Legislative Assembly

Thursday, 2 November 1995

THE SPEAKER (Mr Clarko) took the Chair at 10.00 am, and read prayers.

PETITION - REGIONAL PARK, SOUTH OF GUILDERTON, ESTABLISHMENT

DR WATSON (Kenwick) [10.02 am]: I present the following petition -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned respectfully request that the Government establish a regional park immediately to the south of Guilderton in order to protect the mouth and lower reaches of the Moore River and the significant dunes and coastal heathland south of the mouth of the Moore River.
>
> We request that the Government take urgent action to acquire this land before it is further rezoned or developed.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 23 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 169.]

PETITION - FINANCIAL COUNSELLING SERVICES, FUNDING CUT

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [10.03 am]: I present the following petition -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undermentioned petitioners, call on the State Government to reverse its decision to cut funding to financial counselling services throughout Western Australia in the 1995-96 State Budget.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 43 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 170.]

PETITION - WESTERN GATEWAY PLAN; KINGS PARK AND BOTANIC GARDEN PLAN

DR EDWARDS (Maylands) [10.04 am]: I present the following petition -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned, object to the proposals of the Western Gateway Draft Concept Plan and Kings Park and Botanic Garden Draft Framework Plan which include the replacement of the roses along the Kings Park Road median strip with natural bush, closure of Harvest Terrace to traffic and change to left turn in and out only on Ventnor Avenue and closure of Fraser Avenue to traffic.

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

The petition bears 141 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 171.]

MOTION - STANDING ORDERS SUSPENSION

Local Government Amendment (Open and Public Inquiry) Bill

MR McGINTY (Fremantle - Leader of the Opposition) [10.05 am]: I move -

That so much of the standing orders be suspended as is necessary to enable consideration forthwith of a motion to allow the House to proceed and vote on the Local Government Amendment (Open and Public Inquiry) Bill.

Mr C.J. Barnett: What a joke! What an embarrassment you are to this Parliament.

Dr Gallop: It is quite easy to do, my friend.

The SPEAKER: Order!

Dr Gallop: Just relax and read a little bit about the history of Parliament.

Mr C.J. Barnett: We can forget private members' time for the rest of the year if that is what you want.

Dr Gallop: Now we have the bullyboy.

The SPEAKER: Order!

Mr McGINTY: We have made the point on many occasions that every time the leader comes in here with this doctrinaire, arrogant approach, which does not allow enough flexibility for this Parliament to deal with the matters before it, he will do himself a disservice. The sorts of threats he is now making to stifle the debate in this, the people's House, to prevent matters being dealt with properly by this Parliament do the Leader of the House and his Government no credit whatsoever. If he wants to come in here making threats -

Mr C.J. Barnett: You mucked it up last night and you whipped up the media. You ain't going to do it today!

Several members interjected.

The SPEAKER: Order!

Mr McGINTY: - he will have to deal with a hostile House. He has come into this place threatening people in order to silence them. He is threatening that we cannot conduct our business as members of Parliament and saying that we cannot raise matters of legitimate public concern by using bullyboy tactics, threats and intimidation -

Several members interjected.

The SPEAKER: Order! Perhaps the member is speaking to the motion -

Mr McGINTY: Not yet.

The SPEAKER: Assuming that he is not, I call on him and the leader to cease their cross-Chamber argument.

Mr McGINTY: This is an urgent matter. It is quite clear that the inquiry that has been set up by the Government, chaired by eminent Queen's Counsel Mr Peter Kyle, has until the end of January to report. He is about to embark on his inquiry and the calling of witnesses before that inquiry. He needs to know, with a measure of certainty, the basis upon which his inquiry can proceed. It is unfair to Mr Kyle to leave him dangling with a Bill before this Parliament that fundamentally affects the way he might operate, given the very tight time frame within which he has to report to this Parliament. It is quite unfair to him not to let him know the basis upon which his inquiry will be conducted.

That is the sense of urgency in this matter and that is the reason the standing orders should be suspended: So that we can deal with this matter as the Parliament should and so that we, as the elected representatives of the people, can quite clearly give Mr Kyle instructions as to the legal frame work within which his inquiry is to proceed. He wants to begin his inquiries now. He has refrained from any hearings to date, based on what I read in the newspapers as being his support for that legislation which he sees as necessary to enable him to proceed with a proper, full, complete, open and public inquiry into the very serious allegations of corruption associated with Wanneroo and the Liberal Party.

Mr Cowan: Did he ask for those powers in 1992?

Mr McGINTY: Yes, and Cabinet approved amendments to the legislation along the lines of those that we propose. We have already put up those amendments; it is up to the Government to determine how it will respond to them.

Mr Cowan: What did you do about it in 1992?

Mr McGINTY: We are 100 per cent behind an open inquiry.

Several members interjected.

The SPEAKER: Order! Members on my right.

Mr McGINTY: We now have three months left of the Kyle inquiry.

Several members interjected.

The SPEAKER: Order! There are far too many interjections.

Mr McGINTY: We now have three months left of the Kyle inquiry; that is 12 or 13 weeks until Mr Kyle has to report.

Mr Cowan: That is terrific. I am terribly sorry, Mr Speaker; we did nothing about this in government. We now see -

The SPEAKER: Order! The Deputy Premier.

Mr McGINTY: Is he calling you a hypocrite, Sir?

Mr Cowan: I called you one.

The SPEAKER: Order! If the Leader of the Opposition heard that and he wishes to take some action, he may do so, otherwise he should proceed.

Mr McGINTY: I am drawing to your attention, Mr Speaker, that I heard the Deputy Premier call you a hypocrite, but I do not want to take it any further. I thought it was unparliamentary language.

The SPEAKER: Order! I ask the Leader of the Opposition to resume his seat. I will not take any action on this matter unless members call on me to do so. I did not hear anyone say that. The Deputy Premier seems to me to be clearly denying that he did. It would be better to proceed with the motion.

Mr McGINTY: There are only 12 or 13 weeks left of the Kyle inquiry. It must report by 31 January. Mr Kyle supports the extension of powers that the Bill would give him. He sees it as necessary to make sure that his inquiry operates on a proper basis.

If there is any doubt about that, I refer members to *The West Australian* of 21 October 1995 - most recently - which states -

> Premier Richard Court's reason for not agreeing to allow the Wanneroo City Council inquiry to be held in public was illogical, Wanneroo Inc investigator Peter Kyle said yesterday.
>
> "Whether I had the power to hold hearings in public or not, I wouldn't hold hearings in public about matters which were the subject of specific prosecutions," Mr Kyle said . . .
>
> "I just think that (Mr Court's) reason is quite illogical, the two things are entirely separate," he said . . .

> "As I see it, the public interest demands that where it is possible to hold the thing in public without interfering with prosecutions, it should be done."

That article went on to quote Professor Allan Peachment of Curtin University and Paddy O'Brien, associate professor of politics, as adding their voices to calls for an open inquiry.

We have a massive community call for the legislation to be passed. It is not appropriate, given the urgency of the time frame within which Mr Kyle is operating, for this matter to be deferred to the never-never. It is simply not appropriate to proceed in that way. We all know that, unless the motion is carried today, Mr Kyle will not be able to hold his inquiries in an open and public way. Parliament will not sit next week, and we will return the following week for three, possibly four, weeks with very limited private members' time available, but, more important, the Kyle inquiry will be under way -

Mr C.J. Barnett: Every time you use up government time, we just take it off your time.

Mr McGINTY: Is that another threat?

Mr C.J. Barnett: It is reality.

Mr McGINTY: Big bullyboy; that will do him no good. It demeans him and his Government to behave in that threatening way.

Mr C.J. Barnett interjected.

Mr McGINTY: If you want a cooperative House, Mr Speaker, it will be very much up to you, not the bellicose Leader of the House, as to the way in which this matter proceeds. We face three or four weeks which, according to the Leader of the House, will be a riotous time in the House, with vindictiveness and punitiveness as the hallmarks of his approach to government business. I ask him to elevate his mind for one minute to the important principle that is at stake. It is something for which the community is crying out and which he is denying. It will not be accepted. The most recent expression of public opinion on the matter was in yesterday's edition of *The West Australian*, which states -

> An overwhelming majority of those who wanted a public inquiry with provisions for in camera hearings supported changing the law so Mr Kyle had the discretion to decide which parts of the investigation could be kept secret.
>
> Eighty-four per cent of respondents supported changing the law . . .

According to that poll, 84 per cent of people in Western Australia want that law passed. The Government says, "We will not allow it to be debated unless they agree to the suspension of standing orders." We know that the Government is arguably the most poll-driven Government in the history of this State - "Put a finger in the air; which way is the wind blowing?" This Government jumps on the bandwagon, whether it be the death penalty, the reintroduction of capital punishment, school uniforms - all sorts of populist issues; but when it comes to 84 per cent of the public supporting the legislation brought in by the Labor Party which will ensure that justice is done and that justice is seen to be done in respect of Wanneroo, because it involves allegations of corruption against members of its own party, the Government will not have a bar of it. That is hypocrisy.

Mrs Edwardes: You are a fraud. You have always been a fraud and you are shown up to be a fraud.

Mr McGINTY: Now that the Attorney General has raised her head, I am reminded of an editorial in *The West Australian* a little more than 12 months ago, headed "Surely Edwardes is at end of line", which states -

> The most remarkable quality Attorney-General Cheryl Edwardes has shown in her short ministerial career is the survival instinct of a political cockroach.

I raise that matter because we all know of her connections with Wanneroo. We all know of the protection that the Premier has afforded to her, notwithstanding massive public calls for her career as the State's first law officer to be brought to an end. We all know that.

Mrs Edwardes: You are an absolute fraud. You were shown up yesterday.

Mr McGINTY: We see the political instincts of a cockroach -

The SPEAKER: Order! I ask the Leader of the Opposition to resume his seat. I have said many times that such motions make it very difficult for members and for the Chair, because there is an obvious tendency for debate to be about the prime issue and not about the suspension of standing orders. I believe the Leader of the Opposition has related a large part of his remarks to the suspension of standing orders, but in the past minute or two he has strayed from that subject. I ask him to ensure that he addresses the principle, which is the reason for the suspension of standing orders.

Mr McGINTY: I agree, Mr Speaker. It was in response to an interjection by the Attorney General that I was led on a tangent.

Today we have scheduled debate on the Local Government Bill, which is a major piece of legislation that has occupied Parliament's time for several weeks. The major issue that will be dealt with in the Local Government Bill is giving inquiries conducted under the Local Government Act, post-Peter Kyle's inquiry, the same protection as would be afforded to a royal commission - in other words, that witnesses attending before a local government inquiry would receive the same protections and the inquirer would receive the same protections, as would people who produced the transcript and the like. The bulk of today's debate is designed, if the Opposition's amendments to the legislation are successful, to give the same protections to local government inquiries in future as we now propose be given to the Kyle inquiry.

The major defect in the Local Government Bill, which is now in its Committee stage in this House, is that the existing state of uncertainty applying to the protections and privileges afforded to inquiries conducted under the local government legislation will continue.

Mr Cowan: Do you have any amendments to it on the Notice Paper?

Mr McGINTY: Yes. The Opposition's amendments are designed to give local government the protections which are necessary. It still leaves a gap between now and the proclamation of the Local Government Bill for which the Opposition has indicated its general support. Only one major local government inquiry is creating public attention and needs those sorts of protections; that is, the inquiry into Wanneroo Inc. It is a matter not only of massive public concern, but also of great urgency. Standing orders should be suspended to allow this House to debate whether the Kyle inquiry should be held in an open and public way. There would be no need to repeat that debate in the context of the Local Government Bill, which will take many hours today.

Mr C.J. Barnett: It will not take many hours today - I can assure you of that.

Mr McGINTY: Is that another threat?

Mr C.J. Barnett: It is a reality and you have known about that for six days.

Mr McGINTY: Here we go - the representatives of the people will not be able to contribute to the lawmaking of this State. This is the greatest abuse of Executive power I have heard come out of the mouth of a government member in this place. He will not allow the debate to occur and will simply put the rubber stamp on the Bill. He will treat the Parliament with contempt by not letting it fully debate the issue. Bullyboy tactics will get the Leader of the House nowhere and he will bring this place into disrepute if he goes down the path he is suggesting.

There is an air of determination that on this occasion the Kyle inquiry into the Wanneroo City Council will be thorough, rigorous and complete and will deal with all the questions before it that need answering. I am pleased that the Government has seen fit to provide resources to the Kyle inquiry by way of private investigators and a series of other things. Mr Kyle has ensured there is the highest level of coordination between the office of the Director of Public Prosecutions, which will be responsible for prosecutions arising out of this matter - already there is one. We have seen a high level of cooperation between the police and Mr Kyle to make sure that there is no overlapping of inquiries. Members of

the fraud squad are investigating allegations of corrupt behaviour in Wanneroo and they are linking in very well with the Kyle inquiry. We do not have various Government departments splintering off, running at cross-purposes and doing their own thing in competition with each other.

Two problems confront the Kyle inquiry. First, it has only 12 or 13 weeks to run and we have not yet had evidence taken in a formal session. Whether Mr Kyle can complete his report in the limited time available to him remains to be seen, but I certainly hope the Government will extend to him every consideration for extending the time if he feels it is necessary. The issue of the rottenness of Wanneroo must be put to bed once and for all.

The second problem is that the Kyle inquiry is strangled by secrecy. That is not acceptable to the community and it should not be acceptable to this Parliament. The debate I am urging this Parliament to embark upon now would ensure that this Parliament gave Mr Kyle the powers he said he needs. He said the opposition to the Opposition's Bill is illogical. It will certainly enhance both his capacity to do the job and public confidence in his inquiry. Public confidence will only prevail if the inquiry is open, not secret.

More importantly, we must get to the bottom of everything to do with Wanneroo Inc. We will not do that while a secret inquiry is taking place. All members will know that with an open inquiry the daily reports in the media of what is said bring forward other evidence. Witnesses will come forward with their memory having been jogged by what they read in the media. Witnesses will feed off each other to make sure that all the information available about the corruption in Wanneroo is brought forward through an open and accountable process. That is the essential nature of it and why 84 per cent of the community supports this legislation. I am appalled at the attitude of the Government members who said they would vote against it. Incidentally, that opposition was announced before the details of the Opposition's Bill were made known. The Premier said, "We don't want a public inquiry. After all, these allegations are levelled at my colleagues - they are Liberal Party members - so we don't want openness."

It is effectively a vote of no-confidence in Mr Kyle to refuse to give him the openness and procedural fairness he is demanding. He supports the Opposition's legislation and the Government, by its opposition to it, is effectively saying that it wants him to conduct a little investigation. That opposition sends out loud and clear signals to the community that the Liberal and National Parties - the coalition Government of this State - do not want to treat this issue seriously. If the Government were serious, it would suspend standing orders and allow the Opposition's Bill to be debated, voted on and, hopefully, to become law to enable Mr Kyle to get on with his inquiry in a proper way. The Government is sending out signals that it is not serious about getting to the bottom of everything that happened at Wanneroo. The Opposition, by contrast, has made it clear to Mr Kyle that it will give him every measure of cooperation possible. It has given him over 100 separate allegations of impropriety and corruption, and evidence that requires rigorous investigation. It has made sure all these matters will come forward and I urge members to support the motion.

MR OMODEI (Warren - Minister for Local Government) [10.28 am]: The Government opposes this motion and will debate the Opposition's Local Government Amendment (Open and Public Inquiry) Bill at an appropriate time during private members' business.

I reiterate the comments of the Leader of the House. Last night the Opposition was in total disarray, which illustrated its incompetence. The Opposition knows what time is available for private members' business and it could have brought its Bill on for debate earlier in the evening. The Government's position on this matter is clear. It has taken advice from the Commissioner of Police, the Crown Solicitor and the Director of Public Prosecutions and it has acted on that advice. My further advice is that while there may be considerable reasons for holding an open inquiry, a closed inquiry should be undertaken by Kyle. Whether all or part of that inquiry is held in public is entirely a matter for Kyle to decide. The Government has made that clear to Mr Kyle and the public.

At the same time, when making that decision the commissioner must take into account the legal difficulties described in the Crown Solicitor's advice to the Government in office in 1992, and also the effect it may have on pending police inquiries and prosecutions. In the House during his second reading speech on the amending Bill the Leader of the Opposition sallied forth and impugned a person currently being investigated and prosecuted by the police. That is the very thing we are trying to stop in this place.

Mr McGinty: That is a load of rubbish.

Mr OMODEI: The Leader of the Opposition knows the convention of this place and, as a lawyer, he knows that sub judice matters should not be discussed in this place. He did that not in general debate, but in his second reading speech. We should look closely at the motives of the Leader of the Opposition.

Mr Ripper: You took point of order after point of order and lost them all.

Mr OMODEI: If the Opposition takes legal advice, it will find the Leader of the Opposition was wrong.

Point of Order

Dr GALLOP: For the second time in a few days the Minister for Local Government has impugned the Chairpersons of this Parliament. Of course, I am referring to you, Mr Speaker, the Deputy Speaker and those who occupy the Chair in your absence. On two occasions the Minister for Local Government has deliberately and provocatively questioned the rulings of the Chair in relation to the second reading speech of the Leader of the Opposition. If there is to be respect for the rulings of the Chair, it is incumbent on all members of Parliament to accept those rulings and not persist with deliberate criticism of the Chair. That applies particularly to the executive side of Government, which has the numbers in this House. The action of the Minister for Local Government today - this is the second occasion on which it has occurred - represents an implied threat to the people who occupy the Chair in this Parliament and I ask you, Mr Speaker, to call him to order for so doing.

The SPEAKER: The member for Victoria Park raises an important issue. I was in the Chair for part of that debate on Wednesday evening two weeks ago, and a point of order was very quickly taken against the speech by the Leader of the Opposition. As members know, I upheld the position of the Leader of the Opposition at that time. It is true that no members should impugn the decisions of those in the Chair. I need do no more than make that point.

Debate Resumed

Mr OMODEI: I certainly was not trying to canvass your ruling, Mr Speaker. I certainly did discuss that matter with the Director of Public Prosecutions, who indicated quite clearly that had the case been advanced another two weeks it may have been necessary to abort the trial. I raised the point that the Leader of the Opposition is supposedly a lawyer and should know the convention of this House. He should have steered away from the possibility of causing the abortion of a trial. Mr Kyle must be cognisant of that in his investigations.

It may have been overlooked in recent debate that a royal commission and, therefore, Mr Kyle, by virtue of section 19B of the Royal Commissions Act has the power to direct that any evidence given before it in open session not be published. Inquiries have been conducted in the past under section 683 of the Local Government Act without public hearings, and not all previous royal commissions have involved public hearings. If section 683 of the Local Government Act were amended to incorporate all the provisions of the Royal Commissions Act, it would not necessarily follow that Mr Kyle would conduct all or any of his inquiries in public. It would be at his sole discretion. No doubt due regard would be paid to the concerns expressed by the prosecuting authority. The Government has a due process to follow - this must be the seventh time I have said that in this place - which is to take advice from the senior law officers in this State. The Government took advice and acted on it. The inquiry and the terms of reference were

accepted by Mr Kyle and others in the community. The inquiry is under way, all resources required for the inquiry have been provided to Mr Kyle, and the Government expects a thorough investigation to take place. Following that investigation, a report will be presented to the Parliament and it will have the associated privilege. The Government has carried out its role in a proper fashion. There will be an opportunity to discuss the amending Bill proposed by the Leader of the Opposition. Again, I indicate the Government will not support the amendment or the motion to suspend standing orders.

MR C.J. BARNETT (Cottesloe - Leader of the House) [10.35 am]: I shall discuss two elements in this motion to suspend standing orders.

Mr Thomas: Do you have any more threats?

Mr C.J. BARNETT: No, I do not threaten, my friend. I simply apply the sessional orders of the House. Once again, as the member for Roleystone said, we are witnessing the Thursday morning stunt. It is a little orchestrated. Members of the Press Gallery are sitting like ducks in a line; they have been whipped into a little Thursday morning frenzy by the Leader of the Opposition. The member for Peel is probably ready with his bucket to throw on Wanneroo matters. This saga has gone on and on for the past six months. All sorts of accusations have been made against the Attorney General and her husband and all sorts of other people. All the threats in the world have been made that this will bring down the Government and the Attorney General, and the Premier will resign. The Opposition has thrown rubbish everywhere and the media - these champions of public scrutiny - have reported this muck day in and day out, word for word. For years we have seen the Edwardes affair headlines, and it has gone on and on. Now the Opposition is having another run at it.

The Minister for Local Government has reappointed Mr Kyle and set up the inquiry under similar terms and conditions to those that applied under the previous Government. The Government has consulted the chief law officers in this State and has done everything properly. The Government has appointed Mr Kyle and he can conduct his inquiry. He understands the law and sub judice provisions, and he can decide what will be conducted in public and what will be conducted in private. That is what the mob opposite wanted and they have been given it. Members opposite now want something else. They are not content that Mr Kyle has been reappointed. Talk about contrivances! We all remember leading up to the 1993 election when the member for Mitchell, as Minister for Local Government, at 4.30 in the morning came into this Chamber, trembling with excitement, and tabled the Kyle report.

Mr McGinty: You were asleep, you were snoring.

Mr C.J. BARNETT: No I was not. I can assume only that Mr Kyle went jogging in Kings Park in the early morning, had a copy of the report tucked into his shorts, dropped it into this place and handballed it to the Minister. Is that playing politics with the report, instead of providing a properly constituted and conducted report? Nevertheless, the Minister for Local Government has reappointed Mr Kyle, who has accepted that appointment. Mr Kyle has not said he cannot conduct this inquiry. He cannot have it both ways and neither can members opposite. Mr Kyle has accepted the terms and conditions and he is getting on with the job. Members opposite convinced enough people in this Parliament and the Government to reappoint Mr Kyle. That is the reality. This all gets back to the spitting of the dummy last night. Last night we debated the Medical Care of the Dying Bill and the Leader of the Opposition told me last night also that he wanted to debate this matter.

Mr Ripper: You could not manage your own people.

Mr C.J. BARNETT: It was the Opposition's time. It was agreed that the Medical Care of the Dying Bill was an important issue. Many members on this side of the House wanted to express their point of view. Most - I was one of those people - did that in roughly two minute statements. That was private members' time. Important as the Medical Care of the Dying Bill was it was within the province and the ability of the Leader of the Opposition to say that members opposite wanted twenty minutes or half an

hour to deal with the Local Government Amendment (Open and Public Inquiry) Bill. At any stage the Opposition could have adjourned the debate on the Medical Care of the Dying Bill with which the Government would have cooperated. The Opposition chose not to do that. I have no argument with its priorities. I agree that the Medical Care of the Dying Bill was more important. However, the Opposition does not want to admit that was its choice; not mine, nor that of the Minister for Local Government. It chose to let debate continue.

Last night I anticipated that the Medical Care of the Dying Bill would finish at about 9.30 pm. It did not. In responding, the member for Kalgoorlie, as is his right, spoke until 10.00 pm and he made a sensible response. The reality was that at that stage private members' time had elapsed. Had the member for Kalgoorlie finished his remarks at 9.40 or 9.45 pm and the Minister for Local Government had spoken, I would have agreed that the Leader of the Opposition could have taken 10 minutes to respond.

Mr Riebeling: Very generous of you.

Mr C.J. BARNETT: I thought it was generous. The member for Kalgoorlie being an honest man will concede that it was 10 o'clock when he wound up his remarks. Private members' time had finished. I do not tell members opposite how to use their time.

Mr Taylor: We understood we would have extra time to complete the Kyle debate.

Mr C.J. BARNETT: Members opposite misunderstood it. It is not my responsibility to tell Opposition members what is happening. The Minister for Local Government has explained the Government's position on the Kyle report. Therefore, the Government does not support the suspension of standing orders.

House to Divide

Mr C.J. BARNETT: I move -

That the question be now put.

Question put and a division taken with the following result -

Ayes (24)		
Mr Ainsworth	Dr Hames	Mr Osborne
Mr C.J. Barnett	Mr House	Mr Prince
Mr Blaikie	Mr Kierath	Mr W. Smith
Mr Board	Mr Lewis	Mr Strickland
Mr Bradshaw	Mr Marshall	Mr Trenorden
Mr Cowan	Mr McNee	Mr Tubby
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Omodei	Mr Bloffwitch *(Teller)*
Noes (21)		
Mr Bridge	Mr Grill	Mr Ripper
Mr Brown	Mrs Hallahan	Mrs Roberts
Mr Catania	Mr Kobelke	Mr D.L. Smith
Dr Constable	Mr Marlborough	Mr Taylor
Mr Cunningham	Mr McGinty	Mr Thomas
Dr Edwards	Mr Pendal	Dr Watson
Dr Gallop	Mr Riebeling	Mr Leahy *(Teller)*

Pairs	
Mr Johnson	Mrs Henderson
Mr Court	Mr Graham
Mrs Parker	Mr M. Barnett
Mr Minson	Ms Warnock

Question thus passed.

Motion Resumed

Question put and a division taken with the following result -

Ayes (21)

Mr Bridge	Mr Grill	Mr Ripper
Mr Brown	Mrs Hallahan	Mrs Roberts
Mr Catania	Mr Kobelke	Mr D.L. Smith
Dr Constable	Mr Marlborough	Mr Taylor
Mr Cunningham	Mr McGinty	Mr Thomas
Dr Edwards	Mr Pendal	Dr Watson
Dr Gallop	Mr Riebeling	Mr Leahy *(Teller)*

Noes (24)

Mr Ainsworth	Dr Hames	Mr Osborne
Mr C.J. Barnett	Mr House	Mr Prince
Mr Blaikie	Mr Kierath	Mr W. Smith
Mr Board	Mr Lewis	Mr Strickland
Mr Bradshaw	Mr Marshall	Mr Trenorden
Mr Cowan	Mr McNee	Mr Tubby
Mr Day	Mr Nicholls	Mrs van de Klashorst
Mrs Edwardes	Mr Omodei	Mr Bloffwitch *(Teller)*

Pairs

Mrs Henderson	Mr Johnson
Ms Warnock	Mr Court
Mr M. Barnett	Mrs Parker
Mr Graham	Mr Minson

Question thus negatived.

MOTION - BUSINESS OF THE HOUSE AND SITTINGS FOR REMAINDER OF 1995

MR C.J. BARNETT (Cottesloe - Leader of the House) [10.50 am]: I move -

That for the remainder of 1995, unless otherwise ordered -

(a) private members' business shall take precedence on Wednesdays from 4.30 pm until 6.00 pm and government business shall take precedence at all other times;

(b) Standing Orders Nos 224 and 225, relating to grievances, be suspended; and

(c) so much of the standing orders be suspended as is necessary to enable Bills to be introduced without notice and to proceed through all stages on any day and to enable messages from the Legislative Council to be taken into consideration on the day on which they are received.

Essentially this motion is similar to the one I moved last year. The first part of the motion provides that private members' business be taken from 4.30 pm until 6.00 pm for the last four weeks of the sitting. At this stage I anticipate that we will sit for those four weeks. The system was introduced last year. Previous to that, private members' business was cut off completely two, three or four weeks before the end of the session. On occasions it has been cut off at the conclusion of the autumn and spring sessions. This arrangement is a better one and fairer to members on the other side of the House. It allows the continuation, albeit limited, of one and a half hours of private members' business each week.

The second part of the motion suspends grievances for the remainder of the sitting. If we were to continue to have grievances, they would effectively use up the remaining time for private members' business.

The last part of the motion is a standard procedural one that allows for Bills to be progressed through all stages on any day and allows messages from the Legislative Council to be dealt with on the day on which they are received. This part of the motion is routine and is regularly moved at this time of the year.

I also advise members that the House will begin sitting on Thursday nights, commencing on the Thursday after the recess week. I anticipate the House will sit until 7 December this year. As usually happens, the Legislative Council will sit for a week longer than this House. This may require the Legislative Assembly to return for one day to give consideration to any amendments or messages from the Legislative Council. I will advise members of the likelihood and a prospective date as we get closer to the time.

I am sure the shadow Leader of the House will make some comments; however, I remind members that this is one of those relatively smaller reforms made in the Parliament in the past two years which is a good one. It had been the practice to cut off private members' business totally during the last two, three or four weeks of the sitting. In 1992 private members' business ceased for the last two weeks; in 1991 the last three weeks; in 1990 the last two weeks; and in 1989 the last three weeks. That had been the pattern. It is far better to cut back private members' business and to allow a continuation of at least one and a half hours a week. Why I should be so generous following the most recent debate is beyond me. It must be my kind and gentle nature that allows me to be so forgiving and generous as to allow private members' business to continue when those opposite have just tried to gazump the government business in the House. I commend the motion to the House.

Mr Bloffwitch: You are too gentle.

Mr C.J. BARNETT: That is right; I am far too soft. This procedure allows private members' business to continue and an orderly passage of legislation. Although there is always some controversy with time management, we face a heavy program in the last four weeks. Much of that relates not so much to the number of Bills but to the fact that the progress of the House will be slowed down due to the coincidence of three major pieces of legislation coming before it: The Local Government Bill; the cognate debate on the water resources legislation; and, assuming what will ultimately happen, the industrial relations Bill, which will involve another major debate. Besides those important Bills, a number of less important Bills will also be dealt with.

MR RIPPER (Belmont) [10.54 am]: I appreciate the gentle, genial mode of the Leader of the House. I congratulate him on withdrawing his threat to cancel private members' business for the rest of the year. He is right when he says that this method of dealing with private members' business at the end of the session is preferable to the previous one, which was to cancel it entirely for two, three or four weeks. I am glad he has adopted this way of dealing with private members' business.

However, every week we must suffer a guillotine in this House. If we must suffer that guillotine every week, we should not also have to suffer these extraordinary measures to deal with the legislative log jam at the end of the session. In other words, if the guillotine is introduced to allow better time management, that better time management should mean that private members' business and all of the other business during the rest of the year should continue until the end of the session. It seems to me that the Leader of the House wants to have it both ways: A guillotine a week and also the ability to resort to the traditional methods, albeit slightly modified and improved, that have been applied by Governments to get their legislation through at the end of the session.

I will make two other brief points about private members' business. Under this Government, private members' business has been limited to four hours a week. Under the previous Government it was set at four and a half hours a week. Had we been allowed four and a half hours last night, we could have dealt with the matter that has just been the subject of debate - that is, the ability to debate the Kyle inquiry and the need for it to be open - in the additional half hour which the Government has been denying the Opposition ever since it came to power. I really do think that when the Leader of the House looks at the program for next year, he should think about restoring the four and a half hours for private members' business which we allowed coalition members when they were in opposition.

Mr C.J. Barnett: I will give you a deal: In the unlikely event that you should ever be returned to Government and in the equally unpalatable event that I should be in

opposition at that time, I guarantee that no-one will ask you for a restoration of four and a half hours for private members' business.

Mr RIPPER: We can put this to the test in 1997. I will greatly enjoy negotiating with the member for Cottesloe when he is the shadow Leader of the House in 1997. It will be a fascinating experience!

