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LEGISLATIVE COUNCIL

Wednesday, 8 September 1999

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 4.00 pm, and read prayers.

MATTER OF PRIVILEGE

Point of Order

Hon TOM STEPHENS: I seek your guidance, Mr President. I sought to speak to you immediately prior to the meeting of the House.

The PRESIDENT: I was at a meeting.

Hon TOM STEPHENS: I appreciate that, and I apologise for seeking your guidance in this way. I need to rise on a matter of privilege. I understand that I must rise at the first opportunity to give the House the chance to consider a substantive motion outlining the area in which the privileges of the House have been abused, and where the House, in the view of the Labor Opposition, needs to take steps. Is it proper for me now to proceed?

The PRESIDENT: Standing Order No 155 provides -

Whenever a matter or question directly concerning the privileges of the Council, or of any committee or member thereof, has arisen since the last sitting of the Council, a motion calling upon the Council to take action thereon may be moved, without notice, and shall, until decided, unless the debate be adjourned, suspend the consideration of other motions and orders of the day.

If this is the first opportunity the Leader of the Opposition has had to raise an alleged breach of privilege which has occurred since the last sitting of the Legislative Council, he is in a position to raise it with the House.

As to Motion

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.04 pm]: I explain from the outset that my comments will be brief. Also, it is intended that I will be the only Labor speaker on this motion.

The PRESIDENT: Order! I appreciate that that may be the intention of the Leader of the Opposition; however, he must first move a motion, and then tell us whether he will be brief. What is the motion the member wants the House to consider concerning an alleged breach of privilege?

Hon TOM STEPHENS: The motion I would move is as follows -

Hon Norm Kelly interjected.

Hon TOM STEPHENS: If my colleague who interjected listens carefully to the motion and its supporting argument, I hope he will be persuaded to vote for it.

The PRESIDENT: Order! Tell me what the motion is, as it may be out of order and we will be wasting our time.

Hon TOM STEPHENS: The motion is -

That the Minister for Transport be judged guilty of a contempt of the House by reason of the answer that he gave in response to a question asked on 17 August and further information supplied to the House on 19 August by the minister which contain deliberately misleading and contradictory statements as to the commonwealth and state contribution to Western Australia's road funding.

The PRESIDENT: I now need a copy of the motion, and for a copy of it to be distributed to all interested members.

Points of Order

Hon PETER FOSS: I am concerned to know what has happened since the last sitting of the House which enables the motion to be considered. The dates mentioned so far are 17 and 19 August, both of which seem to be sufficiently long ago for a motion to be presented on notice.

The PRESIDENT: That is one reason for my need of a copy of the motion. I thought some earlier words of the Leader of the Opposition indicated that more than only the alleged statements on the 17 and 19 August were involved. I need a copy of the motion to see whether it falls within standing orders.

Hon TOM STEPHENS: On the same point of order, the House needs to know that I took the opportunity yesterday during question time to give to the Minister for Transport the first available chance to respond to the contradictory and, in the view of the Opposition, deliberately misleading information he attempted to supply to this House on these matters. Instead of at that time providing an apology either for his previous attempts to mislead the House or his supply of contradictory information, he gave the House the flippant response -

Hon N.F. MOORE: I understood we were hearing from the Leader of the Opposition on a point of order already raised. I think he is debating the issue.

The PRESIDENT: I was about to raise that issue. The Leader of the Opposition seems to be responding to the point of

order raised by the Attorney General by indicating that some action he took in the House yesterday confirmed the content of his motion. Is that right?

Hon TOM STEPHENS: Yes.

The PRESIDENT: There is no need for the Leader of the Opposition to stand. I am trying to fathom what he is getting at. If what I say is correct, this is the first occasion on which that information could be brought before the House. It may be that the motion should have been couched in different terms. However, given what has been said by the Leader of the Opposition, I will have to consider it.

Hon PETER FOSS: On a further point of order, as I understand it, the Leader of the Opposition is saying that the contempt of the House happened in August. He said further that he gave an opportunity for the minister to apologise for that contempt and to be purged of it yesterday. That does not mean that the contempt did not supposedly occur on 17 or 18 August or was first learnt of today. This motion could be moved without notice at any time. First, I believe that it could have been moved yesterday, and, secondly, I do not believe what the Leader of the Opposition has said by way of what happened yesterday in any way alters the fact that he is alleging a contempt of which he obviously formed an opinion even before yesterday's question was asked, otherwise he would not have asked the question. Therefore, I believe this is not the first opportunity, that in fact the time has passed and if he wishes to move it, he should move it on notice.

Hon Tom Stephens interjected.

The PRESIDENT: There is no need for the Leader of the Opposition to speak to the point of order. Let me answer the Attorney General. As I understand it, the Minister for Transport is said to have made certain responses to questions asked in this House on 17 and 19 August. Yesterday the Leader of the Opposition apparently invited the Minister for Transport to comment on the subject matter of the issues raised on 17 and 19 August. It is in part as a result of the answer given yesterday that the Leader of the Opposition now alleges that the Minister for Transport is guilty of a contempt. My reading of Standing Order No 155 makes it clear that this is the first opportunity the Leader of the Opposition has had to raise the alleged question of contempt. I do not understand why it is said that because the contempt apparently relates to answers on 17 and 19 August, that in itself precludes anyone from moving a motion today when apparently - I say only "apparently" because I have no knowledge of the alleged claim - the Leader of the Opposition claims he received information yesterday from the minister which contradicts something said on 17 and possibly 19 August.

Hon PETER FOSS: My understanding is that was not what he was saying. We need to find out what he is saying. However, if one can revive a contempt merely by asking a question and saying that one did not get an apology yesterday, Standing Order No 155 would be available to everybody simply by asking another question. Standing Order No 155 would be set at naught if that were the case. My understanding of what he said was not that anything said yesterday was misleading, but merely that the minister did not take advantage of yesterday to purge his contempt. If that is the case, we have a problem with Standing Order No 155 because one could always use Standing Order No 155 to revive anything simply by saying that one will not give notice of motion but will merely stand up, ask the question again and say there is a new contempt and one can move a motion.

Several members interjected.

President's Ruling

The PRESIDENT: Order! This is a very serious matter. I want to deal with it in a serious way.

I do not necessarily agree with the remarks of the Attorney General. I assume we are talking about a question on road funding that was raised in question time, a copy of which has now been handed to me. I do not believe the Minister for Transport was asked yesterday to purge his alleged contempt. I understand the Leader of the Opposition to have said that, because of an answer given yesterday, he now believes a contempt has been committed when the answer given yesterday is joined with other answers on a particular subject. That is what I understand has been said. If that is the case - as I say, I will not do the bidding of anyone in this place - now is the time to raise the issue; that is, the first opportunity since the House has sat.

