* (the **"Contribution Act"**) in respect of damages awarded against another person in relation to the disability.

(5) If section 93E(3)(b) allows damages to be awarded in respect of the disability -

(a) the contributions that the employer may be liable to make under the Contribution Act in respect of damages awarded against other persons in relation to the disability are not to exceed the damages that could have been awarded in accordance with subsection (1); and

(b) if the employer has made or been directed to make a contribution under the Contribution Act in respect of damages awarded against another person in relation to the disability, the amount of damages that may be awarded in accordance with subsection (1) is reduced by the amount of that contribution.

(6) This section applies regardless of whether the damages are awarded against one or several employers.

(7) An issue as to the amount of damages that may be awarded, is to be determined by reference to Amount A as in effect on the date on which the determination is made.

(8) In this section -

"Amount A" means -

(a) in relation to the financial year ending on 30 June 2000, $250 000;

(b) in relation to any subsequent financial year, the nearest whole number of dollars to -

(i) the amount obtained by varying Amount A for the preceding financial year by the percentage by which the amount that the Australian Statistician published as the Wages Cost Index, ordinary time hourly rates of pay (excluding bonuses) for Western Australia (the "**WCI**") varied between the second-last December quarter before the financial year commenced and the last December quarter before the financial year commenced; or

(ii) if the calculation under subparagraph (I) cannot be performed in relation to a financial year because the WCI for a relevant quarter was not published, the amount obtained by varying Amount A for the preceding financial year in accordance with the regulations,

with an amount that is 50 cents more than a whole number of dollars being rounded off to the next highest whole number of dollars.

Regulations

93G. Regulations may provide for -

(a) the notification to be given to workers of the effect of the provisions of this Division;

(b) the form and lodgment of elections under section 93E(3)(b);

(c) the registration by the Director of elections under section 93E(3)(b) if an agreement or determination for the purposes of section 93E(4) has been recorded, and the power of the Director to refuse to register an election if not satisfied that the worker has been properly advised of the consequences of the election;

(d) the recording by the Director of an agreement or determination under section 93E as to the degree of disability of a worker;

(e) the way in which applications under section 93E(23) are to be made and dealt with. ".

(6) In subsections (7) and (8) -

"amended provisions" means Part IV Division 2 of the principal Act as amended by this section;

"assent day" means the day on which this Act receives the Royal Assent;

"former provisions" means Part IV Division 2 of the principal Act before it was amended by this section.

(7) The amended provisions do not affect the awarding of damages in proceedings -

(a) commenced before the assent day; or

(b) for the commencement of which the District Court gave leave under the former provisions before the assent day,

and the former provisions continue to apply in relation to those proceedings.

(8) If weekly payments of compensation in respect of a disability -

(a) commenced before the assent day; or

(b) were ordered by a dispute resolution body to commence before the assent day,

and the termination day referred to in section 93E of the amended provisions would be within 3 months after the assent day, the termination day is postponed by this subsection so that it is the day that is 3 months after the assent day.

(9) Section 84ZH(2) of the principal Act is inserting after "that loss" the following -

" , and as to the degree of disability assessed in accordance with section 93D(2) ".

(10) Section 84ZR(2) of the principal Act is inserting after "Schedule 2" the following -

" and as to the degree of disability assessed in accordance with section 93D(2) ".

(11) Before Part XIII of the principal Act the following section is inserted -

" **Publication of prescribed amount and average weekly earnings**

193. (1) On or before the 1 July on which a financial year begins the Minister is to publish a notice in the *Gazette* setting out, in relation to the financial year -

(a) the prescribed amount;

(b) Amount A for the purposes of section 93F; and

(c) Amount C for the purposes of Schedule 1 clause 11.

(2) Publication under subsection (1) is for public information only and the operation of this Act is not affected by a failure to publish or a delay or error in publication. ".

(12) Schedule 1 clause 7(4) to the principal Act is amended by deleting "the items referred to in clause 11(3), (4) and (5)" and substituting the following -

" overtime or any bonus or allowance ".

(13) Schedule 1 clauses 11 and 11A to the principal Act are deleted and the following clause is substituted -

" **Weekly earnings**

11. (1) Subject to clauses 12 to 16, for the purposes of this Schedule **"weekly earnings"** has the meaning given by this clause.

(2) In this Schedule -

"Amount A" means the rate of weekly earnings payable, at the time of the incapacity, for the appropriate classification under the relevant industrial award, or which would have been payable if the relevant industrial award were still in operation, plus -

(a) any over award or service payments paid on a regular basis as part of the worker's earnings;

(b) overtime; and

(c) any bonus or allowance;

"Amount Aa" means the rate of weekly earnings payable, at the time of the incapacity, for the appropriate classification under the relevant industrial award, or which would have been payable if the relevant industrial award were still in operation, plus any over award or service payments paid on a regular basis as part of the worker's earnings;

"Amount B" means the worker's average weekly earnings (including overtime and any bonus or allowance) over the period of one year ending on the day before the disability occurs in the employment that the worker is in when the disability occurs or, if the worker is then in more than one employment at the end of that period, the sum of the average weekly earnings (including overtime and any bonus or allowance) in each employment, but if the worker has been in an employment for a period of less than one year, the worker's average weekly earnings in that employment are to be determined over that lesser period;

"Amount C" means, during a financial year -

(a) the amount obtained by multiplying by 1.5 the average of the amounts that the Australian Statistician published as the all employees average weekly total earnings in Western Australia for pay periods ending in the months of May, August, November and February preceding the financial year; or

(b) if any relevant amount of earnings is not published, the amount obtained by varying Amount C for the preceding financial year in accordance with the regulations;

Note: During the financial year ending on 30 June 2000 Amount C is $852.52.

"Amount D" means the minimum rate of weekly earnings payable, at the time of the incapacity, for the appropriate classification under the relevant industrial award, or which would have been payable if the relevant industrial award were still in operation;

"Amount E" means the minimum weekly earnings to which the worker would have been entitled, at the time of the incapacity, under the *Minimum Conditions of Employment Act 1993*;

"bonus or allowance" means any bonus or incentive, shift allowance, week-end or public holiday penalty allowance, district allowance, industry allowance, meal allowance, living allowance, clothing allowance, travelling allowance, or other allowance;

"earnings" includes wages, salary and other remuneration;

"overtime" means any payment for the hours in excess of the number of ordinary hours which constitute a week's work.

(3) In the case of a worker whose earnings are prescribed by an industrial award when the disability occurs, weekly earnings are -

(a) for the 1st to the 4th weekly payments: Amount A but not more than Amount C or less than Amount D;

(b) for weekly payments after the 4th: Amount Aa, or a lesser amount determined in accordance with the regulations, but not more than Amount C or less than Amount D.

(4) In the case of a worker to whom subclause (3) does not apply, weekly earnings are -

(a) for the 1st to the 4th weekly payments: Amount B but not more than Amount C or less than Amount E;

(b) for weekly payments after the 4th: 85% of Amount B, or a lesser amount determined in accordance with the regulations, but not more than Amount C or less than Amount E.

(5) Subject to subclause (6), the references in the definition of Amount A in subclause (2) to overtime and any bonus or allowance are references to those items averaged over the period of 13 weeks ending at the time of the incapacity.

(6) If the worker was totally or partially incapacitated from working or for any other reason did not work during any part of the period of 13 weeks mentioned in subclause (5), that part is to be disregarded in calculating the average amount per week that the worker was paid over that period.

(7) Regulations made for the purposes of subsection (3)(b) or (4)(b) may provide for lesser amounts (but not less than Amount D or E, whichever is applicable) to be determined in respect of weekly payments after the 4th, 12th, 26th or 52nd, or after such other numbers of weekly payments as are prescribed. ".

(14) Schedule 1 clause 12 to the principal Act is amended by deleting "11(1) or (2)" and substituting the following -

" 11(3) ".

(15) Schedule 1 clause 13 to the principal Act is amended by deleting "11(1) or (2)" and substituting the following -

" 11(3) ".

(16) Schedule 1 clause 13(1) to the principal Act is amended by deleting "or agreement".

(17) Schedule 1 clause 13(2) to the principal Act is amended by deleting "the exclusions referred to in clause 11(3) and (4)" and substituting the following -

" overtime or any bonus or allowance ".

(18) Schedule 1 clause 16(1) to the principal Act is amended by deleting "11(5)" and substituting the following -

" 11(4) ".

(19) Schedule 1 clauses 12, 13(2) and 16(1) and (2) to the principal Act are amended by deleting "or industrial agreement".

(20) In subsection (21) -

"amended provisions" means Schedule 1 to the principal Act as amended by this section;

"former provisions" means Schedule 1 to the principal Act before it was amended by this section.

(21) If weekly payments commenced before the coming into operation of this section -

(a) the amended provisions do not apply to the first 4 weekly payments after the coming into operation of this section and the former provisions continue to apply to those weekly payments; and

(b) for the purposes of the amended provisions the 5th weekly payment after the coming into operation of this section is to be regarded as the 5th weekly payment and so on. ".

Mrs EDWARDES: I move -

That the alternative amendment made by the Council be agreed to, subject to the following further amendment -

Amendment No 1

Heading to clause 32 - To delete "**, 84ZH, 84ZR and 192"** and substitute "**and 193**".

This amendment corrects an administrative oversight in which the heading referred to the wrong section numbers; namely, it referred to new section 192 rather than new section 193.

The ACTING SPEAKER (Mr Baker): We are waiting for copies to be made available.

Mr KOBELKE: I refer to procedure.

The ACTING SPEAKER (Mr Baker): Procedural matters may depend on how the amendments are set out, which may require a ruling.

Mr KOBELKE: My comments do not require a ruling. I seek clarification on procedure to be followed. With the agreement of the Chair and the minister, is this the appropriate stage to make some general comments? These are major changes to legislation last in this Chamber in 1998, since when much has transpired in the general policy area.

First, I refer to the complexity of the Workers' Compensation and Rehabilitation Act and the amendments before us. These are amendments to the 1997 amendment Bill, which was drafted in large part in 1995. I will comment on that aspect later. In the other place the Government sought to address the current blow-out in workers compensation premiums by restricting access to common law, limiting benefits in some areas and improving statutory benefits in other areas. This represents a major change to the benefits to be available under the Act. The interplay between the different areas is complex.

One must deal, as I have attempted to do with the minister and the Executive Director of WorkCover, with the philosophical and principle decisions on how one can reduce premiums while seeking to guarantee the rights of injured workers to the maximum extent. It is a difficult task, especially given that the Government is attempting to produce cost savings in one narrow area; namely, the level of benefit available to injured workers. A range of other matters could be drawn into the equation to bring stability into the system.

I seek comment from the minister on how we will deal with this matter. I have not had time to read the amendments, which were placed in my hands at the start of the consideration in detail proceedings. To put these amendments in context, 18 pages of amendments passed through the Legislative Council to amend a Bill to amend the Act. This process should not be carried out on the run. The Opposition wishes to proceed with the matter. Parliament will not sit for the next two weeks, and the Opposition gave an undertaking to work hard in this three-week sitting to enable amendments to be made to the Act. We take up the challenge with the Government. We must place a degree of trust in the minister and her adviser on the technical detail of the amendments. If we find when the message goes to the other place that we have slipped up, we will deal with it, although it will present difficulties for timeliness. Some technical amendments are difficult to comprehend in their intent and effect when placed before us in this way. We will assist the Government in tidying up matters. We will debate areas in which we have in-principle differences with the minister's proposal. I will discuss the wider implications of what the minister is seeking to do on the first amendment, if the Acting Speaker is prepared to let me do so.

Mrs EDWARDES: Importantly, we - the Government, together with the opposition parties - have attempted to work through the very complex workers compensation issue. It is not something easily understood. A lot of hurt and pain is being experienced in the community, among employers, workers and community service groups. I was approached this morning at Kings Park by a volunteer group representative. I am sure all members know Brian Moyes, who puts a lot of time, effort and work into conservation in Western Australia. He indicated that workers compensation costs are hurting; therefore, services to the community will be denied if we do not bring workers compensation under control.

The differences between the Government and the opposition parties have been how that can be achieved. We implemented a review undertaken by Des Pearson, who is also the Auditor General and chairman of the Premium Rates Committee. The review produced 30 recommendations, 29 of which were agreed to by the ensuing task force. The thirtieth recommendation was agreed to by two of three committee members. The Government will implement the 30 recommendations. It sought advice on the cost benefit of the Pearson recommendations, which will be important for the House to consider before we make any legislative or administrative changes.

The Government has agreed to all but one of the amendments from the other place, because they are in keeping with the Pearson recommendations. The one recommendation to which we cannot agree is the question of deductibility - that is, taking a set sum of money, whether it be $10 000 or $20 000, off the common law damages for every injured worker who would go through the common law system - as it would not allow for an immediate reduction in premiums in December. The Premium Rates Committee has scheduled an interim meeting for October to consider the amendments that are passed

by this Parliament so that if there are robust changes which introduce stability, those changes can be reflected in the December premiums. Many community groups, particularly in the aged care and disability services areas, renewed their premiums for only six months pending the outcome of the amendments that are going through this Parliament. If we cannot achieve a reduction in those premiums, those people, who are pretty angry now, will be even more angry.

The difference between deductibility and a threshold is the key point, because deductibility does not allow a saving to be made immediately - that is the real issue - and also it is eroded in a much shorter time frame. We have been talking about 18 months to three years. Therefore, deductibility does not introduce an immediate reduction in premiums, nor does it allow stability for a shorter term. We cannot talk about three to five years even being a long term. However, a threshold immediately allows for the level of robustness and stability that we need, because the erosion is not likely to occur for three to five years, by which time we will have put further amendments through this House to endeavour to ensure that there is greater stability within the workers compensation system. Therefore, we can agree only to a threshold and will not agree to a deductibility. Further discussions on that matter have taken place with the opposition parties, and I believe we have reached agreement in an endeavour to deliver a reduction in premiums this year and a level of stability pending the introduction of further amendments in the near future.

Mr KOBELKE: These amendments to the 1997 Bill are in large part the legislation that was drafted in 1995. The Government has been very tardy in addressing what has been a looming problem for some time. The changes that were made by this Government in 1993 are the main cause of the blow-out in workers compensation premiums. That is not to say that there is not a complex mix of causes and that other agents and aspects have not led to this problem. However, the key issue that kicked it off was the changes that were made by this Government in 1993, when the then minister removed easy access to redemptions, or lump sum payments, as a means of getting people out of the system and reducing costs. The Opposition and many people in industry advised the Government that the removal of redemptions was not a good move, as it would remove one tool which was very useful in keeping down costs, because people would otherwise be locked into the system with weekly payments flowing through in some cases until the prescribed amount had been used fully. That was recognised by the Government, because this Bill was drafted in 1995. It was not debated in 1995, from memory, but it was debated in 1996, 1997 and 1998, and in each of those years, the Labor Opposition supported the passage of the Bill. We wanted redemptions to be put back into the system. We took issue with a few matters in the Bill, but we signalled that they were minor ones -

Mrs Edwardes: They were key issues.

Mr KOBELKE: - where we thought the Government could have done it better, and each time, if the minister wants to go back and check *Hansard*, we asked the Government to proceed with the legislation and put redemptions back into the system; and the minister may want to give the reason that the Government did not do that. What happened over that period was that because insurers and lawyers could not use redemptions to get people out of the workers compensation system, they used the second gateway of common law as a backdoor means of obtaining redemptions, which led to the large increase in common law costs. The situation has now reached the stage where it is recognised that the problem will not be removed by simply returning to the redemptions system, although that is still important, because a huge hole has been opened up whereby people believe it is in their interests to use the existing second gateway to access common law rather than take the option of redemptions. I will not go into the reasons for that, but I take it as accepted that to simply restore redemptions, while important and necessary, will not address the current blow-out that has been caused by the large number of people who are utilising the second gateway to access common law. It was pointed out in both the review that was done through the committee in the other place and the Pearson review that the increase in costs was not due simply to the common law. There was also a large increase in weekly payments, to which I have alluded, because people could not get out of the system through the use of redemptions. Medical costs have also increased at an alarming rate.

Therefore, in about November 1998, the Government gave an undertaking to review the system, and on the last day of March this year, the minister established that review, which was to be headed by Mr Des Pearson, the Auditor General. That review had fairly limited terms of reference, which we supported at the time, because we believed it was necessary to move quickly and bring back a package that would help arrest the escalating cost of premiums, at least in the short term. The minister said at the time, and we said also, that this would be a short-term fix to try to stop the costs from escalating and get them under control, and we should then have a more thorough review of workers compensation to ensure longer term stability in the system and lower premium costs. It was on that basis that we accepted the limited terms of reference of the review, which brought down its report on 30 June 1999.

Dr TURNBULL: I take this opportunity to make some general remarks in support of the position of the minister and the Government in the Workers' Compensation and Rehabilitation Amendment Bill; that is, to make some changes to the workers compensation system to ensure that premium costs do not escalate in the next few years. We know that this Bill will not address all of the problems in the workers compensation system, and the Pearson report has many aspects to it, but we need to produce a result which controls premium costs. As members know, half of the workers in my electorate work in the goldmines at Boddington, the bauxite mines at Boddington, the Worsley Alumina refinery, the coalfields of Wesfarmers and Griffin Coal, Western Power's Muja power station, the new Collie coal-fired power station, the mineral sands industry, or primary industry and horticulture. All of those industries are being severely impacted upon by this blow-out in premiums. Of course the service industries are too. We have heard in particular about the industries which supply services to elderly people.

I will read part of a letter from Mr Steve Dilley, President of the Western Australian Fruit Growers Association and Mr Figaro Natoli, President of the Western Australian Vegetable Growers Association -

> Whilst we acknowledge that employees must always have a fair and equitable compensation scheme for workplace injuries, I urge you to consider the plight of primary producers, and in particular the fruit and vegetable growing industry, where between 30-50% of our cost of production is the employment of labour.
>
> Over the past two years our industries have had 40-100% increase in premiums, which are as a direct result of legal opportunism from the enabling second gate legislation and its unlimited scope for common law claims. It is also our understanding that we are the only state in the Commonwealth with this type of legislation in its workers compensation act.
>
> We implore you to consider the plight of not only the WA fruit and vegetable industry, but also the whole WA horticultural industry. We are the most labour intensive of all primary industries, which unlike retail and manufacturing cannot simply pass on the extra cost of production to the consumer, because of the price taking nature of the industry.

I stress the next paragraph of the letter -

> We urge you and your colleagues -

That is, all members of the Parliament, no matter which party they belong to. It continues -

> - to find a way to provide a fair and reasonable Workers Compensation Act for employees and employers.

The amendments that we are dealing with have had a great deal of work done on them in the Legislative Council. As the minister said, we are prepared to accept some amendments but not all of them. We must reduce premiums. If the lead speaker for the Opposition has a genuine interest, as he said he has, in seeking what he may consider to be short-term solutions to the situation while we deal with the rest of the problems, I urge him and the Opposition to accept these amendments proposed by the minister. The industries, which keep Western Australia going and which provide all of us in the city and the country with a good standard of living, are absolutely dependent on having a productive work force that does not cost producers and manufacturers more than they can afford to expend to be able to sell their products. I urge the Opposition to look carefully at the minister's position today and tonight as we work through this legislation.

Mr KOBELKE: I will now talk about the recommendations of the Pearson report, which was tabled on 30 June 1999. The cover of the report says "Presented by Mr Desmond Pearson, Mr Brendan McCarthy and Mr Robert Guthrie". The Government says that it is implementing the Pearson review, a statement with which I take issue. The Government is using the Pearson recommendations as the basis for its changes but its changes are a long way away from the Pearson recommendations. The Pearson report made 29 recommendations including those relating to the common law and statutory benefits, which is basically the amendments we are dealing with now although there is an important variation from that. The recommendations also relate to dispute resolution and allowing a much greater level of legal representation in proceedings, something that the Government has not yet responded to in any constructive way by actually doing something. The Government is still looking at the matter.

Injury management has already been instituted by WorkCover WA. The recommendations there will hopefully be taken up and I do not think that the Government could have at this stage done any more than what is contained in those recommendations.

The regulation of insurers covered three recommendations and to my knowledge the Government is moving slowly on those recommendations. The report then went on to a number of recommendations relating to the Workers Compensation and Rehabilitation Commission itself which would, hopefully, produce efficiencies there. Again, I have seen nothing from the Government about those recommendations other than that they are being looked into. The report alluded in a general way to the problem of medical and other treatment costs, to the establishment of a specially constituted medical assessment panel to assess workers' capacity for work and the question of holding positions open for injured workers. There is, therefore, a large range of recommendations in the report on which the Government has not yet reached first base. In some areas I give the Government credit for saying it is looking at the recommendation and will take a little time to decide; however, we need to see more action very quickly in those areas if we are to address the shortcomings of the current workers compensation system. It would be easy to rush the proposals before us through the Parliament. The problem is that those proposals make the injured workers pay the costs rather than looking at all the players and balancing all the costs to try to improve the system.