I also make the point that the time for private members business under this Government has been set at a most inconvenient time from the point of view of the Opposition and media scrutiny of what is going on in the Parliament. When the time for private members' business is determined for next year, the Government should give some thought to returning to the time that used to apply. The time for private members' business used to be in the afternoon. It has been shunted off until Wednesday night. It is not easy for the media to report what is happening in the Parliament at that time. It reflects the Government's view that the time when the Opposition usually makes its attacks on the Government should be a time when the media cannot record them satisfactorily.

In summation, I made three points: In regard to the guillotine, we should not need to have these additional arrangements; the time for private members' business should be restored to the four and a half hours that applied under the previous Government; and a more convenient time for both the Parliament and the media should be allocated for private members' business.

Question put and passed.

DOG AMENDMENT BILL

Introduction and First Reading

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

Second Reading

MR OMODEI (Warren - Minister for Local Government) [11.00 am]: I move -

That the Bill be now read a second time.

I introduce the Dog Amendment Bill as a matter of urgency. This legislation follows the tragic death of a lady in Wanneroo from an apparent attack by large, aggressive dogs. In addition, numerous dog attacks are reported each year. Many of these attacks occur because owners are not exercising proper, responsible control over their dogs.

The intent of this Bill is to give local governments the legislative power to take action against irresponsible dog owners and to deal with dogs that have attacked or have displayed a tendency towards aggressive behaviour. Such behaviour can include attempting to bite, rushing at, or harassing a person or an animal. The Bill gives councils the power to declare a particular dog - not a breed of dog - to be a dangerous dog, where it has caused injury or damage by an attack or it has repeatedly shown a tendency to attack a person, animal or vehicle, although no injury has occurred.

An attack is defined as including situations where a dog aggressively rushes at, harasses, bites or otherwise causes physical injury to any person or animal. It also includes situations where either the clothing of a person is torn by a dog or a person's property is damaged during an attack. Once a dog is declared dangerous, it will be mandatory for the dog to be muzzled at all times when in a public place. When declaring a dog to be dangerous, a council may also impose on its owner other control requirements such as keeping the dog in a securely fenced yard from which it cannot escape; preventing or limiting its access to public areas; and erecting warning signs at entrance points to the property where the dog is kept. A council can also require a dangerous dog to be on a leash even when in a dog exercise area. An exercise area is generally a park where dogs are permitted to run around off a leash.

The owner of a declared dangerous dog will be able to object to a council against that council's declaration and any control requirements. Alternatively, the owner can appeal

to the local court. The declaration can be cancelled where the owner satisfies the council or the court that the dog is safe. This could include the dog passing a behavioural or training course.

Once a dog is declared dangerous, an authorised officer may enter the premises where the dog is ordinarily kept to ensure that any control requirements are being complied with. No warrant will be needed for such entry. However, a warrant will be required to enter a residential building. Where an authorised person or a police officer has reasonable grounds to believe that an attack has occurred by a dog which has already been declared dangerous, those persons may enter any premises without a warrant to seize and impound the dog. The owner must be advised when this occurs. The intent of this provision is to enable a dangerous dog to be immediately detained so that it cannot attack again.

Where a dangerous dog is seized following an attack, the council will be required to give notice to the owner that the dog may be destroyed. The owner has a right of appeal against such action. The current provisions of the Act enable the owner of any dog which has attacked to claim that all reasonable precautions were taken to avoid the attack. This defence is being removed and the Bill places an absolute liability on the owner or person in charge of the dog for the dog attack unless the dog was provoked. These persons will also be liable for injuries and damages caused during an attack. Where the owner of a dangerous dog moves, sells or gives the dog away, the owner will be required to advise the relevant council within 24 hours to ensure that records on such animals are kept up to date and to enable a council to monitor compliance with control requirements.

The Bill significantly increases the existing penalty provisions for offences in order that they be commensurate with the severity of the offences. The current maximum penalty for a person who sets a dog onto another person or animal is being increased from $2 000 to $10 000 and/or 12 months' imprisonment.

The provisions of this Bill reflect the Government's concern about dog attacks on people and animals and the irresponsible attitude being taken by owners who allow their dogs to wander at large without any effective control. Owners who ignore these new laws will now face very tough measures, not only by way of penalties, but by more immediate action such as the impounding of the offending dog and its destruction. People must feel free to walk the streets without being threatened, harassed, chased or bitten by dogs. This Bill is a positive step towards overcoming the problems being created by aggressive and dangerous dogs. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

CRIMINAL LAW AMENDMENT BILL

Second Reading

MRS EDWARDES (Kingsley - Attorney General) [11.04 am]: I move -

That the Bill be now read a second time.

This Bill reflects the Government's "tough but fair" approach to law and order and its commitment to a system of laws which is responsive to the needs of the community. The Bill is part of the coalition Government's ongoing program of reform of criminal justice legislation and complements a broad range of innovative legislative and administrative reforms implemented by the coalition over the past two and a half years.

The Bill is largely concerned with addressing issues of access to justice. In broad terms it seeks to address four distinct problem areas -

First, the backlog of cases in the Supreme and District Courts: The Bill addresses this problem by including summary conviction penalties for a number of offences in the Criminal Code, and enlarging the jurisdiction of the District Court in relation to sexual offences.

Secondly, procedural problems currently being experienced in bringing people

before the courts: The Bill addresses this by proposing changes to a number of processes relating to the serving and issuing of summonses.

Thirdly, the need for greater clarity in the right of members of the public to protect themselves and their property: The Bill amends certain provisions of the code to make their application more broad and more readily understandable by the public.

Fourthly, the defendants' right of appeal againsts magistrates' decisions to commit them for trial: The Bill amends the Justices Act to abolish this right of appeal because it can waste scarce judicial resources and undermine the expeditious conduct of criminal proceedings.

Fifthly, restrictive limits imposed by the Young Offenders Act on the power of the Children's Court to sentence juveniles to the pilot work camp: In response to this the Bill provides the President of the Children's Court and the superior court judges with greater flexibility in determining which juvenile offenders can be sent to the Laverton camp.

I will now outline in greater detail the specific reforms contained in the Bill. Part 2 of the Bill contains the majority of the reforms proposed. It deals with the extra-territorial operation of the code, inclusion of summary conviction penalties for certain offences, and amendments relating to people's rights to protect themselves and their property. I will deal with each of these matters separately.

Extra-territorial operation of the code: Sections 12 to 14 of the Criminal Code provide a regime for dealing with the extra-territorial operation of the code where part of an offence is committed in Western Australia. A significant problem with the operation of section 12 is that it restricts the jurisdiction of Western Australian courts to try offences in Western Australia which were orchestrated by persons outside the State. In particular, this occurs when there is a conspiracy to commit an offence inside Western Australia by a person outside the State. For example, notwithstanding that section 558 of the code refers to conspiracy as an act or omission made in "any part of the world", unless a conspirator actually enters the State, Western Australian courts have no jurisdiction to try the offence. The potential ramifications are obvious. Drug traffickers, for example, may take advantage of this loophole and establish drug trafficking headquarters in other jurisdiction to service a network of dealers in this State.

The same problem is encountered with section 13. A further problem with this section is that it is currently limited to counselling or procuring the commission of an offence. Its scope does not extend to aiding the commission of an offence. The case of Gummer v Police provides a practical illustration of these difficulties. In this case the Queensland Supreme Court quashed an extradition order by a Queensland magistrate to return Mr Gummer to Western Australia on the basis that sections 12, 13 and 14 of the Western Australian code did not have an extra-territorial operation.

With a view to addressing these problems, sections 12, 13 and 14 of the code have been redrafted to expand Western Australia's territorial jurisdiction in relation to criminal offences. Specifically, section 12 provides that if an act or omission occurs which would constitute an offence in this State, the person committing the act or omission attracts the jurisdiction of this State's courts irrespective of where the person resides. Section 13, which deals with offences aided, counselled or procured by persons in other States, is amended to provide that the provisions of the code dealing with principal offenders will apply even if the circumstances of the offence occurred outside of Western Australia. Finally, the repeal of the last paragraph of section 14 will allow Western Australia to prosecute offenders for offences procured to be committed in this State without the need for the State in which the offence occurred to request that the offence be dealt with in Western Australia. In short, as the offence is the procuration to commit an offence, the requirement to obtain the permission of the other State is an unnecessary limitation on the jurisdiction of the Western Australian courts.

Summary penalties: Very considerable efforts have been made in recent times to address

the problem of backlogs in our courts, and a range of innovative strategies has been employed in both the criminal and civil jurisdictions to address these problems.

A problem which contributes to the backlog in the District Court is that the Criminal Code contains a number of indictable offences which by their very nature should be capable of being dealt with by the Court of Petty Sessions. However, as the code does not provide summary conviction penalties for these offences, the District Court has had to deal with a large number of relatively minor offences with consequent demands on court time.

The Chief Justice, Chief Judge and the Chief Stipendiary Magistrate have identified a group of offences in the code for which summary conviction penalties are considered to be appropriate. In the main these are minor sexual offences and offences related to fraud, impersonation and obstructing the course of justice.

The inclusion of a number of summary conviction penalties in the code will enable certain relatively minor offences to be dealt with by the Magistrate's Court thereby assisting in reducing the backlog of cases in the District Court.

Protection of person and property: Members would be well aware that the matter of people's rights under the law to protect themselves and their property has recently received prominence across the country. Although the Criminal Code already provides safeguards for these rights, it is evident that the law could be made more clear in this area.

The Government has determined to take a twofold approach: First, amendments contained in this Bill seek to broaden those sections of the code which deal with the prevention of offences and violence, and the defence of dwellings. Specifically, the Bill amends section 243 of the code to make it applicable to all offences instead of only those that are "arrestable offences"; amends section 244 so that a person can defend his or her house against entry by a person thought to be going to commit any offence, not just an indictable one; and replaces the definition of "dwelling-house" with a definition which encompasses any place used for human habitation.

Secondly, a detailed review is to be undertaken in the longer term of the provisions in the code relating to the subjective/objective tests to be applied concerning people's rights to protect themselves and their property. Although these matters are not dealt with in this Bill, members may be interested to know that, in addition to sections 243 and 244, the code has a number of other sections which involve applying tests which may be subjective, objective or a mixture of both. The sections all form part of a comprehensive scheme dealing with justification and excuse. I expect a review of relevant sections of the code to be completed early next year and it is likely that I will subsequently be approaching Parliament with further reforms in this area.

Amendments to the District Court of Western Australia Act: Earlier I outlined amendments to the Criminal Code aimed at reducing delays in the District Court. To partially address a similar problem in the Supreme Court, this Bill seeks to amend the limits on District Court jurisdiction in relation to sexual offences.

Section 42(2A) and schedule 2 of the District Court of Western Australia Act provide that offences under sections 186(1)(B) and 398 and chapter XXXI of the Criminal Code cannot be tried in the District Court.

Both the Chief Justice and the Chief Judge agree that the District Court of Western Australia Act should be amended to allow the District Court to deal with these offences. This would provide the Supreme Court and the District Court with concurrent jurisdiction over the full range of sexual offences which would assist in reducing the backlog of other cases in the Supreme Court.

Amendments to the Justices Act: This part of the Bill proposes amendments to provisions in the Justices Act relating to serving summonses by post, reissuing summonses, and the issuing of further summonses and abolition of a defendant's right of appeal against committal decisions. I will comment on each of these in turn.

Serving summonses by post: In Western Australia summonses on complaint for simple offences must be served personally except where service by registered post is permitted under the Justices Act. Use of postal service is permitted for summonses alleging breaches of simple offences under certain Acts specified in the Justices Act and also for other Acts and regulations prescribed in the regulations made under the Justices Act.

Although agencies administering state laws can have their relevant legislation included in the regulations, it is not possible to prescribe Acts which are not Acts of the Parliament of Western Australia. An example of this is the Corporations Law. The Australian Securities Commission bears the considerable cost of serving summonses in person, which is a costly alternative to postal service given the reported thousands of summonses with which that agency is involved. Further, some Western Australian Statutes have not been prescribed, for seemingly no discernible reason.

Members should be aware that personal service of summonses is an unnecessary burden and is costly, and that there are currently over 90 Acts prescribed for postal service. I understand that the list betrays no underlying logic save that some departments have been more zealous than others in seeking to have their Acts prescribed. To address these problems, the Criminal Law Amendment Bill proposes to amend the Justices Act to allow summonses for all simple offences to be served by registered post. While noting these matters, I should also like to make the point that the Justices Act and the Sentencing Bill provide adequate safeguards for a defendant; in particular, no imprisonment may be imposed without the defendant being brought before the court.

Reissuing summonses: Difficulties are currently being experienced by court personnel and court users when hearing dates on summonses issued pursuant to the Justices Act need to be amended. Sections 52 and 53 of the Justices Act provide that only the justice or clerk of petty sessions before whom a complaint is made can issue a summons. A hearing date to appear in court forms part of the summons which is issued by a justice or clerk of petty sessions. When a summons is returned to court unserved prior to the court hearing date. court officers are, at times, having difficulty in locating the issuing justice or clerk of petty sessions. This can be because they may be at a distance from the court concerned, or they may be unavailable because of sickness, holidays, transfers etc. Consequential delays caused as a result are causing inconvenience to complainants. To overcome the problem, and to therefore provide a more efficient and effective service for court users, the Bill will amend the Justices Act to permit any justice or clerk of petty sessions to reissue a summons to a defendant with a new appearance date in the event of its non-service.

Issue of further summons: Many offences in the Criminal Code are indictable offences, notwithstanding that the facts surrounding a particular offence may be quite insignificant. The classic case is shoplifting offences, which are prosecuted under section 378 of the Criminal Code as stealing. Section 378 provides that stealing is a crime and carries a penalty of seven years' imprisonment. However, most shoplifting cases involve property valued at under $400 and the provisions of section 426(3) of the code allows the prosecutor to request the charge be dealt with summarily. If the prosecutor so requests, the maximum penalty, pursuant to subsection 426(4), is reduced to six months' imprisonment or a fine of $2 000. However, if the property is valued at over $400, such a request cannot be made and the maximum penalty available is two years' imprisonment or a fine of $8 000 if the defendant elects to be dealt with summarily.

The present procedure is unsatisfactory because stealing remains an indictable offence and the prosecution must proceed by way of the prescribed complaint and summons for indictable matters. That procedure does not allow a defendant to endorse a plea in writing and send it to the court. Rather, the present procedures require the defendant to appear in court because section 97A of the Justices Act states that, if a defendant is served with a summons for an indictable offence and does not appear on the specified day, the court may issue a warrant for the arrest of the defendant. For this reason, in the event of nonappearance of the defendant for a shoplifting charge of property under $400, magistrates are issuing bench warrants to arrest defendants. If the court elects not to issue a warrant there is no alternative mechanism to compel the defendant to appear in

court. The Criminal Law Amendment Bill addresses this problem by making provision for amendments to the Justices Act to provide justices with an alternative power to issue a further summons requiring a defendant's appearance in court prior to the issue of a bench warrant.

Abolition of right of appeal against committal decisions: Under the Justices Act there is a right of appeal for defendants against magistrates' decisions to commit them for trial. However, this right serves little useful purpose and can waste scarce judicial resources and undermine the expeditious conduct of criminal proceedings. In Parker v Taylor the Chief Justice suggested that this right of appeal should be abolished.

Reasons for abolishing such a right of appeal include -

> Committal proceedings do not finally determine the matter and the Director of Public Prosecutions may present an indictment notwithstanding a discharge from committal;
>
> the High Court recently stated that the DPP's power to present an ex officio indictment renders ineffective any order made on appeal. Consequently scarce judicial resources are wasted to hear and determine appeals, the outcome of which may be effectively overridden by the DPP; and
>
> the right of appeal against committal undermines the expeditious conduct of criminal proceedings and results in an undesirable fragmentation of the criminal process because prosecutions are effectively delayed, in some cases for over a year, while the appeal against committal is heard and decided.

In view of these factors, the Criminal Law Amendment Bill will amend the Justices Act to abolish such right of appeal. It should be noted, however, that the remedy of declaration will still remain available to defendants where the magistrate's jurisdiction to proceed to committal is in question or where the information or complaint discloses no offence known to law.

Amendments to the Offenders Community Corrections Act and the Young Offenders Act: A situation has arisen where it has become clear that certain juveniles who may benefit from the pilot work camp are, for technical reasons, missing that opportunity. Currently, section 119 of the Young Offenders Act makes provision for certain juvenile offenders to be placed at Camp Kurli Murri work camp at Laverton. Section 119(2) provides the criteria to determine which offenders may be placed at the camp. The current legislation limits the placement of juveniles at the camp to those who have not previously been placed in detention and who do not have any previous schedule 1 or schedule 2 convictions. Other criteria relating to age, length of sentence and consent also apply.

The President of the Children's Court has indicated that there have been occasions where she has dealt with offenders who could benefit from the camp but who are excluded by the current legislative provisions. The Criminal Law Amendment Bill addresses these issues by inserting new section 119 in the Young Offenders Act, which allows the president or any superior court judge greater discretion in determining which juvenile offenders should be placed at Camp Kurli Murri work camp. Superior court judges have been included in this regime as on occasions a juvenile offender may elect to be dealt with by either the Supreme or District Court. Members should note that other criteria in relation to age and consent are not affected by these proposed amendments. As a consequence of these amendments, cross references in the Offenders Community Corrections Act to section 119 of the Young Offenders Act are also amended.

The Criminal Law Amendment Bill 1995 is a practical Bill which addresses a number of practical problems which have arisen in Western Australia's system of criminal justice. Taken as a whole, I am confident that the Bill is an important contribution to improving the efficiency and effectiveness of the justice system consistent with community expectations. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

EDUCATION AMENDMENT BILL

Second Reading

MR TUBBY (Roleystone - Parliamentary Secretary) [11.20 am]: I move -

That the Bill be now read a second time.

The Education Amendment Bill 1995 is straightforward legislation which seeks to make four amendments to the Education Act to: Regularise arrangements for the administration of technical and non-government education under the Education Act; incorporate a number of additional provisions which will also allow for community use of school facilities; allow school decision-making groups in government schools to adopt a student dress code; and extend the Government's low interest loan scheme to the provision of capital works for the kindergarten education of four year old children enrolled at non-government schools.

The Bill is in five parts. Part I deals with the preliminaries. The amendments in part 2 arise as a consequence of changes to the structure of the Education and Training portfolio. These changes follow implementation of the Vickery review recommendations. Two such recommendations were the creation of the Department of Training and of the Office of Non-government Education. The establishment of these departments has impacted on particular responsibilities of the Education Department and its chief executive officer as they appear in the current Act. As members will appreciate, the current Act inadequately reflects current arrangements as the Act was devised at a time when only the Education Department existed. The Education Department was then responsible, together with primary and secondary education, for technical and further education, and for the registration and funding of non-government schools. Times have changed. Indeed, the Government has recognised the need for an entirely new Education Act. A Bill for a new Act is being drafted at present. Similarly, the vocational education and training sector will have its own Act, and a Bill for that is also being drafted. The proposed amendments to the current Education Act will define and delineate the responsibilities of the respective departments and their chief executive officers.

The Department of Training was established on 1 December 1993 and took over responsibility for Technical and Further Education from the former department of employment, vocational education and training. In establishing the department, and a number of new initiatives in the training sector, the Government announced its intention to enact new legislation which would recognise, for the first time in Western Australia, vocational education and training as a separate sector of education. Historically, the employment of lecturing staff at TAFE colleges, and some of the administrative functions which relate to the colleges' operations, are governed by provisions of the Education Act and regulations. The new vocational education and training Act will make provision for these matters. However, in the interim, this Bill provides that the responsibility for TAFE will rest with the Department of Training and its chief executive officer, and not with the Education Department, as was previously the case.

In regard to non-government schools, the amendments will provide the necessary legislative base for the operation of the Office of Non-government Education. The key amendments will give the Chief Executive Officer of the Office of Non-government Education responsibility for the administration of three important functions on behalf of the Minister for Education: The inspection and registration of all non-government schools and specific non-government care centres and preschool centres which operate independently - respectively sections 32A, 32B and 27B; the inspection of attendance registers at non-government schools - section 33; and the provision of financial assistance to non-government schools and non-government care centres and preschool centres - respectively sections 9A and 27C. These amendments are not controversial; they simply regularise the changes in arrangements which occurred when the Office of Non-government Education was established in July 1994. The creation of the office and its methods of operation are fully supported by the non-government school sector. As a result of the delineation of responsibilities of the three departments, a number of consequential amendments are required to other Acts detailed in clause 16 of the Bill. In

all cases, there is improved clarity in regard to which department and/or person is nominated for the specific purposes of these other Acts.

Part 3 of the Bill provides for the community use of school facilities. Members will be aware that schools are a valuable resource and there is increasing demand from the community for greater access to school facilities out of hours. The substantial capital cost of schools and the types of facilities in them, plus the considerable time each day, at weekends and during school holidays when they are not being used for instruction, provides a strong case for improving access to meet community needs. The Government supports wider community use of school facilities and believes there would be many benefits for both the community and schools if the access provisions were widened. The benefits for the community are: Better value and service through less duplication of facilities; and improved access to a wider range of facilities. The benefits for schools are: Improved relations with the community; the possibility that longer hours of use will lead to less vandalism and damage; and the opportunity to improve programs through greater community participation.

Section 6A of the present Act provides that the Minister may enter into an arrangement with local government bodies for the management and control of lands and facilities vested in the Minister for community use. The present provisions also limit the use of facilities for educational or recreation purposes. However, there is no authority in the Act to enable the Minister to enter into arrangements with bodies other than local government bodies, nor does it provide for a charge to be levied for the use of school premises or facilities by the community.

The Bill address two issues in regard to delegation. First, since the inception of the section 6A provisions, the number of licence arrangements entered into with local government bodies has increased steadily and is expected to increase further. However, as there is no authority under the present Act for the Minister to delegate this responsibility, new section 6AA of the Bill provides that the Minister may delegate this responsibility to the chief executive officer. Secondly, in order to achieve effective community use of school lands and facilities, arrangements must be able to be made at a school level. It would be impossible to manage a situation where arrangements for the community to use facilities had to be signed by the Minister or the director general. The Bill provides in new section 6B for the issue of licences for the hire of school lands and provides for agreements to be signed on the Minister's behalf by persons authorised by the chief executive. In general terms, this provision will allow: Principals, where authorised, to issue licences for up to one year; payment to be made for the use of the property; payment of a bond to be made as security; and use of the property, provided it does not interfere with the normal operation of the school.

Schools need to be sure that they can recoup the costs of making their facilities available. New section 6C will permit schools to charge for the use of their facilities and retain funds raised from charges to use for the purposes of the school. The hire charge will be determined by the school and will depend upon the ability of a group to pay. It will ensure that schools can continue to provide access to groups which cannot gain access to facilities other than at schools. The ability to retain revenue raised from community use should act as an incentive for schools to make available their facilities. By amendment to section 9B of the Act, schools will be authorised to charge a bond. This will ensure that bond moneys are handled appropriately by schools and that bonds are treated as a guarantee towards satisfactory performance by users. Schools will not be able to use bond moneys for school purposes, but in the event of unsatisfactory performance by the user- which may include damage to equipment or facilities - schools will be entitled to deduct from the bond a suitable amount. I am confident that the proposed changes will enhance the role of schools and will be to the mutual benefit of both schools and the community.

Part 4 of this Bill allows for the establishment of school dress codes for students. It is proposed that school decision-making groups be empowered to develop a student dress code at a school in consultation with staff and parents, and, where students so choose, students of the school. It is a widely held view that the school community would be

advantaged by being provided with the formal opportunity to develop a student dress code. These advantages include: The fostering and enhancement of the school image; the building of school and team spirit; ensuring that students are safety dressed for specific school activities; encouraging equity between students; and fostering the safety of the student body by permitting easier identification of unauthorised persons on school grounds.

The student dress code will state a school's expectation of the personal presentation of its students and will include garment design and colour requirements. Parents and students will be informed of student dress code requirements on enrolment. The code will provide for appropriateness and safety; reasonable contemporary and non-discriminatory dress standards; individual expression by allowing choice of specified garments; and grounds for exemption. The control and management of a school dress code will be the responsibility of the principal of the school. He or she would issue exemptions and hear complaints. Grounds for exemption may include religious, conscientious, health, ethnic and other considerations. This policy has already been disseminated to school communities and over 100 schools are already trialling a voluntary dress code during 1995.

Part 5 is the final part of this Bill. The purpose of this amendment is to make capital works facilities for kindergarten education of four year old children enrolled at non-government schools eligible for the Government's low interest loan scheme. In doing so, the amendments also provide for loans to be made to non-government care centres and preschool centres for both kindergarten and preprimary capital works programs. These institutions have not previously qualified for loans for the development of preprimary buildings, unlike non-government schools which do qualify. The amendments place all non-government education institutions on an equal footing. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

LOCAL GOVERNMENT BILL

Committee

Resumed from 1 November. The Deputy Chairman of Committees (Dr Hames) in the Chair; Mr Omodei (Minister for Local Government) in charge of the Bill.

Progress was reported after clause 6.82 had been agreed to.

Clause 7.1: Interpretation of this Part -

Mr MARLBOROUGH: The present method that local government uses to carry out auditing is far from appropriate. The Boddington inquiry held under Peter Kyle indicated quite clearly that the auditing process was totally inadequate; had it been adequate the problem would have been discovered well before it was. Mr Kyle discovered what is happening in many local authorities, particularly those without a lot of finance.

The Boddington inquiry showed quite clearly that major problems occur when councils are left to their own devices to appoint auditors. Mr Kyle discovered that in many instances the lowest common denominator prevailed, which was the cheapest means available, and the guidelines given to auditors were variable. As I have said before in respect of this Bill and as I have advised WAMA, this side of the House feels that this auditing process is crucial to the good government of local government. The most appropriate bodies to carry out such an auditing process fall within two categories, one of which is the Department of Local Government, which should be funded accordingly to build up the section of the department that can carry out the auditing, as it did some 10 years ago. I do not blame this Government for the procedure that is in place. The change occurred when we were in Government because the local government authorities wanted that flexibility, believed they had the know-how to head in that direction and thought they could best manage auditing. The Boddington inquiry supports my position that history has shown that some local government authorities are not capable of doing that properly. The problem is caused by the cheapest form of auditing and varying standards.

The Department of Local Government should be properly funded and staffed and given back the responsibility to carry out auditing. After all, taxpayers are paying dollars to local government not only through rates but also through the Grants Commission putting lots of money into local government from the PAYE taxpayer and the State and Federal Governments. I am not being critical of every local government. I am sure the majority of local government authorities do this well, but a number do not and the standards vary dramatically. If I were the Minister looking at a new Bill, I would look to the Auditor General's department to play a significant role. It would require funding and staffing to do the job, but that is the level at which we should be addressing the appropriate accountability process of local government.

The Minister has indicated throughout this debate that he is not willing to take on board any major changes to the general thrust of the Bill. I know he does not do that from a selfish point of view but because he has had discussions with WAMA and local authorities. I suppose they have said that they are happy in the main with the present position. He is entitled to reach the conclusion he has. It is not a position we support. If we were in government, we would take away the process from local government authorities. We do not think their track record is good enough to enable them to carry out proper auditing, and that process should be in the hands of the Auditor General or the Department of Local Government.

Mr Omodei: You would have the Auditor General's department staff travelling the length and breadth of the State to do that, would you?

Mr MARLBOROUGH: Yes, it is so important. The total budget of local government is such a significant amount of expenditure of ratepayers' and taxpayers' money that it must fall within that dimension.

Mr Catania: The Auditor General contracts out many audits to appropriate organisations because his department cannot keep up with the present quantity of work. That contracting out is under the auspices of his department which looks at the auditors' reports to ensure they are of a standard that he would accept from his staff if they were travelling around the State.

Mr MARLBOROUGH: Under the general thrust of this clause, which I suggest comes under the umbrella of approved auditor, the best that can happen with the present auditing process is that the Minister can ask for the audit to come to him; however, it does not go anywhere from that. The clause does not say that the Minister will bring the matter into the Parliament or make the matter public. It states simply that the Minister will be informed or will receive a document. The Opposition's position is clear on what it would do if it were in government. That control and responsibility needs to be placed on the auditing process. The least the Minister should consider is bringing the audited reports of local government into the Parliament so they can be scrutinised properly through the parliamentary process. The Bill does not contain any requirement for that, but simply that the Minister be informed.

Mr D.L. SMITH: The audit provisions are important because the audit is the primary control of the handling of financial matters by executive staff. The major change this Bill will bring about is that the scope of both revenue and expenditure of local government will be increased substantially by the increase in its entrepreneurial power.

Mr Omodei: I do not think the Bill increases entrepreneurial powers; it puts a stronger rein on them.

Mr D.L. SMITH: If it is not increasing entrepreneurial powers, local governments seem to be misinformed. That is their impression and that was my impression when I was the Minister responsible for putting together the original drafting instructions. The whole idea is to devolve responsibility more to local governments and to increase their range of powers. One of the powers that was to be increased was their ability to enter into entrepreneurial activities.

Mr Strickland: Many members on this side of the Chamber also want to see that wings are clipped so that people do not go overboard.

Mr D.L. SMITH: The audit provisions are an important means of control, for both the financial management of the authority in its provision of services, and those businesses. We must continue to monitor the performance of the current auditing arrangements. Contracting out and private auditing is fine. However, in the 1980s companies that were privately audited were able to get away with blue murder. We must be wary that while taking the Minister out of the control of local government we not only concentrate on the performance of councillors per se, but remember to maintain controls on executive staff. I am proud of the majority of executive staff in local authorities in Western Australia. Nonetheless, on a few occasions in the past five or six years a few of the executive staff have gone off the rails. Further opportunities will be available for that to occur as the range of activity in which local government is involved increases. It is not just a question of auditing the finances; that is, the money in and out and ensuring that there is no misapplication of those funds: Especially in contracting out, there must be a capacity to ensure that the nature of the contracts and who gets the benefits from those contracts is carefully monitored. The primary responsibility for that will fall on the councillors. However, as a result of the increased powers of delegation and the increasing business of local government, the capacity of councillors to perform that role adequately will be put into question.

One of the problems in the extent of privatisation at state government level and the dismantling of the Department of State Services is that at a time when the Government is privatising like mad, allowing enormous opportunities for corruption and the giving of favours in the letting of many of those contracts which have now been privatised, it is not putting into place the necessary controls to ensure that those services are not let in an uncompetitive way which allows favours to be done for individual businesses. The Government has not looked at how, when the general scope of powers of councils are increasing with the resultant effect on their business, and when the powers of delegation are increasing, the councils will monitor in an adequate way those contracts which are let by their executive staff. I hope that at some stage in the way councils operate, in their standing orders and codes of conduct they may develop, there will be means of ensuring that every contract over a certain figure entered into by local government is reported to council; that there is more than just a cursory glance over that list to ensure that those contracts are let in a proper way; and that there are savings, not increased costs for ratepayers in the longer term, when services are contracted out or privatised.

In those areas where local authorities provide services in competition with private competitors it should be ensured that those contracts are performed in a way that ensures that their integrity is completely unchallengeable. It is disappointing that there is not more in the Bill that deals with those kinds of issues. I caution that there will be scope for greater malpractice by some executive staff following the reduced control by the Minister and the increased activity of local government, the greater powers of delegation and a great level of privatisation. In that situation the Government should, firstly, not just tighten up the audit of the financial returns of those contracts, but also carry out performance auditing to ensure that value for dollar is obtained from those contracts; and secondly, ensure that no favours are done by private contractors in the letting of those contracts. Some means should exist by which those matters can be checked other than by senior executive staff or councillors at council meetings.