Hon TOM STEPHENS: That is the case.

The PRESIDENT: Then the Leader of the Opposition has the right to move the motion. The Minister for Transport in due course will have the right to respond. For the information of members so that they are not confused, standing orders also allow the matter to be adjourned, if that is the decision of the House, otherwise the matter can be completed.

Point of Order

Hon PETER FOSS: I do apologise, Mr President, but may I ask that the member seek leave to amend his motion in that case? If he is alleging that the answer yesterday when read with the others constitutes the contempt, the motion should say that. If he cannot make that out, the motion should be lost.

The PRESIDENT: The member can seek the leave of the House to amend the motion if he wants to.

Debate Resumed

Hon TOM STEPHENS: Mr President, in view of the fact that you have already ruled that my motion as moved is in order, if you continue to sustain that ruling, I will proceed to speak to the motion as I have now moved it.

The PRESIDENT: Before the Leader of the Opposition does, the only reason that I am suggesting that this motion is in

order is that he provided additional information to the effect that he was basing his comments - that is the allegation of contempt - on information that he received yesterday during question time and, as I understand it, from an answer to question 121 of Tuesday, 7 September, which I was given a moment ago.

Hon TOM STEPHENS: I intend now to proceed.

Point of Order

Hon PETER FOSS: I have not raised the question of whether the motion is in order. Mr President, until you ruled that that was the basis on which the motion could be brought now, I did not know that was the basis upon which the Leader of the Opposition was alleging it. If he alleges that the reason he can bring it is because of something that happened yesterday, I take the point of view that it is out of order unless that is included in the motion. I had not taken that point because until I understood what was the basis of the motion, I could not do so. However, I now take the point of order that unless he amends it, it is out of order.

The PRESIDENT: Having heard the Attorney General and having had to elicit certain information from the Leader of the Opposition in respect of what he meant, I rule that unless this motion is amended to include words indicating that the motion is moved in light of an answer given by the minister yesterday, that is 7 September, the motion will not be debated today.

Debate Resumed

Hon TOM STEPHENS: With your forbearance, Mr President, could you advise me further on whether I am now in a position to move an amended motion? I would move -

That the Minister for Transport be adjudged guilty of a contempt of the House by reason of the answer that he gave in response to a question asked on 17 August and further information supplied by the minister on 19 August to the House, when taken in conjunction with the answer given to the House by the minister in response to question 121.

The PRESIDENT: Yes. It would be helpful if the Leader of the Opposition put "on 7 September". If it is his wish to seek the leave of the House to amend the motion that he has already moved in the terms that he indicated a moment ago, that is in order and he can do that. If he does that, and on the basis that he gets leave, we will have a motion that is able to be debated, but it is up to the House to decide whether it wants to give leave. Is the Leader of the Opposition seeking the leave of the House?

Hon TOM STEPHENS: I would seek your further advice on that, Mr President. If I were to seek leave in those terms and leave were to be denied by a single voice, would I be in a position subsequently to move the fresh motion as amended without having to go through the convoluted process of seeking leave?

The PRESIDENT: The answer is yes, on the basis that if you were not to be given leave the motion would be put to one side. If you were then to stand and, under Standing Order No 155, move a motion couched in proper terms as a matter of privilege, you could move the motion.

Hon TOM STEPHENS: I seek leave of the House to amend my motion in the manner that has been suggested so helpfully by you, Mr President, and the Attorney General.

The PRESIDENT: Do not bring me into the debate. I have tried to be helpful to you as I would be to any other member. Do not imply by your comment anything about the assistance given to any member.

Hon TOM STEPHENS: I am not implying anything.

The PRESIDENT: The Leader of the Opposition seeks the leave of the House to amend his motion in the manner that he has stated.

Leave granted.

The PRESIDENT: Before we start, I want each member to have a copy of the motion so that we know what we are talking about.

MINISTER FOR TRANSPORT

Answers to Questions - Motion

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.20 pm]: I move -

That the Minister for Transport be adjudged guilty of a contempt of the House by reason of the answer that he gave in response to a question asked on 17 August and further information supplied by the minister on 19 August when taken in conjunction with the answer given on 7 September to the House by the minister in response to question 121 which contain deliberately misleading and contradictory statements as to the commonwealth and state contribution to Western Australia's road funding.

Members will be familiar with the fact that motions moved against ministers are taken very seriously by political parties. This issue was under active consideration by my own colleagues as late as 3.30 pm today. Immediately after my colleagues made a final decision on this matter I sought the advice of the Table as to how one would proceed with the motion. That was done quickly but, regrettably, not smoothly given the way I brought this serious matter to the House.

On Tuesday, 17 August the Minister for Transport told the House that road funding amounted to \$806m. The allocation made to national highways was \$50.3m; to roads of national importance, \$10m; to the black spot program, \$4.3m; and to interstate road transport, \$700 000. I am referring to *Hansard*, page 211. That amounts to a commonwealth contribution of \$65m, as announced in the Federal Budget of 11 May. Another allocation will be made to take the amount to \$65.94m. The state allocation will be \$741.45m. The information supplied to the House by the Minister for Transport raised concerns with opposition members because it conflicted with information that had previously been supplied to the Opposition. It was at odds with information in a document that detailed federal road funding to Western Australia that showed a figure of \$38.18m under the state financial assistance -

Point of Order

Hon DERRICK TOMLINSON: The member has not referred to the title of the document from which he is quoting. Would he please give us its source so that it may be tabled afterwards.

The PRESIDENT: The Leader of the Opposition is required to identify the document. Having done so, a member is at liberty to ask that it be tabled at the conclusion of the Leader of the Opposition's remarks.

Debate Resumed

Hon TOM STEPHENS: The document is entitled *Budget: 1999 - 2000 Federal Road Funding*. The document shows that the state financial assistance grants identified for roads is \$38.18m and the local government financial assistance to roads is \$53.97m, adding up to a total of \$167.72m and leaving the commonwealth allocation at \$108m.

Point of Order

Hon MAX EVANS: We are unable to follow this. I think that we should have copies of this document, which we have not seen, so that we might compare the figures. We should have a copy of it while he is speaking.

The PRESIDENT: That is not a point of order. Standing orders provide that a document must be identified if a member requests that - and that has occurred - and that a member may later ask that it be tabled at the end of the member's speech. I did say that I did not want to get involved in the debate, but it is entirely at the discretion of the Leader of the Opposition whether he would like to ask an attendant to make copies available.