Another key matter I wish to raise is that the 29 recommendations of the Pearson review do not envisage the current threshold, which has been a major sticking point between the views of the Opposition and the Government. The first recommendation of the Pearson report reads -

> All injured workers to have the flexibility to pursue common law damages if they believe they can prove that the employer, its agents or employees were negligent.

The second recommendation reads -

> There be no monetary threshold, test or leave of the District Court required to seek damages outside the statutory system (s.93D and related sections be repealed).

At page 85 the report states -

> A single gateway requiring a 20% degree of disability would prevent "second gateway" claims, though at the expense of some less seriously injured workers having access to the "first gateway". The main concern with this

> proposal, however, is that it would not provide any opportunity for injured workers with less than a 20% disability to sue negligent employers under common law (with a lessening of the incentive for such employers to provide safe workplaces).

The Pearson report was unequivocal. It did not recommend gateways or thresholds to impede injured workers having access to common law. Yet a large element of the amendments which we are debating tonight is the very severe threshold, based on whole-of-body disability, before one can get into common law. When we come to those sections I will go into that in more detail. However, I want to ensure that we are clear at the start that the Government is not simply implementing the Pearson recommendations. It has immediately kicked off only one aspect which will reduce the benefits to injured workers and in doing so has added another large impediment to injured workers having access to common law.

Mrs EDWARDES: I want to address the comments made by the member for Nollamara because there were 30 recommendations. The 30th recommendation is in the addendum to the report of the review of the Western Australian workers compensation scheme, again chaired by Des Pearson. The comments read out by the member opposite were made prior to the initial period of consultation which indicated a potential blow-out. The review acknowledged the concerns raised by stakeholders. It addressed the issues of the potential erosion of the anticipated savings by the containment of common law costs, shown in the proposed model in the report referred to by the member for Nollamara, and the likelihood of erosion greater than that which was estimated by the actuary arising from the small common law claims. The issue was that if there were an election period of six months during which injured workers were required to elect between common law or statutory benefits and if they went back to work prior to the expiration of six months, the election period would become nonsensical because these people would not need to elect between common law or statutory benefits as they would already be back at work. Therefore, real potential existed for small common law claims to be made, and there was the opportunity to erode any savings that could be achieved by including the election period and any savings that had been included as a result of the earlier amendments.

It was stated on page 2 of the "Addendum to the Report of the Review of the Western Australian Workers' Compensation Scheme" that -

> The range of options considered included a "do nothing" approach, reducing damages awarded by the Court by a statutory amount (deductible), or retaining a threshold to common law in monetary or disability terms, possibly linked to Schedule 2.
>
> The Reference Group was unable to reach a unanimous view, however, they recognised the very real potential for erosion to arise as a consequence of an anticipated increase in small common law claims. Also, reservations were expressed regarding the effectiveness of deductibles and thresholds.
>
> On balance, some form of "trigger" for access to common law appears warranted. Therefore as Chair, I recommend that a threshold related to disability percentages in Schedule 2 expressed in AWE terms be adopted. A trigger of a Schedule 2 disability level equivalent to 1 x AWE ($29,762) would seem appropriate. However, recognising this is to address a potential erosion, a trigger as low as 50% of AWE may suffice. It is further recommended that this mechanism be effected by way of Regulation so that it can be varied over time to address unintended developments.

We moved to implement that recommendation. We did not do it by way of regulation; we purported to include it as a substantive amendment to the legislation. As such, it was something that we took on board as being a severe erosion of the savings that were anticipated. It is important that the amendments going through this House have the threshold, not a deductible, because of the ability to implement savings through a reduced premium effective from December of this year, as against something that would come into effect at a later time, which was the effect of the deductible. We did not consider this matter lightly; our consideration covered an extended period. The reason I sent all the responses from the stakeholders during that public submission period back to the review committee was that the committee had done all the work leading up to the recommendations in the report. If there was a hole, which is what was identified by the stakeholders and other people in their submissions during that public submission period, it was up to the review committee to come back to me with a recommendation on how it should be addressed. The recommendation for the change came back from the Chair of that committee, with which two of the three members agreed.

Mr KOBELKE: In response to the minister's comments, the Opposition accepts that the Pearson report, with its 29 recommendations, opened up the potential problem of a large number of low-level claims which were not anticipated suddenly coming in. However, the way in which the Government sought to address that problem was to use a sledgehammer to try to crack a peanut. In doing so, it would severely restrict access to common law. I will comment on that matter before returning to the actual report and what the impact may have been.

There are currently 1 800 to 2 000 common law claims a year - the minister will correct me if that figure is not correct - and they predominantly use the second gateway. The Opposition agrees with the Government that the gateway is being abused. It is being used for cases for which it was not intended. Therefore, there is a need to restrict the number of cases that can access common law through that second gateway. On the best estimates I can gather from speaking to lawyers - I qualify this by saying it is very much a wild estimate - the 25 per cent whole-of-body threshold which was proposed by the Government would restrict the number of common law claims to around 200 a year; therefore, they would decrease to about 10 per cent of the current level. It has been the Opposition's view all along that that, in effect, is the closing down of common law, except for the most serious cases of disability arising from accidents which are attributable to employment. We have sought to address that issue, because a whole new area of common law claims could be opened which is not intended. We are happy to assist the Government to deal with that issue, but not with the mechanism it proposed, which we contend amounts to the closing down of common law for many seriously injured workers.

One hoped that this issue could be dealt with in a more rational way. I thank the minister for being open and willing to discuss matters and provide advice. However, given the time scale and the way this matter was handled in the other place, with debate going on while we were trying to negotiate, it is difficult to get behind the figures to ascertain what is happening. I refer to the 29 recommendations of the Pearson review; I do not include the thirtieth recommendation which was added later and which has been rejected totally in a press release issued by Mr Robert Guthrie, a member of the review committee. He will not agree to that 25 per cent threshold, which he says is totally outside the recommendations of the review. The minister continually alludes to that as part of the review. However, that was a further recommendation by Mr Pearson, and I take it that was not part of the review which was published on 30 June and on which all three members signed off.

The actuarial work is summarised on page 94, in table 1. It shows, according to Pearson's recommendation, with no bar to common law other than the election, that there would be savings of 9.7 per cent eroding to a steady state saving of 0.4 per cent. After the Government took those part recommendations from Pearson and added this stringent test of 25 per cent body disability, another actuarial review was conducted. The actuary then found the savings were almost identical; that is, 9.7 per cent eroding to 0.3 per cent. In a rational accounting approach, I find it hard to understand how one can take a set of recommendations, add a stringent test that will exclude a large number of people, and come up with the same costing structure. Something there does not make sense to me. However, that may be because of the difficulties of crossover between the various matters. The added comments in that report indicate that there had been some robustness, if I can paraphrase, in the costings, which should take account of the variation.

That being the case, I draw the inference that the actuary did not see a huge potential for cost blow-outs from those low-cost claims coming in under the election process. As I said, we accept that there is a potential problem and we are willing to help to resolve that problem. However, the evidence does not seem to show that there is a major problem in that area. It is for that reason that we suggested a deductible of $20 000 was more than adequate to ensure low-level or nuisance claims did not come in and bog down the system.

Mr BROWN: I want to track what has been said by the Minister for Labour Relations about the 1993 system since the introduction of the amending Bill. It is instructive for this House to understand the information that was given to this Parliament and the people of Western Australia about workers compensation premiums. Therefore, I will just track what has happened concerning workers compensation premiums and what this House has been informed about them since 1993. I commence by referring to a speech by the then Minister for Labour Relations introducing the 1993 amendments to the Workers' Compensation Act on 21 September 1993 at page 4233 of *Hansard*. The minister stated -

> First, it addresses escalating common law costs and associated legal expenses by permitting only workers who have a serious disability access to common law.

The intention at that time was to limit common law claims to those workers who had a serious accident as a result of an injury. Various other restrictions were placed on common law and workers compensation entitlements, which I will detail later. In 1995, the minister introduced a further Bill, through the then parliamentary secretary, to amend the Workers' Compensation and Rehabilitation Act. In introducing the Bill in 1995, the parliamentary secretary stated at page 10082 of the 1995 *Hansard* -

> The legislative reforms to workers' compensation introduced by this Government in 1993 provided a solid foundation for the ongoing viability of the scheme. For instance, since the introduction of these amendments there has been a significant reduction in recommended premium rates, totalling an average of 15 per cent.

In 1995 the minister was happy to claim that the amendments he had introduced in 1993 had resulted in a substantial reduction in premiums. In 1996 the matter was further pursued by the minister. In a ministerial statement at page 2293 of *Hansard*, the minister stated -

> I am pleased to announce that employers in Western Australia are about to benefit from a reduction in gazetted workers' compensation premium rates for the third successive year. The Premium Rates Committee has reduced the overall gazetted premium rates for 1996-97 by 10.5 per cent. This brings the global gazetted rate reduction to a total of 25.5 per cent in the last three financial years, following a reduction of 12.5 per cent in 1994-95 and 2.5 per cent in 1995-96. These reductions and direct financial benefits to employers have resulted directly from legislative changes introduced by this Government in 1993.

The minister then stated -

> The 12.5 per cent reduction in gazetted premium rates in 1994-95 meant that I fulfilled my undertaking to increase benefits to workers, to get workers back to the workplace more quickly and to reduce premiums for employers.

Further, the minister stated -

> The Government is proud of this significant achievement as it is increasing the viability of local employers while helping them develop further employment opportunities for Western Australians. The Government will undertake a further review to enhance this aim.

In 1996 the Parliament and the people of Western Australia were being told that the scheme was a great success. In 1997 we received further advice from the then Minister for Labour Relations. On page 887 of the 1997 *Hansard,* in answer to questions that I asked, the minister detailed the total amount paid by way of common law claims. I hope someone will allow me the opportunity to continue my speech.

Mr GRILL: I am interested in the comments of the member for Bassendean, and I hope to hear further.

Mr BROWN: I thank the member for Eyre. In paragraph (11) of a parliamentary question in 1997, I asked, among other matters -

> How much has been paid out in common law work related personal injury claims by insurers in each of the financial years since the 1992-93 financial year?

The answer was $87m in 1993-94, $100m in 1994-95, and $82m in 1995-96. Those figures have been rounded out. In answer to two further questions, the minister stated -

> Common law payments continued to be influenced by the run-off of claims for pre-1993 disabilities until the 1995/96 financial year, when payments began to fall. It may take several more years before the full effect of the changes become apparent.

In 1997 the Parliament and the people of Western Australia were informed that the system was going according to plan. In fact, the minister went even further. The now Attorney General answered a dorothy dixer in the Legislative Council - this was one of these probing questions from a member of the upper House that asked -

> Can the Minister inform the House about the levels of premium rates for workers' compensation since 1993-94?

That was a probing question by Hon Muriel Patterson in the other place and reported in *Hansard* at page 5466 to which the now Attorney General replied -

> I thank the member for some notice of this question. There was a great deal of criticism when this Government introduced long overdue reforms of the workers' compensation system in 1993. Since those reforms, workers have benefited greatly by having their cases settled faster, by having substantially increased maximum statutory payments, and by being eligible for the very first time for statutory payments for certain soft tissue injuries and delayed onset diseases.
>
> The workers are not the only beneficiaries. Since 1993-94 the recommended premium rates have decreased as follows: In 1994-95, by 12.5 per cent; in 1995-96, by 2.5 per cent; in 1996-97, by 10.5 per cent; and in 1997-98, by 10 per cent. The overall decrease between 1994-95 and 1997-98 is a massive 35.5 per cent. This is due to several factors, including removal of excess and counter-productive legal expenses; improved rehabilitation regimes; and an improvement in general workplace safety in the State.

In case the message did not get through about how well the workers compensation system was doing in 1997, despite questions being raised by the insurers and denied by the minister in this place, the minister arranged for a similar question to be asked in this Chamber. This question was asked in August 1997 and we heard the same answer. There was no difference in the answer the minister provided to the Attorney General in the other place and the answer that he gave in this place. The minister bragged to this Chamber that the workers compensation system that he introduced is the best system since sliced bread; that it had delivered a 35.5 per cent decrease in premiums. That is what the minister said in 1997. The minister then introduced a Bill, which I will come to. The Parliament was told all the way through, for three or four years, that this system was great - the system that the Government had introduced had resulted in a massive decrease in premiums. The Government took the credit for it. That is what the minister said. The minister said that when he reviewed the system in 1993, he did so because the system was facing a 5 per cent increase. How dramatic! The minister fixed the system in 1993 because it was facing a 5 per cent increase. If it were facing a 5 per cent increase today no-one would be worried. That is how well the minister fixed the system! It is interesting that the minister is not present in the Chamber; he has hidden in the bowels of the Parliament because he cannot face the embarrassment that has cost workers and employers in this State a veritable fortune. The minister should at least have the guts to sit in this Chamber and take it like a man because he has caused the failures in the system that have caused great grief for employers and workers alike.

Mr GRILL: This debate intrigues me. Members on this side of the House are prepared to concede that there has been a blow-out in costs; in fact, when I spoke to the House last year on similar legislation I was prepared to concede the fact. We are also prepared to concede that there needs to be restraint in premium growth, although we might disagree quite strenuously on how that might be done. We all agree that sacrifices need to be made, but the recurring theme of people on this side is that, although those sacrifices need to be made, the question is why those sacrifices should be made by a single group of people - that is, the injured workers. Any which way one looks at this legislation, one sees that that group of people will bear the cost.

The minister has been quite liberal with the way she has spared her adviser for briefing members of the Opposition. When we were briefed on this matter, we were given a set of coloured graphs which were said to demonstrate a whole range of things. I could probably comment on most of the graphs, but the one which struck me at the time shows the claims payments by financial year of payment. No doubt the minister will be well aware of it. The graph shows that in 1994-95, total payments reached about $325m. They were made up of $130.96m in respect of common law claims, excluding legal expenses; a category for weekly payments of $109m; and a category of other payments, which included medical and rehabilitation costs and things of that nature, of $83.99m. The graph shows a progressive escalation, not so much in 1995-96 but certainly in 1996-97, 1997-98 and 1998-99. The graph shows that for 1998-99 for common law claims, excluding legal aid expenses, the costs were $154m; for weekly payments the costs were $145m; and for other payments the costs have risen from $83.99m in 1994-95 to $134m in 1998-99.

The graph contains some provisional amounts, but if the minister looked at the figures, she could not help being struck in the very way in which I was struck; namely, the blow-out in costs is most dramatic for other payments. A few minutes ago while I was sitting here, I worked out the escalation in percentage terms from 1994-95 for common law. It came to about

18.5 per cent. The blow-out in other payments came to about 60 per cent. The blow-out for weekly payments was about 33 per cent. The factor that blew out dramatically was other payments, such as medical costs and rehabilitation costs. Currently, on the basis of these figures, the escalation in common law costs is about 3.7 per cent per annum, yet over the period considered relevant by the minister's adviser, a blow-out in other costs, including medical costs, is 60 per cent for the same period; in other words, the blow-out in costs during that period was three times worse for medical and other costs than for common law damages. However, everything that we are looking at today focuses on common law damages. Something is wrong.

Mr TRENORDEN: There is a very important matter to be raised here. It is quite irritating to listen to the ranting from the other side of the House. This is a fundamental issue for the community. Workers compensation is about equity and fairness. Under the current circumstances of workers compensation the system is not equitable or fair to three groups of people - the employer, the employee and, very importantly, the general public. Many people in the general public are now questioning why the costs of services are climbing at a very substantial rate. For many people the reason is workers compensation. In no place is it more evident than in disability services and aged care groups. Right through my electorate, people from every aged care home have come to me talking about premium increases from $30 000 to $50 000. Those figures involve people's grandmothers and mothers in institutions which are trying to look after them with common decency within the cost parameters of the Federal and State Governments. In the selfish argument that has occurred in the other place and this place, we are putting at risk the decency in the way we deal with the public of Western Australia. Some of the rhetoric from the other side is ridiculous. The problem for members opposite is that they get their theory mixed up with the practicality.

Mr Kobelke: Do you want to give us one example?

Mr TRENORDEN: What came out of the upper House on clause 32 is a prime example.

Mr Grill: Do you want to comment on the graph? Can you explain how other costs, including medical costs, have blown out by 60 per cent, whereas common law has not?

Mrs Edwardes: That does not take into account the common law outstanding costs.

Mr TRENORDEN: One of the things that is not taken into account is the ambiguity of many points in the message coming from the council. Actuaries will put some of the ambiguities into the assessment of premiums and the costs will go up.

Mr Brown: This is your system. When the minister introduced it in 1993 he said it was great.

Mr TRENORDEN: That is right. Why has it changed? It is because a judge made a particular decision. How many times has that happened in the course of Australian law? It has happened many, many times.

Mr Brown: Why does the minister not come and say that the system is wrong?

Mr TRENORDEN: The member has given his speech, during which I sat in silence.

We need to take into consideration three or four different areas. One of the areas is common law. I do not want to take common law access away from employees, but I have a different view about how we should go through the process. Some unscrupulous people in the legal world are making a meal out of workers compensation. Over the past five years or so, the medical world has put collectives together which also work very hard at getting around the workers compensation system. Many medical practitioners do not want to deal with workers compensation because of the extra paperwork and time involved. Nevertheless, a group of people have built their practices around workers compensation. There are also some processes I would like to see for interfacing with insurance companies. All those things must be dealt with.

There has not been a year in the 13 years I have been a member of this place when there have not been amendments to the Workers' Compensation and Rehabilitation Act. It has been a very fluid situation. It has been made particularly fluid because a judge made a decision some three years ago. The member is right: It is only a portion of the reasons that costs have blown out. However, we already have the highest workers compensation premium in the land. If we do not deal with these matters, employers and employees will pay the price and, more importantly, so will the general community.

The member for Nollamara referred to the actuary's costing in the report at 9.7 per cent.

Mr Kobelke: Do you mean cost savings?

Mrs EDWARDES: Yes. Under "Key Findings" at page 4 in the PricewaterhouseCoopers document that we made available the actuary said -

> While the election option controls access to common law for claimants off work after 6 months, there is no gatekeeper for those claimants already back at work. Our costings have not allowed directly for such claims, since it appears that this unrestricted access was not intended by the Review. Active participation by small common law claimants will accelerate the erosion of the cost controls estimated to be achieved by the Review's proposals. The 25% prescribed Schedule 2 level for common law access should be sufficient to control small common law claim escalation.

Basically, he said that he did not take that into account. It was not expected by the review. I do not think anyone expected that hole to occur. He had made the assessment on the basis of the 9.7 per cent.

Mr Kobelke: Are you saying the basis for the work on the actuarial review is wrong?

Mrs EDWARDES: The premise that small common law claims would be made prior to the six months was not anticipated

by the review nor was it taken into account by the actuary. Therefore, when the threshold was set, it equated the 9.7 per cent with 9.7 per cent. The actuary has reflected that in his public comment.

Mr Kobelke: I do not have the expertise of the actuary, but the actuary's report is based on a different set of premises from this other report which has almost identical figures. Another set of figures indicates that because we brought in a 25 per cent threshold, we readjust and add a saving of 1 per cent or half a per cent, or whatever.

Mrs EDWARDES: I believe the actuary has explained in writing how that occurred. I accept that. I do not have the skills of an actuary; therefore, we must accept that was his basis.

Mr Kobelke: The point I am making is that actuaries can get things wrong. A comparison of figures does not show a transparency in the layout that gives me confidence that this is correct.

Mrs EDWARDES: The actuary says at the bottom of his report that it will always be difficult to make an exact guarantee because of behaviours. That is where erosion occurs. That brings me to the point that the members for Bassendean and Eyre made. Events in 1993 crystallised the common law claims. Therefore, premiums could be reduced for a number of years. The second gateway was obviously not intended to be used in the way it was ultimately used. In 1994, 35 claims were made. In 1998 that increased to 2 100. The second gateway revealed that the test of negligence that enabled entry into the gateway was not being enforced, nor was the threshold being strictly adhered to. Again, that was not anticipated and the actuary was unable to take that into account.

Common law has a long tail. By 1994-95, we started to pick up those coming into the system as the second gateway developed, but the number escalated to that which we have now. That is always a problem with common law. Again, we have gone back to a threshold versus a deductible amount.