Mr OMODEI: Although this is the interpretation part of the Bill, I understand the member for Mitchell's comments that it would have to be approved by a qualified person or the registered company auditor. The member for Peel referred to the Boddington inquiry and how that situation had evolved. The Government cannot legislate for dishonesty.

Mr Marlborough: The auditing process was at fault.

Mr OMODEI: A number of things were at fault. It was a complete breakdown of local government in Boddington. Had this Bill been in place, I do not think that situation would have occurred because this legislation contains enough checks and balances to prevent that. Minimum regulations will be set for audit requirements. The auditors will be subject to the Australian Securities Commission, which registers auditors. The

relevant Act contains provisions to deregister auditors. At the same time, the Government has decided that the role of the non-statutory Local Government Accounting Advisory Committee will be extended to advise the Minister on audit matters. That committee includes representatives from the department, the Institute of Municipal Management, the Local Government Association of Western Australia, the Country Urban Councils Association, the Country Shire Councils Association and professional accounting bodies. Consultants will also be used to advise on certain projects.

I agreed with everything that the member for Mitchell said about this clause except the part about entrepreneurial activity. I was very conscious of that issue, bearing in mind the history of the past 10 years. Government involvement in commercial enterprises can sometimes go astray. Members on my side of politics were very conscious of the proposal in the Bill, and these issues were covered in part 3. We could have had a healthy debate on that part, but unfortunately that did not occur.

With regard to commercial enterprise, regulations will be established to the effect that the Minister will have to approve certain projects. The Western Australian Municipal Association is one of the organisations concerned about the provision that required local government to advertise a business plan of a major undertaking. The concern was that a local authority would expend moneys to provide a business plan and there would still be an opportunity for private enterprise to pick up that project. I have stated plainly that if private enterprise could do that work, a local authority should not be doing it.

The provision for commercial enterprise is there to assist local governments where the private sector is not available to provide rental accommodation, doctors' surgeries and things like that. The checks and balances exist and the Government can prescribe regulations. The extent of the commercial enterprise will involve an accountability measure which has not previously been in legislation. I pointed out last night that I am aware of a local authority in this State which has an $80m property portfolio. I am not happy about that. Indeed, the Government is not happy that the authority was allowed to build up such a portfolio, although it had good reason to do part of that.

Clause put and passed.

Clause 7.2 put and passed.

Clause 7.3: Appointment of auditors -

Mr MARLBOROUGH: As I said earlier, the quality, standard and appointment of auditors is of paramount concern to the Opposition. Clause 7.5 points me in the direction of the old Act. It states -

> The Minister may approve a person who, immediately before the commencement of this Act -
>
> (a) was a registered local government auditor within the meaning of that term in Part XXVII of the *Local Government Act 1960*.

Mr Omodei: I think that this applies to only two auditors who were in place prior to this legislation coming forward. These are not registered company auditors. They specialise in the industry. That was the case previously, and we are happy for it to continue.

Mr MARLBOROUGH: The Government has tried to reduce the size of the present Local Government Act. However, we need to be precise about auditing. I am amazed at what audit provisions have been removed from the present Act. For example, under the Act, the senior officer, executive officer or shire clerk is expected to bring audited figures before the council on a monthly basis. That provision is removed in the new legislation.

Mr Omodei: Those financial matters are covered under the financial regulations which will still be in place.

Mr MARLBOROUGH: Under this legislation, if a local government officer receives $10, should he put that in a bank account within the seven day period? Is the Minister suggesting that that kind of detail, which I believe is still necessary in auditing, will be picked up in the regulations?

Mr Omodei: Yes.

Mr MARLBOROUGH: I am satisfied with that.

Clause put and passed.

Clauses 7.4 to 7.8 put and passed.

Clause 7.9: Audit to be conducted -

Mr MARLBOROUGH: I move -

Page 264, after line 18 - To insert the following -

(4) The Minister may request the Auditor General to conduct an audit of any local authority.

(5) The Minister shall request the Auditor General to prepare an annual audit and report on the adequacy of the reviews of local government audits and performance undertaken by the Department of Local Government.

The amendment will allow us to cover a point that I raised earlier. The Opposition is not satisfied with the present auditing process. In the eight or nine years that local government has been responsible for auditing, a great deal has been left to be desired. There are signs that government members are also concerned about the general thrust of the Bill which allows for a greater entrepreneurial approach to the running of local government. There should be stringent and appropriate guidelines for councillors involved in such activities. Although I do not have a problem with councils giving consideration to what may be entrepreneurial activities, I am concerned that there should be an auditing process, and policing of the methods of reaching those decisions, which is the best in the country. According to clause 7.9(3) -

> The Minister may direct the auditor of a local government to examine a particular aspect of the accounts and the annual financial report submitted for audit by that local government and to -
>
> (a) prepare a report thereon; and
>
> (b) forward a copy of that report to the Minister.

However, that is as far as it goes. My amendment provides that -

> The Minister may request the Auditor General to conduct an audit of any local authority.

If the Auditor General did that, it would eventually end up in his annual report and be placed before Parliament. A similar provision applies in subclause (5) of the amendment. There should be an overall process of auditing of local government in relation to how it performs and runs. That process should be embodied in the Bill and, in the end, it should be reported to the House. This House should be told where those inquiries should be held and it should be subject to the scrutiny of Parliament. I commend the amendment to the Minister.

Mr OMODEI: I understand what the member is doing; that is, picking up the Commission on Government recommendations. I have recently responded to those recommendations and I do not want to decry them, but in this Bill we are seeking to implement what is probably the largest change in local government in the past 100 years. The legislation needs time to gel before we make any further changes to this section.

I am satisfied that the legislation gives the department enough checks and balances. The matter should be fluid. The Bill should pass and be allowed to operate for 12 or 18 months and to settle down before we introduce any amendments. However, as far as the department is concerned, we will be constantly reviewing the operations of the Act, and, if necessary, we will implement the COG recommendations. At the moment, the Department of Local Government has four officers who are responsible for conducting investigations in response to complaints in qualified audit reports. External contractors are used for investigations where specific expertise is necessary or where major inquiries

are undertaken. The department has recently introduced a CEO support scheme. This is a very proactive process designed to ensure that CEOs of local government operate appropriately. The Institute of Municipal Management, WAMA and the Australian Institute of Management are involved in that program. The department has also recently established advisory panels that will visit local governments that are showing some signs of internal discord. The panels' role will be to provide assistance and to mediate to minimise potential significant problems. The department also receives and reviews the audited financial statements of local government. It recently instigated the compliance assessment report system, which will become a statutory requirement under the new Local Government Act. Every year councils will be required to assess their performance in a wide range of areas. This involves completing a 27 page report, which must be returned to the department every year. Where local government has experienced problems, the department endeavours to follow up at regular intervals. At all times I have said to local government that if it has a problem it should seek advice and remedial action will be taken.

The department also recently used a contractor to develop a methodology that would enable objective assessment and comparison of local government budgets. That will assist departmental officers in the monitoring of local government budgets in future years. The Local Government Accounting Advisory Committee will be in a better position to advise the Minister for Local Government on matters related to local government audits. That committee comprises representatives from local government, industry, the private sector and accounting and auditing bodies. There are many checks and balances in this Bill. It is a major change from the previous legislation and we should allow it to pass and become law so that local government can then be monitored and its performance reviewed.

Amendment put and negatived.

Clause put and passed.

Clause 7.10: Powers of the auditor -

Mr MARLBOROUGH: As the Minister has indicated, the general thrust of this is to pick up the COG recommendations. The Minister has already indicated that he believes this legislation should stand for the next 18 months. That is rather disappointing.

Mr Omodei: I take on board the comments made by the COG. However, what we are proposing is a new Bill.

The DEPUTY CHAIRMAN (Ms Warnock): The member for Peel should identify what is happening in relation to clause 7.10.

[Quorum formed.]

The DEPUTY CHAIRMAN: I draw the member for Peel's attention to the fact that he must either move his amendment or tell the Committee what else it is that he intends to do.

Mr MARLBOROUGH: I move -

Page 264, after line 18 - To insert the following -

Minister to report on local authorities' audits

7.10. (1) The Minister shall prepare an annual report on the audit and performance of local authorities and shall cause copies of the annual report to be tabled in both Houses of Parliament by 30 June next following the financial year to which the annual report relates.

(2) If within or on the expiration of the period referred to in subsection (1) either House is not sitting so that subsection (1) cannot be complied with, the Minister shall immediately on the expiration of that period -

(a) transmit copies of the annual report to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly; and

(b) make the report available to the public.

(3) Where the Minister has, in accordance with subsection (2), transmitted copies of the annual report to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly, the report shall for the purposes of satisfying the time limit imposed by subsection (1) be deemed to have been laid before both Houses of Parliament.

This picks up the COG recommendations. The COG document is not a frivolous document in the Government's mind. It was a process set in place some 12 months ago by this Government to look at the proper running of governments in general and the community's perception of how government should be run. The Minister should look at this amendment in that light.

The COG inquiry has gone through a very open public debate about people's perception of local government and, at the end of the process, which has taken well over 12 months, after extensive consultations, it has made these recommendations. It is not appropriate for the Minister simply to say that although these recommendations have come in fairly late, the best way to handle them is not with haste but as slowly as possible.

Mr Omodei: I did not say that at all.

Mr MARLBOROUGH: Five minutes ago the Minister said that this was a new Bill and that we should proceed with it - suck it and see - there will probably be moves to change things -

Mr Omodei: I did not say that either.

Mr MARLBOROUGH: - and that we can look at that in 18 months. That is slow. If the Minister intends to implement the rest of the COG recommendations in 18 months, he has not considered the fact that he will be out of office. He will not be in a position to do it. He will miss the train.

Mr Omodei: I thought the Parliament did these things.

Mr MARLBOROUGH: We will have a state election and it will be all over red rover.

Mr Omodei: You might be the Leader of the Opposition by then.

Mr MARLBOROUGH: I could well be. This is an opportunity to grab what is a very appropriate recommendation from COG because it reflects community perception and recognises that these are areas of concern for the community. Having come through the 1980s, the community believes governments should be accountable and that processes should be in place to make them accountable. This amendment picks up the thrust of the COG recommendations and, rather than the Minister's suggesting that we look at this in 18 months, he should be saying in the next 18 seconds that he agrees with the amendment.

Mr OMODEI: I responded to that point when we considered the previous amendment moved by the member for Peel. I said that the Act should be given 18 months. There might need to be amendments made before 18 months have elapsed. It is a large piece of legislation. Rather than move ad hoc amendments, the legislation should be allowed enough time to work. I am cognisant of the points that were raised by COG. The Bill contains enough measures to ensure that the audit system works properly, that there is a reporting process and that local government industry will be well served. Local governments will be much more aware of their own industry. Previously, they had an Act - it was about 1.8 megabytes - containing 600 or 700 sections. For example, it related to the beating of rugs and the throwing out of hot ashes. Few councillors or administrators would have known that Act from front to back.

The situation will be different with the new Act. Local governments will be aware of the provisions of the new legislation. There will be a huge program to train administrative staff and councillors in the ensuing months after the Bill becomes law. There will be far greater scrutiny of local government in that time. The department and I will be vigilant in ensuring that the legislation is followed to the letter of the law and that local

government is held accountable. At the same time, the Government will take into account COG's comments.

Amendment put and negatived.

Clause put and passed.

Clauses 7.11 to 7.13 put and passed.

Clause 8.1: Definitions -

Mr MARLBOROUGH: I have read part 8 and considered the inquiries that might be held. Does the Minister intend to state the qualifications that people would need to be appointed as authorised persons? Such people might need legal backgrounds.

Mr Omodei: My advice is that they will be departmental officers. No qualifications are prescribed.

Mr MARLBOROUGH: I am satisfied with that. I would not want any Tom, Dick or Harry being appointed. A running mate of the political party that was in power at the time could be appointed. The authorities are wide ranging and involve a fair amount of legal power. I envisage that an inquiry might be carried out by an auditor or other person with an accounting background, an expert in local government or an expert in the law. Perhaps the Minister will lay down the qualifications for such an important position.

Mr OMODEI: Although I said that they will be departmental officers, there is also scope for the department to employ consultants. For example, Gary Martin is qualified in local government. He is employed by the department and he carries out consulting from time to time.

Mr D.L. Smith: The power is wide enough for the person not to have any local government qualification.

Mr OMODEI: It would be unlikely that the department would bring in someone who was not qualified or experienced. Gary Martin is the officer who assisted at Boddington and he is currently assisting Kyle with the new inquiry.

Mr D.L. Smith: It would be better to prescribe the qualifications.

Mr OMODEI: I take that point.

Mr MARLBOROUGH: The Minister indicated that he accepts the point raised by the member for Mitchell. It is important. It is interesting that Gary Martin is assisting Kyle. The Government has obviously recognised that the Wanneroo matters could best be looked at by somebody with a legal mind. Therefore, Peter Kyle is heading the inquiry.

Bearing in mind the problems of local government in the past two or three years, a number of categories of qualified people are involved, such as accountants, auditors, local government experts and legal experts. That should be reflected in regulations. After all, part 8 gives whomever is appointed great power, such as to enter properties, lay charges against people, and call witnesses. If part 8 applied to health officers, it would state that the appropriate person is a qualified health officer. It is appropriate for the Minister to consider stringent guidelines. The Bill states who cannot be appointed, but it is appropriate also to state who can be appointed to head such inquiries.

Clause put and passed.

Clauses 8.2 to 8.20 put and passed.

New clause -

Mr MARLBOROUGH: I move -

> Page 277, after line 9 - To insert after clause 8.20 the following new clause to stand as 8.21 -
>
> **Protection and immunity of inquiry**
>
> **8.21.** (1) For the purposes of an inquiry and report under this Division, an Inquiry Panel and the person appointed to preside at its meetings have the

same protection and immunity as a Judge of the Supreme Court of Western Australia has in the exercise of his duties as a Judge.

(2) A witness summoned to attend or appearing before an Inquiry under this Division has the same protection and is subject to the same liabilities in any civil or criminal proceeding as a witness in any case in the Supreme Court of Western Australia.

(3) A person appointed to assist an Inquiry under this section or authorized by the Inquiry to appear before it for the purpose of representing another person has the same protection and immunity as a barrister has in appearing for a party in proceedings in the Supreme Court and, where the person so appointed or authorized is a barrister or solicitor, he is subject to the same liabilities as he would be in appearing before that Court.

(4) No action or proceeding, civil or criminal, lies against the Crown in right of the State against a Minister, or against a person employed or engaged by the Crown in right of the State, in respect of the printing or publishing of -

(a) a transcript of proceedings of an Inquiry under this Division; or

(b) a report of, or a recommendation made by, an Inquiry under this Division.

(5) This section does not limit or abridge any privilege, protection, or immunity existing apart from this section.

It is difficult to speak about the need for this new clause without referring to the history of some events that have taken place in local government, particularly in the Wanneroo City Council. It was interesting to hear the debate earlier this morning between the Leader of the Opposition and members opposite, particularly the Leader of the House, on the Opposition's proposal to move an amendment to allow for an open inquiry. It was interesting that the Government, rather than putting in place a process that would give ultimate protection to everyone involved so that the truth can be exposed to the people of Western Australia, argued how best not to expose the truth. Members opposite spent a great deal of their time arguing about what was achieved by the original Kyle inquiry and the difference between the Kyle inquiry called by this Government and the Kyle inquiry called by the Opposition when it was in government. It is worth considering those differences.

The Kyle inquiry called by the Opposition when it was in office led to two people being charged with corruption and sentenced to imprisonment. It is worth remembering that when that inquiry was called there had already been a police inquiry into the City of Wanneroo that found nothing untoward. The major reason for its finding was that the truth had been hidden from it. Evidence of that can be found when one considers what happened at Dr Wayne Bradshaw's recent trial, which eventuated in his being convicted and sentenced to imprisonment. One of the key witnesses at his trial, Mr Harman, was given immunity and protection by the police. It is important for members to understand the reason for that. The Opposition believes it is the key element in ensuring that such a process is locked in place for an inquiry.

The Minister may argue that the provisions of clause 8.20 are the same as this new clause. Clause 8.20 reads -

> For the purposes of an inquiry and report under this Division, an Inquiry Panel and the person appointed to preside at its meetings have the powers of a Royal Commission and the chairman of a Royal Commission, respectively, whether under the *Royal Commissions Act 1968* or otherwise, and the provisions of that Act have effect as if they were enacted in this Act with such modifications as are required and in terms made applicable to the inquiry and report by the Inquiry Panel.

My first reading of that clause indicated to me that it and new clause 8.21 are not far apart. Without the Minister spelling it out in detail, clause 8.20 establishes a process by which an inquiry can be called and it can be given the powers of a royal commission. If that is the case, my amendment seeks simply to put the meat on the skeleton. Clause 8.20 does not spell out the sorts of things that should be in place to cover the protection of witnesses and officers taking part in the inquiry. The Minister should know from Crown Law Department advice that officers working on an inquiry could also be charged and they should be afforded some sort of protection. The Minister need look no further than the Royal Commissions Act for evidence of that because it clearly spells out the coverage and protection of witnesses and people working on inquiries.

I suggest to members opposite that they read clause 8.20 of the Bill again. The Opposition wants the provisions of that clause spelt out in detail. It is not arguing that it will have any effect on the Kyle inquiry. I am concerned about the future. We should learn from the lessons of the past. The history of the Wanneroo City Council shows that when witnesses to events which took place in council had no protection, they were absolutely slaughtered. It makes me laugh to hear the Leader of the House criticise me for throwing buckets for two and a half years and say that nothing is sticking. I advise him that a lot has already stuck and that is the reason for the current Kyle inquiry. The Government could no longer stand the heat and the public odium for not calling an inquiry into Wanneroo.

I will tell members a story to try to get through to the Minister and his colleagues because I know they are extremely worried about some clauses in this Bill. Ministers and backbenchers have stopped me in the corridors to draw my attention to their concerns.

Mr Omodei: What have you done about it?

Mr MARLBOROUGH: This is one area about which they are concerned. More importantly, the public of Western Australia demands that the Kyle inquiry should be in place. We could be faced with another Wanneroo in the future, God forbid; therefore, members should face up to their responsibilities as legislators by recognising that provision must be made for a form of inquiry into corruption such as that which took place over a 10 year period and involved a mayor and one councillor who were totally corrupt. At the end of this inquiry at least another six councillors who were corrupt over a 10 year period may be caught in the net. Let us have a system by which a proper and thorough royal commission-type inquiry can be established with the ability to provide protection to witnesses.

Some of the witnesses who attempted to reveal the truth told the member for Mitchell, when he was the Minister for Local Government, their stories about what took place in the Wanneroo City Council chambers for three or four years. There were horrific stories about not only what Wayne Bradshaw and his crooked mates were up to, but also how the witnesses were vilified and prosecuted for trying to reveal what had occurred.

I illustrate how bad that was by telling one story. I have told this story in this Chamber before, and the person involved, Arnold Dammers, who is now Mayor of the City of Wanneroo, appeared on "The 7.30 Report" and told the whole State. One evening he went into the chambers of the Wanneroo City Council, after having tried to reveal the truth about Bradshaw and his mates, and on his chair was an envelope. When he opened it a white feather fell out.

It was a public meeting and he made clear in front of the audience how displeased and concerned he was at such an activity. After leaving the council chamber he went into the dining room and was confronted by two councillors: The member for Wanneroo, Wayde Smith, and Councillor Colin Edwardes. They told him at the meeting they had a copy of his police record for an offence committed when he was 15 years old. They pointed out that he was now a prominent businessman and was married with children, and if he did not shut his mouth, stop asking awkward questions, and toe the line they would divulge his criminal record to the world. The real story of what happened that evening is -

Point of Order

Mr BLAIKIE: I would appreciate it if you, Madam Deputy Chair, would indicate what relevance this is to the specific clause the Committee is considering.

The DEPUTY CHAIRMAN (Ms Warnock): I understand the member for Peel is explaining the reason for the need for protection and immunity of inquiry. It is perfectly reasonable to me. The proposed new clause listed on page 49 of the Notice Paper refers to an inquiry into local government matters, and the member is explaining by way of illustration why it may be needed. There is no point of order.

Committee Resumed

Mr MARLBOROUGH: I am amazed by members opposite; as soon as the Opposition gets close to the Government's activity of covering up for its scumbag mates at the Wanneroo City Council, they become very sensitive. As soon as we get close to the dirt and expose what those people were up to, the Government wants to defuse the argument and look elsewhere.

Mr Marshall: Story telling.

Mr MARLBOROUGH: It might be story telling. The member for Murray should know all about that, bearing in mind the number of 40-love games he has played across the net. He won one game at Wimbledon and has lived off it for 50 years. Fancy the pot calling the kettle black.

The DEPUTY CHAIRMAN: I ask the member for Peel to explain how that relates to this clause.

Mr MARLBOROUGH: I will not go into the details, other than to say Arnold Dammers suffered from harassment as a result of using what he considered to be the appropriate authority to expose the truth. At every turn he was thwarted. Not only did he receive the white feather and the threat of his criminal record being publicised, but also writs were issued against him.

Mr Trenorden: Brian Burke did that all the time.

Mr MARLBOROUGH: What?

Mr Trenorden: He issued more writs than you could poke a stick at.

Mr MARLBOROUGH: The Arnold Dammers of this world should have had access to a royal commission type of inquiry. The difference between today's Kyle inquiry and the last Kyle inquiry is that two Wanneroo councillors are now in gaol for corruption. That evidence of corruption was not available to the previous Minister for Local Government. The Minister simply acted on concerns expressed by Arnold Dammers and Norma Rundle. As a result of that first inquiry, we now know of the considerable substance behind those concerns.

Mr D.L. SMITH: This clause should be considered very seriously. We are all aware of the defects of the Kyle inquiry into the City of Wanneroo. We are also very much aware of the recommendations of the Commission on Government, as a result of the royal commission inquiring into WA Inc. We all know that when inquiries are established, the task is not easy because effectively the investigators and the chairperson go into that inquiry cold. The only documentation with which they start is the initial complaint made, results of preliminary investigations by departmental staff, or the Wanneroo City Council staff in this case, and any other documentation produced along the way. The first task of any inquiry is to make sure the public is aware of its appointment, its terms of reference, and the matters that have given rise to the extraordinary step of appointing the inquiry. That normally involves not just negligence or ordinary misconduct by council staff or councillors, but conduct that borders on the corrupt and criminal. Quite often, when inquiries of this nature are announced the general public are not immediately aware of the way in which they may assist the inquiry. The terms of reference are publicised in a small advertisement in *The West Australian*, and the matter seems of little relevance to the average person. They become aware as the inquiry progresses of the way in which

they may assist. As was clearly demonstrated during the royal commission into WA Inc, one of the principal ways is by the evidence given before the inquiry by various witnesses being publicised in newspapers. That can give rise to two things: It gives the public the opportunity by the scope of the inquiry to identify where they have particular knowledge about that inquiry. It also gives them information about what other witnesses are saying. Quite often, as a result of witnesses giving evidence before a panel of inquiry and that evidence being publicised, someone is able to identify that certain persons have not told the truth. Another person may have been present at the time and may have documents to prove that the truth has not been told. If that evidence were not publicised through the media and the general public did not know what had been said, they would not be in a position to reach that conclusion. Therefore, members of the public would not volunteer themselves as witnesses because they would not know they had information that was relevant to the matter. That did not happen in the first Kyle inquiry because Mr Kyle was concerned that evidence given in public was not privileged; that is, although the people giving that evidence may have done so honestly and in the belief that it was true, if in the process they said things other people thought were not true and were slanderous of them, action could be taken in the courts against the people giving the evidence. That was the very reason Kyle thought most of his inquiry should be in private. He was concerned that as a result of people trying to assist during the giving, recording or publication of evidence, they might be sued and face damages awards. He made it clear to people who came forward to whom he felt he could not give a guarantee that they would not be privileged or free of any action. As a result some simply declined to give evidence, and that was a major drawback.

In the past few days this Government has gone to extraordinary lengths to protect one of its own against a possible defamation action arising from a report written on behalf of the Government. The matter was under the control of past Ministers for Aboriginal Affairs, Carmen Lawrence and Judyth Watson. The person who wrote the report kept a copy of it on his home computer. Someone asked for it through freedom of information channels and the author was concerned that he would be sued because of the contents of the report. This Government went to the extraordinary length of tabling that report in Parliament and ordering it to be printed. It took that action because it recognised the danger inherent in publication of a report which could have resulted in defamation action.

However, when the situation involves, not a political report written in the Premier's office at the behest of the Government, but a report of an inquiry into a local authority that raises the very same issue, the author of which is genuinely trying to establish the truth and makes it clear it is not a political report written in extravagant language to smear someone's reputation, the Government seems to back off and say we do not need those things. It will table a report to be printed to protect someone but, on the other hand, it will not contemplate this amendment which the commissioner feels he needs.

The words in clause 8.20 regarding the adoption of privilege for the person who chairs the inquiry or inquiries appear to go far enough for the inquirers themselves; that is, it will extend the privilege of a royal commission to those who are conducting the inquiry. However, it is not clear to me as a lawyer whether it will extend that same privilege to the witnesses who appear before that inquiry. If this amendment is lost, given it will be too late for the Wanneroo inquiry, I urge the Minister to examine the interim report Commissioner Kyle gave to me, the letter he wrote to me seeking amendments to the then Local Government Act and the amendments mooted by Crown Law, and that he seek advice from Crown Law about whether clause 8.20 goes far enough towards meeting those requirements. If any suggestion can be made that privilege will not be absolute in relation to the witnesses, transcribers and publishers of evidence at these inquiries - that is, they will be free of any fear of being sued for defamation or any action being taken against them of a kind that can sometimes be taken against whistleblowers - the Minister should, while the Bill is between here and the other place, consider an amendment to clause 8.20 to provide that guarantee of absolute protection in future inquiries under the Local Government Act, so that those who conduct the inquiry will be able to do what they must do.

The delay in getting the Wanneroo inquiry under way, the response of Ministers and this morning's reference by the Leader of the House to my performance in the Chamber when I eventually received the first Kyle report of his inquiry into the Wanneroo City Council have been communicated in the media and elsewhere. I have a firm practice of not responding to those situations. Throughout my public life I have not sued anyone nor have I any intention of suing anyone. I believe that when we go into the kitchen we must accept the heat that that entails and if people want to slander us, we should take it on the chin.

I was reluctant to establish the initial Kyle inquiry into the Wanneroo City Council. I am always reluctant to undertake inquiries into local government because it is not healthy for local government and tends to encroach on ministerial control in an inappropriate way. I wanted to be satisfied that real evidence existed which would substantiate an inquiry. Once that evidence was established I sought someone who I knew would be independent and could not be ascribed to the Labor Party.

I was happy with the way the inquiry was conducted, particularly that the interim report would not be published. I was very keen that no-one could accuse me at the end of the day of having the Wanneroo inquiry conducted in any political way. I wanted to be impartial. The reason for the controversy since then about whether it was adequate and got to the root of the problem centres on the essence of what this amendment by the member for Peel is about; that is, in the end the inquirer and his co-workers felt they could not hold the public inquiry that was required. The results have been unfortunate for everybody.

Mr Omodei: I understand what you are saying and sympathise, but the one thing you did not do was seek Crown Law advice before tabling the document. Why?

Mr D.L. SMITH: I have only three minutes left and will not try to respond to allegations. I am satisfied that I acted impeccably in dealing with that inquiry. I probably warranted criticism from people within my party for not taking advantage of what was a major political issue. Relevant to this debate is that since that report was tabled, the issue has been fraught with controversy because the inquiry was unable to get to the root of the matter in the way that Commissioner Kyle thought was appropriate. That is why we need thorough and complete inquiries. If those sorts of inquiries are not held, forever afterwards criticism flows such as that surrounding the Wanneroo City Council, rather than the matter being buried with a report and recommendations. That happened because of the constraints Kyle had to face in conducting his inquiry.

Whether the Opposition and the member for Peel are correct in believing these amendments are necessary to guarantee that does not happen again, is not the issue. The Minister must seek the appropriate advice from Crown Law and whatever other source he can, to be able to guarantee to the Chamber that he is absolutely satisfied no inquiry under the Local Government Act in the future will feel the constraints and inhibitions Kyle felt he was under during the City of Wanneroo inquiry.

The investigation is complete and the report is as complete as it could be, given that the star witness was overseas, which was another problem. Let us make sure that the nature of the inquiry cannot be criticised for being inadequate, and that the witnesses feel free and protected when they come before the inquiry. Irrespective of whether they are whistleblowers or they simply feel they have something relevant to say, they must be able to do so with the absolute confidence that they will not be sued after the event in the way Mr Kyle thought some of the witnesses, who may have wanted to give evidence to him, felt they were constrained by the legislation at that time. If this new legislation is really about good local government, we must be absolutely certain that inquiries can get to the bottom of every issue. This type of amendment is essential to that end.

Mr OMODEI: It behoves me to respond before we break for lunch. I understand what the member for Mitchell is saying. As a matter of fact I had made a note that says "Smith agonised over the calling of the inquiry". Likewise, when recalling the Kyle inquiry, I was conscious of this clause in the Bill. I was constrained because I had to seek advice from the Crown Solicitor, the Director of Public Prosecutions, the police and all other

relevant people before we made the decision. People may have said that an open inquiry would be better; however, I had to operate within the constraints contained in the advice to me.

Clause 8.20 does all of the things that the amendment seeks to do. I have double-checked the facts. Because I knew this would be an issue in this Bill and because it was fundamental to future royal commission inquiries, I wanted to ensure that people had total indemnity, total protection. The Parliamentary Counsel's advice is that this clause has been drafted specifically to ensure that the matters mentioned in the amendment are achieved. The amendment merely takes in part of the Royal Commissions Act. We say that all the concerns which the amendment seeks to address will be placated under clause 8.20. In relation to the current Kyle inquiry and the investigations that took place previously, there were no constraints on the police, the DPP or the Official Corruption Commission to conduct further investigations. The investigations were ongoing. The complications have arisen partly as a result of the ongoing saga surrounding the Wanneroo council, as has been mentioned by the member for Bunbury, the ongoing investigations and the court cases that have taken place.

I spoke to Mr Kyle privately before he was appointed and asked whether the terms of reference would give him the wherewithal to enable him to conduct a proper inquiry, and get the reputation of the Wanneroo City Council back to where people of Wanneroo can be proud of the council. He said that the terms of reference were adequate. As he had been the commissioner before and had asked the member for Mitchell to provide amendments to the legislation, he obviously preferred to have full indemnity for the witnesses during the inquiry; however, that was not to be the case. On more than one occasion he has said that he was happy with the terms of reference and provided he had the resources, with which we are providing him, he would be able to conduct a proper inquiry into the Wanneroo issues and clear them up once and for all.