Hon TOM STEPHENS: I will make available to any member copies of the document. It will assist the members to understand. I will give the minister the next piece of information first.

Debate Resumed

Hon TOM STEPHENS: On Thursday 19 August, question without notice 109 was deliberately asked to try to extract from the minister some understanding of what he had explained to the House two days earlier. The minister provided a detailed response to that question and gave figures that were at odds with those he supplied to the House two days previously. In that debate he supplied information that was subsequently shown to be misleading by the information supplied to the Labor Opposition and, in turn, at odds with the information in his answer on Thursday, 19 August. He thanked me for some notice of the question and said -

The total of road grant allocation to Western Australia for 1999-2000 is \$109.05m, excluding \$59.37m for road grants to local government. The \$65m referred to earlier related only to budget allocations for national highways, roads of national importance, black spots and interstate road transport funding. The current allocations from the Commonwealth are: National highways, \$55.94m; roads of national importance, \$10m; the black spots program, \$4.23m; interstate road transport, \$700 000; and untied road grants, \$38.18m. That is a total of \$109.05m. The additional \$38.18m comes to Western Australia as financial assistance grants and it is allocated to Main Roads for road purposes through the consolidated fund. All commonwealth road funds provided to Western Australia are allocated to roadworks.

The Labor Opposition contends that through his speech to the House and answers to questions asked of him, and regrettably other ministers in the other place, the minister has effectively used this House in an attempt to mislead the House about the true state of the funds allocated to roads by this Government. Specifically, this Government is suggesting that it has allocated additional funds of its own to road funding when, clearly, the information that has now come to the notice of the Opposition, first in the document tabled and then in the subsequent answer delivered to the House by the minister, shows that it has substantially come from commonwealth funds by virtue of the reorganisation of the commonwealth allocation to this State, rather than from the State Government's consolidated fund.

Yesterday the minister was given an opportunity of answering that question when it was detailed yet again in the question asked of the minister as follows -

On 17 August this year the minister said that the total state allocation for road funding this financial year was \$741.5m. On 19 August he acknowledged that the federal contribution this year would be \$109m.

The minister had that chance yesterday and he indicated to the House it would be sufficient for the answer to be put on notice. I pointed out to him yesterday that his first opportunity to do that was to respond during question time. His next opportunity was at any stage yesterday to come forward with the information that corrected the previous attempts he had made to mislead the House. He has not done that.

Several members interjected.

Hon TOM STEPHENS: The Labor Opposition treats this process of ministers being accountable to the people of Western Australia -

The PRESIDENT: Order! One member should be speaking at a time. This is a serious matter. I sometimes think that members who have joined the House in the past 10 years do not understand the seriousness of motions such as this. I want everyone to take it seriously. The only way we will do that is if I hear the speaker who has the call.

Point of Order

Hon PETER FOSS: I have only just received the documents that will enable me to understand the motion. The Leader of the Opposition is speaking faster and faster and making general statements. He has not yet let me even vaguely comprehend what he is accusing Hon Murray Criddle of wrongly saying. Surely the first thing he should do is make us understand him. If he were to slow down and explain it to us I would take it seriously. I cannot understand a word he is saying.

The PRESIDENT: Order! The Attorney General will understand that is not a point of order in itself. If the Leader of the Opposition were speaking another language, that would be outside standing orders. I am serious about this. I take the point generally. That is why I called for order in the House. If the Leader of the Opposition directs his comments to me, other members will not interject and we will all be able to hear what he is saying.

Debate Resumed

Hon TOM STEPHENS: It was my intention to have concluded this debate by now, which I will do. Surely the Minister for Transport knows the answers and the true situation with the road funding. Even now he has the opportunity of explaining to the House the truth of the situation. Why has he consistently embarked, through his answers both in debates and in question time, on a course of effectively misleading the House? I reiterate that although he has not taken the opportunity previously given him to correct that situation, he should do so now. He might find I will not persist with my motion and will not even want to put it to a vote. In the absence of his doing that I will want it put to a vote to see where everyone in this House lines up on the issue of ministerial accountability.

Hon Peter Foss: We do not know what you are talking about yet.

Hon TOM STEPHENS: The Attorney General has a severe case of invincible ignorance.

Hon Peter Foss: You gabble so fast that I do not understand what you are talking about.

The PRESIDENT: Order!

Hon TOM STEPHENS: I will conclude my remarks. I hope the Minister for Transport will explain why he has embarked on a strategy of misleading the people of Western Australia through his answers to questions asked in this Parliament about the sources from which funds have been allocated for the road building program in this State. He should bear in mind that he has boasted that this State has been increasing road building programs out of its own financial resources; yet the information is now available to show that that is far from the case.

In addition, although this is beside the point, the cost of that road building program no longer produces the cost effectiveness previously enjoyed. That is not the point of this debate; nonetheless, it is a salient point in the consideration of his actions as Minister for Transport in misleading the people of Western Australia through his answers and the debates in which he has engaged in this House.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [4.38 pm]: I have made no attempt to mislead any of the people of Western Australia. The embarrassing thing for the Opposition is that the Government has put in place a road funding program far in excess of anything the Opposition could even dream of. This has obviously struck a nerve within the Opposition. I have clearly outlined the funding arrangements. In response to the question asked by the Leader of the Opposition yesterday regarding the \$109m I said that I would provide the answer to the question on notice, so there has been no attempt whatsoever to hide the answer or to explain, as I thought I had done previously, federal and state government contributions to road funding in Western Australia.

Everybody clearly understands that the State Government is working seriously to upgrade Western Australian roads and has spent a great amount of federal and state government taxpayers' funds doing that. I outlined previously the commonwealth funding of around \$109m which will go into roads this year. As I indicated yesterday, there is a possibility of more funding from licensing arrangements. That may well happen by the end of the year, depending upon the income that the Government receives from that source.

The question asked yesterday by the Leader of the Opposition was -

On 17 August this year the minister said that the total state allocation for road funding this financial year was \$741.5m. On 19 August he acknowledged that the federal contribution this year would be \$109m. Does that mean that \$850.5m is being spent by Main Roads Western Australia this year on roads?