Mr Kobelke: I would like to hear more of what the minister has to say.

Mrs EDWARDES: Hon Mark Nevill's reference to provision for a reduction at the top end of common law claims which could be adjusted so that it equates to the cost of the system is something I would like to investigate. If we introduced that at this stage, in order to get the system back on an even keel the percentage to be deducted would be so great that nobody would receive much by way of common law damages. That could be looked at. We received a letter today from the Australian Plaintiff Lawyers Association which was supportive of that occurring a couple of years down the track. We will consider whether that will provide a sliding scale mechanism to keep employers' costs at a reasonable percentage of wages.

The other issues relating to the cost component for the system are very important. We have put in place a review of medical costs and other associated health costs. That is critical. I have seen some horrific examples of fees charged to anyone on workers compensation far in excess of those charged to other people. That is unacceptable. That review is to take place and we will incorporate those changes.

Mr Brown: Why not legislate now?

Mrs EDWARDES: What would the member for Bassendean legislate for?

Mr Brown interjected.

Mrs EDWARDES: We will look at that. The Medicare fee does not deal with access to hydro pools used for physiotherapy.

We want the insurance industry to look closely at better claims management. I made it very clear to them that claims managers shifting pieces of paper across a desk rather than properly managing them will no longer be acceptable. A reasonable number of claims must be handled by each manager rather than something like 600 claims each manager.

If Wesfarmers Federation Insurance Ltd can reduce the premiums to its clients to a reasonable percentage of 1.9 per cent, other insurance companies can take a lead from that and do something for their clients. The Government will conduct this review into the insurance industry because it must share some of the costs of the system that it does not share at present.

Legal costs have risen gradually to 25 per cent this year. Again that will be investigated in a review. I tabled all the other recommendations when I made a ministerial statement outlining the Government's intentions.

Mr Grill: When you say costs do you mean awarded legal costs?

Mrs EDWARDES: Yes. That does not take into account party-to-party costs. That is another issue. We must examine each of the components of the system so that not only the injured worker or the employer put their hands in their pockets to support the system, but also every single component of the system does its bit to endeavour to bring down the costs to an affordable amount while meeting the needs of the injured workers and ensuring a stable workers compensation system for the future. I will find that information and qualify those comments.

Mr Kobelke: I accept the undertakings you gave in your short statement, but your Government has a poor record for implementing its undertakings.

Mrs EDWARDES: Wait and see.

Mr GRILL: I want to pursue this graph because in some respects the minister's response was inadequate. She indicated by interjection across the Chamber that when I referred to the graph I was not taking into account all the costs. We are talking about claim payments. This graph was given to the Opposition by the minister's adviser. We are looking at actual costs with an amount taken into account which, I presume, was an estimate for the June quarter payments of 1998-99. We are looking at final real figures, subject to perhaps some recalculation for one quarter. These are real costs.

Mrs Edwardes: But not in terms of premiums because they are into the future.

Mr GRILL: I am talking about actual, real costs. People can do all sorts of things with figures, and they do not need to be actuaries to do fancy things with figures and impute what might happen in three or four years' time. I am talking about the actual costs paid by the insurance industry over that five year period. These are not figures I have plucked out of the air.

Mrs Edwardes: You linked it to the changes we are bringing through today when looking at reduction of premium costs. These are actual claimed payments. The premium must take into account the costs in the future for however long it will take the claim to be finalised.

Mr GRILL: I understand what the minister is saying, but we are not at odds here. The minister is saying that when calculating premiums, certain other factors must be taken into account. However, from the actual figures given to the Opposition by the minister's adviser and taken from WorkCover Western Australia's annual reports, with a preliminary figure for only the last quarter, we can see where the blow-out has occurred. It is not in the common law area. The blow-out in common law over that five year period was 18.5 per cent in actual figures, which is 3.7 per cent per annum. The blow-out in other payments was 60 per cent.

Mrs Edwardes: You are a lawyer and you understand outstanding claim costs which are used to determine premium rates. Over the period 1996-97 to 1998-99, the cost of paid and outstanding claims used to determine premium costs increased by a staggering $305.5m. You cannot isolate the cost component to the actual claims paid; when calculating premiums you must take into account the outstanding claims. Common law claims can take six or seven years to complete.

Mr GRILL: I am more than happy to concede that but, in doing the calculation to which the minister is referring a certain amount of subjective assessment must be made. Certainly, it is done as analytically as possible, but at the end of the day it is only an estimate and the figures to which the minister refers for calculating premiums are only estimates.

Mrs Edwardes: But the insurance companies must put it aside in reserve.

Mr GRILL: I am sure they do, and they can do that in a radical way or a conservative way. However, in the real and actual costs the blow-out in the five year period for common law claims was minuscule compared with the blow-out in other areas.

Mr GRAHAM: The matter I raise is within the ambit of this debate but it is not about the figures. I have a particular interest in asbestos related diseases and compensation. The minister's predecessor, the member for Riverton, committed the Government in 1994-95 to an overhaul of the system to introduce a non-confrontationist, no-blame system, but I am not aware that it has happened. I have been speaking with various organisations, including the Asbestos Diseases Society, about this legislation. It has raised a particular problem with the legislation.

If someone is diagnosed as having an asbestos related disease - it could be asbestosis or one of the other forms of asbestos related disease that are not necessarily lethal - it may well be that as a consequence of that disease his disability is below the 30 per cent threshold. As I and other organisations understand the legislation, people are required after a period of six months - I understand there is some movement on that at the moment - to make an election either to remain in the workers compensation system or to go down the common law path. I understand that the election is irreversible if they chose common law at that stage. Is that right?

Mrs Edwardes: No. If they make an election and they are under the 30 per cent threshold but subsequently reach the 30 per cent threshold, it is made retrospective. They can go back and get statutory benefits and still have access to common law. If those consequences occur, the people concerned are covered.

Mr GRAHAM: I need to be clear, as do these people need to be clear, because once this legislation has gone through, it will be a monumental step if what I have been told is correct. People may be under the 30 per cent threshold level when they make the election. Say, for example, in the first option to go to the workers compensation system, they are paid in accordance with that system, but 15 or 20 years later they are diagnosed as having mesothelioma. Again, this is asbestos related and asbestos caused, and employment related and employment caused, but it is not the original disease and it was not previously diagnosed. I would like to know that these people will retain their common law right to take action for compensation for developing mesothelioma.

Sitting suspended from 6.00 to 7.00 pm

Mrs EDWARDES: Before the suspension, the member for Pilbara referred to mesothelioma sufferers. I will respond to his constituents' concerns. Mesothelioma sufferers are deemed automatically to have 100 per cent disability and so are not affected by either the 16 per cent or 30 per cent thresholds. If a person has more than one disease, if there is no medical link, with one being the extension of the other, there is provision for both to be pursued subject to the appropriate threshold. It is clearly a medical issue.

Mr GRAHAM: There is a specific problem. When people contract asbestosis, they may show the symptoms early in life and there may be a significant time gap between the initial diagnosis of asbestosis and the diagnosis of mesothelioma. It can be up to 30 years. I want to make sure that we do not return to the bad old days of statutes of limitations and cutting off common law claims against employers at a later date through some act or omission by a claimant.

Mrs EDWARDES: I reassure the member that common law action starts from the time the disease presents. Therefore, his concerns should be allayed. His constituents are excluded from the changes that we are making.

Mr KOBELKE: The minister, in one of her opening contributions to this stage of the debate, indicated that she was keen for the amendments to reduce premium rates by December of this year. We would all like to see that. I am cautious about

whether the system can be turned around that quickly. I would be concerned if the Premium Rates Committee and insurers were pressured into artificially reducing premiums. That may be of great political advantage to the Government but it would do nothing for the stability of our workers compensation system. As the member for Bassendean said earlier, there was much talking up by the previous Minister for Labour Relations of the huge reductions occurring in workers compensation premiums. Claims were made that Western Australia had the best workers compensation system in Australia. This was supposed to be happening at the same time that there were warning signs of a blow-out in costs and the potential for premium rates to increase. The reduction in 1994-95 was driven in part by the minister talking down the premiums. We do not want to see a repeat of that scenario. We do not want to see the minister trying to exert pressure on people to bring down premiums in an unsustainable way for political purposes rather than for good management.

All strength to the minister's arm for trying to convince the various players that premiums should come down earlier rather than later! I do not want to discourage the minister - I want to encourage her to obtain lower premiums at the earliest possible date. We want the reduction to be durable and sustainable. We do not want it to be a blip which is of political advantage but which leaves the system in a worse mess than presently exists. I am concerned that the minister's statements will be seen as political rather than supportive of good management of the system. The minister, like me, has been speaking to groups around the State. The issue is of great concern to businesses across Western Australia. I have told many groups that I view workers compensation as being 90 to 95 per cent administrative and 5 to 10 per cent politics. There can be differences between what we see as an acceptable general rate of premiums. The minister might want them under 2 per cent and I might say that a good system should have them under 3 per cent. That is a political judgment. On the whole, it is a complex matter of trying to keep competing elements in balance. It is a complex managerial task. Whichever government is in power, good management of the workers compensation system is one in which day-to-day politics does not play a major part. I am concerned that, in the minister's laudable efforts to reduce premiums, politics is most dominant and the statements made cannot substantiate lower rates for a longer period. I draw the minister's attention to the actuaries' report dated 7 September 1999 which was based on the legislative proposals first brought forward. The report at 3.1 states-

> It would be imprudent to anticipate the potential impact on premium levels or reserving of these changes.

We do not want to be imprudent. We would rather be cautious and understand how the systems work and achieve results rather than make imprudent statements. At the bottom of point 5, the report states-

> As discussed in section 3 above, these aspects mean that the estimation of the cost impact of a revised benefit structure is highly uncertain.

Mrs EDWARDES: The Premium Rates Committee is independent and it does not matter what I say in terms of political comment. The chair and the committee have shown themselves to be independent in the past. However, I have taken advice and if the amendments are robust and sufficient to ensure short-term stability, then the premiums that take effect from 1 June can be impacted upon in two ways: First, next year's 50 per cent projected increase will not occur because of the House's amendments; and secondly, there is a Premium Rates Committee meeting in October. If the likelihood of stability and robustness is such that the premiums can be effected from December, the committee will take that into account. The previous annual projection was made on the basis of no amendments. That is one reason the impact of the threshold on future stabilisation was such a critical and important component of the Premium Rates Committee's deliberation in effecting change for the immediate future. Some confidence can be given to this House that a political decision will not reduce the premiums. If that were the case, premiums would not have increased at the rate they have been increased. The Premium Rates Committee is clearly independent of the Government of the day.

Mr KOBELKE: The minister's earlier statement sounded as if she was giving directions to the Premium Rates Committee. I will have to check the *Hansard* because I thought she made a bold statement that there would be a reduction in December following -

Mrs Edwardes: I made that statement upon advice.

Mr KOBELKE: Is that what the minister has been advised?

Mrs Edwardes: In discussions with the chairman I was careful in saying that before any changes to the recommendations were agreed to, the House would agree to the critical elements, giving the committee the maximum opportunity to reduce those premiums in the future. Obviously, the changes will not provide the level of reduction that was previously anticipated. The Parliament has decided that. That is the reason the Government held out for a threshold rather than a deductible.

Mr KOBELKE: There may be the opportunity to discuss that during debate on the next clause. The proposals we were committed to were carried in the other place. We took advice from the minister's assistant, the commissioner. That advice was the passing on of actuarial work. From the figures available, rather than the total assessment, it seemed our proposal saved more money upfront than did the minister's proposal. The concern is that our savings will be eroded far more quickly than those in the minister's proposal; however, that can be debated. I do not think that the level of erosion of our proposal is, as the minister suggests, well-founded, but I accept there will be erosion. It is an important part of the whole package of proposals to be considered.

Mrs Edwardes: The member for Nollamara and I must rely on the actuary for that.

Mr KOBELKE: However, the actuary often has to do the numbers on the expectation. The numbers have to be done on both the legislation as it is drafted and the expectation of its effect. A lot of guesswork has to be done. Only then can the actuary seek to quantify the outcome, based on those premises.

Mr GRILL: I do not want to appear obdurate to the point that I have endeavoured to make, but I have not had a complete

answer to my argument from the minister. When I referred to the graph of the actual claims payments between 1994-95 and 1998-99, I made the point that we appear to be focusing on the wrong area. The minister responded that when the Government sets the premium rates it takes into account factors other than the actual costs. It takes into account outstanding claims. I am certain that is the case. I have no argument with that response. However, it is not my point. If one looks at the elements that make up those costs - that is, actual experience to the present - the figures indicate that common law damages, including legal expenses - I think I have misnamed that in the past and said excluding legal expenses - have risen by only 18.5 per cent whereas the other payments sections have risen by 60 per cent. I am not saying that the Government does not take outstanding claims or actuary estimates into account when coming down with future premiums. I am saying that past experience should be the determining factor in the reform of the legislation. We are looking at only one element of the reform; that is, the reduction of common law damages claims. We are focusing on nothing else when it is clear that the cost blow-outs are elsewhere. That argument is different from the one the minister has answered. If the minister says that the make up of claims experience in future will be different from the experience of the past five years, and she has actuarial material that supports that, then it may be an answer to my point. I am not sure that she is saying that. She certainly has not said it today. She has said that one needs to take into account outstanding claims in setting the premiums. I am not talking about setting premiums; I am talking about reform. If there is reform that focuses on only one element of a situation and, it would seem, the least serious element in the blow-out in costs, then one is simply not reforming. The Government has had six years to reform this system. Belatedly, and the minister has said it tonight, the Government has said that it needs to look at medical costs, the rehabilitation system and the costs within the insurance system. Why was the Government not saying this last year, or the years before that? Why was it not saying that in 1993? I am trying to say that the Government has been led down the wrong path. It has had a fetish about common law damages claims and about criticising the lawyers for having blown out those claims. However, the claims experience - the actual figures - demonstrate that it is not the whole problem. One can just focus on the figures - the 3.7 per cent increase per annum, including legal costs. If there is some argument that the claims experience in future will be different from that of the past five years, let us hear it. However, we have not heard it today. I would like that question answered. We want a comprehensive reform of the system. If there is a comprehensive reform, we are hopeful that a little more may go back to the workers who are injured, rather than the other way round.

Mrs EDWARDES: I agree with the member for Eyre, except for his last comment. We all want comprehensive reform of the system. The Government has announced it will review insurance and the legal costs. It will put an injury management system into place as of 1 May. It will implement the Pearson recommendations for a six-month evaluation and a full 12-month evaluation and review to ensure that there are no potential cost blow-outs from that perspective. Within the past 12 months we have put in place a new system for regulating and setting fees. That has not happened in the past. We are very conscious of the need to address each of the cost components of the system. As the member rightly identified, if we just focus on one area and say that this is all we will do, it will not achieve what we all want - stability for the longer term. If that is not put in place within three to five years, we will find premiums increasing. This is only the first step. We cannot regard it as being the only step and assume that everything will be hunky-dory from hereon in. It just will not happen. The member and I are not naive enough to suggest that will happen. I have not. I have always said that this is the first step, the foot on the hose to ensure an ability to stop the spiralling premiums.

We must take into account the outstanding claims. That is based on past experience. With the crystallisation following the 1993 amendments, we found the changes produced reductions in the early years. As common law claims have a long lead-in time, a long tail, it takes some time for the results to come through. The member is correct when he talks about identifying the claims payments. When linking the payments to premiums, which is the reason for the amendments, we must take into account the outstanding claims.

Mr Grill: You are right; from 1994-95 to 1995-96 the common law claims did come down, but immediately from 1994-95 we found those medical and other costs blew out, and they continue to blow out.

Mrs EDWARDES: In the past year, for the first time, we have put in place the ability to regulate the fees in a much more effective way. It is not just a question of regulating fees. The member for Bassendean referred to including Medicare costs in the fee for charges. It is more than just the costs covered under Medicare. If we include all the health and other associated costs, people may see it as being a workers compensation system that they can rip off. To some extent that is how some costs are seen. By way of interjection, the member for Bassendean referred to injured workers who must go to a hydropool for rehabilitation and are charged $35 a visit because they are on workers compensation; yet when the same people go there of their own accord and are charged differently under the insurance system, the cost is $3 a time. There is a big difference. We can also take the example of people who go to a specialist for an injection in one hip but also need one in the other hip. There must be a change in the culture so that when the patients say they cannot come back next week for the second injection and ask whether they can have the two injections on the one day, the specialist says that they can. A change of culture is required in the medical and other associated health systems. If we do not get that in the future, and we will not get it merely by regulating Medicare charges, we will never get a change in people's belief that workers compensation is there to be ripped off. It is there to support the needs of the injured workers. I do not expect other service providers to be able to take advantage of the system in a way that was never contemplated.

Ms ANWYL: To my great regret I was not able to participate earlier, given that I was paired and away from the House. It is very interesting to listen to the minister's comments about having a foot on the garden hose. It is clear - other members have remarked and I must, too, on the absence of the former Minister for Labour Relations from this debate - that the hose those opposite installed in 1993 is absolutely faulty. I heard the minister's comments that she will call the insurance industry to account for what has occurred. She gave the example of 600 claims being managed by a claims manager. In my experience that person may be 19 years of age with absolutely no experience. Is it any wonder that with the sorts of - I

suggest relatively hopeless - actuarial costs we get, insurance companies are putting up to $120 000 as a rough guide of what each common law will cost? If claims managers who are dealing with these matters are so inexperienced, obviously we will have major problems in dealing with claims fairly equitably.

The difficulty members on this side have is that the baby is being thrown out with the bathwater, and a totally legitimate claim will be thrown out. Back in 1993, when these laws were passed without any notice, and retrospectively, I was a practitioner in this field. As the former minister was fond of saying, it was not a matter that the cash registers would stop ringing. I had no difficulty getting lucrative work in other areas. In fact, workers compensation is not a terribly lucrative area. The fact is that workers' rights are going down the tube. In terms of the Pearson report, we are talking about fairly invasive measures being taken in an effort to keep premiums down. I could perhaps even cop some of that if some clear evidence was available that premiums would fall as a result of this. We do not even get to that first base; we are told that there may be some containment of the premiums at their present level, that when the Premium Rates Committee next meets, there may be some changes. There is absolutely no guarantee from the Insurance Council of Australia Ltd that there will be significant changes to premiums as a result of this, and that is what I find offensive.

As a member representing an electorate where significant numbers of injuries are occurring in the mining industry, I see the significant difficulties people face. If they have a workers compensation injury, very often it means that they must pack up and leave Kalgoorlie because on workers compensation rates they simply cannot afford to live in my electorate. The cost of accommodation and basic expenses in that area is significantly above the state average, so they will probably have to leave in any event. The types of provisions contained in this legislation would be palatable if we could have some assurance that the premiums will drop. With utmost alarm, I hear that this is about the foot being on the garden hose. This is just the beginning. It took six years, from 1993 to 1999, for these amendments to be brought forward. Will it be another year before the minister - or perhaps her successor; we might have another minister in this portfolio by then with the foreshadowed reshuffle - tells us that we must make other significant changes? The fact is that not many common law actions will be left, so the minister will not be able to chop and change the legislation there. Presumably the minister will be looking at major changes in terms of weekly payments and statutory expenses. Where is the accountability for the insurance industry? We all accept that not only small business but the business sector generally is bearing the brunt of this. Where is the accountability of the insurance industry, the letter from the Insurance Council of Australia, giving a firm undertaking as to what will happen? Where is the clear evidence that premiums will fall as a result of these changes in the amendments already made by the upper House?

Mrs EDWARDES: As I explained a few minutes earlier, the Premium Rates Committee is an independent committee. To some extent that should give the member some comfort. It will not simply be following a political direction. The member for Nollamara said that he hoped there would not be any political direction; now the member for Kalgoorlie would like some put in place so that I can give her some confidence.

Ms Anwyl: I would like to see some change for a benefit. There is no such evidence.

Mrs EDWARDES: There is no ability to do that in advance in this Chamber other than by acting on the actuary's advice and taking into consideration the views of the chairman of the Premium Rates Committee on the issues he would consider when reducing premiums. However, the member for Kalgoorlie and I absolutely agree that the insurance industry must accept some of the risk and its share of the cost burden because currently that burden falls on employers only. I have been at great pains in all of the meetings I have had with members of the insurance industry to point out that they must do a far better job than they are currently doing.