We are providing two types of inquiry: A low level inquiry where the executive director may inquire, or the Minister may direct the executive director to conduct an inquiry under clause 8.3; alternatively, in a very serious situation, a royal commission, which would rarely occur. I played a part in the promulgation of this legislation, as have the member for Mitchell and others. If this Bill is as good as we want it to be, there should be no further royal commissions into local government. However, human nature being what it is -

Mr D.L. Smith: You and I know there will be.

Mr OMODEI: Of course. Knowing human nature, I dare say it will be a tall order. There have been only two inquiries of this status in the past 10 years, relating to the councils at Boddington and Wanneroo. The rest have been low level inquiries.

Mr D.L. Smith: There was a possibility that we could have had half a dozen more.

Mr OMODEI: That is right, but the current process and the provisions of this clause will prevent many of those things happening. Having the advisory panel and making the expertise of the department available to the municipalities at Exmouth and Shark Bay ensured that we did not get to the point where they had to be dismissed. Under this legislation we will be able to suspend a council pending departmental or ministerial investigation, or a royal commission.

I understand what some members are saying. I, too, have been concerned that the inquiry into the council at Wanneroo will proceed along the same lines as that called previously. It was called only on the advice given to me by senior officers of the Crown Law Department and senior counsel. Having checked thoroughly, I have been told that clause 8.20 covers all the concerns of the Opposition. On that basis the Government will not agree to the amendment.

Mr MARLBOROUGH: I emphasise my concerns about why this amendment should be passed. I am glad to hear the Minister believes clause 8.20 provides the protections to witnesses that are embodied in the amendment. On that basis the amendment should go ahead. It more clearly spells out the ground which should apply. It should not simply be

encapsulated in those words which are still open to interpretation somewhere down the track.

Mr Omodei: Parliamentary Counsel is the expert at drafting legislation.

Mr MARLBOROUGH: That may be so, but in this case it does not satisfy members on this side of the Chamber and should not satisfy the Parliament. The need for this amendment relates to the protection of those people involved in the inquiry. For all the reasons the member for Mitchell has indicated so succinctly, it is necessary to hold thorough and proper inquiries so that ongoing debate after the event, which has gone on for three years in the case of Wanneroo, is not replicated. We therefore need to insert this amendment.

My chief concern is the protection of witnesses. I will finish my story about attacks on Arnold Dammers, the now mayor. The events leading up to the night in question go something like this: Six months before the event the gang of six, as it was known - headed by Dr Wayne Bradshaw and comprising Rita Waters, Smith, Baddock, King and Edwardes - met at Dr Bradshaw's house. They were told by the now member for Wanneroo, then a police officer, that he had pulled out of the Police Department computer the criminal record of Arnold Dammers and that they were ready to use it when it most suited them. Six months later Smith called the gang together and, before going into council chambers, he issued three ties. They were black with a white feather and a sword embossed on them to signify that the pen is mightier than the sword. They were worn in the council chamber by Bradshaw, King and Smith. When Dammers sat down, he got the white feather. Immediately after the council meeting he confronted Edwardes and Smith and was informed that his police record would be used against him.

[Leave granted for speech to be continued.]

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Mr Omodei (Minister for Local Government).

[Continued on page 10342.]

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

MATTER OF PUBLIC INTEREST - MOTION TO CENSURE MINISTER FOR ABORIGINAL AFFAIRS AND HOUSING

THE SPEAKER (Mr Clarko): Today I received within the prescribed time, a letter from the Leader of the Opposition seeking to debate as a matter of public interest the attempt by the Minister for Aboriginal Affairs to smear political opponents.

The matter appears to be in order. If at least five members stand in support of the matter, I will allow it.

[At least five members rose in their places.]

The SPEAKER: The matter shall proceed on the usual basis with half an hour being allocated to the Opposition, half an hour to government members and three minutes in total to Independent members should they seek the call.

MR McGINTY (Fremantle - Leader of the Opposition) [2.35 pm]: I move -

> That this House censures the Minister for Aboriginal Affairs and Housing for lying to the public about his Government's clumsy and malicious attempts to smear political opponents.

As was stated yesterday in this place, if one goes into the sewer one comes out stinking. That is exactly what has happened here with this Minister. This is a very grubby affair associated with a Minister who has failed the standards of honesty and decency that we expect of any member in this House, but, more importantly, we expect of a Minister of the Crown. The Minister has taken it upon himself to be the dishonest muckraker in this

matter on behalf of the Government. This has been a shabby affair and the Minister must now be held accountable in this House for what he has done.

I will review the history of this matter. In March 1994 there was a federal by-election for the seat of Fremantle. Two days before that election, the Minister went to the media in order to drop a bucket of muck over a member of a political party opposed to him. That action demeaned the Minister and his Government. We can all remember the way he came in, dropped this report - full of lies from him - and then ran out, refusing to answer questions from the media. That action shows that at least at that stage he had some sense of decency. My reading of it was that the Minister was not happy doing the job he had been put up to do in order to besmirch the reputation of the Labor Party candidate, Dr Carmen Lawrence. The fact that he ran out of the media conference suggested to me that he was put up to it by the Premier and his advisers. He did not feel at all comfortable - that is my reading of it. I ask the Minister whether that is true?

Mr Prince: It was the first press conference I had undertaken and I was not comfortable. I did stay and answer questions.

Mr McGINTY: Did the Premier or his officers put the Minister up to it?

Mr Prince: No.

Mr McGINTY: The Minister then went on "The 7.30 Report" that night to answer questions relating to this matter. The first lie emerged on that occasion. It was put to the Minister on that program that the report was compiled by political operatives and therefore lacked credibility. The Minister responded by saying - and I will use the words that he used last night on "The 7.30 Report" - that the people who compiled the report were "reputable, capable and competent public servants". We all know that they are not and the Minister knew at the time that they were not. The Minister then said that the proposition that the report was compiled by political operatives was "totally wrong".

Let us look at the reality. We know that the report was written by Tony Papafilis, a man the Minister said - and certainly led people to believe - was a reputable, capable and competent public servant. Mr Papafilis is currently a member of the Hamersley branch of the Liberal Party; he is a former president of that branch; and he is a delegate to the Liberal Party State Council from the Stirling division, which we all know is the heartland of Noel Crichton-Browne's power base. Of course, Mr Papafilis, is one of the Noel Crichton-Browne operatives from the Stirling division on the State Council of the Liberal Party. In fact, he worked in the senator's office. He also worked in Richard Court's office when Mr Court was Leader of the Opposition, and he is currently working in Max Evans' office. He was popularly known as a conduit between Court and Crichton-Browne. That is the man the Minister said - and led everyone to believe - was a reputable, capable and competent public servant. He was not a public servant: He was a political hack. I say that the Minister knew that and that he told a lie. The Minister was trying to paint Mr Papafilis as reputable when he did not have the necessary independence with which the Minister sought to clothe the report.

Mr Shave: Are you saying that public servants should not belong to political parties?

Mr McGINTY: I am not saying that at all. All I am saying is that the Minister did not tell the truth.

Let me go on. He was the author of the report. The person who edited the report was none other than the Government's chief political operative, chief political hack and the Premier's chief political adviser, Richard Elliott. The Minister told the public that those people were not political operatives, and that they were good public servants who had that aura of independence, that capability of looking at issues and putting together a report which had been sent off to the Director of Public Prosecutions. It was a political hack job. It is not unlike the document that has been compiled by Senator Noel Crichton-Browne himself for his appeal against his expulsion from the Liberal Party. It is a partisan knife job. That is exactly to what the Minister sought to give some credibility when he referred that report to the Director of Public Prosecutions.

We can be left with no conclusion other than that, in respect of the authorship and

editorship of the report and its final form in which it went off to the DPP, the Minister lied to the people of Western Australia. But that was not the end of it. He also said on that edition of "The 7.30 Report" that the draft report prepared by Tony Papafilis was then edited only for syntax and grammar. Unfortunately, the two reports the Minister tabled in this place show page after page of deletions. It goes on. There are an extraordinary number of deletions - not what I would call syntax and grammar or correcting it to make sure that it flows, to make sure that the spelling is right and matters of that nature, but page after page deleted from it. It could be taken as a little bit of licence on the Minister's part to say that syntax and grammar extended to whole pages that he did not like, but what the Minister said on "The 7.30 Report" really let the cat out of the bag. He said that he directed enormous changes to be made to that report which go well beyond syntax and grammar.

The Minister said that he directed that the allegations of a political nature be removed from the report. That is hardly a bit of editing for syntax and grammar when someone is acting under the Minister's direction as to the content of that report. The Minister's statement that the report was edited by Richard Elliott only for syntax and grammar is absolutely untrue, and he is therefore guilty of telling a lie to the people of Western Australia in that respect. The Minister directed that the changes take place. What he deleted was not syntax and grammar but allegations made against Dr Lawrence in particular. He also directed that a lot of the political content of the report be deleted. I know why he did that. It was summed up by the Minister assisting the Minister for Justice, who is quoted in this morning's paper as saying that one would hope that reports dealt with the truth and that -

> Sometimes when people write reports it would be a good idea to stick to the facts. But he -

Tony Papafilis -

> chose not to.

That is why he sought to change it - because it was not true, because it was politically loaded and because it would have been shown up to be the political knife job or political bucket job that it was. The Minister cannot cover that by pretending that that was grammar and syntax. The Minister assisting the Minister for Justice has correctly identified the reasons that the Minister made that direction, but he cannot now pretend to the House that it was limited editing, as he would have us believe.

In those two respects the Minister stands condemned and it is appropriate for the House to carry the motion censuring him for his behaviour in this matter. But it is not simply in two respects that he has been caught out in this fairly grubby matter. I am prepared to give him the benefit of the doubt; he was dragged into it against his will, as a new Minister. That was certainly my reading of his conduct on television, which was, as he said, his first press conference. He was a most reluctant bride in that matter.

But the Minister's track record in his short time in this Parliament suggests otherwise. The Southern Processors matter reflected most adversely on him. He will recall that in April 1993, without declaring his interest, he lobbied the Minister for Primary Industry and the Minister for Commerce and Trade for financial assistance to the failing Southern Processors company. What he did not tell the Minister was that he was a director of a company that had a 25.6 per cent share interest in Southern Processors. Therefore, he had a direct financial interest.

I have no objection to members of the public lobbying on behalf of companies in which they have a financial interest, but when he, as a member of the Government, lobbies Ministers in order to get a financial benefit for a company in which he is a shareholder, it is incumbent upon him to disclose that interest. He did not do that. That was in April 1993, after he had been a member of this House for two months.

Three months later, on 5 July 1993, *The West Australian* reported that the Minister was a director of Damsin Holdings Ltd, which held 1.25 million shares in Southern Processors. That goes back to the original conflict of interest to which I have referred. The

newspaper reported that the Minister said that his company's interest in Southern Processors was worth about only $5 000. The company report to which he was a signatory said that it was worth $635 000. There is something badly amiss in the honesty and the way in which that issue has been directed. I notice the Minister shaking his head. Any financial interest, whether it be $5 000 or $635 000, should be disclosed.

The SPEAKER: Order! I ask the Leader of the Opposition to resume his seat. I have let him continue for some time in relation to matters that appear to be unrelated to the motion. I therefore ask him to confine himself to the motion.

Mr McGINTY: To complete the context in which the most recent allegations occurred, I briefly touch on one other matter, and that is the scandal that occurred in July 1993, when the Minister alerted his law firm, Haynes Robinson, that the Government was about to change the workers' compensation laws in this State. The Minister felt that he owed a greater duty to his law firm than to the Parliament or to the people. He therefore alerted his law firm, which was able to lodge nine common law writs in just 45 minutes. Again, that shows a very clear conflict of interest - something which should not be done. It impinges very much on the Minister's integrity in this matter.

It has been a grubby affair from start to end. I was very disappointed to see *The West Australian* give such prominence to a grubby story about the allegations. When it was exposed as a completely false, malicious political episode by the Government, that story was buried somewhat deeper in the paper. The damage was done by *The West Australian* in its first coverage of the story. That damage must now be undone if we are to have any sense of justice about the matter.

It is a grubby affair in which a Minister of the Crown in this House did not tell the truth from beginning to end. He has also, because of the way in which the matter has proceeded, caused the Premier to mislead the House. On 13 May 1995, the Premier was asked -

(1) Will the Premier table the draft report of the Aboriginal Homes Development Association which was prepared by Mr Tony Papafilis and others?

(2) If not, why not?

The reply was that the report is with the Director of Public Prosecutions. I am happy to hand a copy of the question and answer to the Leader of the House. Quite clearly, the Premier said, "I am not able to table the report because I do not have it - it had gone to the DPP." What is now emerging is that was not true. Mr Tony Papafilis, on his home computer, had the report which gave rise to this whole sorry affair.

Unless one takes the reply to the question as a smart alec answer, and I do not think it was, particularly in the light of the Minister subsequently saying he was unaware of the separate existence of the draft report on Tony Papafilis' home computer, the only reasonable interpretation is that there was a belief in Government that the only copy of the report still in existence and which could be discovered by the Freedom of Information Commissioner had been passed on to the DPP. That was not true. I am not making any allegations of impropriety against the Premier because I think he answered the question honestly, but mistakenly because the report was still in existence on Mr Papafilis' home computer.

This whole issue raises enormous questions. I ask the Minister to advise whether he will refer to the police my allegation that Tony Papafilis is guilty of theft. What was taken out of government, to the extent that the Premier and the relevant Minister thought it no longer existed, and was kept at home on a home computer, was government property and it was held there for almost two years. As I understand the law, it represents the theft of government property.

Mr Marlborough: How many copies did he run off?

Mr Shave: The Leader of the Opposition is drawing a long bow.

Mr McGINTY: I do not think it is drawing a long bow. It was only an FOI request that

uncovered the existence of this government document in someone's hands and on private property - a document which the Ministers believed did not exist. The Ministers had honestly answered the questions put to them in this Parliament. I think the Minister, rather than the member for Melville, knows what I am getting at. It raises a serious question of theft of government property by a political operative working in government.

Mr Shave: It is a very long bow.

Mr McGINTY: I do not think it is. It is a most serious matter. This motion is strongly worded. I have quite clearly made out a case that the Minister has not told the truth. In this case I am able to call a spade a spade and say that the Minister has lied. Unless the Minister can show to this House that what he said is truthful in every respect, this House must censure the Minister.

This motion is about respect for the Parliament, respect for the Government and respect for the integrity of the holders of public office. If the Minister can do no better than he did on "The 7.30 Report" last night - that is, to look as guilty as sin when confronted with these inconsistencies and his misleading statements - this House has no option other than to vote to censure him. If the Government covers up for him and says, "Even though you told a lie, we will not do anything about it on party lines", it will reflect adversely on the Government and all members of this House.

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [2.54 pm]: The attitude of government members to the processes of debates which occur in this House has been very well illustrated in two instances today. Firstly, by its shabby response to the Opposition's effort to have amendments pertaining to the Kyle inquiry debated and voted on in this House and, secondly, the failure of the Minister for Aboriginal Affairs to respond to the Leader of the Opposition in the course of this debate.

I will outline the four improprieties in this affair. The first is having political operatives investigate allegations that had been made about this issue rather than having properly constituted authorities examine them. Of course, that was originally the decision of the now Minister assisting the Minister for Justice. Nevertheless, the current Minister for Aboriginal Affairs was quite happy to go along with that arrangement. I have no doubt that therein lies the truth of this issue - the decision made by the Government not to refer this issue to a properly constituted authority such as the Public Accounts and Expenditure Review Committee, which has the authority to investigate issues like this, or to a body like the Ombudsman or employ an accountant or lawyer to examine it. What did the Government do? The issue was handed to political appointees within the Ministry of the Premier and Cabinet.

The second impropriety rests on the shoulders of the current Minister for Aboriginal Affairs. He dropped information concerning the referral of this report to the DPP only two days before the conclusion of the Fremantle federal by-election campaign. If the truth of the issue was illustrated only too well by the fact that political operatives were put in place to examine it, it was certainly illustrated by the political tactic of the Minister to drop information about that referral just two days before the end of that by-election campaign. The Government was not interested in trying to find out what happened and have the issue dealt with properly. It wanted to play politics with the issue and it did not care what were the consequences for the individuals concerned.

The third impropriety is the most important; that is, that the Minister for Aboriginal Affairs has quite clearly lied to the public of Western Australia about this issue. Every citizen in Western Australia who watched "The 7.30 Report" last night saw a Minister who had lied. He had lied about the fact that the report had only been edited for syntax and grammar when we know he requested a rewriting of the report because it was absolutely hopeless in its original form. He concealed that from the public of Western Australia back in March 1994 and gave them a completely opposite impression of the truth. He also said that the report had been written by public servants, again to give the impression to the public that that was the complete opposite of the truth.

Why did the Minister lie? Simply because if he had told the truth about the way in which

this report had to be written and who wrote it, the real motives and purposes for not only having that report put together, but also leaking the information about its referral to the DPP would have been there for all the people of Western Australia to see. He had to lie to protect his Government from the sordid little episode it was engaged in.

The fourth impropriety in relation to this issue is the one we have seen unfold in this Parliament over the last few days. This Minister tabled the edited version and the unedited version of the reports on 31 October 1995 without the letter from the DPP which said that inquiries into the edited version of that report "found no matters such as to warrant criminal prosecution". Those words from the Director of Public Prosecutions are the only words that matter in this affair. The report prepared by the Government's political operatives was so bad in its original form that it was rewritten. That report was sent to the DPP, and knowledge of it was leaked during the by-election campaign. The two reports were tabled without the DPP's letter attached to them. That letter revealed there was no case to answer in criminal law in relation to this issue. The Minister concealed the most important information from the Parliament of Western Australia when he tabled the edited and unedited reports. The Minister has failed every test. First, he agreed to a process of blatant political operatives examining allegations; and, secondly, he dropped information about the referral to the DPP in the heat of a by-election campaign with the aim not of finding the truth and helping the public deal with the issues, but of creating a bad impression of someone participating in that by-election. Thirdly, he lied to the public about the matter; and, fourthly, when he came into this Parliament -

Point of Order

Mr BLAIKIE: I draw your attention, Mr Acting Speaker (Mr Ainsworth), to Standing Order No 145 and ask you to rule on that.

The ACTING SPEAKER: I take it the member for Vasse is referring to the comment by the Deputy Leader of the Opposition on more than one occasion about lies in relation to the Minister involved in this MPI. It was not brought to the attention of the Speaker when he was in the Chair, and the Speaker did not respond to it although it has been said several times today. In this case, I suggest the substance of the MPI includes an allegation of that nature and, if it were not mentioned, it would be a little difficult to substantiate the claim. I remind the Deputy Leader of the Opposition of that standing order. The member for Vasse has quite rightly drawn attention to it, and I ask the Deputy Leader of the Opposition to be more cautious in his use of that terminology.

Debate Resumed

Dr GALLOP: The Minister tabled those two reports and deliberately did not table with them the letter from the DPP. He deliberately misled this Parliament and, through this Parliament, the public of Western Australia about the true nature of this affair. There is no greater offence in this Parliament than a Minister deliberately creating a false impression about events. If this Government has any standards at all, it will agree with this motion to censure the Minister for his very shabby performance in this affair.

MR MINSON (Greenough - Minister for Works) [3.03 pm]: I comment before the Minister for Aboriginal Affairs responds because I initiated this inquiry. I will provide some background to it. I am a little surprised that the Opposition has moved in this direction, given the history of the matter. I suspect most members opposite do not know the history, but I will enlighten them on some of it. If members really want to know where this started, they should speak to Brian Burke and David Parker. It is on the public record, but I do not have the time to cover it.

Quite early in my career as a Minister I was looking for somebody to act as my adviser on Aboriginal affairs. I found it very difficult to come to grips with the requirements of and the resources needed for Aboriginal affairs, given the history of failure of everything our society had tried to do in the previous 50 years in this area. I then met Shirley McPherson. I first met her when her name was Shirley Harris and we attended the same school, and I liked her very much. She used to stay at our family farm and was a very

good friend of my younger sister. I had a good talk with Shirley and she seemed to be a very capable person with some good ideas about Aboriginal affairs, and was very successful -

Several members interjected.

The ACTING SPEAKER: Order!

Mr MINSON: I am setting the scene for the events leading to this matter. If members opposite do not want to know this, it is tough because they will hear it. I told my advisers that I would like to give consideration to offering Shirley McPherson a term of government contract in my office. They coughed politely and said I should know something about the Aboriginal Homes Development Association. I asked them to explain but they did not know much about it. They said only that there was a smell about the place because a Brian Burke appointee, a bloke called Easton, had been put into that organisation. The government of the day had to get rid of him and did not know what to do with him. Eventually in 1989, Easton wound up in the Aboriginal Affairs Planning Authority. Bearing that in mind, I thought there was something a little strange.

Several members interjected.

The ACTING SPEAKER: Order! The member for Peel will come to order.

Mr MINSON: Members opposite can laugh all they like, but they will not be laughing soon. Later I was asked to consider backing a particular style of building that it was thought would overcome many of the problems of Aboriginal people, particularly in the desert areas.

Points of Order

Mr RIPPER: Like many people who sit in your position, Mr Acting Speaker, I have waited several minutes into the Minister's speech to ascertain how it relates to the motion. I see no relevance to the motion before the House at this time. That motion concerns the action of the Minister for Aboriginal Affairs and not what happened years ago in an Aboriginal housing agency.

Mr C.J. BARNETT: Further to that point of order, a censure motion against a Minister of the Crown is a serious matter. Members on this side of the House listened quietly to the case mounted for censure by the Leader of the Opposition and the Deputy Leader of the Opposition. Three minutes into the response the former Minister is providing background information and, because it relates to the period of administration of the Labor Government, the interjections and the points of order started.

Members on this side listened to the accusation in the censure motion and the very least the Opposition should do is have the courtesy and respect to allow members on this side to reply to the accusation. It is up to government members to decide how they will reply. The Leader of the Opposition chose to start his story in March 1984, but it started long before that. Let us sit and listen to the whole story.

Mr MINSON: I will clarify matters, Mr Acting Speaker. You will see, as the story unfolds, that when the current Minister came into office I had told the House six weeks previously in a public statement that I would call this inquiry. He inherited a fait accompli. Members opposite have tried to make out he headed off into a grubby little exercise. That is not true.

Dr Gallop: That is not a point of order.

The ACTING SPEAKER (Mr Ainsworth): I remind the Deputy Leader of the Opposition that the judgment on whether that is a point of order rests solely with the Chair. The last two contributions on the point of order were both points of view, and I share some of the sentiments expressed. The Leader of the Opposition's challenge to the Minister is a very serious one, and we are only three minutes into the response. I am very interested to hear the background to this matter, so that I have a broader picture and can ascertain whether the claims made by the Leader of the Opposition and the Deputy Leader of the Opposition have any substance. Therefore, the direction taken by the

Minister for Works is appropriate, provided it does not continue for the entire length of his speech.

Debate Resumed

Mr MINSON: I called in the Aboriginal Affairs Planning Authority Commissioner and asked what happened to the Aboriginal housing group. I told him I thought that some money must be left over from it because I knew it had borne no fruit. I said that I believed the person with the housing plan had a good idea and I wanted to examine it with Homeswest. The commission said that everyone was a bit puzzled and started to tell me something about what he knew. Bearing in mind the AAPA is a commission and that an ongoing saga started in 1989, I will seek to have the chronology incorporated in *Hansard* so that members can follow some of the events that took place. A number of dates relating to my ministry are quite important.

On 8 January Stanton Partners informed the AAPA that on the basis of unaudited statements from the Aboriginal Housing Development Association there were significant abnormalities that suggested that the AAPA used its power to inspect the AHDA's documents. Once again that was not something that had to do with the commissioner, but with the Minister. On 30 September a memorandum from AAPA's lawyer, Nevill May, informed the AAPA Commissioner that in order to comply with the statutory obligations he had no choice other than to refer the matter to the Crown Solicitor. At this stage I was wondering what the heck was going on. I approached the Premier's department and said that a curious situation had arisen and asked for some advice. I do not know who was the person assigned from the Premier's department. In any event I spoke with Richard Elliott who was very helpful; that is on the public record. He also had been getting a lot of information from somewhere outside.

Further to that I made the following statement on 10 December 1993 while standing in this very spot -

> The fact that these alleged irregularities occurred under the previous Government is irrelevant.

I was not on a political witch-hunt. I continued -

> I wish to inform the House that I have ordered an internal investigation -

Several members interjected.

Mr MINSON: Members opposite do not like it. I continued -

> - into these alleged irregularities within my portfolio.

Mr Marlborough interjected.

The ACTING SPEAKER: The member for Peel will come to order.

Mr MINSON: This is important because it is the commitment I gave as the Minister for Aboriginal Affairs. I said -

> When these investigations are completed, I will report the findings to the House.

On 17 January while I was still the Minister, before this Minister took over the portfolio, the Crown Solicitor's advice confirmed misuse of funds - outside of grant conditions - and not according to the purpose for which funds were approved. Advice was that the AAPA could pursue the AHDA for repayment of $609 362. On 2 February - I think the Ministry changed in the last week in January - the Minister issued instructions to the Crown Solicitor to issue a letter of demand. I wish to have incorporated in *Hansard* the list of chronological events from 23 May 1989 to 2 February 1994 being a true account of events in this matter.

Points of Order

Mr RIPPER: I think a document can be tabled, but the purpose of incorporating material in *Hansard* is to allow statistical or graphical material to be incorporated. I do not think leave should be granted for this material to be incorporated. The Minister can run through it in his speech if he wants it to be in *Hansard.*

Mr MINSON: As you know, Mr Acting Speaker, members have a limited time in matters of public interest. Insufficient time is available to read out all the boring detail, but it is very relevant to this case. I therefore seek permission to incorporate it.

Mr Marlborough interjected.

The ACTING SPEAKER: The member for Peel will come to order.

Ruling by the Acting Speaker

The ACTING SPEAKER: The rules relating to incorporation of documents in *Hansard* generally apply to items that cannot be read out, such as graphs and tables that do not lend themselves to being expressed verbally. Although, as the Minister said, and I agree with him, to incorporate it will mean dispensing with listening to very boring material, it is certainly capable of being read into the *Hansard.* For this exercise I rule that it is not appropriate to incorporate it in *Hansard.* However, as a Minister he is free at any time to table this sort of documentation.

Debate Resumed

Mr MINSON: I accept your ruling, Mr Acting Speaker.

[See paper No 667.]

Mr MINSON: To understand the whole sorry saga of intrigue and utter incompetence, people must very firmly have in mind the chronological sequence of events. The point is that although the events are connected they did not always appear to be so until considered in retrospect.

The Minister was confronted with a situation where a previous Minister had ordered an investigation. However, as a result of the silly season that investigation did not start at that time. The previous Minister gave the House an undertaking that he would inform members of the outcome. I believe that the Minister of the day had no choice other than to call the inquiry and make it public; that he did. I did not appoint someone to carry out the inquiry. I sought the advice and help of the Premier's office. By tacit agreement someone was to undertake the inquiry. I was not particularly concerned who that person was. I did not know until today who Tony Papafilis was. I had not met him, and I will say that outside the House. In no way was there anything improper about this inquiry.

Several members interjected.

The ACTING SPEAKER: Order! We have heard a high degree of interjection from members during the past few minutes of this debate. I have allowed some interjection, but it has got out of hand. I ask members to obey the standing orders of this Chamber. To allow interjections is not disorderly, but interjecting in the way members have been is totally out of order and I ask them to cease immediately.

Mr MINSON: The Minister acted properly in both completing the inquiry and making it public. I will leave it to the Minister to explain what he did from that point on and why. People need to know why that inquiry was called. They have forgotten the total incompetence of two Ministers. The member for Kenwick was so incompetent she did not even know about it. I know from public statements that Carmen Lawrence did not want Brian Mahon Easton anywhere near her; but she took him because someone had to do something with him.

The ACTING SPEAKER (Mr Ainsworth): Order! I have been far more lenient than I should have been with all members, particularly the member for Peel, this afternoon. However, that is as far as I will go. The member for Peel should not look at me in such an innocent way because it will not work.

Mr Taylor interjected.

The ACTING SPEAKER: I formally call to order the member for Kalgoorlie.

MR PRINCE (Albany - Minister for Aboriginal Affairs) [3.20 pm]: Sometimes there is a bit of humour in this place, but in this case $614 000 of taxpayers' money was granted to an incorporated association which had as its object and purpose to further Aboriginal

housing, particularly the involvement of Aboriginal people in constructing housing. This is a very worthwhile and entirely desirable purpose. However, in January 1994 the Crown Solicitor said that of that money, $609 000 should be the subject of a payment back because it was not spent in accordance with the grant conditions, as members have just heard. The member for Kenwick inherited this matter. The former Leader of the Opposition and former Premier, Carmen Lawrence, approved the grant. Under her hand the money was advanced. Under her administration, and possibly under the administration of the member for Kenwick, it was spent. There is practically nothing to show for it - and that is a major scandal. It was the subject of press comment in 1992.

Information about what had happened was raised not just in this House but also in the other place by the then spokesperson for the Opposition on matters to do with Aboriginal affairs. The member for Kenwick had a number of things to say in the Press at that time about how proper things were, when in fact they were not. As we have heard from the Minister assisting the Minister for Justice, when he became Minister he found out more and more about what had happened, but the picture was unclear.

It is a lot of money and there were some serious allegations. He commenced an inquiry, having sought advice from Richard Elliott to do so. The result was that paperwork, books and so on, including audit reports that had been commissioned from outside auditors by the Aboriginal Affairs Planning Authority, were collected. Stanton Partners were the auditors. I hope nobody will make any adverse comments about that firm. It was unable to produce an audit report because the information was incomplete.

It has been suggested that the Auditor General should have done the investigation. The Auditor General cannot investigate because this is an incorporated association, and the Auditor General said so to the Press yesterday outside this House. The question could be asked why it was done through an incorporated association which is not subject to any form of inquiry by the Auditor General. I question whether the Ombudsman could even go looking at it. It is not a government body. I question whether anybody, other than someone conducting an investigation, could have looked at this incorporated association.

As the member for Greenough has said, he commenced an inquiry and sought advice about how it should be conducted. I became Minister on, I think, 25 January 1994.

Mr Taylor: I remember that date well.

Mr PRINCE: So do I.

Dr Watson: It was not long after the workers' compensation fiasco.

Mr PRINCE: I remember that, too. I was briefed on the Aboriginal Homes Development Association and what happened to the money, amongst a number of other things. An inquiry is in process. Mr Tony Papafilis is a term of government employee who, at the time the report was prepared, prior to the proclamation of the Public Sector Management Act, was appointed under the Public Service Act 1978 and, as such, was a public servant. He is a public servant.

Mr McGinty: He was not a public servant. If he is employed for the term of government, he is not a public servant.

Mr PRINCE: Yes, he is. I table a paper from the Office of State Administration to do with Mr Tony Papafilis which quite clearly says that he was a public servant at the time.

[See paper No 668.]