As indicated in the budget papers, Main Roads' total budget was \$806.8m, which comprises a state contribution of \$741m and a federal contribution of \$65.3m. As indicated in the response to the question on 19 August, the current allocation from the Commonwealth is \$109.05m, which is made up of national highways, \$55.94m; roads of national importance, \$10m; the black spot program, \$4.23m; interstate road transport, \$0.7m, as I indicated previously; untied road grants, \$38.18m. The untied road grants of \$38.18m are part of the federal assistance grants provided to the State by the Federal Government. These funds are provided to Main Roads through the State Government's consolidated fund and are therefore included in

the state contribution for accounting purposes. Therefore, the funding arrangements that have been put in place have been clearly explained. I wonder what the Leader of the Opposition is getting at. The road funding is explained in those figures. I wonder what all the fuss is about.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [4.42 pm]: This is a nasty motion, if one reads it carefully, by a person who is performing in a nasty fashion. I have been here for longer than most people. I have never known of an attempt made by a member to find somebody guilty of a contempt without the matter at least going to a committee.

Hon Tom Stephens: I will give you an example. You did it to me. I was found guilty.

Hon Ljiljanna Ravlich: Haven't you got a short memory, Mr Moore!

The PRESIDENT: Order! I am addressing my comments to all members. This is a very serious matter. For those members who have not had the opportunity or taken the time to read Erskine May's *Parliamentary Practice*, or other books on parliamentary practice, perhaps they might spend some time reading about a question of privilege and the potential effect on a member of a breach of privilege. I say that to demonstrate the seriousness of this motion. Members, please do not interject, and the Leader of the Opposition should not interject while the Leader of the House has his say.

Hon N.F. MOORE: The President's comments on this matter are timely, because we are dealing with an extremely serious matter. The Leader of the Opposition said in his speech that he hoped that by this time - that is, 45 minutes after the House started - we would have made a decision to hang, draw and quarter the Minister for Transport. It is an outrageous proposition that, first, this motion should land on the Minister for Transport's desk with no notice whatsoever, or perhaps five minutes notice - I received only 10 minutes notice.

The motion, which was eventually changed by virtue of the requirements of the House, relates to a question asked on 17 August. I have been through the *Hansard* of 17 August and looked at all the questions that were asked, and there is not a question on notice or a question without notice that relates to this matter. That is why I asked the Leader of the Opposition to which question number he was referring.

The facts of the matter are that on 17 August the Minister for Transport made a speech in the House during an urgency motion, and he provided information to the House. That is different from a question being asked. When a motion like this lands on one's desk and one looks through the questions without notice section of the *Hansard* to try to find out which question the Leader of the Opposition is talking about and one cannot find such a question, it makes it difficult to respond quickly to the allegations being made by the Leader of the Opposition on what is a serious issue. The Leader of the Opposition talked about further information provided. Then we eventually heard that he asked a question yesterday. The Minister for Transport responded to that question by saying that the Leader of the Opposition should put the question on notice and he would provide him with the information. That was a pretty reasonable response. In fact, it was a good response because the minister wanted to double-check the figures which he suggested to the Leader of the Opposition might well have changed since the previous answer concerning licence fees and things of that nature was given.

Putting a question on notice does not mean that a member must stand up some time on the same day and give an answer. Putting a question on notice means that it is put on notice, the question goes through the processes, and the answer is eventually provided in the Supplementary Notice Paper. I suspect that it would be then, if a member did not get an answer he wanted, that he might consider a question of privilege.

Hon Bob Thomas: You did not listen to what the Leader of the Opposition said.

Hon N.F. MOORE: I could not hear what he said and I could not understand him, which is my next point. We sat here desperately trying to ascertain what he was talking about. I suspect that that interjection is right. I do not think the member who moved this motion and spoke to it knows what he is talking about.

Hon E.R.J. Dermer: That is an outrageous proposition.

Hon N.F. MOORE: It is a fact. For the reasons the President outlined in his advice to the House a moment ago about this being an important issue, I sat here waiting for the Leader of the Opposition to make out his case. For a number of reasons it was difficult to come to a conclusion about his case because, firstly, he spoke so quickly I could not keep up with it; secondly, what he said did not make a lot of sense; and, thirdly, at the same time as he was speaking, I was trying to find in *Hansard* the questions to which he was referring. As I said a minute ago, no question was asked on 17 August.

Hon W.N. Stretch: Not in this House anyway.

Hon N.F. MOORE: Maybe a question was asked somewhere else.

Hon W.N. Stretch: That is what I am wondering.

Hon N.F. MOORE: Maybe that is the case, but he should have told us if that is the case. The information in *Hansard* on 17 August was provided by the minister during a debate. It was not an answer to a question; he was making a speech.

Hon Tom Stephens: A question was before the Chair.

Hon N.F. MOORE: If the Leader of the Opposition wants a genuine, proper analysis of this issue, why did he not put in his motion -

Hon Bob Thomas: Did you look up the urgency motion?

Hon N.F. MOORE: I did. Eventually that is where I found it. Since when is an urgency motion a question?

Hon Tom Stephens: It is a question before the Chair.

Hon Bob Thomas: That is true.

Hon N.F. MOORE: Let us put that issue to one side for a moment, because it is pedantic.

Hon Bob Thomas: No, it is not.

Hon Tom Stephens: It is a substantive motion. Do you think it is good enough for your ministers to mislead the House?

The PRESIDENT: Order!

Hon N.F. MOORE: We are dealing with a serious issue. Either the Leader of the Opposition wants a serious decision out of this debate or he wants to try to score political points. If he wants to score political points, he will give the other side no information at all, make a speech saying that the minister has misled the Parliament and that he will not tell the people what is going on - all the things he has already told us - and then sit down and hope that the Press will write a story about it and that will be the end of it. Alternatively, the Leader of the Opposition could be genuine in his desire to get the truth. If that was his motivation, his motion would have talked about details in response to information provided by the minister in his speech on a certain date in respect of a certain motion so that we could find out what he was talking about. He may well have then provided further information in this motion so that we would know what he was talking about.

Hon Tom Stephens: I gave that information to you and your colleagues as I was speaking and in the moments before I spoke.

Hon N.F. MOORE: The Leader of the Opposition now confirms the point I am trying to make. He is not interested in finding the truth; he is interested only in making a political point. If he wanted this to be dealt with properly and in the way that it would normally be dealt with in other circumstances, he would have given us the information, let members know in a lucid way what his concern was so that we could all understand it, and he would then have contemplated in his motion a committee of privilege, because that is what normally happens when somebody is -

Hon Tom Stephens: If you wish to amend the motion, do so.

Hon N.F. MOORE: I will not amend the motion because the motion should be thrown out on its ear. I hope the House does that. The Minister for Transport has already clearly pointed out that what he said was accurate. He has explained it to the House.

Hon Tom Stephens: The first time or the second time? Which was accurate?

Hon N.F. MOORE: The House will judge that. It is a pity that the Leader of the Opposition did not make his case in a way people could understand what he was talking about. I was sitting here while the Leader of the Opposition was speaking, genuinely waiting for him to make a point that I could understand so I could make a judgement. He has not made out his case. The House, quite properly, will say this is not acceptable and will not agree to this motion.