We will implement the data base. I looked at the data base operating in Victoria and it is enlightening to see exactly what can be tracked and what occurs with each individual claim. Not only can injured workers be tracked but also individual service providers, including the work of the insurance company. I believe one insurance company in Western Australia, Wesfarmers, is doing an excellent job in keeping premium rates at 1.9 per cent. The member for Nollamara said that I might believe that under 2 per cent is the appropriate margin. I actually believe that 2.5 per cent to 2.7 per cent should be the level of cost. If we can reduce it to an average of 2.5 per cent to 2.7 per cent, we as a Parliament will have done a good job in respect of the cost to the system and its improved stability. I hold up Wesfarmers as an example to other insurance companies that I meet. If Wesfarmers can keep premiums at 1.9 per cent through good claims management - the only qualification being that it has a specific clientele which enables it to better target its particular style of management - other insurance companies should also be targeting their costs to their clients at 2.5 per cent to 2.7 per cent. We must do our bit, not only with the amendments before the Parliament today but also with other cost components raised by the member for Eyre. We will do that in a very short time as I do not believe we have one or two years before we can come back with further amendments as the actuary has indicated that the savings identified in these amendments today will be eroded. That is why I say it is the foot on the hose situation. The member for Kalgoorlie said the hose in 1993 must have been flawed. Again, there will always be an erosion. The way in which the second gateway was used was not anticipated; the way in which the court did not adhere to the threshold level and took the view that near enough was good enough was not anticipated; the fact that the duty of care test was not enforced when allowing second gateway claims was not anticipated. That was fine when the writ was issued because that was the situation then, but not when seeking leave to enter the second gateway. There are therefore a number of aspects of the system that we in this Chamber did not anticipate would be used. I and the members for Kalgoorlie and Eyre are lawyers; we would do our best for our clients and advise them on how to use the second gateway. However, I am talking about fact now, not criticism; it was not used as anticipated by this Chamber which is why we do not have time to leave this matter as it is. We must drive down the other cost components in an endeavour to ensure that there is real stability in the system for the future so that there is none of the constant see-sawing in premium rates, and amendments coming before the Chamber.

Mr TRENORDEN: The member for Kalgoorlie gave a passionate dissertation on workers compensation. However, she is well off key generally and in her own constituency.

Ms Anwyl: What about the architects of the failed 1993 scheme? Let's talk about how you arrived at that scheme.

Mr TRENORDEN: The architect of the failed 1993 system is a judge sitting down in St Georges Terrace.

Ms Anwyl: Blame the judges for native title.

Mr TRENORDEN: One has only to look at section 93 to see where the failure occurred. In the current situation we must keep in mind that the people not employing clerical staff - people in my electorate, the member for Kalgoorlie's electorate and the Deputy Speaker's electorate - have businesses in fields that have higher than the average clerical-type premiums. Those people face premium increases of up to 100 per cent. The member for Kalgoorlie should know that from calls to her electorate office. Many of those businesses are paying in premiums the equivalent of two full-time employees; that is not to the benefit of rural people. The amendments from the other place were supported by the member for Kalgoorlie and the Bill in principle was supported by her leader. However, the Opposition has in fact done everything but act in accordance with the principle of the Bill. It has attacked the core of the Bill. The amendments that have come back to this place indicate that the Opposition wants to open the second gateway -

Mr Kobelke: Have you looked at them?

Mr TRENORDEN: Yes, I have.

Mr Kobelke: It sounds from your contribution that you haven't.

Mr TRENORDEN: I have read them in detail. The Opposition is asking the Government to accept proposals which will increase the premiums; there is no question about that whatsoever.

Mr Kobelke: The actuarial work shows that our amendments will provide more savings than your initial proposal.

Mr TRENORDEN: No way in the world. That is worse than Dreamtime. The Opposition is seeking to make a number of changes.

Mr Kobelke: Have a look at the actuarial report. The minister will give it to you.

The DEPUTY SPEAKER: I remind members to direct their arguments through the Chair, not to one another.

Mr TRENORDEN: I accept that in principle but the Deputy Speaker may agree with my arguments. However, I will talk to you Mr Deputy Speaker.

The DEPUTY SPEAKER: I will be happy to.

Mr TRENORDEN: We are talking about fundamental issues. Members opposite are running a range of spurious arguments. If we accepted their amendments, we would be visiting our constituencies, whether metropolitan or country, and saying that premiums must increase. The arguments of the members for Eyre and Peel do not accept that there is up to a seven year tail on workers compensation business, which is as basic as the sun coming up tomorrow morning. Anyone who has looked at workers compensation for five seconds knows that there is a long tail in the business and a longer tail than in most other forms of insurance.

Mr Grill: No-one denies that.

Mr TRENORDEN: It is an important matter.

Mr Grill: I am not denying that.

Mr TRENORDEN: The member for Peel said it was rubbish. I am not saying the member for Eyre said that but the member who sits beside him definitely did during his contribution. It is important that we recognise the tail. The member for Eyre is correct in that some actuaries will give opinions. Nevertheless, responsible people in the system cannot ignore those actuarial projections or do so at their peril. The member for Eyre knows that better than most people in this Chamber. We must deal with some fundamental issues in this matter. One fundamental issue is that this is not just about employers versus employees; it is about the community also. The community is paying this bill. This bill is getting to be around 1 per cent higher than it should be. That 1 per cent is affecting people's jobs and the viability of businesses, and is making businessmen think about cheating the workers compensation system and also causing people in many industries where the margin is very close, such as in nursing homes, to make decisions that are not palatable. It is all right for us to argue those points in this place but it should be kept in context.

Ms ANWYL: I realise that the issues have been fully traversed in this Parliament; however, I will make some brief comments. For the benefit of members, such as the member for Avon, I make it clear why there are reservations on this side of the House. The Opposition has said ad nauseam that it acknowledges that there should be some changes. However, what it cannot accept is a package of changes which will effectively remove about 90 per cent of the existing common law rights that workers enjoy. If it were 90 per cent of a large category, that might sound all right, but the fact is that it is 90 per cent of what is now a reasonably small number of remaining claims. The member for Avon can say that he blames the judges because the Government meant in the beginning that no common law claims would go through, and that the judges made a mistake and let through a few claims that the Government would have preferred they did not. However, the fact is that the legislation was drafted by the Government's advisers and it was presented by the Government.

The member for Bassendean quoted a number of government ministers on the progress of this legislation from 1993 until 1997. The Opposition is asking for some accountability from the Government about what it said the legislation would achieve. In 1993 the legislation went through with an element of retrospectivity. The present Minister for Police was able to go outside this Chamber, telephone his legal partners and make them aware of what was about to occur. Therefore, suddenly the Albany courthouse issued a bundle of writs, and those workers' rights were protected. However, the balance of workers in this State did not have that protection. Therefore, workers have been disadvantaged.

The member for Avon obviously did not listen to me before.

Mr Trenorden: I listened to you closely.

Ms ANWYL: I said that this erosion of common law rights of workers might start to be palatable if there were some guarantee that premiums would fall or be contained or, as a third option, that the insurance industry in this State - I believe the member for Avon, if not a member of that industry, previously derived his income from it - had some accountability. However, there is absolutely no accountability of the Insurance Council of Australia Ltd on this matter.

Mr Trenorden: But you are trying to do the opposite. You are trying to increase the premiums. You are trying to open the door wider.

Ms ANWYL: Not at all.

Mr Trenorden: Yes, you are, and the public of Western Australia should know that.

Ms ANWYL: It is not a question of the Labor Party trying to increase premiums. That is an absolutely flawed argument. This Government is expert in pushing the envelope when it comes to blaming anybody except itself. The fact is that the Government's 1993 legislation caused a great deal of pain for average workers. I know of a number of people whose rights were cut off at the pass. The Government's legislation was a failure. What does the Government do? It blames the judges, the Opposition, the lawyers, the doctors and the workers. Probably soon it will blame the employers. However, it will not blame the insurance industry, and clearly that industry must accept a significant portion of the blame.

Workers already have difficulty trying to access the common law system. They will have more difficulty as a result of this absolutely capricious six-month election period which will come in. Further down the track I look forward to the minister providing some detail of how that will operate, particularly concerning the discretion of the director, which I think the minister has now accepted. Workers already have extreme difficulties trying to understand the difference between workers compensation and common law, let alone having a six-month barrier imposed, with a disastrous result if they take the wrong election, because their rights to claim weekly payments, statutory expenses and, I presume, a schedule 2 lump sum payment, will cease.

The Government is talking about workers who, by and large, have difficulty understanding the existing system, as do plenty of lawyers. Some lawyers do not know what they are talking about; however, they are happy to take on cases when they do not know what they are doing. This legislation with which we will end up is a dog's breakfast.

Mr Trenorden: Your amendments are a dog's breakfast.

Ms ANWYL: It was bad enough before, but it will be a lot worse now.

Question put and passed; the Council's alternative amendment agreed to, subject to the Assembly's further amendment.

Mrs EDWARDES: I move -

Amendment No 2

Clause 32(5), proposed section 93D(1) - To delete the subsection and substitute the following subsection -

(1) In this section -

"relevant level", in relation to a question as to the degree of disability of the worker, means -

(a) if the question arises for the purposes of section 93E(3)(a), (9) or (12), a degree of disability of 30%; or

(b) if the question arises for the purposes of section 93E(4), a degree of disability of 16%.

That amendment replaces the Legislative Council's amendment and substantially reinstates the Government's original proposal. However, it also addresses the Opposition's concerns about the original second threshold, which is obviously equivalent to the annualised average weekly earnings. This has been replaced with a threshold of a degree of disability of 16 per cent, which is the issue we have been discussing.

The issue of whether there should be a threshold as against a deductible is one which I have identified as giving the greatest possible opportunity for a reduction in premiums in December, following the interim meeting of the Premium Rates Committee in October. If we were to accept a deductible, the deductible would not come into play immediately; it would not happen until the common law damages were going through the system. Therefore, the ability to effect an immediate reduction in premiums would not be possible, and one needed to put in place a change which could effect that reduction. The threshold is important as against a deductible. The threshold of 16 per cent is one on which we have agreed. Although it is less than the original 25 per cent that the Government had previously proposed, it is a figure that the Government moved in the Legislative Council in an endeavour to obtain some level of acceptance.

The other concern that was raised was that people who had sustained a serious back injury might still not make the 16 per cent threshold. I suppose the difficulty will always be that a back injury cannot be easily seen, as opposed to, say, the loss of the tops of three fingers, which is a visible injury but which may not have the same level of impact on an injured worker's occupation as a back injury because a worker may not be able to return to his pre-injury occupation following a back injury. That concern was raised by members opposite. The Government is also conscious of ensuring that the needs of injured workers are met. At the same time, we are conscious of other people in the system who should be taken into account, such as the current employees and workers, as well as young people and apprentices who are seeking a job.

If premiums in the workers compensation system continue to spiral at the same rate, there will be real losers in the system. Businesses have gone broke because of the increased costs of workers compensation premiums, workers have lost their jobs and employers have indicated they were not prepared to put on workers. Services in aged care facilities have been reduced, and we anticipate that the Disability Services Commission will also be affected. The commission has advised it cannot absorb premium increases, and unless workers compensation premiums are reduced, services will be cut. That is unacceptable. We must also take into account the effect of increased workers compensation premiums on the huge number of organisations that rely on volunteers who carry out much needed services for people in Western Australia. People rely on those organisations that live from lamington drive to lamington drive. Lamingtons do not pay workers compensation premiums. Hard dollars are needed and unless we put in place an effective change, those premiums will not come down.

The member for Kalgoorlie made the point that the deductible proposed by the Opposition provided a greater level of savings. Although the savings would be higher than the threshold savings, it could not be put into effect immediately, and it had a longer tail. That was the difference between a threshold and a deductible.

Mr KOBELKE: Amendment No 2 must be considered in conjunction with a number of amendments, because they intertwine to give effect to the proposals put forward by the Government. I will give a brief overview of what the Opposition has attempted to do. The Pearson recommendations related to making an election for common law. This meant that within six months, an injured worker had to make an election to take common law action or to remain on statutory benefits. An injured worker was not able to receive both unless the level of total body disability was above 30 per cent. The Government wished to put in place another threshold of a 25 per cent total body disability and below that people would have no right to access common law. That was totally unacceptable to the Opposition. The Opposition sought to introduce a deductible, so that anyone had the right to take action at common law. However, if it were a low level case, the first $20 000 of general damages - scaling out at $60 000 - would be deducted from that award for general damages. We saw that as being a sufficient impediment and many people would not make an election for a common law case. The actuarial report in the Pearson review estimated that a 7 per cent saving would be gained from workers with a below 30 per cent total body disability giving up statutory benefits when they made an election to take a common law action. The Government traded that off with an increase in the prescribed amount, so there would be an incentive for people to stay on statutory benefits. That removed savings of 3.3 per cent. That was a tradeoff against the election. The Government said that it must have a threshold for those going into that lower level of common law.

I will be brief, because the debate has gone on in the media and in private. I believe that the Opposition's proposal for a deductible was too harsh already. However, it left open for all people the potential to go to common law if they thought they had a case. The Government is saying to a range of injured people, some of whom are seriously injured, that they should have no right at common law. The Oppositions finds that difficult to accept. However, given that the Government will not budge the Opposition must accept that. I appreciate that the minister has compromised by moving the level down from the 25 per cent at which the Government initially started to 16 per cent. A rough estimate comparing the benefits that would be paid to injured workers under the two schemes shows that they will come out about equal; that is, in either the opposition scheme with the deductible or the government scheme with the 16 per cent threshold some will be losers and some winners. On average many workers with that level of disability will end up in about the same position in terms of the damages they may receive. On that basis the Opposition will not overthrow these proposals in the other place. The Opposition believes its proposal is fairer and better, and is not happy that it has not been able to convince the Government of the merits of that position.

The Government believes its proposal will result in greater cost savings. Time will tell whether the Government is correct. The many assumptions made in the Government's costings could be wrong by a large margin. Determining what decisions injured workers might make in the future and how they will seek to protect their rights and further their interests is fraught with difficulty. The Government has based its costings on a number of assumptions, and it will not be budged from requiring a threshold. The Opposition still disagrees with the Government on that, but we need a resolution of this matter and will proceed with the Government's proposal. I acknowledge that the Government has watered down its proposal. The 25 per cent threshold was never acceptable as it amounted to a closing down of common law for many seriously injured workers. The Government's proposal is to reduce that threshold to 16 per cent. When that was debated in the other place, it was unacceptable to us, but lowering that threshold for back injuries has raised the prospect of fairness for many injured workers. The Opposition will begrudgingly accept the Government's compromise.

Amendment No 2 provides for part of the procedures required for that election that relates to the definition of a "relevant level". The minister has already read into the record the two different relevant levels; the first is a degree of disability of 30 per cent, at which there will be no need for an election and there will be open access to common law with no capping of what can be awarded by the courts. The second level is when a person has a degree of disability of at least 16 per cent. Amendment No 2 must be read in conjunction with the other amendments. I need to get on the record how those will interrelate. I know the minister's stated intention, but I have some doubts about the full effect of the drafting. The amendment defines "relevant level" for the second category as being -

> if the question arises for the purposes of Section 93E(4), a degree of disability of 16%.

Proposed new section 93E(4) is defined as -

> For the purposes of subsection (3)(b) the worker has a significant disability if it is agreed or determined that the degree of disability is not less than 16% and that agreement or determination is recorded in accordance with the regulations.

That is still 16 per cent and applies to the whole of body. However, proposed new section 93D(2a) states -

> For the purposes of section 93E(4) only, if item 36A of Schedule 2 applies to the disability, subsection (2)(a) applies as if the percentage of the prescribed amount provided for by that item were 100% instead of 60%.

It is the interrelation between those that we need to tease out, so we are certain how they will operate.

Mrs EDWARDES: There is no change in the ability to access statutory benefits or common law. The second gateway threshold now becomes a degree of disability of 16 per cent.

The issue of backs was a concern. Instead of being applied as 60 per cent for the purposes of the threshold, it will be regarded as 100 per cent. That is the interconnection between amendments Nos 3 and 6.

Mr KOBELKE: I thank the minister for restating the intent. I want absolute confirmation that "relevant level" as defined in this subclause means more than a degree of disability of 16 per cent for the second level. That is what it states. Therefore, "relevant level" is confined to that and does not have the extension to back injuries. I am not sure where else in the amending legislation the term "relevant level" is used.

Mrs Edwardes: Amendment No 3 relates to the back injury.

Mr KOBELKE: I understand that. The definition of "relevant level" is set as a degree of disability of 16 per cent.

Mrs Edwardes: Yes.

Mr KOBELKE: It does not have the extension of 16 per cent of the back injury being taken as 16 per cent of the whole-of-body injury.

Mrs Edwardes: Amendment No 3 provides for that. That is the connection back to "relevant level".

Mr KOBELKE: I am trying to be very specific. Is the minister saying that the definition of "relevant level" will be taken to include that extension of back injuries, so that a back injury is 100 per cent instead of 16 per cent?

Mrs Edwardes: Particularly when one takes into account amendments Nos 3 and 6.

Mr KOBELKE: I knew that was the intent, but I was not sure whether the drafting was effective in ensuring that. If it was not, perhaps it was not a problem. It depends where "relevant level" is used in the other parts of the legislation.

Mrs Edwardes: We are very lucky to have the chief parliamentary counsel here helping us.

Mr KOBELKE: We can guarantee that this is correct because so much of his other work is excellent.

Ms ANWYL: It is important to acknowledge that the Government has relaxed its position slightly in the sense that the 25 per cent threshold has been brought down to 16 per cent. The average member of Parliament would have no concept of the different impact of 16 per cent, 25 per cent or, for that matter, 30 per cent. For that reason I will make some comments.

With a number of injuries - particularly spinal injuries - it is often very difficult to make a medical assessment of the percentage loss of use of one's body. People often do not understand that a person could have a minor loss of use of a part of his body and, depending on his occupation, that would be significant. If both my legs were chopped off tomorrow, I could probably still do this job, although it would be more difficult. Of course, a very well-respected member of the other House managed to do the job with just that disability, but the average worker would not have many job opportunities in that situation.

That is an extreme example. However, it is worth putting on the record that the average woman making a common law claim - for example, a nurse - will have a percentage disability of the lower order that will not get past this test. The average nurse, who is required to lift heavy patients and to be able to do a number of duties that involve heavy work, will be penalised. Any solicitor, whether he or she be on the defendant's or plaintiff's side, will agree that it will be extremely difficult for most women to make successful claims as a result of this amendment.

It is also important that we consider this issue of percentage - the 16 per cent to which the Government has reluctantly agreed - in conjunction with the six-month election period introduced by the coalition. I suspect that most members do not have a clue what this means.

Dr Turnbull: Those of us here understand.

Ms ANWYL: There are not many members on the other side of the Chamber.

Workers who have been receiving weekly compensation payments will be required to make an election within six months of the date of their accident to pursue a common law claim. If they do, they will not be entitled to any weekly payments and will immediately revert to the social security system if they are not able to obtain some other form of work. Many people

who are entitled to weekly compensation payments will not be eligible for social security payments because they have a working spouse, and that creates further complications. I do not know whether discussions have been held between the State Government and the Federal Government about the extra burden on commonwealth social security payments.

Many injuries suffered by workers do not settle down until a significant period after six months. Spinal injuries are often complex and patients may still be having tests and undergoing a variety of diagnostic procedures and conservative treatment in the hope of avoiding an operation. They may end up having an operation, although one does not undergo spinal surgery lightly; one does not run to the hospital asking for a laminectomy. This amendment will increase pressure on workers to take that type of drastic action.

Extensive discussions have gone on about the issue of psychological overlay. If the minister does not think this pressure will add to psychological overlay, she should think again.

Question put and passed; the Council's alternative amendment agreed to, subject to the Assembly's further amendment.

Mrs EDWARDES: I move -

Amendment No 3

Clause 32(5), after proposed section 93D(2) - To insert the following subsection -

(2a) For the purposes of section 93E(4) only, if item 36A of Schedule 2 applies to the disability, subsection (2)(a) applies as if the percentage of the prescribed amount provided for by that item were 100% instead of 60%.

This relates to the comment made earlier about the change to allow for back and pelvis injuries. For the purposes of the threshold, the calculation is to be taken at 100 per cent instead of 60 per cent.

At this stage, because we are amending proposed section 93D(2), I will refer to the point the member for Kalgoorlie made about psychological overlay. There will not be an amendment before the Chamber dealing with that issue. The Opposition has given a commitment to work cooperatively with the Government on a key Pearson report recommendation related to psychological overlay. I again ask the member for Nollamara to reaffirm the commitment made in the Legislative Council that in the event that monitoring by the Workers Compensation and Rehabilitation Commission indicates an adverse cost trend is occurring in the system due to psychological overlay, the Opposition will work cooperatively with the Government to implement change to rectify the problem immediately.