Mr PRINCE: Tony Papafilis had the job of compiling a report. He had a vast amount of information to work with. He was then with the Ministry of the Premier and Cabinet. He was seconded to my office. In response to question on notice 1582 on 6 December 1994, the Premier replied -

> Mr Tony Papafilis was seconded from the staff of the Premier's office to the staff of the Minister for Aboriginal Affairs . . . Mr Papafilis wrote the report . . . The report was submitted to the Minister. The Minister met with the Premier on 4 March 1994 with the report. Due to its contents, the Minister advised the Premier

> that rather than making the report public it should be referred to the Director of Public Prosecutions. The Minister -

That means me -

> further advised that those portions containing political comment and particularly allegations of impropriety on the part of Hon Carmen Lawrence should be edited out. Mr Richard Elliott of the Premier's office was given that job.

That was my judgment. I know other members in this place, in particular the Leader of the Opposition and the member for Peel, frequently make allegations of criminal activity and throw them across the Chamber. I do not do that. It should not be done.

Dr Gallop: Who told you to take part in that press conference?

Mr PRINCE: The member should keep quiet, as I did, and listen.

If members want to accuse others of criminal activities, the police, the prosecuting authority, the Director of Public Prosecutions should inquire and an accusation should come in that fashion. I held a press conference. I said that the report had been referred to the DPP. I said that there were serious allegations in it; there was a lack of financial responsibility. I sent the report to the DPP. Before I did that, I asked for the allegations of the impropriety to be removed. The report should not contain those allegations, in my opinion and in my judgment. At the very best it would perhaps be interpreted as asking the DPP to come to a certain conclusion. That is not what I wished to do. I wanted the DPP to look at the matter.

In the letter I tabled yesterday, the DPP not only used his own prosecutor, Mr MacTaggart, a police inspector, but also, presumably, other resources from the Police Department and an accountant. After 18 months of investigation by the proper authority constituted to inquire into potential criminal matters, the DPP said that no matters warrant a criminal prosecution. The DPP states -

> Might I add the comment that notwithstanding the fact that at the end of the day no matters were found such as to warrant criminal prosecution, it was in my opinion an entirely appropriate action on your part to refer the papers to me.

That letter was signed by John McKechnie, Director of Public Prosecutions. I acted quite properly. I did not make allegations publicly of any form of criminal activity involving Carmen Lawrence. To do so would have been wrong, in my view. However, because those allegations have been made, because those conclusions could possibly have been drawn, I sent the report and supporting papers to where they should have gone.

In the meantime, members on the other side of the House and in the other place asked a pile of questions on notice. As a result of questions from opposition members and a freedom of information application by Dr Carmen Lawrence in which she has sought in her letter of 1 May to obtain "a copy of the report in its unedited form as well as the final version which was forwarded to the Director of Public Prosecutions", and a question on notice from the member for Kenwick to the Premier on 13 June, "Will the Premier table the draft report on the Aboriginal Homes Development Association which was prepared by Mr Tony Papafilis and others" it has been found that Mr Papafilis kept a copy of the report on his home computer. I did not know that to be the case until questioning from opposition members and the FOI application revealed that. I understand that members opposite accept that to be so. I did not know.

Mr Papafilis has answered the question that was put to him. He had a copy of the report on his computer. That information has been made public. I did not know.

Mr Marlborough interjected.

The ACTING SPEAKER (Mr Ainsworth): I formally call to order the member for Peel.

Mr PRINCE: The member for Kenwick asked that the draft, the unedited copy be tabled. The member for Kenwick asked for it, and she got it.

It would have been wrong of me if I had stated that allegations of criminal behaviour had

been deleted from that report. It would not be an untruthful statement, but it would be wrong. Accusations of that nature should not be made publicly unless they have been investigated by police and the Director of Public Prosecutions. That is why the issue went to the police and the DPP.

Accusations of fraud were made about $600 000. That is indictable if there is an offence. I was obliged by the Information Commissioner Mrs Keighley-Gerardy to supply by 4.00 pm on Tuesday both edited and final versions of the report. Last Thursday afternoon in this building I received a letter from the Director of Public Prosecutions. I had told the Information Commissioner I would release nothing while an investigation was pending at the office of the DPP. If the DPP reported to me there was no criminal prosecution, I would no longer say that I refused to release the papers. I sought advice from my staff. My principal private secretary, Kevin Humphrey is a public servant who has been involved in Parliament and the Public Service for a long time. His advice to me was to table the reports, and I did.

Dr Watson: It was done to save him from a defamation action.

Mr PRINCE: The member for Kenwick has suggested that I was in some way attempting to smear people. The member for Kenwick asked for the report and I tabled it.

Dr Watson interjected.

The ACTING SPEAKER: I formally call to order the member for Kenwick.

Mr PRINCE: If I had wished, or intended, or I was the sort of person who wished to smear either the member for Kenwick or anybody else there would have been a media alert, a press release and a ministerial statement. I did not do that. I arranged for those reports to be tabled. The media came to me.

The Leader of the Opposition commented on the way *The West Australian* reported this issue. When the *The West Australian* reporter came to me - as he will tell the Leader of the Opposition - I showed him the letter from the DPP, and I read parts of it to him, so that he was aware of what was said. The member for Kenwick asked me to table that letter. Mr McKechnie had said that the letter was private and confidential, so I sought his agreement to its tabling. He said yes. I tabled it at the first opportunity, which was yesterday morning. The member for Kenwick moved for it to be printed, and I agreed.

Although it did not occur to me at the time, perhaps I could have sought to table that letter on Tuesday with the reports. With hindsight, perhaps I should have done that. That is consistent with everything else that I have done.

Mr D.L. Smith interjected.

Mr PRINCE: I have taken the appropriate action with the draft report that was given to me. I have dealt with it as it should have been dealt with, and I come back again to this point: $614 000 of public money was given to an incorporated association and we have nothing to show for it.

Mr D.L. Smith interjected.

The ACTING SPEAKER: I formally call to order the member for Mitchell.

Mr PRINCE: A number of accusations have been made about that money and how it was spent. The Office of the Crown Solicitor has instructions to proceed. It held the reports while the DPP conducted its investigations. Criminal matters should take precedence over anything else. The criminal investigation is now complete. The Crown Solicitor will investigate the civil matter.

I reject entirely the motion moved by the Leader of the Opposition. I have acted properly in this whole sordid affair which has arisen out of former Government's administration of government, and not ours.

MR RIPPER (Belmont) [3.36 pm]: What we have heard this afternoon is typical of this Government's defence of any accusation levied against it. It goes back to the record of the previous Government and does not deal with the charges that have been laid

against it - just as this Minister and his supporting Minister have not dealt with the charges laid against them. On "The 7.30 Report" last night this Minister was convicted out of his own mouth.

I will come back to the precise subject of this motion which has been moved by the Leader of the Opposition - that is, the actions of this Minister. It is not what occurred years and years ago under another Government. The actions of this Minister should be censured by this House. This Minister has lied to the public not once, but twice. It is notable that in all of the arguments we heard from the Government this afternoon, not one serious attempt was made to deal with that matter.

Let us look at the two lies. The first lie relates to whether the second report was edited for syntax and grammar, or whether it was edited more heavily. I will quote "The 7.30 Report" last night -

> CARPENTER: I asked about it on the program last year and you said that you had received a report, it had been tidied up for syntax and grammar and sent off to the DPP. Now that wasn't exactly true was it?

What did the Minister say when he was given an opportunity to rebut that accusation of lying? He convicted himself from his own mouth. He said -

> I did not wish at the time and never wished to have the draft report which contained the allegations made to which you are referring made in any way public.

The Minister was offered an opportunity to rebut the accusation that he lied. However, he confirmed it out of his own mouth. He offered an excuse. He said, in effect, "Yes I lied, but this is why I lied." It is not acceptable for a Minister of Crown to lie to the public in this State. If any Minister lies to the public, he should be censured by this House.

The second lie was the Minister's statement to "The 7.30 Report" in 1994 that the report had not been compiled by political operatives. I will again quote the interview by Alan Carpenter who asks the Minister -

> Now I also asked on this program whether or not it had been compiled by what I had described as political operatives, at the time and you said "that is totally wrong". Now that wasn't true either.

The Minister's answer to that question in 1994 was that it was totally wrong to say that the report had been compiled by political operatives. Who in this State will believe that Richard Elliott is not a political operative and that Tony Papafilis, formerly on the staff of Senator Noel Crichton-Browne, is not a political operative? Who will believe that Tony Papafilis, who was appointed on 14 April 1993 after the election on various contracts for the term of government is not a political operative? No-one in this State will believe that statement.

That is the second lie for which the Minister for Aboriginal Affairs should be censured by the House. He has offered no credible defence to the charge that has been laid against him. He said that Mr Papafilis was a public servant. If Mr Papafilis was a public servant for the purpose of this argument, every ministerial adviser in every Government has been a public servant. It is no defence. It compounds the offence for which we seek to censure the Minister. He is misleading the House now as well as having lied to the public.

MR C.J. BARNETT (Cottesloe - Leader of the House) [3.40 pm]: This censure motion should be defeated. The history of the project indicates, as my colleague the Minister for Justice made clear, that there was mismanagement of the funds and lack of accountability. There was lack of effective ministerial responsibility by Dr Carmen Lawrence, and subsequently by the member for Kenwick. They failed to look after the funds and to institute inquiries. The task of trying to sort it out was left to the incoming Government. Those members failed to accept their ministerial responsibilities. The $600 000 is the main issue. It is the main game.

Several members interjected.

The ACTING SPEAKER: Order! The member for Cockburn will come to order.

Mr C.J. BARNETT: In his comments the Leader of the Opposition moved into the Southern Processors issue and others. His major point was that Tony Papafilis was not a public servant. He was appointed prior to the current legislation - that is, under the 1978 Act. On the advice of the Office of State Administration he had the status of a public servant, and to describe him as a public servant would be a normal thing to do.

As to the editing of the report, at the instruction of the Minister for Aboriginal Affairs all the information that was probably ill-founded, over the top, and emotional, and the allegations of criminality were removed. He did the proper thing. He took all the rubbish out of that report. He put the report in a form that was appropriate to be read by anyone else. He should be congratulated for that. He could have let it go, but he did not. He acted properly.

Several members interjected.

The ACTING SPEAKER: Order! The member for Cockburn will come to order.

Mr C.J. BARNETT: As to the Fremantle by-election and the timing of the press release, the previous Minister made it clear that an investigation was under way. It had already been announced publicly. Therefore, it was in the public arena. Whatever its merits and quality, the subsequent report was received by this Minister during the Fremantle by-election. He passed it on to the Director of Public Prosecutions during that by-election. Are members opposite saying that given that the matter was in the public arena, he should have concealed it? If members were concerned about the political ramifications for Carmen Lawrence, surely a legitimate public issue - that is, her performance as a Minister - should have been made public during the election campaign? Why should not the public judge her performance?

Several members interjected.

The ACTING SPEAKER: Order! I call to order the Leader of the Opposition.

Mr C.J. BARNETT: There was no fanfare. The Minister did not release the report. All he did was pass it on to the Director of Public Prosecutions. He had little or no other choice. The allegations about lying simply do not stand up.

The tabling of the reports is the reason members opposite are running around now! Members opposite requested the report. Carmen Lawrence used the freedom of information provisions not only to request the report; she wanted both reports. The member for Kenwick demanded that they be tabled. She asked questions of the Minister and of the Premier. She sought the tabling of the report. It was not in any sense the desire of the Minister to table either report. If the Minister had wanted to table the reports, he could have done that at any time. He could have done it during the Fremantle by-election. He did not. He did not misuse the information. Members opposite requested the information, and it was tabled. Suddenly they do not like it. We do not particularly like it either.

This Minister gives no standing nor stature to the report in its original form. It was at his insistence that the emotive, ill-founded material was removed. He did not know, nor did I know, that the officer had maintained a copy of the original draft on his home computer. It was not known to anyone in government, to my knowledge. It was opposition members' mismanagement, and their report. They should cop it!

Several members interjected.

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

[The member's time expired.]

Question put and a division taken with the following result -

Ayes (19)

Mr Brown	Mrs Henderson	Mr Taylor
Mr Catania	Mr Marlborough	Mr Thomas
Mr Cunningham	Mr McGinty	Ms Warnock
Dr Edwards	Mr Riebeling	Dr Watson
Dr Gallop	Mr Ripper	Mr Leahy *(Teller)*
Mr Grill	Mrs Roberts	
Mrs Hallahan	Mr D.L. Smith	

Noes (27)

Mr C.J. Barnett	Mr Marshall	Mr Shave
Mr Blaikie	Mr McNee	Mr W. Smith
Mr Board	Mr Minson	Mr Strickland
Mr Bradshaw	Mr Nicholls	Mr Trenorden
Mr Day	Mr Omodei	Mr Tubby
Mrs Edwardes	Mr Osborne	Dr Turnbull
Dr Hames	Mrs Parker	Mrs van de Klashorst
Mr House	Mr Pendal	Mr Wiese
Mr Kierath	Mr Prince	Mr Bloffwitch *(Teller)*

Pairs

Mr Bridge	Mr Court
Mr Graham	Mr Johnson
Mr M. Barnett	Mr Cowan
Mr Kobelke	Mr Lewis

Question thus negatived.

HOSPITALS AND HEALTH SERVICES AMENDMENT BILL

Second Reading

Resumed from 28 September.

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [3.50 pm]: This Bill covers a range of matters. One of the matters raised in this legislation is of great concern to the Opposition. That is the clause which makes it possible for the functions that are performed within our public hospitals to be contracted out to the private sector. On the other hand, the Opposition does support other aspects of this Bill, most importantly, the clause which will incorporate into state legislation the Medicare Agreement.

The first major theme that is covered by this legislation results from the Hospitals Amendment Act 1994, which dealt with a number of issues, one of the most important being to enable public hospitals to provide health services. The Government introduced that legislation for two reasons. First, the Civil Service Association had taken the Government to court in regard to its organisational restructuring of the health system under the previous Minister for Health, Hon Peter Foss, and had pointed out, quite properly, that the new regions that had been formed created a legal anomaly where people who were employed under different pieces of legislation were administering hospitals.

Secondly, and I am sure this is a subject with which you would be very conversant, Mr Acting Speaker (Mr Ainsworth), our health system had been developing in such a way that the concept of a hospital function could not properly incorporate the full range of services that could be delivered by a hospital. We see now, particularly in rural areas, that many community aged care services are being administered through local hospitals in a very productive way. Unfortunately, however, the Hospitals Act 1927 was relevant to an earlier era when hospitals simply performed the function of looking after sick persons when they presented themselves at hospitals.

Therefore, because of the legal anomaly that existed and the changing nature of our health system, it was important to enable hospitals to provide health services in the general sense of that word as well as hospital services in the narrow sense of that word.

This legislation develops that theme further by making it possible for a hospital board to provide any other health service that is approved by the Minister. It is hoped that will complete the important development which has occurred in our legislation and that reflects some of the developments which have occurred in our health system.

This Bill is necessary also because agreements with the Commonwealth have led to health services being provided through hospitals rather than departmental structures. The Commonwealth is interested in some new ideas for the delivery of health services in rural Australia and has told State Governments that it is very interested in providing money for some of those new services. The State Governments then must provide a framework within which that money can be expended and administered properly, and in many places local hospitals are the ideal point of reference and of administration.

Mr Trenorden: Seeing that you are giving a history lesson, will you refer to the part that was played by the Avon Community Development Foundation when Hon Ian Taylor was state Minister for Health and Senator Graham Richardson was federal Minister for Health, because that started the process?

Dr GALLOP: The one place that I have visited to look at this is Dalwallinu. I have not been to Northam yet, and I hope to go there.

Mr Trenorden: I invite you to go there because I would like to take you through the system.

Dr GALLOP: I believe Northampton, Kalbarri and Boyup Brook are developing in a similar way. It is to the credit of the Dalwallinu hospital board that it is building a nursing home attached to the hospital, and the great benefit is that medical back-up from the hospital will be available to the nursing home; some other nursing homes in the State cannot get that easy access to medical back-up. Dalwallinu also has its community health centre on the hospital site, and it provides a range of services for the people of Dalwallinu. That can happen only if there is an administrative structure which has legislative authority. This legislation will confirm that process. We can be very optimistic about the way in which local country hospitals can enter the new century geared up to meet the changing needs of the people in country towns. One of those needs is that because many people now stay in country towns when they retire rather than shift to Albany, Geraldton, Mandurah or the metropolitan area, as they did previously, it is important that facilities be available to that aging population. The Opposition has no argument with this part of the legislation, which completes a process which has been in train for some time but which needs to be complemented with legislation.

The Opposition supports the second part of the legislation, which deals with the incorporation into state legislation of the Medicare Agreement. The result is that the Medicare principles and commitments will become guidelines for the delivery of public hospital services in Western Australia. The main principles in the Medicare Agreement are choice of services, universality of services, equity in the provision of services, information about the provision of services, and efficiency and quality in the provision of services. The Opposition, which has always supported Medicare, is happy to see the State of Western Australia, through its own legislation, commit itself to provide its public hospital services on the basis of those principles.

I will ask the Minister a number of questions about some issues that have been raised recently, and he might like to respond to them when he summarises this debate. Recently, there was some publicity in *The West Australian* about Princess Margaret Hospital for Children when the parents of a young patient were able to bypass the ear, nose and throat surgery public waiting list by paying $750 to have their child treated as a private patient. This situation emerged because Princess Margaret Hospital has a dedicated private operating list for its surgeons. The argument in favour of the hospital's actions is basically summarised under two headings. First, the hospital points out that it will allow to the private operating list only about 10 per cent or 12 per cent of the total operations carried out in the hospital but it earns a not unimportant part of the hospital's income. Secondly, it is argued that it allows the hospital to play a teaching and training role for future doctors who can assist the surgeons carrying out those operations. Will

the Minister tell us whether this is contravening the Medicare Agreement? I will quote from the Medicare Agreement, which is on page 8 of this Bill under the heading of "Universality of services". It reads -

> **Principle 2:** **Access to public hospital services is to be on the basis of clinical need.**

The agreement goes on to explain what that means by three explanatory notes. The first reads -

> Explanatory Note 1: None of the following factors are to be a determinant of an eligible person's priority for receiving hospital services:
> * whether or not an eligible person has health insurance;
> * an eligible person's financial status or place of residence;
> * whether or not an eligible person intends to elect, or elects, to be treated as a public or private patient.

The second explanatory note is that this principle applies equally to waiting times for elective surgery. It continues -

> Explanatory Note 3: The phrase "waiting times" means waiting times for access to elective surgery from a hospital waiting or booking list.

The most important part of that principle is that the criterion of clinical need should be the only basis on which access to public hospitals is determined.

I understand that the Princess Margaret Hospital for Children has a number of urgency categories. An urgent operation is required within 30 days; a moderately urgent operation is required within 90 days; and an elective operation is required within 12 months. When people present themselves to Princess Margaret Hospital for Children they are categorised according to whether their operation is urgent, moderately urgent or elective. Those categories obviously determine the waiting list and the availability of public space in the hospital for people on that list. The newspaper article indicated that the young patient being referred to was not considered by the hospital to be an urgent case; in fact, it was implied in some of the commentary on this issue that there was some debate within the medical community about whether that type of medical intervention was necessary for such a young person, but that is another issue. In the normal course of events that person would have waited in the order of nine months. In response to the family's request to have the child operated on in the private system, the family was informed by the surgeon that need not be and that if the requisite amount of money was paid the child would be included in the private list of that hospital. When this issue first emerged the Minister indicated he would conduct an inquiry to determine whether the Medicare agreement had been broken and whether this could be classified as a form of queue jumping. Given the controversy in some States about queue jumping in the hospital system, I would be interested if the Minister in his response could indicate the conclusions of the inquiry into that matter. It seems to me to be directly related to the issue we are debating here today.

The third part of this legislation removes the limitation on the maximum number of members on an agency board. Members will recall that the 1994 legislation allows the Government to set up agencies within the health system. I believe we have only one, which is the PathCentre, which provides a pathology service. Of course a board is given responsibility for the PathCentre. Currently, which of course means since the 1994 legislation, such an agency board should have no fewer than three and not more than seven members. This legislation removes that upper limit. The rationale given in the legislation is that the agency board needs to represent a range of interests and, therefore, we cannot be too restrictive on the number of people who should be on that board. The Opposition does not oppose this amendment. However, the amendment raises this issue:

The justification for setting up agencies within the health system was to provide a basis upon which business units could be set up within Health. They would have commercial boards and conduct themselves commercially. In a sense the agency amendment of 1994 is what I would call a type of corporatised management of the PathCentre. It is not a corporatised entity in the health system. The emphasis on corporatisation is usually to have board members who do not have particular interests but a commercial interest to improve the commercial position of the entity for which they are responsible. They are subject to the company's code or system or a variation of that to determine how they are performing their fiduciary duty. That seems to me to be the basis on which the agencies were set up.

It would appear now that rationale will be changed through this proposed amendment, which is increasing the number of people on a board. The Opposition does not have any problem with that amendment to the way in which we conceive agencies because it clearly gives the health system a narrower commercial focus for some of those entities and would not take away the very purpose and rationale for those entities. However, we ask the Minister, and would like him to respond, whether this represents a change in philosophy on the part of the Government in respect of those agencies. Perhaps he will also illustrate the circumstances which have arisen that have necessitated this amendment, which is the third major change in the legislation. The Opposition is happy to support the changes which enable public hospitals to provide a range of health services, to incorporate the Medicare Agreement within such legislation, and to remove the limitation on the maximum number of members on an agency board. However, we indicate to the House our deep concern about the fourth major change recommended in this legislation.

The legislation also gives the power to hospital boards to enter into contracts for the performance of their functions. The Minister in his second reading speech repeated his now familiar line about contracting out and privatisation. That is, it is all about finding savings in the administration of hospitals and using those savings for the better provision of health services. The Opposition has made it clear on many occasions that we are convinced that the preservation of the public hospital system linked in to the general health system through a proper system of regional administration is the best way to provide health services through the State Government.

Let us consider some of the factors involved in this amendment. Under the Hospitals Act, and also by other changes in this Bill to which I referred earlier, a hospital board is responsible for the control, management and maintenance of the public hospital. What does this allow the board to do in a legal sense? Does it mean that under the current legislation, irrespective of the amendment put forward in this Bill today, the Parliament has allocated a function to the board for which it can appoint staff, but which does not allow it to contract out services? That is an important question to ask, because if the answer to that question is no, how have hospitals contracted out health services? The answer may be that it is not a yes or no answer; that it is a question about which there is some doubt. If there are doubts about the legal situation, I ask this question: Were hospitals advised of these legal doubts before they started to contract out their functions? In a sense I am raising a legal point. If it is necessary to change this legislation to make it possible for hospital boards to contract out their functions, does that imply that they do not currently have that power? If that is the case, how indeed have they been doing what they are doing; that is, contracting out functions in a proper lawful way? That is the first issue I would like the Minister to address on this legislation.

The more substantive question is whether the contracting out of the functions of a hospital is in the best interests of the hospitals and, through them, in the best interests of the Western Australian public. That is the big question at the moment in health policy in Western Australia. The Opposition has a consistent position on the relationship between the private sector and the public sector in the health system. We believe individuals in this State, as in all States, have a right to choose whether they will take out private health insurance and/or take their health care through the private system. I say "and/or" because people do not have to have private health insurance to access the private health system:

They can pay the full cost of the treatment. We believe every person should have that choice. That is our first principle.

The Opposition's second principle is that the Government has a responsibility to ensure that a health system is provided for every citizen in this State, and all States, through the Medicare system of insurance and the state public hospital system. When citizens confront the issue of whether to take out private health insurance, as every person does when he or she reaches that age of independence, they make that decision in the knowledge that there is a good public system. All the evidence from around the world indicates that that is the best way to handle these matters. If we try to socialise all medicine or all hospitals, it takes away choice. If on the other hand the public system is undermined by having only systems of private insurance or private hospital delivery on behalf of Governments, it undermines also the quality of the system.

The great challenge facing people who design health systems is to have the best of freedom and the best of public provision. As we in Australia have found, in a broad structural sense we have that balance pretty right. Problems exist in the administration of that system and issues are raised about the degree to which people are leaving private health insurance and the degree to which private health insurance offers people a good product. Some of those issues are dealt with in the Federal Government's recently passed legislation. However, they are matters of detail. In substance we have a good system.

It is the Opposition's view that this Government's efforts to break up the public hospital aspect of that system by contracting out all the functions, including the management and control of those hospitals, will gradually but steadily undermine the quality of the public side of the equation. When citizens reach the point of having to make a decision, real choice is denied them. The real choice people should be given is between private insurance and private hospitals and public insurance and public hospitals of a first class standard. If that choice is given to people, the community as a whole gains from the equity, the quality and, very importantly, the economy. I stress "the economy" because controlling health costs is a major issue that confronts any Government. One of the interesting features of health economics, unlike other areas of economics, is that if there is a good dose of public provision, it is easier to control costs than if the system is left completely up to private insurance and private hospitals. The experience in America indicates that only too well.

Mr Tubby: What about Britain?

Dr GALLOP: Britain spends much less on health than many equivalent countries - and much less than Australia. That surprises the member for Roleystone. Despite all the propaganda against the British national health system, that system is economical compared with many others around the world.

The Opposition has a clear view on this subject. We do not believe it is necessary to open up the whole system to competitive tender because we are convinced that that will lead to a reduced level of service and a higher cost for the taxpayers of this State. We do not say that on ideological grounds, but on a careful assessment of the facts as are revealed by history and by the experience of other States and countries. This amendment to the Hospitals Act undermines the public hospital system by creating this circumstance in which its functions, including its management function, can be contracted out.

What is happening in respect of contracting out at the moment? With direction from the current Minister for Health, the Government is driving the health system to contract out all its functions and that drive has now reached country hospitals. The Minister has said that he is very disappointed about the rate of change. The answer that I received today to my question to the Deputy Premier and Leader of the National Party was very interesting. The signs are that the National Party is trying to slow down and hold up the move to contracting out in the country hospital sector. The Minister for Commerce and Trade is quite happy to have his department act as a bulwark against the health department and the health Minister.

The Opposition's point of view on this subject is quite clear. The consequences of that policy are also clear today. I want to give the House a very good example of how contracting out undermines quality of service. Recently a picket line was put in place at Sir Charles Gairdner Hospital by the Liquor, Hospitality and Miscellaneous Workers Union. It comprised workers from that union who were not on shift at Sir Charles Gairdner Hospital. They came from other hospitals to support their colleagues in Sir Charles Gairdner Hospital. The picket line was formed because Sir Charles Gairdner Hospital, on behalf of the Government, has contracted out orderly services. I have several questions for the Minister in relation to this issue. Will the Minister respond positively to my request that the contract entered into between P&O Health Services and Sir Charles Gairdner Hospital be made available under freedom of information legislation? I have requested that contract. It is very important that members of Parliament are able to examine that contract to discover the terms and conditions and see what is done through the contract to monitor the quality of service and the price paid for the services which are offered. Will the Minister make that contract available to me? I have already made that request in writing and I ask the Minister to reflect on the recommendations of the Commission on Government which made it clear that contracts of this nature should be made available to Parliament.

If that information is not made available to me, the first part of our criticism of contracting out is illustrated. If we do not receive the contract, we will not know the terms and conditions under which public health services in this State are being delivered. That will raise questions about the Medicare Agreement.

Under the heading "Information about service provision" clause 10 states -

> The Commonwealth and a State must make available information on the public hospital services eligible persons can expect to receive as public patients.

The Minister is under an obligation to provide me with a copy of that contract. If he does not do that, it will make a mockery of the legislation that he introduced into Parliament, which incorporates the Medicare Agreement into this State's legislation. That agreement states that information about service provision should be made available.

The problem with privatisation is that, as soon as a service is privatised and it is delivered by the private sector, that private sector body has a responsibility to its shareholders and part of that responsibility is commercial confidentiality. That body will say, "We cannot tell other people what we are doing, how we do it and the price we charge because if we do that we will give our competitors an insight into our operations."

That is how the accountability question is posed. When we contract out, a barrier goes up between the Government and the private provider. Under the public health system, there is no barrier because the Minister is responsible to Parliament, parliamentarians can ask him questions, citizens can raise issues about our health system and if the Minister does not respond, he can be held politically responsible. However, once we have a contractual barrier, we will not know what is happening.

Mr Bloffwitch: The national Government is urging everyone to look at this. The member for Victoria Park is arguing against it.

Dr GALLOP: I represent the electorate of Victoria Park in Western Australia. That is my responsibility. Those are the people I represent in this State Parliament and that is what I am interested in. If the member for Geraldton reflects on his statement, he will realise that every citizen in this country has the freedom of choice in respect of health.

Mr Bloffwitch: Do they?

Dr GALLOP: Indeed they do, so what is the member for Geraldton arguing about? They have the freedom of choice now.

Mr Bloffwitch: With regard to public hospitals, I am arguing that if things can be done better, we should look at those methods.

Dr GALLOP: I have looked at them and they do not do it better. When people work in the private sector, the culture of the organisation in which they work is different in the

sense that people have a great responsibility to the shareholders of that organisation. It is my experience of the private sector that it is naturally -

Mr Kierath: Have you ever worked in the private sector?

Dr GALLOP: Actually, I have not. Like many citizens in this country, I have not worked in the private sector. I confess to that. In fact, I amend that statement: I worked for some time for the Miscellaneous Workers Union. Is that in the private sector?

The private sector is responsible to its shareholders. A natural defensiveness develops within a private corporation about its activities vis a vis other operators. A culture builds up in respect of which the worker in the private sector is primarily responsible to the firm or corporation. That is how it works.

If our public health system is going to be operated by private operators with that culture and mentality, will there be proper accountability? I do not believe that there will be. The defensiveness that exists in any private corporation will become a barrier to the proper revelation of what happens in that organisation. I believe that my judgment about that is a lot better than the Minister's judgment.

Is the Minister aware of what is involved at Sir Charles Gairdner Hospital and the number of orderlies who will be employed there? Let me illustrate the ludicrous situation which has prevailed at Sir Charles Gairdner Hospital since Monday. Earlier this year, the Liquor, Hospitality and Miscellaneous Workers Union and the management agreed to reduce the number of orderlies from 130 to 111.

Mr Kierath: So, there were too many.

Dr GALLOP: The unions, of course, thought they were entering into a binding agreement to secure the jobs of their members - just like the school cleaners, which is another very important issue. There is no trust in our community any more. People working for the Government have no basis on which to know whether they will have a job tomorrow.

Mr Kierath: What about the New South Wales Government?

Dr GALLOP: Has the Minister read the New South Wales health report?

Mr Kierath: It took the contracts and changed a few words. It now calls it a "competition services policy".

Dr GALLOP: No, it did not. The New South Wales Government has rejected contracting out.

Mr Kierath interjected.

Dr GALLOP: It is not. That Government has rejected contracting out and I will take up that matter at another time. People employed in the public sector in Western Australia do not know whether they will have a job tomorrow. In fact, workers in the public sector entering into agreements to secure their employment are faced with the reality that it is highly likely that the Government will pull the rug from under them and contract out their work. The member for Stirling knows all about this. That is why his party is resisting contracting out in the country. Many people have knocked on his door and told him the reality of this situation.