I conclude as I started: It is a nasty motion, a nasty attempt by the Leader of the Opposition to score political points against a Minister for Transport who is highly respected by members of this House, to suggest that the minister is guilty of contempt by reason of making misleading statements. The Leader of the Opposition does not simply say that the minister did that, but that he deliberately did that. To suggest the Minister for Transport, a person we all know well, would mislead the House deliberately is the sort of nasty thing I have come to expect from the Leader of the Opposition, regrettably.

This motion should be treated with the contempt it deserves. It should be tossed out and the Leader of the Opposition should go back to the drawing board. If he has a problem about issues raised in the House, he should at least go through a process which gives every member a chance to respond, by giving a little notice, so we understand the issues and can make a considered decision, instead of his trying to score political points at the expense of his opposition.

HON PETER FOSS (East Metropolitan - Attorney General) [4.51 pm]: I take this matter very seriously. The points of order that I raised at an early stage were an attempt to put what I believe is the appropriate way of charging the Minister for Transport. We are judging him as being guilty of contempt, of criminal behaviour. Let us look at what is suggested to be the contempt. In a court of law we would have to answer particulars to this. We would have to set out the respects in which the minister was guilty of contempt. I did insist on knowing what was contained in that contempt. We found out that it relates to a debate on 17 August and a question on 19 August, and then the motion was amended to add another question that was asked yesterday.

We hoped that during the lead speech we would hear what those particulars were. As soon as of the Leader of the Opposition commenced speaking, I asked to have the pieces of paper to establish it. I thought I would need them in front of me to understand the argument being made by the Leader of the Opposition, to find out, first, what things were wrong in the statement, what was misleading and what was contradictory. I gained the impression that the Leader of the Opposition did not know. He spoke faster, and faster and faster, no matter what I tried to say to urge him to tell us what was wrong, let alone deliberately wrong, and to give us the particulars. At the very least, the Minister for Transport is entitled to know the case against him. Even if the House decides not to believe it, the minister is entitled to know the case against him. The Leader of the Opposition gabbled away. Frankly, I share with the Leader of the House and the Minister for Transport a total lack of comprehension about the case made by the Leader of the Opposition.

Hon Tom Stephens: If you sit down, I will sum it up for you and give you another chance.

Hon PETER FOSS: First, I do not believe the speech in favour of this motion has established anything capable of being considered a contempt. Secondly, the contempt being alleged by the Leader of the Opposition and which must be proved is that the minister deliberately misled and made contradictory statements. Not the slightest shred of evidence was given in an attempt to do that. Not only did the Leader of the Opposition not tell us what was misleading, he did not even try to tell us why it was deliberately misleading. If there has been an abuse of the processes of this House, it has been by the Leader of the Opposition. I insisted that he tell us what happened since 17 and 19 August because if he could not show something since then, he was not entitled to use Standing Order No 155. He amended his motion to allege that it was contained in what happened on 7 September. This is the answer that supposedly crystallised and showed the deliberately misleading statements. The relevant question states -

On 17 August this year the minister said that the total state allocation for road funding this financial year was \$741.5m. On 19 August he acknowledged that the federal contribution this year would be \$109m. Does that mean that \$850.5m is being spent by Main Roads Western Australia this year on roads?

The answer states -

I will need to clarify that figure because a couple of changes have been made regarding some of the funding that has been made available . . . That figure will certainly change. Some funding changes will possibly occur from the licensing revenue. I will provide an answer on notice.

I think that part was added to take advantage of Standing Order No 155, but there is no way that anything said has the capacity that the Leader of the Opposition says it has.

There is only one abuse of the processes of this House, and that is the action by the Leader of the Opposition. He has manipulated the matter to bring it up as a motion without notice. If he genuinely believed there was a contempt, he should have given notice of a motion, and detailed in it what was false and misleading and why it was deliberate. Frankly, this motion and the attempt by the Leader of the Opposition to give particulars of it have not even established something being a contempt.

There are two points about this. The first is whether this motion is capable of showing something which is a contempt. I believe that is a matter for you, Mr President, to decide. If the motion does not disclose the possibility, it should not be going to the House as the judge of whether it is a contempt. It seems quite clear to me so far that what has been put up by motion and said by way of particulars, clearly discloses that there is no matter capable of constituting a contempt. No suggestion has been put up, which the minister could reply to, which could be capable of being a case against him. Consequently, Mr President, I ask that you should rule that what has been put up to date is not capable of constituting any contempt and, therefore, the matter should not even be put to the vote.

The PRESIDENT: Order! Is the Attorney General formally asking me to rule?

Hon PETER FOSS: Yes.

The PRESIDENT: Order! Could the Attorney General explain what he formally wants me to rule on? Is it the motion or the issue raised during the comments of the Leader of the Opposition?

Hon PETER FOSS: There are three matters, Mr President: First, I ask you to rule that the motion as moved is not capable of constituting a contempt; secondly, that even as particularised by the Leader of the Opposition, it is not capable of constituting a contempt; and, thirdly, that as finally detailed, there is no case for the minister to be called upon to answer.

The PRESIDENT: Order! The Attorney General has invited me to rule on a number issues. Those issues will need some time for me to do that. Accordingly, I advise the House that I will consider the issues and come back to the House. That is not to say that I will rule on those issues. Firstly, I will consider whether I have the authority to rule. Secondly, if I have the authority, obviously I will consider the points raised by the Attorney General. I will do that as soon as is practical, but I suggest that will now be after the dinner suspension. We will now have to take questions without notice.

[Continued on page 836.]

[Questions without notice taken.]

FORRESTFIELD MARSHALLING YARDS, AMENDMENT TO METROPOLITAN REGION SCHEME

Statement by Attorney General

HON PETER FOSS (East Metropolitan - Attorney General) [5.39 pm]: The Forrestfield marshalling yards have been progressively downgraded since their peak period of operation in the 1970s. Westrail, the owner, has decided that most of the land in the yards is surplus to its needs, and it will consolidate its existing operations into a much smaller area. The land contains marshalling yards, rail lines and buildings for storage, servicing and maintenance. Under the amendment, most of the marshalling yards area is to be transferred from the railways reservation to the industrial zone. The regional road reservation will be removed from Dundas Road between Tonkin Highway and Wittenoom Road and replaced by urban and industrial zones.

The Western Australian Planning Commission received 39 submissions on the amendment when it was advertised for three months from May 1998. However, most related to concerns about the future of the local road network and not directly to the amendment. Eight submissions relating to environmental issues were referred to the Environmental Protection Authority.