Ms Anwyl: Do you have that data now in terms of what you're claiming?

Mrs EDWARDES: The calculation of the data is something the member for Nollamara and I have been discussing; that is, what will be included in the calculation of that figure for that data?

Mr Kobelke: I think you're ducking the question. The member for Kalgoorlie was asking whether you have data to show the cost pressure from psychological overlay.

Mrs EDWARDES: The actuary determined a percentage figure.

Ms Anwyl: You were to cut it out without any evidence of the need to do so.

Mrs EDWARDES: Based on the Victorian experience, we were able to effectively work through the impact. If the member is not aware, one of the drivers for removing common law totally in Victoria was psychological overlay. We have indicated that we do not want to go down that path. However, if the costs are such that we cannot stabilise the system, and if psychological overlay will be one of the cost drivers, I want a commitment from the Opposition that it will work cooperatively with the Government to move an amendment to put in place the Government's original intention; namely, to remove psychological overlay.

That is not to take no account of psychological effects: A bank teller confronted by a bank robber has a different and direct impact from the action which we do not seek to remove from the calculation. I refer to the psychological overlay aspect that we sought to remove. Nevertheless, the Government is happy to proceed on the basis of a commitment from members opposite: If an adverse trend is identified through the collection of specific data in Western Australia by the Workers' Compensation and Rehabilitation Commission, the Opposition will work cooperatively with the Government and support an amendment in that regard in this House.

Mr KOBELKE: The minister, to use two men's names, was not Frank or Ernest in answering the question from the member for Kalgoorlie. Her question was direct: What evidence does the minister have that psychological overlay is creating a cost blow-out? The direct and honest answer is that no evidence exists in the Western Australian system which indicates that psychological overlay is causing a cost blow-out in workers compensation premiums. The minister rightly referred to the fact that Victoria, which had some similarities to our system, had a major problem in that regard. Therefore, one would want to be cautious of that aspect. However, in no way would the Labor Party accept a heavy-handed psychological overlay clause when the minister cannot demonstrate a potential cost pressure from psychological elements being mixed with a physical condition to lift the judged level of body disability so people move over the threshold. To my knowledge, no clear such evidence exists as yet.

The minister alluded to the actuary report and stated that the actuaries created a figure based on assumptions on what might be the potential growth in the number of claims over the threshold as a result of psychological overlay. I will apologise and

stand corrected if the minister can produce some well-founded reports or data showing that psychological overlay was driving costs in the Western Australian system. I have not been able to find any such evidence.

Recommendation 3 on page 11 of the Pearson report comprises 12 lines, part of which reads that "the 30 per cent disability to be determined exclusive of psychological overlay". It was to apply for only the 30 per cent injury, not lower - that was not recommended in the report. The first draft of the ministers proposed section 93F(2) reads -

> In assessing the severity of the disability for the purposes of subsection (1), no regard is to be had to any mental ailment, disorder, defect, morbid condition or symptom of the worker that arises, recurs or is aggravated or accelerated as a consequence of, or secondary to, a physical defect of the worker.

That was to blow the whole thing out of the water. It was not excluding psychological overlay, but totally closing down access to common law. We know that in many cases a work-related injury is aggravated by other things which happen only as a result of the work injury. The proposed section stated that such a person was to be excluded and could not make a claim at common law. The Labor Party will never accept that proposition. We discussed last year the situation of a gentleman from the minister's electorate who was clearly injured at work. His leg was broken. He went to hospital and developed a staphylococcus infection, and undertook 14 hospitalised medical procedures and twice was in intensive care. The minister's provision would say that he had only a broken leg and should not be covered - forget it. It was unbelievably heavy-handed.

I give the assurance which the minister sought, and which was given in the other place; this formal motion was taken to the Labor Party meeting today, and carried: If the minister can demonstrate that psychological overlays are clearly a cause of cost pressures in the system, the Opposition will work cooperatively with the minister on legislative changes to address the issue. That is a clear undertaking. We will need to see evidence, and require a mechanism which addresses the specific issues and, unlike the proposed section I just read, not be totally over the top and chop out a range of things well beyond psychological overlay. The minister has the assurance she seeks. In amendment No 3 before the House, as the minister explained, the percentage provided for back injuries is to be taken as 100 per cent of total body disability.

Ms ANWYL: I would like to hear further remarks on this matter from the member for Nollamara.

Mr KOBELKE: The minister, from her experience, was sympathetic to the ALP request. I realise it was difficult to go lower in the threshold than the Government wanted, but it was definitely a bottom line for the Labor Party. Many examples were given to us of workers with back injuries in the 15 to 20 per cent disability range. Such back injuries mean that people often will not be able to work in the area in which they are skilled or which is available to them. A worker involved in heavy manual labour with a low level of education and few opportunities for retraining will not be able to continue in a well-paid job with a back jury in the 15 to 20 per cent range. The minister's original proposal - on which she gave ground - would still mean that such people would be locked out of the common law system. If a person had a 20 per cent back injury, the table indicates that the back counts for 60 per cent in the calculation; therefore, the whole-of-body injury would be regarded as 12 per cent and the injured worker would have been excluded. That was totally unacceptable to the Opposition. I thank the minister for trying to cover such people.

I am conscious that many people will miss out under this proposition. However, people in the 16 to 20 per cent range of back jury will still have access to common law. I do not know what one can say to those who will be excluded as their rights will be taken away by this legislation. I am loath to be part of that process. The Government was not willing to accept our proposal, so unfortunately the Opposition is stuck and has to accept the Government's position. People who miss out will have no recourse other than to stay on statutory benefits. We will watch closely to see how those benefits look after injured workers who, through these proposals, will have no rights under common law.

Mrs EDWARDES: In an attempt to maintain the integrity of the Pearson recommendations, the Government put forward 100 per cent for back injuries, which is not what the member just said. We were prepared to accommodate the concerns that were raised by members opposite, but we believed it was critical to have a threshold element in the legislation to ensure greater stability.

Question put and passed; the Council's alternative amendment agreed to, subject to the Assembly's further amendment.

Mrs EDWARDES: I move-

> Amendment No 4
>
> Clause 32(5), after example 2 in proposed section 93D(3) - To insert the following example -
>
> > Example 3
> >
> > A worker loses 10% of the full efficient use of the back (including thoracic and lumbar spine) and 15% of the full efficient use of the neck (including cervical spine). The percentage under subsection (2)(a) (for the purposes of section 93E(4) only) is:

$$\left[\frac{10}{100}\times 100\right]+\left[\frac{15}{100}\times 40\right]=10+6=16$$

This is a new example 3 to clarify that a worker with a 10 per cent back injury combined with a 15 per cent neck injury will be able to meet the threshold under proposed section 93D(2)(b).

Mr KOBELKE: I welcome the use in legislation of examples, particularly in areas as complex as this. We do not commonly see examples in Western Australian statutes, and I would like the minister to comment on the standing of this example, which clarifies how the special arrangements to extend the percentage on backs will be taken into account, particularly in the context of more than one injury, when the percentage on each injury is aggregated to give the total whole of body injury.

Mrs EDWARDES: This example will be part of the legislation to give clear guidance to the courts about how the calculation of those injuries shall be taken into account.

Question put and passed; the Council's alternative amendment agreed to, subject to the Assembly's further amendment.

Mrs EDWARDES: I move -

Amendment No 5

Clause 32(5), proposed section 93E(3)(b) - To insert after "worker" the following -

has a significant disability and

This reinserts the Government's original requirement that a worker with less than 30 per cent disability must have also a significant disability to make the election.

Mr KOBELKE: Where is "significant disability" defined? It was defined in the old section 93D, but we have now gone through so many versions I am not sure where that stands.

Mrs Edwardes: It is dealt with in amendment No 6.

Question put and passed; the Council's alternative amendment agreed to, subject to the Assembly's further amendment.

Mrs EDWARDES: I move -

Amendment No 6

Clause 32(5), proposed section 93E(4) to (16) - To delete the subsections and substitute the following subsection -

(4) For the purposes of subsection (3)(b) the worker has a significant disability if it is agreed or determined that the degree of disability is not less than 16% and that agreement or determination is recorded in accordance with the regulations.

This relates to the key amendment from the Legislative Council, which we do not accept. It deletes the Legislative Council's proposal for a deductible and substitutes a redefined definition of "significant disability" which relates to proposed subsection 93D(1)(b). The Government's proposed threshold for claims under 30 per cent must be a significant disability, but it also acknowledges the Opposition parties' concerns that the previous proposal for a threshold linked to the annualised average weekly earnings would impose too harsh a threshold for workers under 30 per cent to meet. All the comments that I have made previously about the reason that it is critical to have a threshold in the legislation, as opposed to a deductible stand.

Mr KOBELKE: I will not take the bait by responding to the minister's arguments; we have had that debate before, and we do not agree. I want to get to the technicalities of the wording to be absolutely certain it does what the minister has said it is intended to do. Proposed section 92E(3), as amended, states -

Damages can only be awarded if -

(a) it is agreed or determined that the degree of disability is not less than 30% and that agreement or determination is recorded in accordance with the regulations; or

(b) the worker has a significant disability and elects, in the prescribed manner, to retain the right to seek damages and the election is registered in accordance with the regulations.

We have amended that second part with regard to significant disability. Proposed section 93E(4) gives the definition of "significant disability" and states that a worker has a significant disability if it is agreed or determined that the degree of disability is not less than 16 per cent and that agreement or determination is recorded in accordance with the regulations. We then need to ask what does that mean, because under proposed section 93D(2)(a) a worker can have a disability of less than 16 per cent if it relates to a back injury according to schedule 2.

Mrs EDWARDES: Proposed section 93E(1), which is on page 15 of the Notice Paper, gives the following definitions -

"agreed" means agreed between the worker and the employer, whether under section 93D(8) or otherwise; . . .

"determined" means determined or decided on a reference under section 93D(9) or (10);

Proposed subsection (10) will become proposed subsection (11), and proposed subsection (8) will become proposed subsection (9).

Mr KOBELKE: The degree of disability that ensures the definition relates back to proposed section 93D(2)?

Mrs Edwardes: Yes and that is linked to (2)(a).

Mr KOBELKE: It says "93D(2)". Should that be 93D(2) and 93D(2)(a)? Proposed section 93D(2) does not pick up the extension for back injuries. I want all the belts and braces on it to ensure the special allowance for back injuries is included. I ask the minister to consider whether in looking at that degree of disability referred to in proposed section 93E(1), we should be including not only proposed section 93D(2) but also 93D(2)(a) which specifically gives the qualifications for back injuries.

Mrs EDWARDES: The degree of disability identified under proposed section 93D(2) tells us how to deal with 93D(2) and that incorporates proposed subsection (2)(a). Proposed subsection (2)(a) is a mechanism for using proposed subsection (2). Members should feel confident that the drafting has allowed for that degree of disability to incorporate not only 16 per cent, but also the issue dealing with threshold calculation - the changed level of prescribed amount from 16 per cent to 100 per cent for backs and pelvises.

Mr KOBELKE: Is "included for the purposes of calculating the degree of disability under 93D(2)" picked up under degree of disability in proposed section 93E(1)?

Mrs Edwardes: Yes.

Ms ANWYL: I note that there is a reference in the legislation to regulations. I presume that proposed section 93G will stand unamended, and it will provide for regulations to be made. Agreement can be recorded in accordance with the regulations, with or without the director, but there is a provision that states that the director can refer a question for resolution. I refer to proposed section 93D(9).

Mrs Edwardes: In respect of the degree of disability?

Ms ANWYL: That is right. We are talking about a significant disability in respect of amendment No 6. We must define what that is and the only way to do that is by looking at the issue of percentage. It is unfortunate with the legislation that one has to refer to about four proposed subsections in order to get anywhere. I refer to proposed section 93D(9) where, if there is no resolution by agreement, the director can refer the question on for resolution. It is a determination that presumably will be recorded in accordance with the regulations. When shall we see the regulations? What will the regulations provide? This is serious stuff. In some cases it can mean the difference between a worker getting $250 000 or nothing, and I must look at about four proposed subsections before I can even start to unravel how that will work. It is diabolical.

Mrs EDWARDES: There is nothing too complicated with the regulations. The agreement or determination needs to be recorded in accordance with the regulations. The regulations will state how the agreement or determination is formatted. The formatting formula will comprise the regulations. We have started work on the regulations and as soon as this matter is completed, we shall be able to finalise them.

Ms Anwyl: Are you talking about the document before the schedule is put up?

Mrs EDWARDES: In this instance, yes.

Ms Anwyl: Determination is not actually provided for by the regulations.

Mrs EDWARDES: Determination is done in accordance with part IIIA which is the dispute resolution provisions and process. I am sure the member is aware of how they operate. The regulations she is talking about will be the form on how the agreement or determination is recorded.

Ms Anwyl: When do you expect to have the regulations?

Mrs EDWARDES: They are being drafted now and we hope to finalise them once these amendments have gone through the Parliament. We will bring them to the Parliament as quickly as possible.

Mr Kobelke: Will they be available before assent is given to the legislation?

Mrs EDWARDES: It will be close. I cannot give an answer in respect of this. With other legislation we need to have regulations in place prior to assent. I will keep the member informed as to the process and its progress.

Ms ANWYL: This will be crucial. Will the six-month election period run from the date of assent, from today, or from the date of injury?

Mrs EDWARDES: The question of assent is critical in terms of the election, but it goes backwards in terms of the date of the injury. The regulations will be ready long before anyone has to make an election or determination.

Ms ANWYL: When does the minister anticipate that someone will have to make an election or determination? It is the sort of question that members of Parliament will be asked in their electorate offices.

Mrs EDWARDES: We will ensure that members have full information. It will be at least three months from the date of assent.

Ms ANWYL: Theoretically, as soon as the regulations are ready, there is nothing else to hold up assent.

Mrs Edwardes: That is correct.

Ms ANWYL: In theory - I am not asking for a precise date - about three months hence, this regime will be in place.

Mrs Edwardes: The legislation does not need proclamation; it needs assent. We will finalise the regulations as quickly as possible after these amendments have gone through the House. I will keep members of Parliament informed about the

appropriate dates. The point the member has made is a relevant one in terms of members of Parliament providing adequate information to their constituents, and I will ensure that an information sheet is available.

Ms ANWYL: I would appreciate that. I am suggesting that massive problems and possible confusion will arise as a result of this legislation. Although the vast majority of legal practitioners have some competence in this area, obviously they have extremely busy workloads and will need to come to terms with this. The Law Society of Western Australia has an alert system that has been activated in relation to the changes to this regulation. Can the minister also clarify exactly what process is in place to keep the Law Society advised of quite complex legal matters in some cases which relate to those transitional provisions and given also that the legislation intends to wipe out all of those claims which are in the queue currently; that is, 93D applications which are in the queue will be wiped out? A significant number of other claims have not been lodged, but even more alarming, it is my understanding that some delaying tactics have been employed by the appropriate defence solicitors no doubt under instructions from their insurers.

Mrs EDWARDES: We will make sure, as is the normal practice of WorkCover WA, that an information bulletin will be released. In relation to the point raised by the member about constituents, I will ensure that members of Parliament are given a separate information fact sheet with the correct information for their constituents.

Mr KOBELKE: I will go back to some comments that were made earlier in the exchange between the member for Kalgoorlie and the minister. In relation to the last contribution I made with the minister, it was fairly clear that this is complex drafting. Given that we are amending an existing Act, maybe it cannot be otherwise. An area that is complex enough to seek the definition of key issues by going to the interrelationship between three quite different subclauses makes it extremely difficult for other than a practitioner in the area to really understand how this law, when enacted, will work. I make that comment because the minister said that she thought it was simple and straightforward, but she may have been addressing another aspect. This Bill is becoming ridiculously complicated and makes it almost impossible for an injured worker, who wishes to go to the Act as a source, to get some understanding of what might apply and make any sense of the law that we will have in this area.

The second matter arose from the contribution by the member for Kalgoorlie; that is, what is likely to happen with the regulations. I will make two comments: This Act, some might say for the better, but many would say for the worse, is becoming totally bound up with regulations. The regulatory powers seem to pop up in every second clause. I am not sure whether that is a good way of creating law in this area. I know that some people feel there is greater certainty if matters can be kept out of the courts, but all institutions which do not have openness and accountability and which have a review of decisions, leave themselves open to denying justice to people. Regulations will be used more through the amendments we are now enacting. I have grave concerns about the effectiveness, efficiency and fairness of such a complex system of regulations.

Turning to the second matter and the specifics, are there areas within these amendments that cannot operate without regulations? If so, how does the minister propose to deal with that? My understanding is that the Act comes into force on assent, as there is no proclamation clause. If that is correct, we must be careful that when this matter is cleared through the Parliament, we do not end up with the situation in which the law cannot be applied and people's rights are prejudiced because the necessary regulations are still being developed. What regulations, if any, are crucial to its operation and must be in place before assent is given? What is the likelihood that those requirements will be fulfilled, or alternatively, what actions can the minister take to hold up the Bill for a day or two until the regulations are put in place?

Mrs EDWARDES: I might have inadvertently misled members when I was talking about the regulations prior to their being implemented, such as the three months or the election date. Those regulations will be in place prior to people having to take those actions under the changes. I am not aware of any regulation that must be put in place prior to assent. However,the regulations have almost been completed.

Mr KOBELKE: The minister's comment that, to her knowledge, no regulations must be in place before assent might relate to the ultimate position of whether people have a case at law.

Mrs Edwardes: It is for immediate use to enable the workers' rights to be implemented.

Mr KOBELKE: Let us take the application of the transitional provisions for a worker who is already injured and who is locked out of the existing common law system. My understanding is that the person then has three months to make the election. It is three months from assent or six months from the time of the injury, whichever is the later. Some people will have to make an election within three months of the assent. Those people who have already sought legal advice do not want to hear of the assent a day later, seek advice as to what are the exact requirements for them to elect and then find that they must wait a few weeks because we do not have the regulations. They could be in a situation in which they are backed up to the last month of the actual termination date, which will be three months from assent, and they are still waiting to get their hands on the regulations which will dictate the exact procedures they must follow to undertake that election. Although there may not be a stringent need because a case could fall over within a couple of days, there is clearly some need to expedite the matter and ensure that people are not in a situation in which their decision making is held up because they are still waiting for the regulations to be gazetted and made available to them.

Mrs EDWARDES: The member is concerned about delaying the amendments before the House for a couple of days to enable the regulations to be completed. Although it is not needed, given the fact that there are so many amendments between the two Houses, it will take a few days to bring everything together prior to assent. As such, the regulations will be completed within a matter of weeks. If anyone needs to utilise those regulations, they will be in place prior to the need to use them.

Question put and passed; the Council's alternative amendment agreed to, subject to the Assembly's further amendment.

Mr KOBELKE: I move -

That the alternative amendment made by the Council be agreed to, subject to the following further amendment -

Clause 32(5), proposed section 93E(19), line 1 - To delete the words "in such circumstances" and substitute the following -

where a worker's disability is not sufficiently stabilized to allow for an informed choice at election, or in such other circumstances.

Clause 19 contains the undertaking the Government gave to provide an extension of the six months for election. This six months is important for cost saving because if people need to make that election in a short period, it is the Government's view that most people will not go to common law. People cannot make a determination at that time particularly if they are undergoing medical treatment and their medical costs are being met under the statutory system. To elect for common law means opting out of the statutory system. That means the worker would not receive any weekly payments and his medical costs would not be covered; it would be an impossible situation. Therefore, the election becomes quite harsh and prohibits many people from taking a common law case. All the other issues the minister has addressed about tightening up the system and trying to prevent blow-outs have overlooked how incredibly severe the election will be. If the termination is allowed to drift out, the financial savings of the election are lost but we cannot lose sight of basic fairness. Let us take the extreme case of a person who is in a coma at six months. It would be rare for him not to have a 30 per cent body disability but some people are in comas for long periods and come out of them. They may not have a 30 per cent body disability at the end of the day but at six months they may be in a mental condition or, in an extreme case, in a coma and be asked to elect. There is no out other than that which the Government has moved in these amendments. Proposed subsection 93E(19) says that -

Despite subsection (17), the Director may, in such circumstances as are set out in regulations, extend the period within which an election can be made under subsection (3)(b) until a day to be fixed by the Director by notice in writing to the worker.