Sir Charles Gairdner Hospital has 700 beds and will go from 111 to 55 orderlies. I will make a few comparisons. Royal Perth Hospital has 955 beds, 50 orderlies and 100 patient care assistants. The patient care assistants are multiskilled workers who engage in cleaning, catering and orderly work. Fremantle Hospital has 403 beds, 30 orderlies and 85 patient care assistants. St John of God Hospital at Subiaco, which does not have any patient care assistants, has 352 beds and 46 orderlies. In addition, that hospital does not have an accident and emergency system. So, the nature of the cases presented there is very different.

Mr Tubby interjected.

Dr GALLOP: It is a good hospital. That hospital has one orderly for 7.6 beds. Under

the new regime at Sir Charles Gairdner Hospital, there will be one orderly for 12.7 beds. There is chaos at the moment at Sir Charles Gairdner Hospital. People who have worked there for 20 years -

Mrs van de Klashorst interjected.

Dr GALLOP: I will tell the member what happened.

Mrs van de Klashorst interjected.

Dr GALLOP: The member should just listen. People who have worked there for over 20 years have found that their positions have been taken from them. These are skilled orderlies and some of them are very active unionists. They have been shifted into areas of the hospital where they can have minimum industrial impact. That is the mentality of the management of the hospital.

Mrs van de Klashorst: The management is trying to protect the sick patients.

Dr GALLOP: So, discriminating against a person on the basis of his union affiliation and on the basis of his propensity to stand up for fellow workers -

Mrs van de Klashorst interjected.

Dr GALLOP: The member thinks that that is a good thing.

Mrs van de Klashorst: I think it is a shame that sick people are lying in beds in dirty linen.

Dr GALLOP: That is what it means to work for this Government.

Several members interjected.

Dr GALLOP: I will refer to the picket line in a minute. That is what it means to work for this Government. There is chaos at Sir Charles Gairdner Hospital at the moment and I believe that people are having to work extra shifts. Is that correct?

Mr Kierath interjected.

Dr GALLOP: These 55 orderlies - many of whom have never worked as orderlies previously - have now been put in these positions and the hospital is removing those it does not want. These people cannot do the job and this will cause enormous problems in our system - 55 orderlies is just not enough.

Why will the Minister for Health not respond with some goodwill to the request of the Australian Industrial Relations Commission that two things happen? First, the commission has suggested that a meeting be held with the Premier to discuss the union's charter of redundancy rights. Secondly, it has suggested that severance payments be offered to those displaced workers. Once the Industrial Relations Commission came down with that ruling, the picket line was lifted immediately by the union.

Mrs van de Klashorst interjected.

Dr GALLOP: I point out to the member that, in general, the same union members who were on the picket line are those working in that hospital looking after those patients. Is the member aware of that? They put up a picket line. If the member cared to listen she might find out what happened.

Why will the Government not respond positively to the Australian Industrial Relations Commission recommendation? In typical fashion, the Government has said that it will wait for the commission's ruling on redundancy and the award.

Mr Kierath: Which union brought that on? It was the missos.

Dr GALLOP: Does the Minister need to know the answer to that question in order to determine whether the Government will offer redundancy payments? Of course he does not.

Mr Kierath: We have been applying the Public Sector Management Act regulations consistently, and we will continue to apply them until we get a valid final award from the Australian Industrial Relations Commission. That is the simple answer.

Dr GALLOP: Why not consider severance payments?

Mr Kierath: We differ from you. We say that we will give people permanency in the public sector and we want to find redeployment ahead of severance. Some people find the money attractive; if they do not have a readily marketable skill they have difficulty getting a job. When they run out of money, where do they have to go? They go to the end of the dole queue. That is no future for them. We say to them that if they want to stay in the public sector they can and we will find them another job.

Dr GALLOP: There speaks the voice of an authoritarian. The Australian Industrial Relations Commission asked the Government to consider that option seriously, and we have just seen that the Government has dismissed that request.

Mr Kierath: No.

Dr GALLOP: The Minister just did that. He just said that it was inappropriate.

Mr Kierath: We applied the regulations. If there is no redeployment, we will offer severance payments.

Dr GALLOP: So, the Government will offer them severance payments.

Mr Kierath: If we cannot find a job for them through redeployment we will offer them severance. That is in the regulations.

Dr GALLOP: The other issue raised was the meeting with the Premier. Of course, that meeting has not occurred and the unions have been told that they can meet with the Minister for Health. If they do not get satisfaction there they might be able to arrange a meeting with the Premier. That is just one example of contracting out in our system.

Mr Kierath: Do you know how often I meet with them?

Dr GALLOP: Once every month.

Mr Kierath: Yes, that is right.

Dr GALLOP: Well, it is normal for a Minister to meet a major union in the area of his portfolio responsibility.

Mr Kierath: Does that sound like someone who will not meet or talk with them?

Dr GALLOP: Has the Minister heard the phrase "dialogue of the dead"? Some of the meetings the Minister has with people very well illustrate that concept. He may be there in spatio temporal terms - he may actually be in the room - but whether anything is happening in his mind in relation to what is going on is not as clear.

Several members interjected.

Dr GALLOP: The Opposition is against contracting out. We have a very clear view on this subject and we believe that, over time, it will destroy the integrity of our public health system. The State will reach a situation where all these individual bodies will be under contract to the Government to deliver these services. Accountability will suffer, costs will rise and priorities will be skewed. That is a simple argument based on evidence and history. We will certainly be taking that argument to the people over the next 12 months in the run-up to the State election.

That is the contracting out issue in relation to non-core services, but what is more interesting on another level is the Government's desire to privatise the very management of our hospital system. It is starting in Wanneroo and at Mandurah, where new hospitals are planned. It is talking about the private management and control of those public hospitals. Of course, it is talking about that occurring also at Sir Charles Gairdner Hospital. Privatisation of our public hospitals carries enormous dangers for our public health system. The Opposition will ask questions about costs, accountability and priority.

Mr Kierath: Is there anything wrong with St John of God and Mount Hospitals?

Dr GALLOP: The Minister does not understand. St John of God and Mount Hospitals are private hospitals that offer services to people who take out private health insurance.

Dr Edwards: They also do many of their services in-house.

Dr GALLOP: It is very interesting that that point is mentioned. St John of God Hospital is against contracting out orderly services. Its in-house system at Subiaco works very well. However, the private contractors in Modbury in South Australia have contracted back to the Government the delivery of services at Royal Adelaide Hospital. Why is that? It is because Government hospitals in South Australia are very efficient. That is the nub of the issue. Currently, public hospitals are more efficient than private hospitals. My evidence for that comes from the Australian Institute of Health. The cost of a bed in the public system is less than the cost of a bed in the private system.

In answer to the Minister's question, I hope that St John of God and Mount Hospitals offer good services, because they certainly spend much of the money that comes from the people who use those beds.

The key point is that there is a world of difference between a private hospital offering services to private patients and a private hospital offering public services to public patients. That is the difference that the Minister does not understand. That is why it is better for the private and public sectors to compete for the allegiance of the population rather than have private hospitals competing for citizens' allegiance, as would happen in a purely privatised system. The costs, accountability issues, priorities and conflicts of interest that are involved in privatising the management of our public hospitals lead opposition members to conclude that it is not a desirable course to follow.

The Opposition supports the first three aims of the legislation that deal with public hospitals providing health services and increasing the number of people who can be appointed to agency boards and incorporating Medicare into our State legislation. For that reason, the Opposition is quite happy to get the legislation into Committee without a negative vote, but it is strongly opposed to the design of the legislation in relation to the fourth aim, which is to facilitate contracting out all the functions that the legislation gives to hospital boards. That will undermine our public hospital and public health systems. Over the next 12 months we will demonstrate how that occurs. I request the Minister to respond to my questions.

DR EDWARDS (Maylands) [4.44 pm]: As the member for Victoria Park has pointed out, there are several elements in the Bill. We support some of those elements. In particular, we support the inclusion of the principles of the Medicare Agreement and its commitments and the increase in the number of members on agency boards, but we have grave reservations about the move towards contracting out services that might be provided through hospitals.

Exactly what is going on in the health system? In recent times, we have had a change of Commissioner of Health and the resignation of at least two managing directors, as they are now called, who have gone to the private sector. There has been a huge exodus of people who have taken with them corporate knowledge about the Health Department and long term knowledge about our health system. Unfortunately, because of that there is great uncertainty and fear of what the future holds.

The problem is even more profound than that. The Government came to office with one policy. Under one Minister, it moved to the funder-owner-purchaser-provider model, but FOPP flopped, and we now have a new Minister. That policy was thrown out and we now have an entirely new policy which, in many ways, is largely unexplained.

People who work in the system know that even more changes are planned. They do not know why they are planned, and they do not know when they will hear about them. All that is in the face of the Government's threats to keep cutting back. It means that committed health professionals are fearful for their futures, themselves and their families, but in particular they are fearful for the hospital and health systems within which they work.

Some basic questions must be asked. For instance, exactly what are the definitions of "core services" and "non-core services"? That matter should be clearly delineated. Also, what does the Government regard as its responsibilities in providing health services to

the community? What does the private sector want to do? The assumption is that the private sector wants to provide, and can cater for, all those services, but there is some doubt about that.

There is another range of questions. What about the expense? Where is the methodology that shows that contracting out services to the private sector is a lot cheaper? There are emerging examples of contracting out being a lot more expensive, so why do we persist down that path? Where are the guarantees that services that are contracted out will be delivered? What outcomes are we are expected to see?

The difficulty is that it is an ideological process that is not concerned about the people who receive health services. Labor members are concerned because we know that the people who have the lowest health status in the community are the least well off. They are least able to put up their hands and say, "We don't like what is going on." They are the least powerful in society. We will continue to defend their rights for as long as that is necessary, and we will do so as strongly as possible.

I now refer to the Arthur Andersen review, which was commissioned by the Health Department, about building-related services that could be put out to the private sector. It is a very interesting review - it was done in the middle of this year - of services in three hospitals: Fremantle, Geraldton and Osborne Park. The relevant building-related services are engineering, cleaning, gardening and security. The report identifies several problems and raises some concerns. It pointed out that the internal tendering capacity of the Health Department is quite limited. The Health Department has limited resources to be overseeing this process and it does not have a whole lot of expertise to be managing it. However, the Government is going down the path of contracting out these services and it expects these people to be capable of managing this process. While the report points out that the tendering processes are comprehensive, it also points out that the monitoring by Health Department officials is extremely time consuming. Obviously, it is taking them away from their other duties. This ties in with my concern about the exodus of staff from the Health Department. This State is losing a lot of the expertise necessary to deliver a good health system.

Another concern I have after reading the Arthur Andersen report relates to human resources and I guess the problem in this area has become obvious in the last week. If the Government contracts out a lot of its services there is a real loss of morale among the people who remain. If the people currently providing these services have the threat of contracting out hanging over their heads, their performance will suffer because they will not know for how long they will have their jobs, where they will go and what conditions will be associated with that. In fact, some of the human resources risks apply not only to the services that will be contracted out, but also to the operations of a hospital. It is a very real risk and it is one of those factors that is intangible. How do we measure human misery? I know from talking to people in the health sector that there is a lot of misery out there.

The report also identifies what it calls patient care risks. It points out that if engineering and maintenance services are contracted out it will impact financially and directly on the quality of patient care. The report suggests that these risks must be carefully assessed. Obviously if the cleaning is not being carried out properly a risk is being presented to not only the people working in the hospital, but also, and more importantly, to the patients. Obviously patients will be at risk of picking up infections because of improper cleaning methods.

The report raises the issue of benchmarking and points out that there are great difficulties in this State and other States in establishing benchmarks. It states that difficulty was encountered in identifying recognised and widely accepted industry benchmarks in the health care industry. It points to those areas where attempts have been made to get benchmarks, but states that they have not been widely adopted. The report also states that no benchmarks or performance measurements were utilised on any of the sites that were visited. If benchmarking is not implemented properly we will not know what we are doing and will not be able to measure it properly. It is alarming to read at the end of

the section on benchmarking that the available information is inconsistent and difficult to compare. It does not leave me with a whole lot of confidence about what is proposed.

The report goes on to identify what has happened in different parts of the country when services have been contracted out.

Mr Bloffwitch: Have you looked at the comprehensive manual they have been given as a result of that?

Dr EDWARDS: Nevertheless, the report identifies that unless people have been educated and versed in that they will not be capable of managing the process. All the written material available can be thrown at people, but if they do not have the capacity or the attitude to absorb the information we will experience big problems. With the uncertainty in the industry about their jobs, I do not think they will be very keen to absorb the information and they certainly will not be committed to doing that. Attempts have been made to correct the situation. What the report said about benchmarking is so serious that this process must be revisited.

An assessment of the situation in New South Wales revealed that the biggest problem it is facing is the difficulty in defining contract specifications. Once the health people there have done that, there is further difficulty in determining the quality of the contract. If a person has difficulty defining what is in the contract and he cannot measure what will be delivered by the contractor, I cannot see that a very good service will be provided. I certainly do not think it will be better than the existing services. Grave concerns are raised in the Arthur Anderson report and they should be sounding warning bells to the people trying to push this ideology.

It is interesting that the report states that a private hospital in Geraldton was interested in providing some of the services that might be contracted out from the Geraldton Regional Hospital. As a result of that, the authors of the report contacted private hospitals in this State to ascertain whether they would be interested in taking on the engineering, maintenance and other tasks carried out in government hospitals. They said categorically that they were not interested unless it was tied to a clinical component, which is where they feel their main interest is. What was more interesting is that it was revealed that the private hospitals provide engineering, maintenance, cleaning and security services in-house.

Another concern which is raised in the report and is pertinent to what has been said today is that great difficulty would be experienced in extrapolating this information from smaller hospitals, such as country hospitals. The report said that smaller non-metropolitan locations have much smaller hospitals and do not have the infrastructure capable of providing the competition in a range of services currently found in the larger country centres and Perth. Effectively, the report is saying that it is not possible to contract out services in country hospitals. That must be of some relief to country people, especially the Deputy Premier. I was interested to find out that in October this year he wrote to general managers of country health services clarifying a letter which had been sent to them by the Minister for Health. It is interesting that the Minister for Health's letter asked that all health services submit their programs for tendering by 25 October. On 20 October the Deputy Premier sent out his letter clarifying the situation and telling them they would do better by going down another path - that is, looking at benchmarking rather than contracting out. He made the reasonable comment that country hospitals are very concerned about what will happen to their towns if they have to contract out non-core services. It would have a serious impact on small country towns.

A number of years ago I was a member of a select committee which looked at small country hospitals. I attended numerous meetings in many small country towns and I heard a lot about their hospitals. It became quite evident to me that small country hospitals are pivotal to life in country towns. If the Government were to downgrade, cut back or close country hospitals many of the small country towns would die; their populations would be affected adversely. It must be remembered that the people working in those small country hospitals are local people. Most are women. Although some of the staff work full time, the nursing staff tend to work part time and there is no capacity

to contract out the work. Neither do these people have the capacity to get together to provide those services. Those suggestions are ridiculous. In the small country towns I know best it is simply impossible. These people do not have the means to form a group and take on the service.

[Leave granted for speech to be continued.]

Debate thus adjourned.

LOCAL GOVERNMENT BILL

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Mr Strickland) in the Chair; Mr Omodei (Minister for Local Government) in charge of the Bill.

New clause -

Progress was reported on the clause after the following amendment had been moved -

Page 277, after line 9 - To insert after clause 8.20 the following new clause to stand as 8.21 -

Protection and immunity of inquiry

8.21. (1) For the purposes of an inquiry and report under this Division, an Inquiry Panel and the person appointed to preside at its meetings have the same protection and immunity as a Judge of the Supreme Court of Western Australia has in the exercise of his duties as a Judge.

(2) A witness summoned to attend or appearing before an Inquiry under this Division has the same protection and is subject to the same liabilities in any civil or criminal proceeding as a witness in any case in the Supreme Court of Western Australia.

(3) A person appointed to assist an Inquiry under this section or authorized by the Inquiry to appear before it for the purpose of representing another person has the same protection and immunity as a barrister has in appearing for a party in proceedings in the Supreme Court and, where the person so appointed or authorized is a barrister or solicitor, he is subject to the same liabilities as he would be in appearing before that Court.

(4) No action or proceeding, civil or criminal, lies against the Crown in right of the State against a Minister, or against a person employed or engaged by the Crown in right of the State, in respect of the printing or publishing of -

(a) a transcript of proceedings of an Inquiry under this Division; or

(b) a report of, or a recommendation made by, an Inquiry under this Division.

(5) This section does not limit or abridge any privilege, protection, or immunity existing apart from this section.

Mr MARLBOROUGH: The Minister indicated that clause 8.20 will provide for a royal commission to be established. I am delighted at the Minister's interpretation of the clause. This Bill provides the Government with an opportunity to make clear how important it considers the need for proper accountability for councils that may go astray. My amendment clearly spells out the mechanisms that should be in place for an inquiry, such as a royal commission, to protect not only those acting as investigators and the commission itself, but also the witnesses.

I was earlier telling the story of Arnold Dammers and what actually happened on the night he received the white feather in the council chambers. He told the world about

those events on "The 7.30 Report" television program. Having opened the envelope which had been placed on the desk in front of him, he found a white feather.

Mr Omodei: What is the big deal about that?

Mr MARLBOROUGH: I thought the Minister understood. The big deal is that it was obviously meant to intimidate him.

Mr Omodei: Perhaps 150 years ago.

Mr MARLBOROUGH: I may not disagree with the Minister but the people who used that method of intimidation had been involved in other forms of intimidation. That same evening they were involved in further intimidation. The significant change in the intimidation of Arnold Dammers since it was first raised in this Parliament is that I am now able to tell the full story because I have spoken to witnesses who are now openly saying that they lied to the police in the initial inquiry.

Mr Lewis: Why do the police want to know about a white feather?

Mr MARLBOROUGH: The police will look at all sorts of issues involving Wanneroo, and they are very interested in the white feather incident because it is part of the intimidatory tactics. More importantly, when seeking to provide protection for witnesses, we must consider what happened when Arnold Dammers left the chamber that night. I have now been advised, as have the police, that the gang of six had met at Dr Bradshaw's house six months before the event. That gang of six consisting of Bradshaw, Edwardes, Smith, King, Duffy, Baddock and Rita Waters determined what would be passed by the Wanneroo council, and on this occasion one other matter was discussed. At the time Wayde Smith was a police officer and a Wanneroo city councillor. He advised the gang of six that he had accessed the police computer and had withdrawn details of the criminal record of Arnold Dammers, which involved a charge laid against him as a 15 year old. The gang of six, having been made aware of that information, were told by Smith and Bradshaw that it would be used when it best suited them if Dammers did not back off.

When Dammers saw the white feather at that meeting, he went berserk at the public gathering, and rightly so. After the meeting, he confronted Edwardes and Smith. At that precise moment Smith - I suggest with the Attorney General's husband Colin Edwardes - was overheard by witnesses, who have now taken their evidence to the police. The police have had that evidence since November last year. As a result of that, we now know what happened. At that gathering Smith told Dammers he had his police record and would make sure it was used against him, if Dammers did not keep his mouth shut and stop using the Wanneroo council and the *Wanneroo Times* to get to the truth of the activities of the gang of six.

The white feather may not mean much to the Minister but it was of great significance to Smith, because on the same night of that council meeting he distributed three identical ties: One was worn by Dave King, one by Dr Wayne Bradshaw and the other by Smith. It was a black tie with a white feather and a sword. The pen is mightier than the sword. That is the length to which the gang led by Bradshaw was prepared to go to intimidate witnesses. It is imperative that this amendment be included so that in future witnesses who give evidence to inquiries cannot be treated in such a way.

[The member's time expired.]

Amendment put and a division taken with the following result -

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Ayes (17)

Mr Brown	Mr Kobelke	Mr Taylor
Mr Catania	Mr Marlborough	Mr Thomas
Mr Cunningham	Mr McGinty	Ms Warnock
Dr Edwards	Mr Riebeling	Dr Watson
Dr Gallop	Mr Ripper	Mr Leahy *(Teller)*
Mrs Henderson	Mrs Roberts	

Noes (28)

Mr Ainsworth	Mr Lewis	Mr Shave
Mr Blaikie	Mr Marshall	Mr W. Smith
Mr Board	Mr McNee	Mr Trenorden
Mr Bradshaw	Mr Minson	Mr Tubby
Dr Constable	Mr Nicholls	Dr Turnbull
Mr Day	Mr Omodei	Mrs van de Klashorst
Mrs Edwardes	Mr Osborne	Mr Wiese
Dr Hames	Mrs Parker	Mr Bloffwitch *(Teller)*
Mr House	Mr Pendal	
Mr Kierath	Mr Prince	

Pairs

Mr Bridge	Mr Johnson
Mr M. Barnett	Mr Court
Mr Graham	Mr Cowan

Amendment thus negatived.

Clause put and passed.

Clauses 8.21 to 8.33 put and passed.

Clause 8.34: Elections following dismissal of council -

Mr OMODEI: I move -

Page 282, lines 11 to 14 - To delete the lines and substitute the following -

(2) The day fixed is to be a day that is as soon as practicable after the dismissal has effect and allows enough time for the electoral requirements as defined in section 4.1 to be complied with, but is not to be later than 2 years after the dismissal has effect.

This is a drafting improvement recommended by Parliamentary Counsel to use similar wording as the amendments to clauses 2.37 and 4.3.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 8.35 to 9.21 put and passed.

Clause 9.22: Application of penalties collected -

Mr OMODEI: I move -

Page 301, line 11 - To delete the line and substitute "by a court as a penalty for an offence".

This is a drafting improvement recommended by Parliamentary Counsel to use words consistent with new fines and penalties legislation currently in the Parliament.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 9.23 to 9.71 put and passed.

Schedule 2.1: Provisions about creating, changing the boundaries of, and abolishing districts -

Mrs ROBERTS: Schedule 2.1 refers to the advisory board. Will there be any requirement for the meetings of the advisory board to be held in public? What will be the requirement for public accountability? Will minutes of the decisions made at those meetings be available or will the advisory board operate behind closed doors?

Mr OMODEI: The advisory board has a range of responsibilities. It will be up to the board to decide whether it holds its meetings in public or in camera. It will have to take advice from not only the local authority but also the local community. The board will deliberate on a wide range of issues, in particular in this case boundaries and the abolition

of districts. The board will comprise representatives from local government and its members will be highly skilled in that area.

Mrs ROBERTS: If we are attempting to create accountability and openness, these meetings must be open to the public, no matter how reputable members of the board are. Members of the public who are interested enough to attend meetings of the advisory board, especially if their councils are involved, and councillors from the affected authority should be able to attend the meetings and listen to the deliberations of the advisory board.

Mr OMODEI: I take on board the member's comments. I understand that the requirements set out in schedule 2.5 clause 7(10) provide that the advisory board may determine its own meeting procedure.

Schedule put and passed.

Schedule 2.2: Provisions about wards and representation -

Mr OMODEI: I move -

Page 332, line 10 - To delete "under clause 7" and substitute the following -

required by clause 4(4) or 6 or authorized by clause 5(a)

I am advised again that this is a drafting amendment to refer to the correct laws.

Amendment put and passed.

Schedule, as amended, put and passed.

Schedules 2.3 to 3.2 put and passed.

Schedule 4.1: How to count votes and ascertain the result of an election -

Mr MARLBOROUGH: I move -

Page 352, lines 4 to 22 - To delete the lines and substitute the following -

A. Terms used

In this Schedule -

"continuing candidate" means a candidate not already elected or excluded from the count;

"election" of a candidate means the making by the returning officer of a provisional declaration that the candidate has been elected, and **"elected"** has a corresponding meaning;

"**surplus votes**" of an elected candidate means the excess (if any) over the quota of the elected candidate's votes,

and a reference to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer under this Schedule.

B. Provision to assisting counting or calculation in certain cases

Despite anything in this Schedule, if the total number of all first preference votes cast at the election does not exceed -

(a) 150; or

(b) where a difference number is prescribed by the regulations for the purposes of this paragraph - that number,

the number of votes of any kind contained in the ballot papers is to be taken, for the purposes of any counting or calculation under this Schedule, to be the number obtained by multiplying the number of votes of that kind contained in the ballot papers by 100.

C. Instructions to the returning officer

1. Ascertain the number of first preference votes given for each candidate and the total number of all first preference votes.

Determine a quota by dividing the total number of first preference votes by one more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by one.

If any candidate has received a number of first preference voters equal to or greater than the quota, make a provisional declaration that the candidate has been elected.

Unless all the vacancies have been filled, transfer the surplus votes of each elected candidate to the continuing candidates as follows -

(a) Divide the number of surplus votes of the elected candidate by the number of first preference votes received by that candidate. The resulting fraction is the **"transfer value"**.

(b) Multiply the total number of the first preference votes for the elected candidate that are contained in ballot papers that express the next available preference for a particular continuing candidate by the transfer value.

Add the number so obtained (disregarding any fraction) to the number of first preference votes of the continuing candidate and transfer all those ballot papers to the continuing candidate.

If any continuing candidate has received a number of votes equal to or greater than the quota on the completion of any such transfer, make a provisional declaration that the candidate has been elected.

Unless all the vacancies have been filled, transfer the surplus votes (if any) of any candidate elected under instruction 2, or elected subsequently under this instruction, to the continuing candidates in accordance with instruction 2.(a) and (b).

If any continuing candidate has received a number of votes equal to or greater than the quota on the completion of any such transfer, make a provisional declaration that the candidate has been elected.

If a continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer under instruction 2 or 3 of the surplus votes of a particular elected candidate, do not transfer votes of any other candidate to the continuing candidate.

For the purposes of the application of instruction 2.(a) and (b) in relation to a transfer under instruction 3 or 9 of the surplus votes of an elected candidate, deal with each ballot paper of the elected candidate that was obtained on a transfer under this Schedule -

(a) as if any vote it expressed for the elected candidate were a first preference vote;

(b) as if the name of any other candidate previously elected or excluded had not been on the ballot paper; and

(c) as if the number indicating subsequent preferences had been altered accordingly.

6. If, after the counting of first preference votes or the election of a candidate and the transfer of the surplus votes (if any) of the elected candidate that are capable of being transferred, no candidate has, or less than the number of candidates required to be elected have, receive a number of votes equal to the quota, exclude the candidate who has the fewest votes.

7. Transfer all the excluded candidates' votes to the continuing candidates as follows -

(a) Transfer the total number of the first preference votes for the excluded candidate that are contained in ballot papers that express

the next available preference for a particular continuing candidate, each first preference vote at a transfer value of one, to the continuing candidate.

Add that number to the number of votes of the continuing candidate and transfer all those ballot papers to the continuing candidate.

(b) Transfer the total number (if any) of other votes obtained by the excluded candidate on transfers under this Schedule from the excluded candidate in the order of the transfers on which they were obtained, the votes obtained on the earliest transfer being transferred first, as follows -

(i) Multiply the total number of votes transferred to the excluded candidate from a particular candidate that are contained in ballot papers that express the next available preference for a particular continuing candidate by the transfer value at which the votes were so transferred to the excluded candidate.

(ii) Add the number so obtained (disregarding any fraction) to the number of votes of the continuing candidate and transfer all those ballot papers to the continuing candidate.

8. If any continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer under instruction 7 or 10 of votes of an excluded candidate, make a provisional declaration that the candidate has been elected.

9. Unless all the vacancies have been filled, transfer the surplus votes (if any) of any candidate elected under instruction 8 in accordance with instruction 2.(a) and (b) except that, if the candidate so elected is elected before all the votes of the excluded candidate have been transferred, do not transfer the surplus votes (if any) of the candidate so elected unless the remaining votes of the excluded candidate have been transferred in accordance with instruction 7.(a) and (b) to continuing candidates.

10. Subject to instruction 12, if, after the exclusion of a candidate and the transfer of the votes (if any) of the excluded candidate that are capable of being transferred, no continuing candidate has received a number of votes greater than the quota, exclude the continuing candidate who has the fewest votes and transfer his or her votes in accordance with instruction 7.(a) and (b).

11. If a candidate is elected as a result of a transfer of the first preference votes of an excluded candidate or a transfer of all the votes of an excluded candidate that were transferred to the excluded candidate from a particular candidate, do not transfer any other votes of the excluded candidate to the candidate so elected.

12. In respect of the last vacancy for which 2 continuing candidates remain, make a provisional declaration that the continuing candidate who has the larger number of votes has been elected despite that number being below the quota and, if those candidates have an equal number of votes, draw lots in the presence of any scrutineers who may be present to determine which of the candidates is to be elected.

13. Despite any other provision of this Schedule, if, on the completion of a transfer of votes under this Schedule, the number of continuing candidates is equal to the number of remaining unfilled vacancies, make a provisional declaration that those candidates have been elected.

14. For the purposes of this Schedule-

(a) take the order of election of candidates to be in accordance with the order of the count or transfer as a result of which they were elected, the candidates (if any) elected on the count of first preference votes being taken to be the earliest elected; and

(b) if 2 or more candidates are elected as a result of the same count or transfer, take the order in which they have been elected to be in accordance with the relative numbers of their votes, the candidate with the largest number of votes being taken to be the earliest elected but, if any 2 or more of those candidates each have the same number of votes, take the order in which they have been elected to be in accordance with the relative numbers of their votes at the last count or transfer before their election at which each of them had a different number of votes, the candidate with the largest number of votes at that count or transfer being taken to be the earliest elected and, if there has been no such count or transfer, draw lots in the presence of any scrutineers who may be present, to determine the order in which to taken them to have been elected.

15. Subject to instructions 16 and 17, if, after any count or transfer under this Schedule, 2 or more candidates have surplus votes, make the transfers of the surplus votes of those candidates in an order that is in accordance with the relative sizes of the surpluses, the largest surplus being transferred first.

16. Subject to instruction 17, if, after any count or transfer under this Schedule, 2 or more candidates have equal surpluses, make the transfers of the surplus votes of those candidates in an order that is in accordance with the relative numbers of votes of those candidates at the last count or transfer at which each of those candidates had a different number of votes, the surplus of the candidate with the largest number of votes at that count or transfer being transferred first but, if there has been no such count or transfer, draw lots in the presence of any scrutineers who may be present to determine the order in which the surpluses will be dealt with.

17. If, after any count or transfer under this Schedule, a candidate obtains surplus votes, do not transfer those surplus votes before the transfer of any surplus votes obtained by any other candidate on an earlier count or transfer.

18. If the candidate who has the fewest votes is required to be excluded and 2 or more candidates each have the fewest votes, exclude whichever of those candidates had the fewest votes at the last count or transfer at which each of those candidates had a different number of votes but, if there has been no such count or transfer, draw lots in the presence of any scrutineers who may be present to determine which candidate will be excluded.

19. If a candidate is elected by reason that the number of first preference votes received, or the aggregate of first preference votes received and all other votes obtained on transfers under this Schedule, is equal to the quota, set aside all the ballot papers expressing those votes as finally dealt with.

20. For the purposes of this Schedule, regard -

(a) a transfer under instruction 2, 3 or 9 of the surplus votes of any elected candidate;

(b) a transfer in accordance with instruction 7.(a) of all first preference votes of an excluded candidate; or

(c) a transfer in accordance with instruction 7.(b) of all the votes of an excluded candidate that were transferred from a particular candidate,

as constituting a separate transfer.