The Minister for the Environment has set some conditions, and these will be incorporated into the metropolitan region scheme. As a result, all of the relevant environmental issues will be satisfactorily addressed. The Planning Commission modified the amendment after considering the submissions to realign part of the proposed regional road reservation within the marshalling yards site. The amendment allows for the sale of surplus railway land through rezoning and subdivision into lots primarily for industrial use. This will give opportunities for further industrial development and employment in the area.

CITY OF ALBANY

Petition

Hon Norm Kelly presented the following petition bearing the signature of one person -

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia, request an appropriate Committee of the Parliament to examine the following issues of community concern in regard to the City of Albany:-

- i) Albany Foreshore Development
- ii) Rainbow Coast Waste Management Services
- iii) Disposal of Used Tyre Dump
- iv) Administration of Councils Town Planning Schemes
- v) Minutes & Records of Meetings
- vi) Valuations for Leases and Rating of Council & Private Property
- vii) Engagement of Consultants
- viii) Regional Saleyard Development

Your petitioners respectfully request that the Legislative Council will, as a matter of urgency place these matters before an appropriate Committee of the Parliament in order that the unity of the first elected Council of the City of Albany may not be jeopardised by these community concerns remaining unresolved.

And your petitioners as in duty bound, will ever pray.

[See paper No 144.]

ADDRESS-IN-REPLY

Amendment to Motion, as Amended

Resumed from 7 September on the following amendment moved by Hon Bob Thomas -

That the following words be added to the motion, as amended -

And further advises His Excellency of the Legislative Council's concern with the failure of the Liberal National Party coalition Government to properly handle the RFA process and, in particular, its failure to meet the needs of timber industry workers, their families and their communities who are adversely affected by the outcome.

HON BARRY HOUSE (South West) [5.42 pm]: At the outset, I have a point to clarify with you, Mr President. I have not spoken in this debate previously. I wish to make some comments on the amendment. I do not wish to enlarge on those comments at this stage, but I want to reserve my right to speak later.

The PRESIDENT: No. On reflection, Hon Barry House will recall that once he speaks on the amendment he is deemed to have spoken on the motion because this is the first time he is speaking on this issue.

Hon BARRY HOUSE: I commence by praising the work that His Excellency the Governor, Major General Michael Jeffery, and his wife, Marlena, have done in the interests of Western Australia in the past six years. They have been superb ambassadors for this State. They have worked very hard in the interests of all the communities with which they are associated. They have a particular rapport with the people of Western Australia, which will be fondly remembered for many years. Together with other members, I place on record my appreciation of the role they have played in public life in Western Australia in the past six years and wish them well in their future endeavours.

I will make a couple of comments on the amendment that has been moved. First, I remind the House that the amendment moved by Hon Bob Thomas states -

And further advises His Excellency of the Legislative Council's concern with the failure of the Liberal National Party coalition Government to properly handle the RFA process and, in particular, its failure to meet the needs of timber industry workers, their families and their communities who are adversely affected by the outcome.

The first interesting point to note is that this amendment was moved by Hon Bob Thomas, a member of the Labor Party and a member for the South West Region. One must wonder at the gall of somebody from the Labor Party moving this sort of amendment when the policy that that party has adopted on this issue totally and absolutely deserts the timber workers whose interests it now seems so keen to look after. It is probably a move by Hon Bob Thomas to regain some credibility with his so-called supporters in the south west, because, frankly, he and his party have been missing in action on this issue throughout the south west and have left the people that they supposedly support high and dry.

Let us not be misled by that. In the analysis of this issue, let us compare the policy of our so-called alternative Government.

It has taken a totally irresponsible attitude and position and has promoted, along with other people in the community, a position of anarchy rather than living with the due process that might deliver a decent outcome for the community.

Hon Bob Thomas: I will circulate this.

Hon BARRY HOUSE: Good. I hope the member does. It is interesting to consider the fates of those members of the Labor Party who have dared to comment on this issue during the past few years. Graeme Campbell often commented on it. He was expelled from the Labor Party. The only person from the Labor Party who made any comment to the workers from the Manjimup, Pemberton and Greenbushes areas a couple of weeks ago during their peaceful rallies at the front of Parliament House was Hon Julian Grill, and it seems he has been removed from any meaningful role within the Labor Party. The other person who is worthy of comment is Hon Mark Nevill, who feels that the only way he can be heard on this issue is to leave the Labor Party. In prefacing my comments on this issue, those matters should be noted.

Regrettably, the Labor Party has elected to abrogate its responsibility to all the community on this issue, and it has taken a totally populist view. That is easy to do in opposition, but it is totally irresponsible.

Hon W.N. Stretch: Very different from Hon Dave Evans when he was the minister.

Hon BARRY HOUSE: Absolutely. Hon Dave Evans was respected in that community in much the same way as the current member, Hon Paul Omodei, is respected. Hon Paul Omodei is a person who understands the issues and the people in that community just as Dave Evans did.

Hon J.A. Scott interjected.

Hon BARRY HOUSE: No, I am not saying that. I am saying that we must be responsible with issues of this ilk when managing a resource that is owned by the State. That problem will never befall the Greens (WA) because they will never have the numbers to be responsible.

Hon Derrick Tomlinson: Is that why they are constantly irresponsible?

Hon BARRY HOUSE: It must be.

Let us examine the Regional Forest Agreement process. Sure, it has had its critics because it is a contentious issue. I will not try to deny that the RFA process had points of views extending from one extreme to the other. I will defend it as a process that involved a very scientific, logical and rational approach to investigate forest management in this State. For all the critics, we cannot deny it has been the most comprehensive scientific analysis of forest management in Western Australia.

Hon J.A. Scott: It has been a bit imprecise.

Hon BARRY HOUSE: I will rephrase that: Hon Jim Scott can criticise it because that is all he ever does or because he may not agree with some of the points of view, but not in terms of the fact that it was a comprehensive, scientific analysis of forest management in this State. During that process many different community points of view were considered. There were reservations from many sectors of the community, particularly about the role of the Department of Conservation and Land Management in the process. I had many of them explained to me, as did many other members. I will concede that two points made during the recommendations struck a chord with me: The first, made by people like Peter Lane and others in Margaret River, was that the full value of the forest resource was measured purely for its timber value. I did not go along with that totally, and Peter Lane knows that we agree to disagree on many issues. These people made a point worth considering: If that resource was managed as a business, we would not do it because there is not a profit in it. Of course, there is much more to it. Nevertheless, that way of analysing the value of our forest to the community made an impact on me.