The Government has responded to the Opposition's clear statement that it could not accept any form of election which chopped off everyone at six months regardless of the case. We accept - as might be obvious from what I have said - that we are not talking about opening another gateway which undermines the whole effect of the election. However, there will be a number of cases where people will still be in serious conditions and where it will be difficult to determine whether they will be over the 30 per cent figure. The election is not an issue if someone is over the 30 per cent body disability but if he falls under the 30 per cent body disability, the election is crucial. For those people who are clearly in a bad way medically, who have not stabilised their condition or who are still awaiting major surgery and the outcome of the surgery will determine their body disability, there must be a let out. Under the Government's provisions, the director may provide that let out according to the regulations. There is no wording so that we can see that the director must work according to some principles. The amendment I have moved indicates that the director may give that extension where the worker's disability has not sufficiently stabilised to allow for an informed choice at election. That seems to be a fair and reasonable thing to do. I do not believe it is opening a large doorway for people to get extensions because the director "may" - there is no requirement on the director to do it. If the regulations set out in the subsidiary law a tight set of principles which allow the person to be sufficiently stabilised in his medical condition simply to make an informed choice, then I do not think that would be a gateway applying to hundreds of people each year. However, it would enable people to ensure they were given a chance. I do not accept that we can simply leave the matter to the director under the regulations when we have nothing in the legislation whatsoever setting the basic principles on which those regulations will be framed and under which the director is expected to operate in giving such an extension. On that basis, I hope the Government will be willing to support this small amendment to include an outline of the principles to apply along with the regulations under which the director may in some circumstances extend the period.

I note there is a subsequent amendment to the effect that the extra period can only be for six months. I do not like that. The current arrangement does not quantify how many people will be let through the doorway but it does not put a time limit on it. If the Government is willing to accept that amendment, the Opposition may be willing to accommodate the further six months' restriction. In the early part of the negotiations the Opposition told the Government that six plus six was the minimum it would settle for, making 12 months in total. I am not happy with that but the Opposition has given a little ground as the Government has given a little. I would see that as a trade off. If the Government accepted having principles in the legislation, I would be willing to accept the further six months.

Mr MARLBOROUGH: I am not even sure that the amendments being suggested by the Government do that. I will ask the minister the appropriate questions. The processes we have been through on our side of the House this evening have indicated that if this proposal in its present form is passed, the Bill will effectively reduce the present opportunities for workers who are injured at work through no fault of their own. We will reduce these workers' ability to get through to a common law process from the present approximately 3 000 workers a year representing 100 per cent to less than 50 per cent of those same people. The minister has created this 16 per cent total body impairment which is another blockage to workers being able to get through to the common law system. The minister has agreed that this 16 per cent will represent 100 per cent of back injuries. Without having the Bill and being expert in it, most people would think that "back injuries" refer to matters concerning the whole of the spine. However, when one looks at the Bill, one sees it applies only to injuries to portions of the spine and the lower back. What we have agreed tonight is the 100 per cent of back disability will apply only to that part of the regulations which addresses itself to lower back injury. It will not and does not apply to any disability of the neck

or the pelvis. I am told by lawyers and others in the industry that the 16 per cent application to 100 per cent of lower back injury without a measure of neck or pelvis injury will reduce the number of workers getting through the common law system by over 50 per cent. I said that to show from where we are starting in dealing with this amendment. I seek the minister's guidance on amendment No 7. My reading of this amendment is that it seeks to insert after "day" in clause 32(5), proposed section 93E(19) which presently reads -

> Despite subsection (17), the Director may, in such circumstances as are set out in regulations, extend the period within which an election can be made under subsection (3)(b) until a day to be fixed by the Director by notice in writing to the worker.

With the minister's new amendment, it would read after "day" the following -

> (not being a day that is more than 6 months after the termination day).

According to page 16 of today's Notice Paper "termination day" means the day that is six months after the weekly payments commenced. That means we are talking about six months, not a six month extension. One presumes that weekly payments start on the day that the injury is sustained and the worker gets into the system. My reading of the legislation, unless I can be guided otherwise, is that we are not talking about the Government agreeing to some proposition whereby the director will have some ability to guarantee another six months. That is not my reading of it. The legislation does not add anything at all. The Government is saying six months, and that is it. Before I go on, I will let the minister clarify whether my reading of the proposal is correct.

Mrs EDWARDES: The member for Peel has raised an amendment that I have not yet moved. The member for Nollamara has moved an amendment. The Government will not support the amendment moved by the member for Nollamara. The reason is very clear. Probably out of all the amendments this is the most critical. Six months is critical for ensuring that there will be the ability to be able to reduce the cost pressures in the system and so reduce premiums. If the member for Nollamara's amendment is accepted, where a worker's disability is not sufficiently stabilised to allow for an informed choice of election or in such other circumstances, we might as well substitute 12 months for six months. There would be no need for an extension because every worker will be saying that the injury is not sufficiently stabilised to allow for an informed choice at six months.

I have given a commitment that the regulations for the extension of six months will be related to the fact that the director must be satisfied that the medical condition is serious. The member for Nollamara used the words "extreme" and "major". I would add that medical intervention by operation is imminent. It is a six months election unless there is to be an immediate medical intervention by way of an operation and the medical condition is serious or extreme. So it is extreme, serious and major.

This is not just about a disability which is not sufficiently stabilised to allow the worker to make an informed choice. That is why the Government is not supporting the amendment. We are not walking away from our commitment. We will give a commitment that the regulation will be drafted along the lines that I have intimated to this House. I will provide the member for Nollamara with a copy so that he can see that it is in accordance with what I have stated. We are talking about a serious medical condition in the circumstances to which we have referred, where there might be an operation in the next week or two or whenever. Somebody would be concentrating on the operation because the person's medical condition would be serious enough to cause that major concern or medical intervention and he believes he needs that further extension. I give that commitment.

Mr Marlborough: Will you change the wording about termination?

Mrs EDWARDES: Let me walk the member through that. If a worker's time extends through termination day, it means six months after the day on which weekly payments commenced. The next amendment is that the director may extend the period at which an election can be made to a day not being a day that is more than six months after the day of termination. So there is six months from the injury to the termination day and then a further six months. Therefore, there is the ability to have a 12 months' election day. I am pretty sure that we have got it covered. The election date is six months from the day weekly payments commence. If the medical condition is serious enough and, in accordance with the regulations to be drafted, the medical intervention is by way of operation, which is imminent, the director, on being satisfied that is the case, can extend the period a further six months from the termination day - that is, six months from the date of the weekly payment. Therefore, in those serious circumstances to be prescribed, there is the ability to extend up to six months.

Mr MARLBOROUGH: I appreciate the answer the minister has given although I am not sure that it clarifies the situation. I accept that it will be as she suggested. She is talking about a different definition of "termination". The present Act does not determine termination day as the minister suggests, which is that it will be at the end of a six month period. I do not see where the minister suggests in her amendment that she will amend that. The definition of termination day is contained in proposed new section 93E(1). It means the day six months after the day on which weekly payments commenced. If that is read in conjunction with the minister's proposed amendment, where the director will have the ability to change it but it will not be a day that is more than six months after the termination day, those words "termination day" mean that I must go back to the definition and read that the termination day definition refers to the start of payment.

Mrs Edwardes: It is six months from the date of the weekly payment, so it is 12 months.

Mr MARLBOROUGH: The minister is saying it is six months from the date of termination of wages. The present Act does not say that. It says that termination begins on the week payments start and it terminates after that period. Therefore, when one adds termination day, as the minister has, to the ability of the director to move, it simply means, reading it without

altering that or using some other form of words, that it will not add six months at all. In saying that, I am happy to accept that the minister's intention is to add an extra six months where possible.

Mr KOBELKE: I am disappointed that the minister is not willing to accept the amendment. We recognise the arguments she has put relating to the problems of opening up a large doorway. We do not accept that wording of this nature will do that. It still leaves the matter in the control of the director. It simply says that the director may. The minister may wish to say that sometimes "may" may be construed as "shall", but this Bill does not say "shall" but simply "may". If the set of regulations provide a clear set of guidelines, the word "may" will be quite clearly conditioned by the regulations that set down in what circumstances the director may provide that extension. We feel that it is unacceptable to put more powers into the regulations when those regulations are not available to us. We do not even have a very clear statement from the minister bringing forward this legislation of what she judges to be the circumstances which will guide the director.

Mrs Edwardes: I have already indicated this on the public record in this House.

Mr KOBELKE: The minister used a few words but I am not sure how much that tied down clear enough directions for the director.

Mrs Edwardes: We will bring the regulations to you before bringing them into the House.

Mr KOBELKE: Prior to the legislation being enacted?

Mrs Edwardes: No.

Mr KOBELKE: The horse has bolted by then. The legislation will have gone through and we will not have seen clearly exactly what are the words which will be the underlying principle on which the director is supposed to act when he or she grants such an extension to the period. We believe that our amendment is workable and will not open a huge door. It gives clear guidance about what should be the principles which the director will act upon in granting an extension to the period for the election.

Mrs EDWARDES: I was prepared to accept the commitment the Opposition gave to this House regarding psychological overlay. Surely, therefore, in the light of discussions during this debate the Opposition will accept the Government's commitment on the drafting of those regulations. We will provide a copy of them to members opposite prior to their being proclaimed. I reiterate that the regulations for the extension of the six months election will provide that the director must be satisfied that the medical condition is serious and that medical intervention by operation is imminent. We are both talking about the same thing. I am not prepared to accept the amendment moved by the member for Nollamara, which will create a hole, without having had the opportunity of going back to the medical profession and talking about the matters that have been discussed regarding this extension. The outcome is one on which we agreed. We do not have the wording with which I am comfortable that will not create the hole, otherwise I would have it here. Although I respect the fact that the member would like to see the words in his amendment inserted, they are far too wide. They would make the six months election almost a 12 month election.

Ms ANWYL: The minister's undertaking that the director will have guidance from regulations for when he might exercise discretion lacks logic. I referred earlier to a classic back injury for which it is good medical practice to try conservative treatments first rather than to rush into serious spinal operations such as a laminectomy or fusion. It is common to wait a period of months to let a disc injury settle down prior to undergoing such invasive medical treatment, which in itself carries many risks of complications and even death. One may have a percentage disability of 20 per cent thereby qualifying under this test. However, after that operation, if it is successful, the disability could be less. That will create problems for the very people we are trying to help, which we all know is the insurance companies.

Mrs Edwardes: We don't know that.

Ms ANWYL: We do all know that. It will create difficulties.

Mrs Edwardes: You keep repeating that, but the key stakeholders in this system are the employers and the workers. Until we as a community accept that these are the two key stakeholders, not the lawyers or the insurance companies, we will not get a stable system in place.

Ms ANWYL: I accept they are the stakeholders but I do not see how either group is advantaged by this legislation because, other than making some bland statements, the minister has not given an assurance as to what will happen to premiums nor has she guaranteed that she will bring accountability into the insurance industry. How can the minister explain the logic when a serious operation may be necessary down the track? I can see how it will work in the sense that the director will probably want to exercise his discretion without even an application from the worker.

Secondly, has the minister, the actuary, the minister's advisers or the director and his staff considered that a worker or his solicitor might make an application to the Supreme Court by way of prerogative writ whereby some other applications may be made to the court on an equitable basis? The superior courts have an inherent equitable jurisdiction.

Mrs Edwardes: To do what?

Ms ANWYL: Assuming the director refuses to exercise his discretion surely an appeal will be possible either by way of prerogative writ or potentially by administrative appeal.

Mrs Edwardes: That is all the more reason we should not accept your amendment.

Ms ANWYL: Will the minister outline the procedure by which the worker and/or the worker's legal representative will make

that application and the time that the director will take to turn around an application given that the clock will be ticking? Six months might sound a lot to people in here, but as a solicitor who has handled in some cases hundreds of clients at one time, six months is not a long time. The most important issue here is that workers who live in remote areas may not have access to any legal practitioners let alone the specialist legal practitioners who will be required. I can tell the member for Kimberley that not many personal injury lawyers work in the Kimberley.

Is the minister anticipating that people hop on a plane and spend a few thousand dollars travelling to Perth for legal advice on this complex legislation? Once again we have a metropolitan focus here. We will have a six-month time line, which is bad enough for workers residing in the metropolitan area, but which is even worse for injured workers facing the tyranny of distance who need that advice.

Mrs EDWARDES: The regulation for the director to have the power to decide on whether to grant an extension of six months was proposed by the member for Nollamara. The Government was prepared to accept that on the basis of a serious injury rather than an injury that allowed an injured worker to extend the six months to 12 months on the basis of a whim. A prerogative writ is all the more reason that we should not accept the amendment. Unless the extension is tied down very tightly - that is what we propose by way of regulation - the ability will exist to create a further hole in the system and six months will become 12 months. As I indicated, I will provide the wording of the regulation to the member for Nollamara prior to proclamation of that regulation.

Question put and a division taken with the following result -

Ayes (17)

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

Noes (27)

Mr Baker	Mrs Edwardes	Mr Minson	Mr Trenorden
Mr Barnett	Mrs Hodson-Thomas	Mr Nicholls	Mr Tubby
Mr Bloffwitch	Mr Kierath	Mrs Parker	Dr Turnbull
Mr Board	Mr MacLean	Mr Pendal	Mrs van de Klashorst
Mr Bradshaw	Mr Marshall	Mr Prince	Mr Wiese
Dr Constable	Mr Masters	Mr Shave	Mr Osborne *(Teller)*
Mr Day	Mr McNee	Mr Sweetman	

Pairs

Mr Brown	Mr Court
Mr Riebeling	Mr Cowan
Mrs Roberts	Mrs Holmes

Question thus negatived.

Mrs EDWARDES: I move -

That the alternative amendment made by the Council be agreed to, subject to the following further amendment -

Amendment No 7

Clause 32(5), proposed section 93E(19) - To insert after "day" the following -

(not being a day that is more than 6 months after the termination day)

Sufficient debate has been held on this amendment which will allow for an extension of the election date to 12 months.

Mr KOBELKE: I oppose this amendment because it sits with the amendment just defeated. The Opposition could see the principles on which the gateway would work to extend the period when there was a need to do so.

Mrs Edwardes: I could oppose it too!

Mr KOBELKE: I do not think we will divide on it. I place on the record that a further six months' extension, which is the limit imposed by the Government, is unduly harsh and does not recognise the dilemma a small number of injured workers will face when making this election. We understand the principle of the election, in that it allows many people to stay in the statutory system, but a small number of severely injured workers who do not reach the 30 per cent threshold will be put in a very difficult position. Many of them are already under incredible stress due to their changed circumstances. In addition to their pain and suffering, they will have a tight election system imposed on them. In trying to balance the books with regard to costs, the Government is losing sight of the fundamentals of the workers compensation system; that is, there should be fair and reasonable access to common law for those workers who are seriously injured. This provision is far too harsh, since the Government has not accepted the earlier amendment.

Mr TRENORDEN: I cannot resist putting the other side of the argument on the record. In my electorate in the town of

Northam there is a 40-bed nursing home, in which the premiums for workers compensation have increased by $40 000. We must go to the residents of the nursing home and ask them for $1 000 each to pay for the additional premiums. Members opposite are quite happy for people such as this to pay an additional $1 000, $2 000, $3 000 or $4 000. There must be some balance in this debate. What the member for Nollamara said is true; some people will be affected. That happens whenever a line is drawn in the sand. Some people will not have access to common law, but many other people will not get to the line in other areas. It is equally important to me to have the $40 000 to employ the assistants in the nursing home, as it is to ask the residents for an additional $1 000 each. Either people must pay more or the services must go. Without question, history will record that had the Government accepted the amendment, the period would extend to 12 months in most cases and premiums would go through the roof. It cannot be debated; it is fact. It has been proved time after time.

Mr Marlborough: You are a token for the insurance companies.

Mr TRENORDEN: The member for Peel and the Labor Party hardly hold a seat outside the metropolitan area. With their anti-rural stance, their chances of ever holding a seat outside the metropolitan area are very remote.

Mr GRILL: I have no problem with this clause, although I support the remarks made by the leader of opposition business. However, the member for Avon has expostulated on the effects of refusing the previous amendment and going ahead with the current amendment. He mentioned figures between $1 000 and $4 000. I am rather interested to know just what the real effects are. What is the effect of this amendment but, more importantly, what is the effect of adopting this package? We should all be told. What is the anticipated effect on future claims experience? What is the effect on future claims costs? What is the effect on the future escalation or de-escalation of premiums? I presume there is some monetary basis for this package of amendments before the House tonight. I would like to know from the minister what the actuaries say. In the past some heroic estimates have been made of the effects of previous amendments to the legislation going back to 1993, some of which have been quoted tonight.

The minister's office has made available certain graphs. One relates to the impact of legislative amendments on common law. I draw the minister's attention to this graph from her adviser, which sets out the real claims experience in common law and then sets out the anticipated effects of the 1993 amendments; that is, the actuarial estimation of what might happen. There is a vast gulf between these two sets of figures almost from the beginning, and at the end it is quite gaping. We should know here tonight, each one of us - I do not want to hear from the member for Avon - the actual effects of these amendments in a monetary sense. Does the minister have that information and can she provide the anticipated claims experience, claims costs and premium escalations?

Mrs EDWARDES: Before I provide some of the answers for the member for Eyre, I also indicate that this amendment was moved following the consultation that took place with members opposite. When the member for Nollamara said he would oppose this, I was almost persuaded by his eloquence to accept his opposition and withdraw the amendment. In good faith we have agreed that the director can extend the period of six months to 12 months, in limited circumstances, and for that reason we did not accept the previous amendment. The savings overall from the Pearson recommendations were 9.7 per cent. Removing the limitations on the psychological overlay has brought about a reduction of about 2.6 per cent. Replacing the 25 per cent threshold with a 16 per cent threshold, with the figure for the category of back injuries being increased from 60 per cent to 100 per cent, represents a reduction of 1 per cent. Increasing the cap from $238 000 to $250 000 gives a figure of minus 0.3 per cent. The provision for the director to extend the six months' election gives a figure of minus 0.6 per cent, giving a total net impact of 5.2 per cent. The estimated savings come from the initial impact before any erosion due to changes in claimant behaviour and the transfer of substitution costs, which we must always take into account. The option in terms of future erosion is from three to five years; whereas with the deductible figure that was raised earlier, the erosion came in from 18 months to three years, a much earlier time.

Ms ANWYL: Further to the matter just discussed by the minister, it is very important for some members, who do not realise it, to know that this is not about the percentage disability when people can claim. This is not about the replacement of the existing second gateway; that is, if people could show that they had a loss of more than $106 000, they could have a claim. This is about there being significant erosion to the level of what people must show, such that the hurdle is that much higher. This is about when workers must make a choice between receiving weekly payments of workers compensation and electing to make a common law claim. It is not about the level of disability that people must demonstrate to have a claim, but about when they must make a choice to stop receiving weekly payments of compensation which, goodness knows, are often meagre enough compared with what workers were earning before their accident.

In my electorate it is not uncommon that the difference between weekly earnings and weekly payments of compensation can be as much a thousand dollars a week. Under this provision, these workers must elect to go from their weekly payment of compensation to zero workers compensation payments for what could be a very protracted period. Common law claims can take an awful lot of time to settle. What we are talking about here has nothing to do with the hurdle in accessing the right to claim, but that the election must be made very early in the piece. The minister has been at pains to confine the time. The six months will extend to 12 months in only very exceptional circumstances. I do not know why this language in this clause could not be clearer and we could not simply say "not being a day more than 12 months after payments have commenced". That would be plain English and make it a lot clearer.

The principal issue here is simply to tell workers that they must make a decision right now to stop their weekly payments on the basis that they may - not will - be able to have some common law settlement down the track. We all know that is about removing workers' rights to pursue a common law claim. That is why the Government is so insistent. It does not want any workers to pursue a common law claim. This Government will make it as difficult as it possibly can for workers to pursue a common law claim.

Mr Bloffwitch: I do not think they should be pursuing common law claims under workers compensation. If they want to claim, they should go under public liability like everybody else who is injured on my property.

Ms ANWYL: There speaks the sectional interests!

Mr Bloffwitch: All you people want to do is pad the lining; give them more.

Ms ANWYL: No. We only want to see some justice and equity in terms of their pursuing what will now be an extremely narrow right. The words of the member for Geraldton say it all. He would like to see common law claims abolished. This clause effectively means we will do that. I wonder whether the member for Geraldton believes in contingency fees for lawyers, and I wonder whether the minister might address that issue. If weekly payments are removed from workers, how on earth are they expected to finance a common law claim, given that the minister has conceded that a medical report may cost up to $1 000, that other disbursements may be huge and that significant costs will be associated with pursuing common law claims. I want to know whether the minister supports the notion of contingency fees or whether she plans to make sure that could never be an eventuality. I think it has been voted on by the Law Society of Western Australia several times.