This amendment deals with an ideological difference between members on this side and members opposite about the method of voting for local government. Although there seems to be significant improvement in the method that is being promoted by the Minister, in our opinion it is still not the appropriate method of voting for local government. Important minority groups can still be disadvantaged by the first past the post method.

Mr Omodei: That is well and truly debatable.

Mr MARLBOROUGH: Proportional representation is the fairest and most just method. It is the method that we are used to in both the state and federal arenas of government and it should be the method used at the local government level.

Mrs ROBERTS: The Bill prescribes a system of first past the post. I support a move to a proportional representation system. Members will recall that in the draft of the Local Government Bill the Minister proposed proportional representation. Much has been made in the debate on the Bill in this Chamber that wide consultation has taken place, and that has occurred for well over five years, perhaps seven years or more.

At the last moment, after all the meetings with the community and the public, after professional representation had been made, the voting system has now been changed to first past the post, even though the system proposed in this amendment appeared in the first draft of the Bill. The member for Peel has made some comparisons between the existing system of exhaustive preferential and the first past the post system. The exhaustive preferential system works in the same way as the proportional system when there is only a single vacancy. It means that preferences are allocated. Where there is only one vacancy for one person the systems work in the same way. Here a system is being put in place which is different from what operates at the state and federal levels.

[Resolved, that debate be extended to 5.45 pm.]

Mrs ROBERTS: The Bill presents significant disadvantages for people who are on the outside of local government and who perhaps have minority support. The existing non-compulsory voting system means that existing councillors with a certain support base and perhaps the financial means to run a significant campaign are more likely to come first in a multiple vacancy situation. Where there are three vacancies and somebody manages to get over one-third of the vote he is entitled to one of the three positions. However, in the first past the post system that is not necessarily the case. The Opposition is arguing for the system that operates in the Senate and the upper House in this State, where preferences can flow through if there is more than one vacancy. That is unlike the American system of voting, where a vote for a minority party or an independent candidate which perhaps comes third, fourth or fifth does not count at all. In the fair system that operates in Australia at the federal and state levels a vote directed to a minor party will count.

Mr Bloffwitch interjected.

Mrs ROBERTS: It is interesting that some government members are objecting to that. It was only a few months ago that they said they supported that system. Government members have been lobbied by shire councillors and have changed their minds.

People in the community on the outside of local government find that local government is unapproachable and hard to get into. In some instances they refer to their local council as a club, and sitting councillors are more likely to be returned than somebody on the outside. Proportional representation will increase the base from which councillors can be drawn for local government. We do not want to exclude groups from that important third level of government that is the closest level of government to the people. However, that is traditionally what happens under the current system of exhaustive preferential voting. Where there is more than one vacancy, groups of people have been able to organise tickets and on that basis have been able to exclude people. What is proposed here is not terribly different from that.

The Opposition suggests that votes should count only once. In the current system, if there are four vacancies, and provided they vote for people in the order in which they are ultimately elected, some people's votes can count two, three or four times. The Bill proposes that some votes will not count at all unless they are directed to the candidates who ultimately come first or second; that is because their preferences will not be carried on. This is unfair and un-Australian.

We should encourage a much broader cross-section of the community to be involved at local government level. Local government in the 1970s and 1980s was regarded as a clique. It is still traditionally the domain of businessmen who have been able to get time off to attend council meetings and who can afford to put up the money to stand for local government. The Government has backed away from the Opposition's proposal for a much fairer system of proportional voting where women and those with smaller financial bases can marshal a certain level of support in the community. That level of support would equate with the representation that their group or support base should have on that council.

That system works well in the Legislative Council, where it also has the advantage, if someone polls an awful lot of votes and more than he requires, that those votes can be passed on. If one candidate polls 80 per cent of the vote that person will be elected first. However, someone with 10 per cent of the vote could be elected also. If somebody polls 80 per cent of the vote and there are four vacancies, it is only fair that that surplus of votes should be passed on to the other candidates. In that system each person's vote counts only once; however, the representation on council can be proportional. For example, if a candidate ran on a particular environmental issue and he or she polled 80 per cent of the vote and there were four positions, three of the four councillors elected should be from that group of people, and if their votes were not required they should be passed on.

This Bill states that the other candidates, who have been all but rejected by the community, will be elected because the surplus votes do not pass down from the person with the greatest number of primary votes. That has appeal to the conservative side, because they see the non-compulsory American first past the post system as having some advantages.

Mr Omodei: It is uncomplicated.

Mrs ROBERTS: If that were the only reason a reasonable compromise would be to not have that system where there is a single vacancy. Although I believe we should have a proportional representation system for multiple vacancies, a first past the post system for a single vacancy would be a compromise, because in many instances only one councillor position is available in a ward at an election. I do not think there would be any argument if we dealt with that in the same way as at state and federal elections.

Mr Omodei: Local government wants the existing system. The draft Bill that went to the party room proposed exhaustive preferential voting for a single member vacancy and proportional representation for multimember vacancies. The party room decided to go to a first past the post system. At a seminar held at the Burswood convention centre the industry stated that it wanted exhaustive preferential voting for both single and multimember vacancies.

Mrs ROBERTS: That is a shame. However, the compromise proposed by the Minister has taken us away from exhaustive preferential voting for multimember vacancies, and that is a positive move.

Mr Omodei: The member is incorrect to compare exhaustive preferential with preferential representation. In the first case the surplus votes are carried through with their full value. With preferential representation the surplus votes are carried through with a reduced value. I will talk to the member about it.

Mrs ROBERTS: The Minister has made a fair point. I agree with him. As a compromise we would have been happier to leave the single vacancies as a preferential vote. It is simple, and people understand it. That is the way it is used at both the state

and federal levels. It would help people understand generally how candidates are elected at the three levels. If we have a different system for multiple vacancies, it could be argued that people do not understand how the Senate and our upper House are elected in any event. We should be clear about how people are elected for single vacancies. There is a lot of fairness in having the vote for a candidate who gets only a small number of votes passed to the candidate of his or her preference.

Amendment put and negatived.

Schedule put and passed.

Schedules 4.2 to 9.2 put and passed.

Schedule 9.3: Transitional provisions -

Mr MARLBOROUGH: I move -

Page 384, lines 1 to 3 - To delete the lines and substitute -

(b) was named as an elector in respect of -

(i) that property; or

(ii) any other property within any district or ward,

on an existing roll or would have been so named if his or her name had not been omitted in error,

The amendment will rectify a grave error, as the schedule as presently drafted will disfranchise people currently on the roll. We have already had debate about Australian and non-Australian citizens. The Minister has at least recognised that non-Australian citizens can stay on the roll as long as they do not change their address. The moment non-Australian citizens change their address, they will be knocked off the roll. We are talking about people who could have been voting in local government elections for 40 years. They are upstanding citizens and have always played a progressive role in the community. However, simply because they may be aged and move from the family home into a retirement village, or into a smaller home -

Mr Omodei: In the same municipality?

Mr MARLBOROUGH: Yes.

Mr Omodei: I note the point.

Mr MARLBOROUGH: These people will be disfranchised. I do not think that is the intention of the Minister. He may tell me otherwise. I know that the Minister was keen to ensure that non-Australian citizens were not eligible to vote. I am glad he has backed away from that position. The amendment will tidy up another anomaly which should not have been in the Bill in the first place. We do not want to be penalising people on the basis of a simple change of address. If people move out of the municipality - say, from Wanneroo to Kwinana - this provision may be necessary. However, I would rather that not happen. This amendment will allow people to stay on the roll regardless of their address.

Mr OMODEI: That is a valid point. We are talking about people who reside in a municipality, and who are not Australian citizens but are currently on the roll. If people move house within a municipality, under this Bill they would be disfranchised. I accept the comments by the member for Peel. I will talk to Parliamentary Counsel, and consider the situation between now and when the Bill reaches the other place. If it is an acceptable change we will amend the schedule in the other place.

Amendment put and negatived.

Schedule put and passed.

Title put and passed.

Report

Bill reported, with amendments.

The SPEAKER: As the time has arrived for the completion of all remaining stages of this business, I am required under the sessional order to put every question necessary to complete the business without further debate or amendment.

Report adopted.

Third Reading

Bill read a third time and transmitted to the Council.

BILLS (2) - ASSENT

Message from the Governor received and read notifying assent to the following Bills -

1. Coal Industry Superannuation Amendment Bill
2. Collie Hardwood Plantation Agreement Bill

ADJOURNMENT OF THE HOUSE - SPECIAL

On motion by Mr House (Minister for Primary Industry), resolved -

That the House at its rising adjourn until Tuesday, 14 November at 2.00 pm.

House adjourned at 5.48 pm

QUESTIONS ON NOTICE

STATE GOVERNMENT DIRECTORY - ELECTRONIC VERSION

990. Dr GALLOP to the Minister representing the Minister for the Arts:

(1) What means are under way to make the state government directory available electronically?

(2) At what cost will this be?

(3) When is the system envisaged to be operational?

(4) Will the booklet be superseded by the electronic version or will they both be released?

Mr NICHOLLS replied:

The Minister for the Arts has provided the following reply -

(1) The Infolink database on which the directory is based will be transferred to LISWA's new computer system in the latter part of the 1995-96 financial year. This will then be available for computer access via the Internet. No decision has been made at this stage whether an electronic directory such as CD-Rom would then be necessary. This is dependent on the speed of development of agency home pages on the internet.

(2) Internet access will be at the cost of the person accessing the system. No charge will be set by LISWA.

(3) Latter half of 1995-96.

(4) The printed directory will be produced and it is not seen that electronic access would be the sole means of delivery for some time.

PRISONS - HIGH MUSTERS

1035. Mr BROWN to the Minister assisting the Minister for Justice:

(1) How many prisoners in each prison are unable to be employed because of the high muster?

(2) How many prisoners at each maximum/medium security prison are required to share a cell because of the high muster?

(3) Have minimum staffing levels been increased at any prison because of the high muster?

(4) If so, which prisons?

(5) Are there any prisons where staff are routinely required to operate the prison or section or part of the prison with less than the minimum number of staff on a duty?

(6) Is it now commonplace for prison industrial officers to work in areas of the prison normally staffed by trained prison officers?

Mr MINSON replied:

(1) As of 1 June 1995 the following numbers of prisoners are unable to be employed in each prison for a number of reasons, including medical condition and behavioural problems, and includes, where necessary, high musters. Also included are those remand prisoners at the C.W. Campbell Remand Centre and Casuarina Prison who, in accordance with prisons regulation 43(2), may elect not to work -

Albany Regional Prison	12
Bandyup Women's Prison	nil
Broome Regional Prison	nil
Bunbury Regional Prison	nil

Canning Vale Prison	12
C.W. Campbell Remand Centre	18
Casuarina Prison	149
Eastern Goldfields Regional Prison	nil
Greenough Regional Prison	nil
Karnet Prison Farm	nil
Pardelup Prison Farm	nil
Roebourne Regional Prison	18
Wooroloo Prison Farm	24

(2) Prisoners share cells for several reasons, including high musters, to support an "at risk" prisoner and by request to or from the superintendent. Such arrangements are quite common for Aboriginal prisoners.

Albany Regional Prison	12
Bandyup Women's Prison	nil
Bunbury Regional Prison	10
Canning Vale Prison	24
C.W. Campbell Remand Centre	40
Casuarina Prison	116
Greenough Regional Prison	nil

(3) Yes; extra staff may be called in accordance with the prison officers' agreement.

(4) Albany Regional Prison, Bunbury Regional Prison, Canning Vale Prison, Casuarina Prison, Karnet and Pardelup prison farms.

(5) No.

(6) No, except at Casuarina where industrial officers may work special shifts in accordance with established call-out procedures.

JUSTICE, MINISTRY OF - DIRECTOR GENERAL, VISIT TO NEW SOUTH WALES

2281. Mr BROWN to the Minister assisting the Minister for Justice:

(1) Did the Director General of the Ministry of Justice visit New South Wales in September 1993?

(2) What was the purpose of the visit?

(3) Did the visit coincide with the 1993 New South Wales Rugby League grand final?

Mr MINSON replied:

(1) Yes.

(2) The purpose of the visit was for the Director General of the Ministry of Justice, in company with the then Executive Director, Office of the Attorney General, to hold meetings with the Director General, Department of Courts Administration, the Attorney General's Department and the Director of Public Prosecutions regarding the review of the Crown Solicitor's Office and court delay reduction programs.

(3) Yes.

POLICE - WORKPLACE AGREEMENTS
Conditions and Penalty Rates Reduction

2308. Mr CATANIA to the Minister for Police:

(1) Will new workplace agreements in the Police Force reduce conditions and penalty rates of police officers by -

(a) reducing compensation from two days to one day when officers are recalled from leave for court duty;

(b) reducing shift allowances paid outside the 6.00 am to 10.00 am span;

(c) reducing standby allowances for police on duty by 50 per cent;

(d) cancelling paid meal breaks;

(e) dropping metropolitan meal allowances;

(f) increasing scrutiny of sick leave?

(2) If so, will the Minister advise what cost saving will be achieved with each of these items?

Mr WIESE replied:

I am advised by the Commissioner of Police as follows -

(1) The only workplace agreements in place in the Police Service are those applying to recruits and other employees who have joined the service since January 1995. Workplace agreements for public sector employees are public documents which can be viewed at the Office of the Commissioner of Workplace Agreements. All the information sought by the member is readily available from that source.

(2) It is intended that these changes will provide greater productivity, availability and flexibility. Some reduction in expenditure will occur; however, the funds saved are fully expended in providing the 10 per cent increase in salary which all the new recruits now receive, on completion of training, as a direct result of the introduction of the workplace agreement. In monetary terms that amounts to an additional $2 900 per year for each graduate.

FINES ENFORCEMENT SYSTEM - DRIVERS' LICENCES SUSPENDED; DRIVING UNDER SUSPENSION

3190. Mr RIEBELING to the Minister assisting the Minister for Justice:

(1) In reference to the new fines enforcement procedures introduced by the current Government, how many drivers' licences have been suspended under the system?

(2) How many vehicle registrations have been removed?

(3) How many people have been prohibited from obtaining a driver's licence under the system?

(4) How many people have been charged with driving under suspension as a result of this legislation?

(5) How many people have been charged with driving a vehicle without the correct registration as a result of this legislation?

(6) What were the grounds for dismissal of the two charges of driving under suspension in Fremantle and Joondalup?

(7) Is the Crown appealing both these decisions?

(8) If the Crown is appealing, upon what basis is the Crown appealing?

Mr MINSON replied:

(1) As of 3 August 1995, there have been 16 033 drivers' licences suspended since the new fines enforcement system was introduced. As at 25 August 1995, 12 905 drivers' licences were under suspension.

(2) There have been 2 416 vehicle licences suspended since the new system was introduced. As at 25 August 1995, 1 666 vehicle licences are under suspension.

(3) There have been 1 451 people disqualified from obtaining a driver's licence in the same period. As at 25 August 1995, 1 373 people were unable to obtain a driver's licence due to fine default.

(4)-(5) Unknown - refer to Minister for Police.

(6) The Fremantle Magistrate found that evidence was required for each enforcement step of infringement notices, and the transitional provisions of the Fines, Penalties and Infringement Notices Enforcement Act 1994 did not support the making of a licence suspension order. The Joondalup Magistrate's decision has not been examined by counsel to determine a precise reason.

(7) Only with respect to the Fremantle decision.

(8) "That the Magistrate erred in law and fact."

JUSTICE, MINISTRY OF - PRISON OFFICERS, COMMUNICATING WITH MEDIA OR MINISTER, POLICY

3324. Mr BROWN to the Minister assisting the Minister for Justice:

(1) Is it the policy of the Ministry of Justice to charge prison officers with a disciplinary offence where they -

(a) speak to the media;

(b) communicate with the Attorney General and/or Minister assisting the Minister for Justice,

about Ministry of Justice matters?

(2) Does the Ministry of Justice from time to time give approval to prison officers to speak to the media or communicate with the Ministers?

(3) If so, has the Minister of Justice given such approval within the last 18 months?

(4) If so, to whom has that approval been given?

Mr MINSON replied:

(1) Yes, where the provisions of prisons regulation 22(1)(a) apply.

(2) Yes, depending on the circumstances; for example, when an officer is presented with a national medal.

(3) The Ministry of Justice does not give approval.

(4) Not applicable.

DRIVERS' LICENCES - SUSPENSIONS UNDER FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT ACT; BREACHES

3370. Mr BROWN to the Minister assisting the Minister for Justice:

(1) How many motorists had their drivers' licences suspended under the Fines, Penalties and Infringement Notices Enforcement Act 1994?

(2) Has any estimate been made on the number of motorists that continued to drive despite having their licence suspended?

(3) If so, what does that estimate reveal?

Mr MINSON replied:

(1) As of 3 August 1995, 16 033 drivers' licences have been suspended since the new fines enforcement system was introduced.

(2) No.

(3) Not applicable.

JUSTICE, MINISTRY OF - CORRECTIVE SERVICES DIVISION
Motor Vehicles

3393. Mr BROWN to the Minister assisting the Minister for Justice:

(1) How many vehicles are in the passenger and light commercial fleet of the Corrective Services division of the Ministry of Justice?

(2) What is the make and type of each vehicle in the passenger and light commercial fleet of the Corrective Services division of the Ministry of Justice?

(3) Which company or companies have been contracted to carry out the maintenance work on the vehicles?

(4) What is the anticipated cost of the maintenance work for the 1995-96 financial year?

(5) What was the anticipated cost of having the maintenance work on the vehicles carried out internally within the Corrective Services division?

(6) How was that cost calculated?

(7) Why did the Government decide to put this work out to contract?

Mr MINSON replied:

(1) 150 vehicles.

(2) The make and type of each vehicle in the passenger and light commercial fleet of the Corrective Services division; that is -

Make	Type	Number of vehicles
Daihatsu	van	1
Ford	sedan	6
	wagon	14
	dual cab	3
	van	8
	utility	3
Holden	sedan	8
	wagon	9
Mazda	van	21
	utility	2
Mitsubishi	sedan	7
	wagon	1
Nissan	sedan	1
	van	7
	utility	1
Suzuki	van	1
Toyota	sedan	23
	wagon	10
	bus	10
	dual cab	3
	utility	9
	van	2
Total		150

(3) Lease Plan Australia Ltd has been engaged in State Supply Commission contract No 669A1994 to provide a fully maintained non-residual operating lease of the passenger and light commercial fleet of the Ministry of Justice. Maintenance work on the vehicles is carried out at authorised service centres throughout the State and at some prison workshops - Karnet prison farm, Pardelup prison farm and Wooroloo prison farm.

(4) Approximately $82 000 - includes cost of maintenance at prison workshops.

(5)-(6) The cost of having the maintenance work on the vehicles carried out within the Corrective Services division has not been calculated as the prison workshops do not have the capacity to maintain the entire fleet of 150 vehicles. The capacity of the prison workshops is approximately 30 vehicles at a basic service level.

(7) The Government has accepted the recommendations on fleet management contained in the McCarrey report and moved to implement them in accordance with government policy.

SPECIAL GOVERNMENT COMMITTEE ON ABORIGINAL-POLICE AND COMMUNITY RELATIONS - ROLE

3417. Mr GRAHAM to the Minister for Police:

(1) What is the Special Government Committee on Aboriginal/Police Community Relations?

(2) What is the role of the committee?

(3) What are the powers of the committee?

(4) Does the committee receive any government funding?

(5) If so -

(a) how much funding is provided;

(b) from which budget is the funding provided;

(c) for what purpose is the funding provided?

(6) Does the committee receive any assistance from any other government-funded body?

(7) If so, what assistance is provided by which organisations?

(8) Who are the committee members?

(9) What organisations do the respective committee members represent?

(10) By whom were the committee members appointed?

(11) What is the term of appointment of each committee member?

(12) What are the criteria for appointment?

(13) How were the committee members selected?

(14) Who is the chair of the committee?

(15) Who appointed the chair of the committee?

(16) What were the requirements for the position of chair?

(17) How often does the committee meet?

(18) Where does the committee meet?

(19) When was the last committee meeting?

(20) When is the next committee meeting?

(21) To whom does the committee report?

(22) When did the committee last report?

(23) Will the Minister provide a copy of the reports of the committee?

Mr WIESE replied:

(1)-(23)
I refer the member to my response to question on notice 3418 of 1995.

SPECIAL GOVERNMENT COMMITTEE ON ABORIGINAL-POLICE AND COMMUNITY RELATIONS - ROLE

3418. Mr GRAHAM to the Minister for Police:

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(20) When is the next committee meeting?

(21) To whom does the committee report?

(22) When did the committee last report?

(23) Will the Minister provide a copy of the reports of the committee?

Mr WIESE replied:

(1) The Special Government Committee on Aboriginal/Police Community Relations was established in 1976 as an outcome of the Laverton royal commission to improve relations between police and Aboriginal people. The committee comprises members from the Police Department and Aboriginal representatives from established organisations and the community. It is supported by a small secretariat.

(2) The objective of the committee is to improve relations between Aboriginal people, members of the Police Service and the general community. The committee is supported by terms of reference which set its guiding principles and define its spheres of specific interest.

(3) The committee has no statutory power. Its authority is derived from its terms of reference.

(4) Yes.

(5) (a) $330 000 annually;

(b) Police portfolio - consolidated fund;

(c) (i) staffing/salaries - $149 000;

(ii) operating and program costs - $155 000;

(iii) accommodation - $26 000.

(6) Currently no external funding is received. However, funding has been obtained in the past for specific projects.

(7) Not applicable.

(8)-(9) The composition of the committee is based on the following formula -

Independent chairperson.

Police representatives - commissioner's representative; OIC community policing; OIC Aboriginal affairs; CIB representative.

Aboriginal Legal Service - executive officer; Chairperson, ALS Management Committee.

Aboriginal members - two representatives from the Aboriginal Advisory Council; coordinator, Aboriginal visitors scheme; two representatives from metropolitan Aboriginal police liaison committees; two representatives from country Aboriginal police liaison committees.

Local government - representative from the Western Australian Municipal Association.

Note: The committee is currently under review and is to be restructured. The information provided is on the basis of the committee's status, pending restructure.

(10) Members, apart from the chairperson, are representatives of their organisation/agency.

(11) (i) Chairperson - appointed by Minister for specific tenure of 12 months renewable.

(ii) Organisational representatives - no specific term of appointment.

(iii) Local liaison committees - 12 months.

(12) (i) The chairperson is selected by advertising based on Public Service-type criteria. Selection panel made recommendation to Minister for Police.

(ii) Organisational representatives - by position held.

(iii) Local liaison committee - rotational and nomination by local committee.

(13) See (10) to (12) above.

(14) Mr Harry Thorne.

(15) Minister for Police.

(16) Applications were sought through advertising based on the following criteria: Aboriginal person able to demonstrate good reputation and standing within the Aboriginal community and having the capability of communicating and working effectively with police and government officials; the position is part time and the chairperson is required to ensure the committee functions effectively.

(17) Due to the restructure and reorganisation that is pending the committee is held in abeyance. The committee did meet bimonthly.

(18) Suite 8/295 Rokeby Road, Subiaco.

(19) October 1994.

(20) Not determined.

(21) Minister for Police.

(22) The committee has not formally reported since a review was initiated by the Minister for Police in August 1994.

(23) No.

PRISONS - CHARGES LAID AGAINST PRISONERS UNDER PRISONS ACT

3738. Mr BROWN to the Minister assisting the Minister for Justice:

(1) How many charges have been laid against prisoners under the Prisons Act 1981 and Regulations at each prison in each of the last three financial years?

(2) Has the number of charges laid against prisoners under the Prisons Act 1981 and Regulations increased over the last three financial years?

Mr MINSON replied:

(1)

	1992-93	1993-94	1994-95
Albany	66	98	84
Bandyup	172	192	197
Broome	81	31	23
Bunbury	278	178	133
Canning Vale	550	600	562
Casuarina	366	309	308
C.W. Campbell	224	162	245
Eastern Goldfields	87	49	52
Greenough	96	100	96
Karnet	99	69	60
Pardelup	54	92	90
Roebourne	47	59	57
Wooroloo	223	246	169
Wyndham	1	0	0
Total	2 344	2 185	2 076

(2) From 1992-93 to 1993-94 there was a decrease of 159; from 1993-94 to 1994-95 there was a decrease of 109.

PRISONS - CANNING VALE

Remand Centre Plans; Future Use; Privatisation of Functions

3793. Mr BROWN to the Minister assisting the Minister for Justice:

(1) Have any plans been made to use Canning Vale Prison as a remand centre?

(2) Is this option being investigated?

(3) When will a decision be made as to whether this prison is to be converted into a remand centre?

(4) In the event of Canning Vale Prison becoming a remand centre, will the prisoner transport section be located at that prison?

(5) If so, why?

(6) In examining the future use of Canning Vale Prison and other institutions, is the Ministry of Justice giving any consideration to privatising any existing functions?

(7) If so, what functions?

(8) Will the Minister give the Parliament an assurance that none of the functions currently carried out by the Corrective Services Division of the Ministry of Justice will be privatised or contracted out?

Mr MINSON replied:

(1)-(8) A range of operational arrangements is currently under consideration, to ensure that proper and efficient management practices are maintained.

JUSTICE, MINISTRY OF - CANNING VALE REMAND CENTRE, CHANGES

3801. Mr BROWN to the Minister assisting the Minister for Justice:

(1) Have plans been made or is there a proposal for the Canning Vale Remand Centre being used to hold other than remand prisoners?

(2) What is proposed or planned?

Mr MINSON replied:

(1)-(2) A range of operational arrangements is currently under consideration, to ensure that proper and efficient management practices are maintained.

PRISONS - CANNING VALE
Remand Centre Plans

3802. Mr BROWN to the Minister assisting the Minister for Justice:

(1) Is an investigation currently being carried out on the prospect of having Canning Vale Prison used as a remand prison?

(2) Is it intended to have remand and sentenced prisoners at the one prison?

(3) Will the remand and sentenced prisoners be accommodated at Canning Vale Prison in the event of that prison being converted into a remand centre?

(4) Will sentenced prisoners continue to be accommodated at Canning Vale Prison in order to staff the food preparation area and workshops?

(5) Is any consideration being given to having remand prisoners placed in the workshops and food preparation area?

Mr MINSON replied:

(1)-(5) A range of operational arrangements is currently under consideration, to ensure that proper and efficient management practices are maintained.

CALM - STATE FOREST, ZONES FOR PRODUCTION, RECREATION, CONSERVATION
Director of Forests Attending meetings of National Parks and Nature Conservation Authority

3835. Dr EDWARDS to the Minister representing the Minister for the Environment:

(1) To what extent has the Department of Conservation and Land Management categorised land that is to be retained as state forest into priority use zones that take into account the needs for production, recreation and nature conservation?

(2) How much of the state forest area has been specifically zoned in this way to date?

(3) What maps are available showing the zoning system?

(4) Over the period 1 January 1990 to 31 December 1994, on how many occasions has the Director of Forests personally attended meetings of the National Parks and Nature Conservation Authority?

Mr MINSON replied:

The Minister for the Environment have provided the following reply -

(1) Apart from areas selected to protect values in road, river and stream zones, and patches of retained mature forest, the concept of "priority use" zones is no longer used to classify state forest. In accordance with the provisions of the 1994 forest management plan, broad area zoning of the public forest estate is now carried out through amendments to land tenure. Within all areas of indigenous state forest proposed in the forest management plan to remain as such, a combination of purposes contained in the Conservation and Land Management Act, section 55(1)(a) being conservation, recreation, timber production on a sustained yield basis, water catchment protection or other purpose prescribed by the regulations will be practised.

(2) The forest management plan 1994-2003, table 3, estimates the area of forest included in travel route zones in the southern forest region is 18 710 hectares. In central forest and Swan regions, silvicultural prescriptions are being applied adjacent to travel routes which will have minimised visual impact of harvesting and regeneration. Table 4 of the forest management plan estimates that the area in river and stream zones in the southern forest region is 62 175 ha and in the central forest and Swan regions, approximately 90 000 ha.

(3) Tables and maps of proposed tenure changes are contained in the forest management plan 1994-2003. Maps showing the specific areas mentioned in the reply to (1) for the whole of state forest in regard to areas of mature karri forest are being progressively identified by the Department of Conservation and Land Management with progress being reported to me in accordance with condition 7 of the ministerial conditions relating to amendments to the 1987 forest management plans and timber strategy and proposals to meet environmental conditions on the regional plans and the WACAP ERMP. The database in the department's geographic information system is being reviewed to ensure that the data captured will comply with condition 5 of the ministerial conditions.

(4) During the period the Director of Forests has been represented at 42 NPNCA meetings and has personally attended five of those meetings.

CALM - GOLDFIELDS REGION STAFF

3844. Dr EDWARDS to the Minister representing the Minister for the Environment:

(1) What positions exist in the Department of Conservation and Land Management's Goldfields region staff establishment for the following -

(a) Planning Officer;

(b) Environmental Officer;

(c) National Park Ranger?

(2) On how many occasions have Goldfields Region staff visited the following areas during the period January 1991 to December 1993 -

(a) Queen Victoria Spring nature reserve;

(b) De La Poer Range nature reserve;

(c) Plumridge Lakes nature reserve;

(d) Great Victoria Desert nature reserve?

(3) Has a community education and interpretation officer yet been appointed or nominated on the Goldfields regional staff?

(4) If yes, on what date was the appointed made?

Mr MINSON replied:

The Minister for the Environment has provided the following reply -

(1) (a) Planning Officer - one position.

(b) Environmental Officer - one position.

(c) National Park Ranger - no position.

(2) Specific data is not available for 1990-91 and 1991-92 without extensive research. Numbers of visits for 1992-93 and 1993-94 are -

		1992-93	1993-94
(a)	Queen Victoria Spring nature reserve	2	4
(b)	De La Poer Range nature reserve*	1	1
(c)	Plumridge Lakes nature reserve	2	1
(d)	Great Victoria Desert nature reserve	1	-

Visits involved several staff.

* De La Poer Range nature reserve gazetted 13 September 1991.

(3)-(4) No.

STEPHENSON AND WARD INCINERATOR, WELSHPOOL - PCBs, DECONTAMINATION STANDARDS

3869. Dr EDWARDS to the Minister representing the Minister for the Environment:

(1) What standards for decontamination will the Department of Environmental protection require of Mr Stephenson, owner of Stephenson and Ward Incinerator, to remove polychlorinated biphenyls from his incinerator site in Welshpool?

(2) In setting these decontamination standards will they prevent any further avenue for future claims or legal action from people residing in this area and alleging ill effects from polychlorinated biphenyls?

Mr MINSON replied:

The Minister for the Environment has provided the following reply -

(1) The "standard of decontamination" to be applied at the Stephenson and Ward incinerator site has not yet been determined - it may be that a risk assessment will be undertaken to determine appropriate clean up levels. As a guide, the Department of Environmental Protection has set adaptable levels of 10mg/kg for PCBs for industrial sites and of 1.0mg/kg for residential areas.

(2) It is difficult to see any circumstance where the setting of standards would impact on any "future claims or legal actions", but the question is of a legal nature, and not appropriate under standing orders.