The other point related to the perceived conflict of interest of the Department of Conservation and Land Management in being not only the forest manager but also the receiver of timber royalties. That issue has been addressed and will be sorted out in the future. If I had my druthers, it would be that the Government had removed that conflict of interest the day it took office in 1993, by setting aside that part of the relevant legislation introduced by the Labor Government in 1984 or 1985 which put that process in place. Quite a few members on the opposition benches have very short memories.

Hon Bob Thomas: What do you mean by that? Are you saying we did that?

Hon BARRY HOUSE: The amendment of Hon Bob Thomas says this has been mismanaged by the Government. I refer to a paper entitled "Background to the RFA" which was distributed with other supporting RFA documents in June, and states -

The Regional Forest Agreement . . . is part of a national blueprint for balance, certainty and sustainability in forest management.

Planning for RFAs between the Commonwealth and individual States began back on 1992, -

Of course, members know that the federal Labor Party headed by Paul Keating was in power then -

- when the Commonwealth, State and Territory governments signed the National Forest Policy Statement, agreeing to work together towards a shared vision for Australia's forests.

The paper goes on to make some points about the Western Australian RFA and states -

The WA RFA is a 20-year agreement between the State and Commonwealth governments on the future use and management of the forests of WA's South-West, subject to five-yearly reviews.

I would not call that insignificant. This process addresses the long-term needs of forest management in Western Australia and also allows reasonable stages for reviews. It meets each of the three main objectives of the RFA process; that is, it looks at environmental, economic and social issues. The paper details each of these issues -

- . to protect environmental values in a world class system of national parks and other reserves, based on nationally agreed criteria
- . to encourage job creation and growth in forest-based industries, including wood products, tourism and minerals; and
- . to manage all native forests in a sustainable way.

Surely that is a pretty comprehensive way of addressing a study of a major industry in the State.

Several members interjected.

Hon BARRY HOUSE: I cannot get a word in edgeways, Mr Deputy President. The document continues -

The RFA process began in Western Australia in 1996 and had three main phases.

- . The Comprehensive Regional Assessment - to provide the information base for the RFA. It involved more than 40 scientific projects assessing the environmental, heritage, social and economic uses -

It is not an afterthought -

- and values of the forests. Experts contributing to the assessment came from such fields as forest ecology, soil science, geomorphology, hydrology, archaeology, botany, zoology, geography, soil science and geology, as well as economics, social planning and regional development.

That involved 46 separate project reports, which are all available publicly. If that is not a very comprehensive, scientific analysis of an issue, I ask Hon Bob Thomas to tell me what is.

Hon Bob Thomas interjected.

The DEPUTY PRESIDENT (Hon W.N. Stretch): Order! I call Hon Bob Thomas to order.

Hon J.A. Scott interjected.

The DEPUTY PRESIDENT: Order! The same goes for Hon Jim Scott.

Hon BARRY HOUSE: The second stage involved the integration phase, in which all of the assessment data was merged and a discussion paper released for public consultation which outlined four scenarios for an RFA. The third phase was the development of a final RFA between the State and Commonwealth Governments, taking into account the full range of public comments. There we have it: A very comprehensive project over three years which took into account a whole range of issues affecting forest management in Western Australia. Those opposite dismiss it as being insignificant, as having no basis. Their policy, scratched on the edge of a postage stamp, from whatever advice, would have deserted the industry altogether.

Hon Bob Thomas: That is an absolutely silly statement.

Hon BARRY HOUSE: It is a silly policy, so why not make a silly statement about it? The RFA steering committee managed the process and was advised by a stakeholder reference group representing 60 different organisations as well as Aboriginal interests. We must remember that on the stakeholder reference group a chair was always left for the conservation movement. It neglected to fill it, to be part of the process.

Hon J.A. Scott: They wanted to sit in on the steering committee. It drives the whole show.

Hon BARRY HOUSE: As would every other group. Perhaps the member should bring the interests he represents into mainstream Australia, instead of continually chipping away at the fringes where he has no responsibility for anything.

Hon J.A. Scott: We are on the 90 per cent fringe on this issue.

Hon BARRY HOUSE: The conservation movement throughout this stage elected to stay outside the due process, which reinforces the fact that its members are anarchists who do not believe in due process and will always reserve the right to stay outside that process and use any other means they can to represent - or at times misrepresent - the facts. The document continues -

The scientific assessments - particularly the extensive Social Assessment - involved widespread consultation with business and community groups, service providers and voluntarily groups, to ensure that the RFA tapped into local knowledge and reflected issues of local concern.

Further on, the paper refers to reports being publicly available at 25 information points and public libraries throughout Western Australia. Then we had a joint discussion paper entitled "Towards a Regional Forest Agreement", which was released in May 1998. That attracted hundreds of people to open days, and also 30 000 public submissions. All of those things were taken into account in the final analysis.

Sitting suspended from 6.00 to 7.30 pm

Hon BARRY HOUSE: Before the dinner break I was dispelling the notion implied in the amendment moved by Hon Bob

Thomas that the Government has mishandled the Regional Forest Agreement process. I will also dispel the notion that the RFA was cobbled together using poor methodology by detailing some of the background to the RFA. Everyone can see that the process involved a very comprehensive and scientific assessment of forest management.

What did the RFA deliver? I am very proud of what the RFA delivered. I will quote -

Several members interjected.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): There is too much audible chatter in the Chamber. Those members having conversations behind the Chair should find another place to talk so that Hon Barry House can be heard.

Hon BARRY HOUSE: The RFA package delivered in June contained a document entitled "The WA RFA at a glance". It points out that the RFA has delivered a world-class reserve system that exceeds national and international targets for the protection of biodiversity in old-growth forests. At the same time, it has produced a comprehensive \$59m development package. It also delivers RFA certainty. I know there is some disappointment and I am disappointed that the RFA did not deliver the degree of certainty that was expected. However, that was a result of politics rather than the content of the RFA.

The RFA delivered an increase in formal conservation reserves of 150 885 hectares, 12 new national parks and 25 additions to existing national parks. That means that 67 per cent of all old-growth forest is protected in the reserve system. That figure is 71 per cent if all road, river and stream reserves are included. Where possible, 100 per cent of ecosystems in which the old-growth is rare or depleted has been reserved on public lands. The jarrah sawlog cut has been reduced from about 482 000 cubic metres to 286 000 cubic metres from 2004. As agreed with the industry, the average annual jarrah sawlog cut until 2003 will be 324 000 cubic metres. That involves a voluntary industry cutback, which is a credit to the industry. Members should be reminded that the last figure for the viable and sustainable jarrah sawlog cut produced by the Labor Government was 520 000 cubic metres, which is well above these figures. The annual karri sawlog cut was to be reduced from 203 000 cubic metres to 186 000 cubic metres, but that reduction was subsequently changed.