Mrs Edwardes: They are not in support of the amendment. Most of the member's comments do not relate to the amendment.

Ms ANWYL: Those costs will force plaintiffs to find a solicitor who will be prepared to pursue the issue of contingency fees. There is no other way the average solicitor can afford to take on a case of this kind.

Mr KOBELKE: I do not wish to debate further, because we have covered most of the issues; however, I want to take issue with the comments by the members for Avon and Geraldton. Those comments were particularly narrow and misconceived. I hope those members, in talking to their constituents who are paying high premiums and who obviously have good reason to feel aggrieved, will tell them that the Government's mistake in the legislation in 1993 in removing redemptions caused the problem and that this Government slugged them by increasing stamp duty to 5 per cent. Let them tell those who are being adversely affected -

The ACTING SPEAKER (Mr Barron-Sullivan): I have given a lot of latitude to members during the debate on this clause so far. I wonder whether the member could keep his remarks to this clause.

Mr KOBELKE: I will just answer the comments of those two members and sit down. They should tell their constituents that the high and unacceptable increases in premiums are not being addressed by doing anything about the medical costs that have grown far more than common law claims, that there is no major scheme to ensure that we do not have underpayment of premiums. In Queensland the law has been changed because that represented a huge loophole. We can go on and on about a whole range of administrative matters which would produce an effective means of reducing the cost of premiums. All some members opposite want to do is take benefits away from the injured workers who are the easy targets, the ones from whom they can take benefits to try to fix up the system. In closing, I say to members opposite that those injured workers are real live human beings and members of our community, and they will seek to uphold their rights by whatever means are available under the law. If those opposite put provisions into the legislation that are unreasonable, unfair and unjust, they will just open up problems in other areas. People will seek to assert rights - as they should. We are about producing a fair package that will work, not one which is totally unfair and will just lead to greater instability.

Question put and passed; the Council's alternative amendment agreed to, subject to the Assembly's further amendment.

Mrs EDWARDES: I move -

Amendment No 8

Clause 32(12) - To delete "7(4)" and substitute "7(2)".

This is just a plain drafting error.

Question put and passed; the Council's alternative amendment agreed to, subject to the Assembly's further amendment, and a message accordingly returned to the Council.

House adjourned at 9.40 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

YOUTH, PROGRAMS IN REGIONAL AREAS

380. Mr BROWN to the Minister for Education:

(1) Apart from the formal system, what range of youth programs and projects in the regions are presently -

(a) organised;
(b) funded; and
(c) supported,

by departments and agencies under the Minister's control?

(2) What is name of each program and project?

(3) In what town or locality is each program or project conducted?

(4) How much is allocated to each program or project in each town or locality?

Mr BARNETT replied:

Education Department of Western Australia

CADETSWA Program

(1) (a) The CADETSWA Program consists of Cadet types that are either under the auspices of the Australian Cadet Services Scheme (ACS) (Navy, Army and Airforce) or CADETSWA (Emergency Services, Police Rangers, Bush Rangers, Red Cross and St John).

(b) The Army, Navy and Airforce Cadets are funded through the Australian Defence Forces. Affiliated schools receive $75 per Cadet from the CADETSWA program. Non-ACS Cadet Types are funded at a rate of $450 per Cadet through the CADETSWA program. The CADETSWA program is fully funded by the Office of Youth Affairs (OYA). The OYA also provides all non-ACS Cadet Instructors with an Honorarium of approximately $2 000 per year. The Education Department provides school facilities and accommodation at no charge to the Cadet Unit whether the Unit is an ACS or Non-ACS type.

(2)-(3) [See paper No 156.]

(4) The Army, Navy and Airforce Cadets are funded through the Australian Defence Forces. Affiliated schools receive $75 per Cadet from the CADETSWA program. Non-ACS Cadet Types are funded at a rate of $450 per Cadet through the CADETSWA program. The CADETSWA program is fully funded by the Office of Youth Affairs (OYA). The OYA also provides all non-ACS Cadet Instructors with an Honorarium of approximately $2 000 per year.

Community Languages Programs

(1) (a) Community Languages Programs, covering 24 languages are organised by 40 ethnic associations in collaboration with the Education Department.

(b) State and Commonwealth funding is administered by the Education Department to community languages programs.

(c) Support is provided through the Curriculum Directorate of the Education Department and the Ethnic Schools Steering Committee. The provision of professional development is organised by, and funded through, the Education Department.

(2)-(4) [See paper No 156.]

Sports Challenge Program

(1) Sports Challenge Program is partly funded by the Education Department.

(2) Sports Challenge Program.

(3) Various schools.

(4) Depends upon the program itself and the location of the school. This is determined by the Sports Challenge Program itself.

Centenary of Women's Suffrage – Youth Parliament

(1) Centenary of Women's Suffrage – Youth Parliament is partly funded by the Education Department.

(2) Centenary of Women's Suffrage – Youth Parliament.

(3) Parliament House, Perth.

(4) $7 000 from the Public Education Endowment Trust fund.

Perspective Visual Arts Year 12
(1) Perspective Visual Arts Year 12 is partly funded by the Education Department.

(2) Perspective Visual Arts Year 12.

(3) Central/Metropolitan though can be toured in conjunction with Art Gallery of WA.

(4) From the Education Department, $18 000 in 1999-2001.

Performing Arts Perspectives
(1) Performing Arts Perspectives is partly funded by the Education Department.

(2)-(3) Central (videos for country students are available).

(4) From the Education Department, $15 000 in 1999-2001.

Awesome Children's Festival
(1) Awesome Children's Festival is partly funded by the Education Department.

(2) Awesome Children's Festival.

(3) Central.

(4) From the Education Department, $6 000 in 1999-2001.

WA Youth Theatre Company
(1) WA Youth Theatre Company is partly funded by the Education Department.

(2) WA Youth Theatre Company.

(3) Central/Metropolitan.

(4) From the Education Department, $3 000 in 1999 only.

Arts Edge
(1) Arts Edge is partly funded by the Education Department.

(2) Arts Edge.

(3) Central with collaboration of Arts WA.

(4) From the Education Department, $2 000 – 1999 only plus 1.0 FTE.

Music Festivals
(1) Band, Orchestra, Jazz, Classic Guitar, Ensemble Music Festivals and the Shell Concert are partly funded by the Education Department.

(2) Music Festivals.

(3) Central – School of Instrumental Music in association with professional association and sponsors.

(4) Administration 0.4 FTE plus limited support, eg fax, phone and photocopying.

School Sport WA
(1) School Sport WA is partly funded by the Education Department.

(2) School Sport WA.

(3) The program is offered Statewide to all students who wish to compete in sporting activities at a school, district or State level.

(4) A total of $172 000 in direct grants, plus Executive salary $70 000, plus teacher relief payments to the value of $100 000.

Swimming and Water Safety
(1) Vacswim is funded by the Education Department.

(2) Vacswim.

(3) Statewide on a needs basis.

(4) The Education Department provides a small financial incentive to schools which actively encourage vacation swimming participation by enrolling students through the school.

SYDNEY OLYMPICS, PREMIER'S ATTENDANCE

460. Mr McGOWAN to the Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

(1) Will the Premier be attending any events or functions at the Sydney Olympics?

(2) If so, when and which events?

(3) What is the estimated cost of the Premier's attendance and any attendance by his family and staff?

(4) Who is meeting these costs?

Mr COURT replied:

(1)-(4) The Premier and Mrs Court have been invited by SOCOG to represent Western Australia at the Sydney Olympics. He has not decided which events he will attend.

TEACHERS, WORKERS COMPENSATION CLAIMS

492. Mr PENDAL to the Minister for Education:

(1) Will the Minister provide the number of Workers Compensation claims lodged by teachers in each of the last five years?

(2) Of this number, what number were/are stress-related claims?

(3) Which numbers of -

(a) the overall claims lodged; and
(b) stress-related claims,

were initially rejected outright by the department's insurer?

(4) Of those stress-related claims so rejected, how many were rejected on the advice of consultant psychiatrists?

(5) What numbers of consultant psychiatrists are used by the department and its insurers, and how are they selected?

Mr BARNETT replied:

(1) The following are claims lodged by teachers employed in the Education Department of Western Australia in each of the last five years.

1994/95	1995/96	1996/97	1997/98	1998/99
700	794	810	838	737

(2)

1994/95	1995/96	1996/97	1997/98	1998/99
74	83	83	110	112

(3) (a)

1994/95	1995/96	1996/97	1997/98	1998/99
0	0	0	5	15

(b)

1994/95	1995/96	1996/97	1997/98	1998/99
0	0	0	3	14

(4)

1994/95	1995/96	1996/97	1997/98	1998/99
0	0	0	2	10

(5) The RiskCover team currently managing claims for the Education Department is using the services of six psychiatrists. The psychiatrists are selected by RiskCover from a list of registered medical practitioners specialising in their field on the basis of who is prepared to engage in workers' compensation claims.

HERITAGE COUNCIL, RECOMMENDATIONS

556. Ms WARNOCK to the Minister for Planning:

(1) Has the Heritage Council recommended that Council House be placed on the State Register of Heritage Places?

(2) If so, has the Minister accepted that recommendation?

(3) If not, will the Minister himself move to seek registration for the building?

(4) Does the Minister have confidence in the Heritage Council?

(5) Once a property goes on the State Register what form of protection is there for the structure?

(6) Will the Minister provide a list of all the properties that have been recommended for registration by the Heritage Council and what has been the outcome of those recommendations for the following years -

(a) 1996;
(b) 1997;
(c) 1998; and
(d) 1999?

Mr KIERATH replied:

(1) Yes.

(2)-(3) No.

(4) Yes.

(5) Section 11 of the Heritage of Western Australia Act requires decision making authorities to refer matters that might affect a registered place to the Heritage Council for its advice.

(6) (a) The Heritage Council recommended 60 places for registration to the Minister and all 60 were registered. In addition, a further 21 places were entered in the Register under Ministerial delegation. [See paper No 157.]

Please note that on 3 April 1997, I provided the Director of the Heritage Council with the delegation to register places on Heritage Council recommendation, when owners supported registration.

(b) The Heritage Council recommended 19 places for registration to the Minister. 13 of those places were registered and six have not been registered to date. In addition, a further 89 places were entered in the Register under Ministerial delegation. [See paper No 157.]

(c) The Heritage Council recommended 30 places for registration to the Minister. 11 of those places were registered, 14 have not been registered to date and 5 which the Minister did not accept the recommendation of the Heritage Council to register. In addition, a further 68 places were entered in the Register under Ministerial Delegation. [See paper No 157.]

(d) The Heritage Council has recommended five places for registration to the Minister so far this year. Two of those places have been registered, one has not been registered to date and two which the Minister did not accept the recommendation of the Heritage Council to register. In addition, a further 15 places have been entered on the Register under Ministerial delegation. [See paper No 157.]

BINDI BINDI COMMUNITY ABORIGINAL CORPORATION, ONSLOW, TOWN RESERVE HOUSING

566. Mr BROWN to the Minister for Housing:

(1) Has the Ministry for Housing taken responsibility from the Aboriginal Affairs Department for town reserves housing?

(2) Has the Ministry taken responsibility for assessing grant applications for town reserves previously administered by the Aboriginal Affairs Department?

(3) Has the Ministry received from the Aboriginal Affairs Department an application made by the Bindi Bindi Community Aboriginal Corporation in Onslow?

(4) Has the Ministry -

(a) examined; and
(b) approved,

the application?

(5) If the application has not been approved, what processes does the application have to go through before it is reconsidered?

(6) Will the Minister personally review the application in view of the excellent work being carried out by the Corporation?

(7) If not why not?

Dr HAMES replied:

(1) No, however funding responsibilities to support housing management are being negotiated and the Ministry will take on this role once a memorandum of understanding is agreed.

(2)-(3) No.

(4)-(7) Not applicable.

BELVIDERE SUBDIVISION, DAMAGE TO OIL-FILLED CABLE

583. Ms MacTIERNAN to the Minister for Planning:

(1) Will the Minister confirm that a contractor damaged an oil-filled cable in the Belvidere subdivision earlier this year, causing an oil leak?

(2) If yes, will the Minister state -

(a) the name of the contractor;
(b) the date of the accident;
(c) how much oil was leaked;
(d) the environmental damage of the leak;
(e) whether the Environmental Protection Authority was informed; and
(f) the cost of the clean-up and who met the cost?

Mr KIERATH replied:

(1) Yes.

(2) (a) Ertech Pty Ltd.
(b) Advice received on 16 February 1999.
(c) Approximately 1000 litres.
(d) Low hazard according to Western Power advice.
(e) Yes.
(f) Cost yet to be determined and will be covered by insurance.

COMMERCE AND TRADE, REGIONAL PRICE STUDY, EXTENSION

591. Mr BROWN to the Deputy Premier:

In relation to the regional price study being carried out for the Department of Commerce and Trade by BSD Consultants -

(a) will the Minister be extending this study to monitor the effect of price changes in the lead up to the introduction of the Goods and Services Tax (GST)?

(b) will the monitoring continue after the introduction of the GST, and if so for what period?

Mr COWAN replied:

(a) The project has two data collection stages with the second price collection to be undertaken in the fourth quarter, 1999, prior to the introduction of the GST.

(b) Advice will be taken from the Regional Development Council on any extension of the project beyond the second data collection stage.

GOVERNMENT CONTRACTS, INTERIM HR SOLUTIONS

594. Mr BROWN to the Deputy Premier:

(1) In relation to the $6 million contract recently awarded to Interim HR Solutions to provide 'specialist contract personnel' to the Department of Commerce and Trade, will public sector selection procedures be adhered to in the provision of personnel hired through this company?

(2) If the answer to (1) above is no, why not?

(3) Will the Public Sector Standards Commissioner be able to investigate any complaints relating to the hiring of personnel through Interim HR Solutions?

(4) If the answer to (3) above is no, why not?

Mr COWAN replied:

(1) No. The contract awarded to Interim HR Solutions should not be referred to as a $6 million contract. The total value will not be known until the expiry date and it should be noted that payments related to this contract are of two kinds. These are the management fee to Interim HR Solutions and payments to individual contract specialists.

(2) The contract is for a provision of service and is not an employment contract. As the contract specialists provided to the Department of Commerce and Trade are employed by Interim HR Solutions and not the Department of Commerce and Trade, the selection of these persons is not subject to public sector employment guidelines. However, it is a condition of State Government contracts for goods and services that the successful contract shall observe, perform and comply in all material respects with all relevant Industrial Awards, Registered Workplace Agreements, Industrial Agreements and orders of Competent Courts or Industrial Tribunals applicable to the work to be done under the particular contract. Interim HR Solutions is required to advertise publicly and provide a recommendation report to the Department of Commerce and Trade when the total contract value is estimated to exceed $5 000 or extend beyond 20 working days.

(3) No.

(4) The department has received advice from the Crown Solicitor indicating the powers of the Public Sector Standards Commissioner do not extend to this type of contract.

GOVERNMENT CONTRACTS, INTERIM HR SOLUTIONS

595. Mr BROWN to the Deputy Premier:

(1) In relation to the $6 million contract recently awarded to Interim HR Solutions to provide 'specialist contract personnel' to the Department of Commerce and Trade, when and where was this contract advertised?

(2) Which Government Department advertised the contract?

(3) What were the names of the companies which made submissions?

(4) What are the names of the people on the panel who made the award decision?

(5) Is Interim HR Solutions associated with CP Resourcing, the previous holders of this contract?

Mr COWAN replied:

(1) This contract was advertised in The West Australian on May 1 and 8, 1999 and the Western Australian Government Bulletin Board. The contract awarded to Interim HR Solutions should not be referred to as a $6 million contract. The total value will not be known until the expiry date and it should be noted that payments related to this contract are of two kinds. These are the management fee to Interim HR Solutions and payments to individual contract specialists.

(2) The Department of Contract and Management Services.

(3) Addecco Personnel Australia P/L, Clements Human Resource Consultants, Drake Contracting, Hays Personnel Services (Australia), Interim HR Solutions P/L, Lyncroft Consulting Group P/L, Morgan & Banks Management Services Pty, Sound Personnel, Workskills Professional P/L.

(4) Mr Stephen Grocott, Ms Sonia Grinceri and Mr Robert Vincentini were on the evaluation panel. Their recommendation report was endorsed by the Departmental Purchasing Review Group prior to approval by the Chief Executive Officers of both the Department of Commerce and Trade and Contract and Management Services and the State Tenders Committee.

(5) Yes. The name change was the result of a merger of the Computer Power group of companies with Interim Services Inc to form Interim HR Solutions.

HEALTH SERVICES, CONTRACTING OUT

597. Ms McHALE to the Minister for Works:

(1) Will the Minister confirm whether the Department of Contract and Management Services personnel are examining options for the further contracting out of health services?

(2) If so, what are the terms of reference for this work?

(3) If so, who is involved?

Mr BOARD replied:

I am advised that:

The Department of Contract and Management Services has conducted a study for Princess Margaret and King Edward Memorial Hospitals (PMH/KEMH) to identify business improvement opportunities in their corporate support services area. A broad range of possible improvement strategies were considered including outsourcing. In addition, CAMS has investigated options for the sale of Healthcare Foods for the Metropolitan Health Service Board. The terms of reference were:

(a) provide PMH/KEMH with a strategic analysis of the strategies, management, processes, resources and technology applied to its internal and external procurement of goods and services;

(b) based on this analysis, and using comparative data where available, identify immediate and longer term business improvement opportunities; and

(c) develop a plan for the sale of Healthcare Foods.

(3) Staff members from the Department of Contract and Management Services.

REGIONAL HEADWORKS DEVELOPMENT SCHEME, APPLICANTS

602. Mr RIEBELING to the Minister for Commerce and Trade:

(1) How many organisations applied for financial assistance under the Regional Headworks Development Scheme for 1998-99?

(2) Will the Minister state the names of each unsuccessful applicant and the particular utility or service for which assistance was sought?

Mr COWAN replied:

(1) 30.

(2) Shire of Gingin (on behalf of the Australian International Gravitational Observatory) – electricity and telecommunications.

Torbay View Motel – electricity.

Trishore Pty Ltd (Cabernet Suites, Margaret River) – electricity, water, telecommunications, drainage and sewerage.

SAND MINING, GNANGARA

652. Mr MacLEAN to the Minister for Planning:

Will the Minister advise the details of the arrangement between the State Planning Commission and the sand mining development applicant that would allow sand mining of Lot 6 and Lot 7, Sydney Road, Gnangara, even though this land is the subject of Bush Plan?

Mr KIERATH replied:

The Western Australian Planning Commission has received a development application for a sand extraction operation on Lots 6 and 7 Sydney Road, Gnangara. The proposal has been the subject of ongoing negotiations and discussion to achieve a balance between the objectives of Bushplan and the needs of basic raw materials. As a result of these discussions, a revised proposal was submitted to all agencies on 17 August 1999. The revised proposal has not been formally considered by either the Western Australian Planning Commission or the Department of Environment. Aside from Bushplan, a range of normal environmental and planning considerations will require further consideration by the Department of Environmental Protection and the Western Australian Planning Commission.

QUESTIONS WITHOUT NOTICE

ACCELERATED DEPRECIATION ALLOWANCE, ABOLITION

215. Dr GALLOP to the Acting Premier:

(1) Is the Acting Premier aware that the federal coalition Government has today abolished the accelerated depreciation allowance for all businesses with a turnover of more than $1m?

(2) Does the State Government maintain - as it warned last month - that resource projects in this State worth more than $12b would be sabotaged by such a move?

Mr COWAN replied:

(1)-(2) I see no reason to change the view expressed in the House last week about the consequences of the Ralph package for the State of Western Australia. We have a resource-based economy and by leaving only a door open rather than giving any definite prescription for the mining industry, I think -

Mr Ripper: That there is nothing there for them at all.

Mr COWAN: That is not true. If the Deputy Leader of the Opposition reads the report, he will notice that the Commonwealth allows an opportunity for accelerated depreciation based on individual cases. That in itself is an opening but it is nowhere near as good as having a definitive position. The Government would have preferred a maintenance of accelerated depreciation for the resources sector. It is disappointing to learn that the Commonwealth has made this variation.

ACCELERATED DEPRECIATION ALLOWANCE

216. Dr GALLOP to the Acting Premier:

Is this not another example of the Federal Government's ignorance of the needs of Western Australian business?