LAND - McNEIL CLAYPAN, CARNARVON

Fenced off for Grazing, into Brickhouse Station Pastoral Lease; Conservation Value

3889. Mr LEAHY to the Minister representing the Minister for the Environment:

(1) Is the Minister aware that an area of McNeil Flats in Carnarvon has been fenced off by the owners of the adjoining pastoral station and is apparently to be grazed by cattle when it dries out sufficiently

(2) Is this area the only significant wetland within 100 kilometres of Carnarvon?

(3) Is this area home to up to 13 rare and endangered species of fauna?

(4) Does this area form part of the pastoral lease?

(5) Can the Minister advise what action he will take to ensure the integrity of this important conservation area is not compromised?

Mr MINSON replied:

The Minister for the Environment has provided the following reply -

(1),(4) The majority of the McNeil claypan, near Carnarvon, is within the Brickhouse Station pastoral lease. A small area of the claypan is currently vacant Crown land within the Carnarvon townsite. The lessee of Brickhouse Station received permission from the Shire of Carnarvon to graze this area in 1986 and subsequently fenced it into the pastoral lease. The intentions of the pastoral lessee regarding grazing of this area are unknown.

(2) No.

(3) No gazetted rare or endangered species of fauna are known to occur in the McNeil claypan.

(5) The Department of Conservation and Land Management is currently assessing the conservation values of this area. The results of this assessment will be used to determine appropriate action.

WATER AUTHORITY - CARNARVON IRRIGATION SCHEME, COSTS

3891. Mr LEAHY to the Parliamentary Secretary to the Minister for Water Resources:

(1) How much did it cost to operate the Carnarvon irrigation scheme in 1992-93 and how much revenue was received from customers?

(2) How much did it cost to operate the Carnarvon irrigation scheme in 1994-95 and how much revenue was received from customers?

(3) What was the cost of water per kilolitre from the Carnarvon irrigation scheme in each of the following years -

(a) 1983-84;
(b) 1984-85;
(c) 1985-86;
(d) 1986-87;
(e) 1987-88;
(f) 1988-89;
(g) 1989-90;
(h) 1990-91;
(i) 1991-92;
(j) 1992-93;
(k) 1993-94;
(l) 1994-95;
(m) 1995-96 to date?

Mr McNEE replied:

The Minister for Water Resources has provided the following reply -

(1) The cost of operating the Carnarvon irrigation scheme excluding capital costs in 1992-93 was $1.576m and the revenue received from customers was $709 000.

(2) The cost of operating the Carnarvon irrigation scheme excluding capital costs in 1994-95 was $1.774m and the revenue received from customers was $891 000.

(3) The cost of water per kilolitre including capital costs from the Carnarvon irrigation scheme in each of the following years -

1992-93	$0.19
1993-94	$0.24
1994-95	$0.22
1995-96	$0.24

For the years 1983-84 to 1991-92 the data to calculate the unit cost of irrigation is not available, as assets shared between the Carnarvon town water scheme and irrigation cannot be separated. The costs for 1992-93,

1993-94 and 1994-95 are based on a manual exercise to split the assets shared between water and irrigation. This exercise was carried out each year with the asset details current at that time. It is not possible to do this exercise retrospectively.

BUCKERIDGE, LEN - APPEALS

3896. Mr KOBELKE to the Minister for Local Government:

(1) Since assuming responsibility for Local Government, how many appeals has the Minister received from Mr Len Buckeridge, either in his own name or, if under the name of another entity, then clearly signed by Mr Buckeridge, against decisions made under the buildings provisions of the Local Government Act 1960?

(2) In how many cases were these appeals upheld by the Minister?

(3) In each of the cases that were upheld what was the issue of the appeal and to which property did the appeal apply?

(4) How many of these appeals were not upheld by the Minister?

(5) In the cases that were not upheld, what was the issue of the appeal and to which property did the appeal apply?

Mr OMODEI replied:

(1) I have received five appeals from Mr Buckeridge. The Department of Local Government has not checked with Corporate Affairs seeking the names of companies associated with Mr Buckeridge. The department's files were not checked to ascertain if any appeal forms were actually signed by Mr Buckeridge. The five appeals received are as follows -

One appeal for a concrete batching plant on Lot 20, Quinns Road, Neerabup (mining lease 70/717 portion of Crown reserve 27575) against the City of Wanneroo.

One appeal from a Margaret King for a building on Lot 1, Cnr Harvey and Johnson Streets, Peppermint Grove against the Shire of Peppermint Grove. Mr Buckeridge submitted his appeal on behalf of Margaret King.

Three separate appeals for a building on Lot 49, Johnson Parade, Mosman Park against the Town of Mosman Park.

(2)-(3) I have upheld the appeal received 9 March 1995 from a Margaret King relating to a stop work order on Lot 1, Cnr Harvey and Johnson Streets, Peppermint Grove.

(4)-(5) I have dismissed two separate appeals both received 6 June 1995 relating to stop work orders for a building on Lot 49, Johnson Parade, Mosman Park. I did not determine the appeal received 26 April 1995 relating to a stop work order for a building on Lot 49, Johnson Parade, Mosman Park because the appeal was resolved by the actions of the Town of Mosman Park. The order of council against which the appeal was made was withdrawn by notice dated 4 May 1995. I was unable to determine the appeal received 6 December 1993 concerning a building licence from a concrete batching plant on Lot 20, Quinns Road, Neerabup because no right of appeal existed.

HEALTH DEPARTMENT - HEALTH AUTHORITIES
Net Recurrent Expenditure on Hospitals Program, 1995-96 Allocations

3908. Dr GALLOP to the Minister for Health:

How much of the proposed net recurrent expenditure of $955 266 000 on the hospitals program in 1995-96 has been allocated to -

(a) North Metropolitan Health Authority;

(b) East Metropolitan Health Authority;

(c) South Metropolitan Health Authority;

(d) Northern Health Authority;

(e) Western Health Authority;

(f) Central Health Authority;

(g) Southern Health Authority?

Mr KIERATH replied:

This reply is based on contract values supplied by the respective health authorities and varies from the total in the printed estimates by $131 728 205. This variance reflects a significant realignment of expenditure across programs through the contracting process. The decrease in the hospital program is offset by significant increases in both the mental health and continuing care programs. This variance is also partially attributable to expenditures for central and Statewide services which are not distributed to the abovenamed authorities. The allocations by authority as requested are -

(a) $282 954 397
(b) $240 833 927
(c) $101 008 600
(d) $ 49 954 400
(e) $ 50 411 700
(f) $ 29 908 400
(g) $ 68 466 371

HEALTH DEPARTMENT - HEALTH AUTHORITIES
Net Recurrent Expenditure on Hospitals Program, 1994-95 Expenditure

3909. Dr GALLOP to the Minister for Health:

How much of the net recurrent expenditure of $944 809 000 on the hospitals program in 1994-95 was spent on -

(a) North Metropolitan Health Authority;

(b) East Metropolitan Health Authority;

(c) South Metropolitan Health Authority;

(d) Northern Health Authority;

(e) Western Health Authority;

(f) Central Health Authority;

(g) Southern Health Authority?

Mr KIERATH replied:

It is assumed the member for Victoria Park has quoted the net expenditure for the hospital program "Summary of Consolidated Fund Appropriations and Revenue Estimates for the year ended 30 June 1995" for the 1994-95 actual expenditure. This reply relates to expenditure of $964 809 000 and not $944 809 000 as quoted in the question and excludes the "Central and Statewide Services" expenditure of $111 053 202.

(a) $280 677 342
(b) $242 900 981
(c) $116 019 027
(d) $ 51 041 882
(e) $ 51 342 578
(f) $ 27 489 384
(g) $ 84 286 496

CALM - WHITE-TAILED COCKATOOS, STATUS; LICENCES

3910. Dr EDWARDS to the Minister representing the Minister for the Environment:

(1) What is the status of the white-tailed cockatoo according to conservation and wildlife acts and regulations?

(2) Are there regulations determining the maximum number of white-tailed cockatoos that can be held together in captivity?

(3) What numbers are stipulated and under what conditions?

(4) How many licences are held in Western Australia currently?

(5) How many or approximately how many white-tailed cockatoos does the Department of Conservation and Land Management -

(a) confiscate;

(b) euthanase;

(c) deliver to other institutions,

annually?

Mr MINSON replied:

The Minister for the Environment has provided the following reply -

(1) There are several species and subspecies of cockatoos that have white tails. Presuming that the question relates to the two southern taxa of white-tailed black cockatoos, Baudin's black cockatoo (*Calyptorhyncus baudinii)* and Carnaby's black cockatoo (*Calyptorhyncus funereus latirostris*), I can advise as follows. Both of the preceding Black Cockatoo taxa are listed as "other specially protected fauna" in the Minister for the Environment's Gazette notice of 8 April 1994. This declaration was made pursuant to the provisions of section 14(2)ba of the Wildlife Conservation Act 1950 and has the effect of raising the maximum penalty for illegal taking of specified fauna from $4 000 to $10 000.

(2)-(3) Regulation 34A of the Wildlife Conservation Regulations 1970 stipulates that persons are to satisfy birds' requirements for food, water, shelter, space and cover and adds that a wildlife officer may require additional facilities to be provided. This power would allow such an officer to require white-tailed black cockatoos to be housed elsewhere if there was thought to be overcrowding. There is, however, no fixed requirement under the regulations for maximum numbers of cockatoos per cage.

(4) Forty avicultural licences for Baudin's cockatoo and 23 avicultural licences for Carnaby's cockatoo.

(5) (a) Assuming the word "confiscate" means seized in relation to an offence, over the past few years between zero and up to 20 white-tails per year have been seized. The number depends on the number and nature of offences detected and the number of birds involved in those offences. CALM officers also take possession of sick, injured and orphaned white-tails to hand them to carers skilled in rehabilitation, so that as many as possible are returned to the wild. Such birds are the property of the Crown. The number collected ranges from one or two up to eight or 10 birds per year, but this may vary widely.

(b) While CALM has not euthanased any white-tailed black cockatoos, it has supported the euthanasia of severely injured or incapacitated birds. This is a rare event, probably occurring once or twice a year; however, it is dependent on the number of severely disabled birds that are received in any year.

(c) Illegally taken cockatoos and those rehabilitated by carers are released into the wild as soon as possible. The remainder, being those which are permanently incapacitated, are placed with people competent in their care. This may vary from no birds in one year to perhaps as many as a dozen birds in another.

SWAN RIVER TRUST - BLACK SWANS, BRINGING BACK TO SWAN RIVER

3917. Dr EDWARDS to the Minister representing the Minister for the Environment:

What actions are being taken by the Swan River Trust to bring black swans back to the Swan River?

Mr MINSON replied:

The Minister for the Environment has provided the following reply -

I refer the member to question on notice 3699 dated 28 September 1995.

WORKPLACE AGREEMENTS - GOVERNMENT EMPLOYEES, PRESSURE; CHOICE

3938. Mr BROWN to the Minister for Labour Relations:

(1) Further to question on notice 3382 of 1995, has the Government placed any pressure on any government employee to enter into a workplace agreement, where such pressure would not constitute an offence under the Workplace Agreements Act 1993?

(2) Has the Government endeavoured to have new employees enter into workplace agreements by making certain jobs only available to employees who agree into workplace agreements?

(3) Has the Government endeavoured to have government employees enter into workplace agreements by making certain new jobs only available to employees who agree to enter into workplace agreements?

(4) Has the Government endeavoured to have new employees enter into workplace agreements by making it clear to such prospective employees that they will only be employed if they agree to enter into a workplace agreement?

(5) Has the Government informed job applicants that they will only be employed if they agree to enter into a workplace agreement?

(6) Has the Government refused to employ any job applicant because that job applicant wished to be employed under an award rather than a workplace agreement?

(7) Is it government policy to give applicants for government employee positions the choice of having their terms and conditions of employment covered by a workplace agreement or an award?

Mr KIERATH replied:

(1) The Government promotes choice in the contractual mechanisms used to govern employment arrangements. This is clearly articulated in the publication "Workplace Bargaining in the WA Public Sector issued in May 1995" and the enterprise bargaining framework agreement entered into with the Civil Service Association.

(2)-(4) The specific employment conditions of individual public sector employees is the responsibility of the chief executive officer and the management of each individual government agency. Certain agencies have made the lawful decision to have the employment arrangements applying to new employees governed by a workplace agreement. The Government has no control over the use of this practice in the private sector.

(5) I am aware that some government agencies have indicated to prospective

employees that conditions of employment of a particular position are governed by a workplace agreement (consistent with (2) above) and therefore an offer of employment is conditional upon them accepting the conditions of employment which are prescribed in a workplace agreement.

(6) As per (2) and (5) above.

(7) Government policy is that this is a matter for the individual government agency to decide.

FAIR TRADING, MINISTRY OF - WALL OVENS, COMO ACCIDENT; WARNING

3940. Mr PENDAL to the Minister representing the Minister for Fair Trading:

(1) Is the Minister aware of a telephone call to his department on 11 October 1995 to a building supervisor, Mr Elkins, from a Como mother who drew attention to a potentially fatal home accident involving a wall oven?

(2) Is he aware that the wall oven fell out of the wall on to the mother's 17-month-old daughter, fortunately without serious injury other than shock?

(3) Is it a fact that many older wall ovens are not secured to the wall due to the need to remove them for repairs?

(4) Will the Minister use the occasion to issue a general warning for all householders to check the age of wall ovens and to determine if they are secured to the wall?

(5) If yes, will he give details in any such warning in order to avert a potential tragedy?

Mrs EDWARDES replied:

The Minister for Fair Trading has provided the following reply -

(1) Mr Elkins has confirmed that he did receive such a call.

(2) Mr Elkins has confirmed that this is the information he was given.

(3) Although I have seen no evidence that many older ovens are not properly secured, I agree this is a possibility.

(4) Yes, the Ministy of Fair Trading is arranging a media release.

(5) Householders with wall ovens will be advised by means of the media release to check that their ovens are secure.

QUESTIONS WITHOUT NOTICE

ELECTORAL SYSTEM - CHANGES

539. Dr GALLOP to the Deputy Premier:

I refer to the ongoing negotiations between the National and Liberal Parties over changes to Western Australia's electoral system and ask -

(1) Is it true that the National Party has put a proposal to the Liberal Party agreeing to one-vote-one-value with a plus or minus 20 per cent variation and to a so-called fairness clause being introduced, on condition that one-vote-one-value not extend to the Legislative Council?

(2) Has the Liberal Party agreed to this package?

(3) If no agreement is reached on this subject and legislation is proceeded with, will this bring coalition government in this State to an end?

Mr COWAN replied:

(1)-(2) On Tuesday I indicated that the National and Liberal Parties were

discussing matters relating to electoral change. That includes some of those issues that the member raised such as a single quota for the Legislative Assembly with a variation plus or minus 20 per cent. A number of other issues are also being discussed including the application of a fairness clause. There has been no finalisation of the position of the parties so that we can represent a coalition voice on those issues. Discussions will continue.

(3) No.

FAMILY AND CHILDREN'S SERVICES, DEPARTMENT FOR - SUPPORTED ACCOMMODATION ASSISTANCE PROGRAM, FUNDING AGREEMENTS DECISION

540. Mrs van de KLASHORST to the Minister for Family and Children's Services:

What decisions have been made about the continued operation and funding of women's refuges and other services under the supported accommodation assistance program?

Dr Watson: Close Albany!

Mr NICHOLLS replied:

I thank the member for this question. I understand the member's genuine interest in this area. I also note that the member for Kenwick has not come to terms with the facts. She continues to try to mislead members of this House and others with her comments.

I had a very productive meeting with the reference group comprising representatives of the sector and the agencies involved in the supported accommodation assistance program which provides funding for services such as women's refuges, youth hostels, and accommodation for homeless men and women and the chronically homeless. During discussions we considered the reform process and some of the issues impacting on those reforms. One issue highlighted was the anxiety within the sector about funding. As a result of those discussions I made a decision that funding agreements would be provided to services within the SAAP sector to June 1998. That will provide two and a half year funding agreements on the basis that the reference group assured me that the sector is supportive of the reforms that, broadly speaking, will provide greater efficiency, more choice in the services for clients, and decentralisation of the services that support the sector. This will be done with a collaborative and cooperative approach. The reference group will continue to work with the sector and the Government to achieve these reforms, to remove the anxiety created from lack of certainty about funding in the longer term.

The decision has been made. I hope that all members of this House will provide this information in its correct form. They should not try to misinform the wider community or the sector about the decision or about the fact that the reforms are supported by the sector and will be continued. However, we will do it with a more collaborative and cooperative approach.

LOCAL GOVERNMENT ACT - AMENDMENTS, NATIONAL PARTY'S POSITION

541. Mr McGINTY to the Deputy Premier:

I refer to Mr Kyle's remarks reported in *The West Australian* on 21 October that the Government's stated reasons for not supporting the Opposition's amendments to the Local Government Act for an open inquiry were illogical.

(1) Does the Deputy Premier agree with Mr Kyle that his inquiry should be open and public except where he determines that conflict with police inquiries or prosecutions warrants confidential hearings?

(2) Does the Deputy Premier agree that any potential interference with police investigations and prosecutions can be avoided by close cooperation with the police and the Director of Public Prosecutions?

(3) If so, why will the Deputy Premier not support the Labor Party's legislation which will allow this to happen?

Mr COWAN replied:

(1)-(3) I thought that I had made clear the position of the National Party: Our position coincides with that of the Government.

Dr Gallop: It does on most things these days.

Mr COWAN: The Deputy Leader of the Opposition is right. We have a fair influence on the Government's position.

Dr Gallop: Who is your deputy? Is it Dick Old or Peter Jones? Dick and Peter make a good team!

Mr COWAN: I do not mind a bit of name-calling. I can do the same. I can talk about the two stunt men on the other side.

It must be restated, for the benefit of the Leader of the Opposition, that it was always expected that the Kyle inquiry would be reconstituted for the purpose of interviewing a witness who was not in Western Australia at the time of the original inquiry; that is, Dr Wayne Bradshaw. I understand that that is about to take place. When Mr Kyle delivers his report of his interview with that witness, that will be the time for the Government to make a decision about where to take the recommendations of that report, and that will be the time for the Government to take some action about that issue. It was quite satisfactory for the Leader of the Opposition when in government in 1992 not to proceed with the amendments to the Local Government Act which would have given to Peter Kyle the particular requirements which the Leader of the Opposition is now seeking. I suggest to the Leader of the Opposition that he is some three years too late. We need to get the report completed by Mr Kyle, under the terms of reference which the previous Government accepted, and when we have received that report we will make a determination about whether it requires further action.

DARLING RANGE REGIONAL PARK PROPOSAL - PROTECTION OF SURROUNDING AREAS

542. Mr DAY to the Minister for Planning:

I refer to the welcome proposals for a Darling Range regional park which were published by the Minister this week. What mechanisms will exist for the protection of the environmental and landscape qualities of the areas surrounding the proposed park?

Mr LEWIS replied:

I thank the member for the question. I would like to reflect on the fine contribution that was made by the member for Darling Range in chairing the Darling Range regional park consultative committee.

Dr Watson: It was my suggestion.

Mr LEWIS: Is the member for Kenwick taking all the credit? There will be three mechanisms to preserve the rural ambience that exists within the proposed park. The first mechanism will be via the provisions of the Metropolitan Region Town Planning Scheme Act, where it is thought appropriate by the Western Australian Planning Commission. Areas that are under public ownership will be included automatically in omnibus amendments and reserved. Areas which are in private ownership may also be included under certain circumstances and will be subject to the processes of amending the regional scheme. The second mechanism will

be via the six town planning schemes which exist in those local authorities which are associated with the park, whereby some of those schemes have prescribed landscape protection, and those clauses can be used. The third mechanism will be via consideration by the Western Australian Planning Commission of incorporating a section 5AA policy which could prescribe for the protection and conservation of remnant bushland and the like. The first and last mechanisms will be subject to further work by the Western Australian Planning Commission and the planning processes that prevail.

INDUSTRIAL RELATIONS LEGISLATION - SECOND WAVE

543. Mr McGINTY to the Deputy Premier:

I refer to the apparent breakdown in talks between the Trades and Labor Council and the Government about the Government's second wave industrial relations legislation, which was described in *The Australian Financial Review* this morning as undermining workers' rights and spelling disaster for industrial relations in this State.

(1) Does the Deputy Premier agree with *The Australian Financial Review*'s description of the legislation as "draconian"?

(2) Does the Deputy Premier agree that if the second wave industrial relations legislation became law, it would cause damage to our trading reputation and economy?

(3) Will the Deputy Premier recommend the withdrawal of the Bill to permit more sensible proposals to be developed and discussed over the summer months?

Mr COWAN replied:

(1)-(3) I am not aware of the article in the *The Australian Financial Review.* Industrial relations are the responsibility of the Minister for Labour Relations and the member might direct the question to him and receive a more up-to-date answer. Cabinet determined that the industrial relations legislation would be taken back to both employer and employee groups and renegotiated and, at the conclusion of those negotiations, the Minister for Labour Relations would return to Cabinet with proposed changes, if any, to that legislation. I understand that the Minister has undertaken to do that and that he will be returning to Cabinet with changes, if there are any.

Mr Taylor interjected.

Mr COWAN: Until he returns to Cabinet with any proposed changes the responsibility remains with the Minister for Labour Relations. I am sure, having conducted those negotiations, he will come back with any changes he believes are warranted.

Dr Gallop: There is a bit of distancing from the Deputy Premier going on.

Mr COWAN: Not at all. This was discussed in Cabinet. It was agreed that the legislation would be back on the table for discussion and renegotiation. The Minister has undertaken to do that. We will not know what he has done until he has reported back to Cabinet.

HEALTH DEPARTMENT - PRIVATISATION OF SERVICES
Risk of Infection Statement

544. Dr HAMES to the Minister for Health:

It was stated in the media that a report into building related services in the Health Department said that privatisation of services could cause the spread of HIV and legionnaire's disease. Will the Minister inform the House of the accuracy of that statement?

Mr KIERATH replied:

That comment by a member of the other place, Hon Kim Chance, is an outrageous statement. It is completely false. A section of the report which referred to risk management pointed out the risks if one does not have suitable sterilisation procedures. If one does not have the proper risk controls for infection, there could be a problem. That would occur anyway, whether in the private or public sector. It is a question of procedures. Hon Kim Chance did not say that that statement was in a section of the report dealing with risk management under the heading of technical risks. I am happy to table the report if members wish to look at that part. It simply reads that if any person fails to sterilise properly there will be a risk of infection. That is commonsense. How one can turn that around to be anti-privatisation is beyond me. The opposite of that is that if somebody does not do that in the public sector there will be no chance of risk infection. That is rubbish; of course we can have infection in the public sector. It has nothing to do with public or private payrolls and everything to do with procedures. The report goes on to say that one of the benefits of privatisation is the codification of treatment regimes.

Point of Order

Mr TAYLOR: I refer to Standing Order No 127. It is quite clear to me that the Minister is alluding to a debate in this current session in the other place, and under that standing order that is not allowed.

The SPEAKER: The member is correct that it is not appropriate to debate here what has already been debated in the same session in the other place. That standing order is designed for several reasons, one of which is to prevent quarrels between the two Houses. I have not been able to ascertain that was happening, but if that was happening I direct the Minister to cease to do that.

Questions without Notice Resumed

Mr KIERATH: I was simply referring to an article in *The West Australian* on 1 November, which was yesterday. The article by John Duffy states -

> Privatising parts of WA's public hospitals could lead to the spread of the HIV and legionnaire's disease, a Government-commissioned report has warned.

It states further: "The issue was raised by Opposition MLC Kim Chance . . ." That article is in the public domain; it is not about something that went on in the Chamber. Members opposite do not like that they have been caught out again. They try to scare people out of their wits. They know that it is a dishonest and disgraceful scare campaign; that is why they are sensitive about it. A report by the federal Industry Commission - a body set up by the Federal Labor Government - has come out in favour of contracting and privatisation. It says that in the west we are going well. More importantly, it says that one of the most outstanding examples of success is Hollywood Private Hospital. If the Opposition were right, it would mean that because it is now done in the private sector, no veterans would be left. Everybody who was treated there would be infected and would have died. What an outrageous, ridiculous comment to make. It shows the level the Opposition has reached. It cannot have an intellectual argument in any manner, shape or form.

Dr Gallop interjected.

The SPEAKER: Order! I ask the Minister to bring his answer to a conclusion.

Mr KIERATH: I was on my last comment or two. This is one of the crudest scare campaigns I have seen. It shows the depth to which the Opposition has descended to score cheap political points.

HEALTH DEPARTMENT - REPORT ON THE REVIEW OF BUILDING RELATED SERVICES

Risk Management; Technical Risks

545. Dr GALLOP to the Minister for Health:

I refer the Minister to a section in Arthur Andersen's "Report on the Review of Building Related Services" entitled "Risk Management" that states -

> During the course of our review we identified a number of risk management issues. These issues must be addressed prior to any decision to contract out building related services.

One of those issues is called technical risk. I point out to the Minister also that under the heading "Technical Risks" the report states -

> Technical risks can be caused by the contractors failing to bring appropriate skills to the contract . . .
>
> Specific examples of failures of this nature are . . .
>
> Spread of HIV, through defective sterilisation;

Is it not the case that in fact the Minister for Health is misleading the public about this report, and that Hon Kim Chance has rightly pointed to a major problem that could exist in the contracting out of building services?

The SPEAKER: Order! That question is of such a nature that it could put a person answering it in a difficult position, as I explained a moment ago with reference to the standing order to which the member for Kalgoorlie referred. I must correct the Minister. Just because something is an account in a newspaper of a debate in the Legislative Council does not make it appropriate to use that article.

Mr KIERATH replied:

I seek leave to table page 57 of the report. The report looked into the issues of privatisation and contracting out.

Dr Gallop: That is one of the risks.

Mr KIERATH: The member for Victoria Park is in grave trouble if he cannot understand that it is just in an area entitled "Technical Risks" and is a risk assessment of anything.

Dr Gallop: Just technical risk!

Mr KIERATH: It is. It is an area a good report would consider. The member for Victoria Park is right: It lists examples of failures. It states that that issue must be addressed. However, the Opposition does not understand that the issue must be addressed no matter who does it. This is not exclusive to the private sector. It has to be addressed in the public sector. One of the reasons for that is that we have golden staph in our hospitals. That has predominantly occurred in our major public teaching hospitals.

Mr Taylor: No, it has not.

Mr KIERATH: Yes, it has, and we have a range of procedures to prevent it.

Dr Gallop: What evidence does the Minister have for saying that? He has no evidence for that.

The SPEAKER: Order! There are interjections and there are interjections. Interjections, like those from the Deputy Leader of the Opposition where he seems to think that many of us have hearing problems, are reprehensible. As my former colleague used to say, they are reprehensible in the extreme. All interjections are disorderly, but shouted interjections are extremely disorderly.

Mr KIERATH: In answer to the last point, which must have been the third or

fourth supplementary question, golden staph has been found at Sir Charles Gairdner Hospital and Royal Perth Hospital. I can provide the information as I was recently in Jakarta with the CEOs of Sir Charles Gairdner and Royal Perth Hospitals and we discussed the issue of golden staph in the hospitals because, when the experts come over here, they object to the swabs that we take before we allow them into a hospital. They believe that that practice should not be required because it is not required in other hospitals around the world. That is how I know specifically about the issue.

The report is very comprehensive. It considers all risks including technical risks and business risks. It identifies all the possible risks so that they can be addressed. The point is that where defective sterilisation occurs, it does not matter whether it involves a public hospital, a private hospital or anything in between. My point, which the Opposition cannot stand, is that there has not been a reduction in standards of infection or sterilisation in Hollywood hospital, which is the one hospital to be privatised. In fact, the Federal Government report states that it is an outstanding feature, a model to be followed, and that there should be more like it. That is what the Opposition's federal counterparts have said.

Dr Gallop: No, they have not.

Mr KIERATH: Yes, they have. It is this Opposition which is out of step. Other state Labor Governments, the federal Labor Government and coalition Governments are all in step. Only one group in this country is out of step and that is the state branch of the ALP.

[See paper No 666.]

ROAD CROSSINGS - MARGARET RIVER SCHOOLS, BUSSELL HIGHWAY

546. Mr BLAIKIE to the Parliamentary Secretary to the Minister for Education:

With the continuing increase in student numbers at the Margaret River Primary School, the Margaret River High School and, latterly, the Thomas More Catholic School requiring students to cross the busy Bussell Highway, what consideration has the department given to providing a manned crosswalk to ensure student safety? This is an ongoing festering sore which has caused the community some concern and I would appreciate the Minister's response.

Mr TUBBY replied:

I thank the member for some notice of this question.

The Minister for Education has provided the following reply -

As the member for Vasse knows, as a general rule guarded crosswalks are not provided for secondary students. However, a couple were provided prior to 1985 when the policy was changed and secondary schools were excluded. There are also a couple in the State which have been provided and paid for by the local community and for which signage has been provided by the department.

However, in the case of Margaret River, following consistent lobbying by the member for Vasse over a long period, and a submission earlier this year, the situation is being reassessed. A new vehicle and pedestrian count has been carried out by the Margaret River police and the matter will be considered at the November meeting of the road crossings committee. When the response is available, I will advise the member further.

HOSPITALS - COUNTRY

Contracting Out, Deputy Premier's Concerns; Revised Policy

547. Dr GALLOP to the Deputy Premier:

I refer the Deputy Premier to his letter of 20 October which was sent to general managers of country hospitals and which makes reference to the "financial costs" and costs "in terms of human resource uncertainties and difficulties involved" of

contracting out, and also to the use of in-house providers as making a "lot more sense from a regional development point of view".

(1) Have any hospitals taken up the Deputy Premier's offer of assistance from the Department of Commerce and Trade in relation to contracting out?

(2) Is the Deputy Premier satisfied that the Minister for Health and the Health Department will respond positively to his concerns?

Mr COWAN replied:

(1)-(2) I thank the Deputy Leader of the Opposition for this question because I can inform him that they have already responded positively to that letter. As a consequence of that letter and discussions in Cabinet there has been a very positive response at ministerial level, from Cabinet and from hospital boards.

Mr Taylor: How did the Minister for Health respond to the letter?

Mr COWAN: Members opposite would know that the Government has gone through the process of establishing hospital boards throughout many country areas. Some of those boards are in the process of being instituted. This was one of the first questions that they had to address; that is, the matter of contracting out non-core services.

As a consequence of my letter, there has been an examination of this whole issue. I understand that the Minister for Health will bring to Cabinet a revised contracting out policy to be sent to hospital boards and hospital administrators. The principles contained in that policy - and I hope I am granted the liberty of outlining some of them - include a number of prerequisites. The policy recognises that the Government's competitive tendering and contracting approach comprises a number of parts. First, hospitals can contract out non-core services; secondly, assistance can be given to those officers within a hospital or within a government agency to establish their own operation or company and put together an employee buyout; or, thirdly, there can be a continuation of the existing situation based on bench marking so that officers can meet certain standards. All of those conditions will be applied.

However, there has been a lot of cooperation, not only between hospitals but also with the Health Department in relation to engaging the expertise within the Department of Commerce and Trade. For example, the department can assist those people who want to take part in an employee buyout in a way that will allow them to manage their own company and to operate it very well and very efficiently.