Mr COWAN replied:

It is an indication that the Federal Government does not appreciate the dependency of the Western Australian and the national economies on the resources sector. The resources sector is very important to this State. Western Australia has just over 10 per cent of the population, but produces 25 per cent of the nation's exports. Those exports include minerals, including energy, and agriculture and fisheries products. The bulk of those exports are minerals - iron ore, alumina, mineral sands, nickel and those sorts of commodities. The Federal Government does not fully appreciate the consequences its policy will have on capital investment in mining projects in this State. Most investors, particularly institutions, are already looking for investments in areas in which there is likely to be considerable appreciation of intellectual property in monetary terms. The resources sector is playing second fiddle in attracting investment from financial institutions. The Federal Government's policy will make it even more difficult for mining companies to attract investment in new projects.

JOONDALUP HEALTH CAMPUS, COMPLETION OF CONTRACT

217. Mr BAKER to the Minister for Health:

Following an announcement last week by the Government of an overall increase in funding to hospitals in the metropolitan area, can the minister confirm that the contract for the Joondalup Health Campus has been finalised; and, if so, can he provide details of this contract?

Mr DAY replied:

I thank the member for some notice of this question. I am pleased to advise that the 1999-2000 contract between the Joondalup Health Campus and the Health Department has been finalised. The outcome of those suggestions is that there will be a substantial increase in funding for the Joondalup Health Campus which in turn will see a significant increase in the number of patients who are treated at the Joondalup Health Campus. The allocation for the 1999-2000 financial year is $52.7m, which is a $14m increase over the allocation for 1998-99 which was $38.7m. The new contract will provide for a 17 per cent increase in the number of medical and surgical inpatient procedures, a 34 per cent increase in the number of bed days available for mental health inpatients and a significant increase in the emergency department services. The additional funding means that not only will more patients be seen at Joondalup but also more services will be offered including an expanded, higher-level intensive care coronary unit to back up the hospital's emergency department. In addition, patients who require specialist aged care services will be better provided for, in particular, through a new continence clinic, a new osteoporosis falls and fracture clinic and a comprehensive new geriatric medical assessment clinic. That is good news for the people of the northern suburbs generally and, in particular, for those people who require aged care services in the Joondalup region.

BELLTOWER, ENTRY FEES

218. Dr GALLOP to the Acting Premier:

I refer to the proposed Barrack Square belltower project.

(1) What is the estimated annual operating budget of the belltower and how will this be funded?

(2) Can the Acting Premier confirm that the Government is considering charging people to visit the belltower?

(3) Can the Acting Premier also confirm that the minimum entry fees being considered so far are $5 for adults and $2 for children?

Mr COWAN replied:

I remind the Leader of the Opposition that it was he who was briefed on the belltower and not I. He is probably in a better position to answer his own question than I am. In all seriousness, I recommend to the Leader of the Opposition that he wait until the Premier returns and asks him that question.

BELLTOWER

219. Dr GALLOP to the Acting Premier:

Does the Acting Premier still believe that the belltower is a luxury that this State can ill afford?

Mr COWAN replied:

I am not quite sure that it is a supplementary question.

The DEPUTY SPEAKER: That question is asking for an opinion.

PEEL HEALTH CAMPUS

220. Mr NICHOLLS to the Minister for Health:

I have raised the need for the funding levels at the Peel Health Campus to recognise the needs of the local community. If there has been an overall increase in the funding levels to hospitals in the metropolitan area, can the minister provide the House with details of the contract with the Peel Health Campus?

Mr DAY replied:

I thank the member for some notice of the question.

Discussions relating to the allocation for the Peel Health Campus have concluded and have resulted in a $7.5m increase in its allocation. In 1998-99 the actual payment to the campus was $15.9m and in 1999-2000 the allocation will be $23.4m. That is another substantial increase in the provision of resources to enable our health services to operate. In the case of the Peel Health Campus the extra funding will be used to increase services for a range of activities, including emergency department attendances, inpatient care, inpatient rehabilitation, day hospital patients, oncology and chemotherapy services, renal dialysis, aged care and palliative care.

As I have said in this place on many occasions, since this Government has been in office the allocation to the Health budget has been increased substantially. It amounts to $153m over the past two years and approximately $600m per annum in the time that we have been in office. The allocations for Joondalup, Peel and the Metropolitan Health Service are tangible evidence of the benefits of the policies which this Government has put in place; namely, to substantially increase the number and range of services provided to the community as a whole, and to provide the services in better locations than in the past, closer to where people live and where population expansion is occurring.

COMMUNITY SPORT AND RECREATION FACILITIES FUND

221. Dr GALLOP to the Acting Premier:

(1) Can the Acting Premier confirm that the Government is looking at utilising the community sport and recreation facilities fund to finance the swimming pool component of the second stage of the Barrack Square redevelopment?

(2) How much money is the Government looking at raiding from this important funding source?

(3) Has the Government even bothered to consider how many worthwhile projects in regional and suburban communities will be denied funding if the Premier's pet project is to be given priority under the scheme?

Mr COWAN replied:

That is a legitimate question and I regret that I do not have the answer to it.

Mr Ripper: You were given it at 9.45 this morning.

Mr COWAN: Whenever it was given, I do not have the answer. It is my responsibility. I am not passing it off to someone else. If the Leader of the Opposition puts the question on the Notice Paper I will make sure that he gets an answer.

HOMESWEST, TENANT EMPLOYMENT PROGRAM

222. Mr MARSHALL to the Minister for Housing:

Can the minister please inform the House if any progress has been made with Homeswest's innovative tenant employment program?

Dr HAMES replied:

Last year I was apprised of a program being trialled in the United States to target people in public housing. The tenants were put in touch with local universities which would provide them with support such as transport and extra child care and try to address whatever impediment there was in an effort to help the tenants obtain employment. The tenants could then apply to purchase their own home. This year a similar program was introduced in Perth through Homeswest, to see if the same system could function here.

This Government has tried for a long time to get people into home ownership without getting them into housing poverty. It found that, rather than putting people on the waiting list for a $120 000 home, these people could be put into some sort of employment for about $5 000 a person. The Government's Goodstart program will enable them to purchase all, or part, of their own home. It is an efficient way of assisting people into housing. The Government initiated two trials; one in the Kwinana-Rockingham area and the other in the Midland-Swan View area. The Government surveyed 600 people in Kwinana-Rockingham and 100 people responded. Unfortunately, out of the 239 people surveyed in Midland-Swan View, only 27 people responded. However, the Government is holding public meetings to improve the response rate.

Yesterday I went to the Rockingham area and congratulated the first person who obtained employment under this program and is now buying her own home through the Goodstart program. Mrs Cole is a lovely lady with five children. She is proud to be the first person in that scheme into employment. The member for Girrawheen will be pleased to know that the New North project is targeted as the next area for this program.

Dr Gallop: You are being targeted at the moment.

Dr HAMES: I hope that it will be successful. We are targeting Labor Party areas because these are the areas with the highest Homeswest tenancies and unemployment rate.

Dr Gallop: There is a big circle on your forehead. A big mark right in the middle.

Dr HAMES: Although members opposite make light of it, it is an extremely important program.

Dr Gallop: So is cabinet renewal.

Dr HAMES: I am sure they realise the program's importance for unemployed people seeking employment and purchasing their own home. I am sure this program will be successful.

BARRACK SQUARE REDEVELOPMENT, COST BLOW-OUT

223. Dr GALLOP to the Acting Premier:

Some notice of this question has been given. I refer to the $7.3m the Government has set aside for new jetties under the $19.2m stage one of the Barrack Street square redevelopment and ask -

(1) Can the Acting Premier confirm that the project managers anticipate a possible blow-out in the cost of building new jetties due to problems that may be encountered in dredging the river bottom?

(2) Can the Acting Premier give a guarantee to the Parliament and the community that stage one of the Barrack Square project will not cost more than the $19.2m that has been budgeted for the project?

Mr COWAN replied:

(1)-(2) In order to give the Leader of the Opposition a full answer to that question, I suggest he puts it on the Notice Paper.

Ms MacTiernan: This is outrageous.

Mr COWAN: However, I can give him a categoric assurance that no over-budgeted funds will be spent on this project.

CARPET RETAILERS, CODE OF CONDUCT

224. Mr BAKER to the Minister for Fair Trading:

I understand that the minister has written to carpet retailers concerning the Government's proposed code of conduct. Can the minister provide the House with further information about this important government initiative?

Mr SHAVE replied:

I thank the member for some notice of this question. I recently wrote to carpet retailers commending the floor-covering industry code of practice to them. I suggested that they consider participating in the code. The code was developed by the industry with government assistance through the Ministry of Fair Trading. The industry realised that it needed to enhance its image and become a leader in the area of customer service. The Government believes it is far better for business and the community if the industry regulates its own affairs, rather than the Government assuming this role.

Ms MacTiernan: This is the cutting edge of consumer affairs.

Mr SHAVE: The code promotes a commercial environment that maximises business opportunities and safeguards the interests of consumers. It helps to prevent disputes by having floor-covering manufacturers and retailers follow consistent and high standard customer service guidelines. The code will help consumers to make informed decisions when purchasing floor coverings; set agreed minimum standards for traders when dealing with customers; help identify market issues; allow industry based expertise to assist in settling disputes and provide a quick, free and accessible complaint handling process.

Ms MacTiernan: The minister's only interest in carpets is in sweeping people under them.

Mr SHAVE: The member for Joondalup did not ask whether I had read the brochure and -

Mr Brown: That is a first. Has the minister read something?

Mr SHAVE: The member for Bassendean interjects on me and asks whether I have read the brochure. I have read it. I have brought a copy especially for the member for Bassendean.

ELECTRICITY, OFF-GRID PRICES

225. Mr BROWN to the Minister for Energy:

I refer to the increase in off-grid power prices for medium-size companies in regional Western Australia and the impact this is having on regional areas.

(1) Is the minister aware of any export companies considering moving their operations from regional areas - and Carnarvon in particular - to areas of the State where power is cheaper?

(2) Does the minister accept that the decision to increase charges may result in some of the off-grid regions losing business and employment opportunities?

Mr BARNETT replied:

(1)-(2) I am aware of the situation in regional areas, particularly Carnarvon. I visited there about six weeks ago and met with people from some of the companies concerned. The problem with the regional areas - as it has been - is that the cost of power generation is well in excess of the price at which it is sold to householders and business. One of the major issues that needed to be addressed was the introduction by the previous Government of off-peak tariffs in regional areas when there was no effective off-peak cost reduction in power generation. The phasing out of that off-peak tariff is affecting about 80 businesses around the State. However, the State Government is setting about a process of having private sector investment in new power generation to increase the supply and reliability and, we hope, to allow regional areas to at least break even.

Mr Brown: Businesses are moving from the regions.

Mr BARNETT: That is why I drove to Carnarvon, met with people and discussed it. We are doing a number of things to sort it out. Western Power has spent about $7m on a new gas turbine in the area of Carnarvon, which is currently being commissioned. We are also in the process of renegotiating the gas transport contract on the lateral pipeline, which has probably been the major impediment. Carnarvon is the one regional area that should be able to have power costs which at least match areas like Geraldton. Members opposite may well bleat. The difference between them and us in government is that we get out there and tackle the real economic problems.

Dr Gallop interjected.

The DEPUTY SPEAKER: Order!

Dr Gallop interjected.

The DEPUTY SPEAKER: Order! The Leader of the Opposition did not ask the question and I ask him to desist.

Mr BARNETT: The Leader of the Opposition was a Minister for Energy who failed absolutely to bring about one reform

in regional power generation in this State. Under this Government the Ord hydro scheme, the goldfields gas pipeline and the Pilbara energy project have been developed, the new pipeline to Mt Magnet was recently commissioned, and a competitive process for power generation in west Kimberley, the Midwest and the Esperance region has been introduced. We are tackling real problems in a real, economic way.

EYE INJURIES TO CHILDREN

226. Mr BRIDGE to the Minister for Fair Trading:

I refer to the recent incident of a 12-year-old boy who is virtually blind in his right eye as a result of a powerful laser pointer being shone into his eye.

(1) In order to prevent childhood eye injuries and visual disability, will the minister place a total ban on the sale of the diode red lasers greater than 1 milliwatt?

(2) Will the minister recommend that control of the use of laser pointers be considered under the Western Australian Weapons Act 1999?

Mr SHAVE replied:

I thank the member for Kimberley and president of the Independent Party for some notice of this question.

(1) I am advised by the Commissioner for Fair Trading that he has signed a product safety order to restrict the sale of laser pointers above class 2; that is, those being greater than 1 milliwatt of radiant power. The commissioner has also indicated it is proposed that the order will be gazetted on Friday, 24 September 1999. In addition, this afternoon I will issue a media statement on this issue.

(2) The Minister for Police has indicated that depending on the circumstances, should any laser pointer be used or carried with intent to harm, it will fall under the category "article" and be subject to the Weapons Act 1999, which will come into effect on 1 March 2000. I also understand that my colleague, the Minister for Health, intends to investigate with parliamentary counsel whether it is possible to take action to ban the manufacture, sale, possession and use of laser pointers with outputs greater than class 2, by amendment of the Radiation Safety Act and associated regulations.

WORKSAFE INSPECTORS, DIRECTIONS

227. Dr EDWARDS to the Minister for Labour Relations:

Given that in her brief ministerial statement today, the minister said, "Having now been given all the details" -

(1) Will the minister confirm that although WorkSafe did not give written directions to inspectors, verbal directions were given to inspectors on the safety of forest protestors?

(2) What were the verbal instructions?

Mrs EDWARDES replied:

(1)-(2) No, I will not. Even though the member has a copy of the ministerial statement, she does not understand what was said. I outlined the operational policy, which is a comprehensive complaints policy. It does not relate solely to forest policy but to matters at sea, on roads and in other areas where two or more agencies are involved. If the member wants to take this further, I will organise for her a briefing with the commissioner.

RESOURCE SECTOR, IMPACT OF REMOVAL OF ACCELERATED DEPRECIATION

228. Mr BRADSHAW to the Minister for Resources Development:

(1) Will the minister outline the impact on the Western Australian resource sector of the removal of accelerated depreciation as announced today in the Ralph Review of Business Taxation?

Dr Gallop: We have already had this one.

Mr BRADSHAW: Will members be patient until I have finished my question?

Several members interjected.

The DEPUTY SPEAKER: Order! I ask members to allow the member to finish his question.

Mr BRADSHAW: My question continues -

(2) Will the removal of accelerated depreciation allowances, effective from today, have an effect beyond just the major resource development projects?

Mr BARNETT replied:

(1)-(2) Depreciation is a system whereby major items of capital expenditure - plant, equipment, building or whatever else - can be deducted against income over the life of those assets. Accelerated depreciation allows people to make those deductions early. It is particularly important that the removal of the accelerated depreciation allowance will take away a significant tax advantage to major investment and also relatively minor investment. A lot has been said

about major projects, such as the liquid natural gas expansion. They will certainly suffer. The alternative offered by the arrangements today is one of a targeted investment allowance. It smacks of picking winners and the potential for misuse. It is not the way in which we should be trying to encourage investment in our resources industry. I stress that accelerated depreciation allowances are also important for smaller mining companies, service companies, exploration and drilling companies, transport companies, pipeline operators and so on. It applies equally to other primary industries, such as farming and fisheries. It is very important to our economy. It is suggested that the removal of the accelerated depreciation allowance will be compensated by a reduction in the company tax rate to 30 per cent. Only about 45 per cent of small businesses are companies, so only 45 per cent will benefit from the reduction in the company tax rate. A whole host of medium-size businesses in our primary, mining and petroleum industries will be significantly disadvantaged. It will have a big distributional effect. Although some would argue that for major resource projects, the reduction in the company tax rate will compensate for the loss of the depreciation allowances, many of our major resource projects have significant overseas ownership. Accelerated depreciation allowances targeted and forced investment into the development of Australian industry. Much of the benefit of the lower tax rate will simply flow overseas as profits are disbursed. Some significant distributional implications have not been thought through. Indeed, of all the States of Australia, with its dependence on export activities in primary, mining and petroleum industries, this State will feel it most. Indeed, given that Australia has a continuing weakness in its balance of payments - that has been so for the past 25 years - the one thing we do not want to do is to remove an incentive from export-oriented activity. Much is wrong with the package brought down by the federal Treasurer.

KALGOORLIE-KWINANA RAILWAY LINE

229. Ms MacTIERNAN to the Acting Premier:

(1) Can the Acting Premier confirm that in discussions between the Deputy Prime Minister and the Minister for Transport the Federal Government offered to purchase or to lease the Kalgoorlie-Kwinana railway line to preserve the integrity of the national network?

Mr House: You asked that question last week.

Ms MacTIERNAN: Yes, but I directed it to a different minister.

(2) Can the Acting Premier confirm that the offer also involves upgrading the line to eliminate the massive speed restrictions?

(3) Will the Government accept the offer?

Mr COWAN replied:

(1)-(3) No such offer was made.

Ms MacTiernan: Was it discussed?

Mr COWAN: The member asked the question and she will now get the answer.

The discussions between the Minister for Transport and the Deputy Prime Minister, followed by a discussion between the Deputy Prime Minister and me, confirmed that there was never a government-to-government offer with respect to the east-west line - that is, the standard gauge line that would be of interest to the Australian Rail Track Corporation. However, the CEO or managing director of ARTC did come to Western Australia and indicated an interest in seeking to establish whether the east-west line could be separated from the State Government's proposed sale of Westrail. If the Government was prepared to do that, ARTC might consider making a bid for that line.

Why would the State Government want to sell the east-west line to ARTC in the knowledge that the interstate traffic on that line still represents the minority volume of freight? The domestic freight - grain and product going to the goldfields for the mining industry and to Esperance - is still by far the largest volume of freight on that line. Why would the State Government wish to hand over that line to a minority user?

Ms MacTiernan: To sell it.

Mr COWAN: The answer is that of course it would not. To ensure that there is no confusion, I reiterate: There was never any discussion between the Deputy Prime Minister and the Minister for Transport or me in respect of a genuine offer on the east-west line. However, as I said, the CEO came to Western Australia and, without authority from the federal Minister for Transport and without giving the minister information about the purpose of the visit, indicated that he was prepared to look at the purchase of the east-west line by ARTC.

Ms MacTiernan: Would the Government accept that offer?

Mr COWAN: No, it would not.

GIRRAWHEEN ELECTORATE, DRUG PROBLEM

230. Mrs van de KLASHORST to the Minister for Police:

Some notice of this question has been given. Last week in Parliament the member for Girrawheen expressed his concern about the lack of action by the police with regard to a drug problem in his electorate. As the drug problem is of major concern, what action has the Police Service already taken to counteract this situation?

Mr PRINCE replied:

I thank the member for some notice of this question. I must confess I was surprised by the actions of the member for Girrawheen, not only because they abrogate the rule of law but also because I was concerned about the effect on police operations. I listened with interest to Assistant Commissioner Atherton on the radio last Thursday, who said on more than one occasion that he had spoken to the member for Girrawheen and that the member had said he would not go public with his information, but he did. The police commenced an operation on 23 July under the direction of the Metropolitan Commander Assistant Commissioner Standing in the Joondalup district -

Mr Cunningham: That is not correct.

Mr PRINCE: That was two weeks before the member's public meeting. That operation was expanded to become a task force utilising resources from a number of districts as well as the crime investigation support portfolio. At the time the member made the statement last week, 33 people had been charged with 93 offences relating to drugs and burglary and 73 charges had been laid for simple offences, giving a total of 166 charges. As the member knew, some of the people he named last week were subject to inquiry and in some cases search warrants had been issued. It would not take an Australian Labor Party member of this place long to work out that there is not much point in proceeding with some of those investigations now.

However, the operations will continue. They will be complemented by other specific targeted operations, which have in the past dealt with and targeted burglary and stealing offences, particularly those involving people who use the proceeds from burglary to obtain drugs. Indeed, two operations - Ajax and Sweep - have resulted in 51 people being charged with 121 property and drug offences during July and August. Those operations will continue, notwithstanding what the member for Girrawheen does. His tough-on-drugs approach is commendable. That approach has been the basis of the Government's drug policy for the past three years. How can the member for Girrawheen possibility reconcile that with the policy expressed by the member sitting three along from him who wants to legalise cannabis and have heroin shooting galleries?

WORKERS COMPENSATION PREMIUMS, GST EFFECT

231. Mr KOBELKE to the Minister for Labour Relations:

What is the anticipated net cost impact of the goods and services tax on Western Australian workers compensation premiums?

Mrs EDWARDES replied:

I do not have the full answer to that because, as the member will be aware, employers will get an input tax rebate. A number of issues are still to be worked through.

Several members interjected.

Mrs EDWARDES: As I said, many issues are currently being worked through, particularly relating to the rebate to the employers for the input tax.