The industry development fund was set at \$59m, of which \$41.5m was allocated to a timber package. That package includes low-cost loans to install value-adding equipment and new technology to expand local manufacturing and provide assistance with marketing as well as money for redundancy packages and business exit and contract buy-back support. In addition, \$17.5m will boost the tourism industry with three new forest eco-lodges, camping and chalet sites, a scenic drive around Pemberton, tourism roads near Nannup and recreation and tourism facilities at Wellington Dam. The original RFA delivered significant outcomes, and Hon Bob Thomas' amendment fails on that count as well.

The amendments to the RFA announced on 27 July 1999 by the Premier were made after extensive consultation with many stakeholders in the industry and in coalition party forums after a very negative media campaign. In a media release issued on 27 July the Premier announced the end of old-growth logging in karri and tingle forests after 2003, except where the Environmental Protection Authority determines it is necessary for forest protection and enhancement. Further, a review of logging plans to 2003 will be undertaken to minimise the use of old-growth karri and tingle to satisfy current contracts. A three-month moratorium on logging of old-growth timber in karri and tingle areas - other than those already being logged or due to be logged to meet 1999 contractual commitments - will be imposed while the logging plans are revised. Large-scale clear-felling in karri forests will also cease.

The Premier also announced that woodchipping will cease in old-growth karri and tingle forests from the end of the current supply contract in 2003. Forest thinnings and sawmill residue will still be used for woodchips and producers will move to a predominantly plantation-based industry. In addition, Bunnings Forest Products currently has contracts to supply woodchips to Japan until 2005 and contracts to take the resource from the Department of Conservation and Land Management until 2003. The Government will enter into discussions with the company to establish whether variations can be made to these arrangements.

The Government undertook to prepare a jarrah strategy so that harvesting is limited to what is needed to satisfy approved uses with the emphasis on value adding. There will be strict auditing of the value-adding requirements under existing contracts and further contracts could be terminated if the requirements are not met.

Hon J.A. Scott interjected.

Hon BARRY HOUSE: If Hon Jim Scott had his way he would close down the jarrah industry. In addition, the Premier undertook to write no new contracts to use native timber for railway sleepers other than those produced from third-grade timber, and then only if the new State Conservation Authority determines there is no more valuable use for the timber. The Premier continues -

Plantations

encourage farm forestry, which would see areas of plantation integrated with traditional farming practices;

maximise the contribution of private plantations for sawmilling and value added production;

increase the use of plantation and re-growth timbers for high value products and value adding; and -

explore a range of options, such as carbon credits and tax concessions, to create incentives for additional investment in plantation timber - including sawlog based tree crops;

The Premier also spoke of establishing a task force of ministers from the relevant portfolios. It would be formed to monitor the effects on employment in the south west region. This is in direct contradiction to the amendment. The task force would

bring forward recommendations on the development of opportunities and assistance for affected communities. There would be various other measures. All of that proposal amounted to a very comprehensive assessment of what is happening with the Regional Forest Agreement and a comprehensive response to community expectations, not an ad hoc response.

I must admit that two aspects of that whole phase concerned me. First, I had some reservations and the question had to be asked whether we were breaking an agreement entered into by the State Government with another Government. Secondly, as a representative of the south west I wanted to know what the impact of the uncertainty would be on south west communities as a result of those changes. On the first question of an agreement entered into by the Government, an extremely important convention in our system of government is that Governments honour their agreements. That particularly applies when Governments change. I must admit that when the Government changed in 1993, some agreements entered into by the previous Government I would have gladly changed - some that related to the Swan Brewery for instance.

Hon Bob Thomas: Let's look at your contracting out arrangements. We will change them, sunshine!

Hon BARRY HOUSE: Is the member saying that he will change them and renege on the agreements?

Hon Bob Thomas: We will change some of your mismanagement. We will make sure we fix up your mess.

Hon BARRY HOUSE: By renegeing on the agreements the Opposition will fix up the mess! I would have loved to change certain agreements entered into by the previous Labor Government. Let us look at the contract for rental in the Bunbury Tower. The previous government rented out space at St George's Terrace prices.

Hon Bob Thomas: You don't agree with decentralisation?

The DEPUTY PRESIDENT: Order!

Hon BARRY HOUSE: The fact is that this State Government did not renege on those agreements and walk away from them, and would not do so. Obviously Hon Bob Thomas feels differently about the future if by any mischance the Opposition is ever re-elected.

I was assured that we were not breaking an agreement entered into by the State Government because the State has responsibility for forest management and logging levels. I was reassured on that count. As a representative of the south west, the other point that concerned me was the impact on south west communities. It is not only a matter of the direct jobs involved in the industry but also the social and economic impacts on those communities. Those aspects are very important to me as a representative. I was reassured on that count too. I was told that certain action would be taken by the Government and that Hon Paul Omodei would be appointed to head up a working party of various government agencies and local government in that area to monitor the effects of the decisions, to implement change to address the effects of those decisions wherever possible and to bring forward specific projects that might fill any gap. We hear a lot about tourism filling the gap. It simply will not immediately fill the gap although it may over a very long period. The approach to the Government's decision was very responsible and measured. The decision was not made ad hoc.

One of the most pleasing aspects which has come from the whole issue has been the response of parts of the industry, not all of it. I qualify that by saying that along with some other people, I was disappointed with the precipitate action of Bunnings Forest Products Pty Ltd in closing down the engineering works in Manjimup. I am sure that Bunnings took the opportunity in the climate at the time to close the engineering works because some of the direct blame for it could be deflected towards the Government and other parties. Parts of the industry, however, responded very positively, particularly small producers. I will spend a little time outlining one of the most positive examples of that of which I am aware. I refer to Jensen Jarrah's proposal for Nannup. It is worth singling out that example, because Jensen Jarrah is a very progressive company which, since 1983, has made a big impact in the south west and internationally, and in the industry by value adding. The way it has gone about that is a great credit to Max and Kerry Jensen and all of their staff who have put together a very fine business.

About two weeks ago Jensen Jarrah announced a proposal to revamp the milling operations in Nannup. From Max Jensen's point of view it was a very personal presentation because it is his home town and he is very keen to do something for the town, forest management and the fine furniture business. In summary, the Jensens' proposal is to tender for the Bunnings' mill in Nannup. If they are the successful tenderers and take over the mill operation, they will use existing and other sources of jarrah there. They will significantly modify the mill to handle small lengths of jarrah because when making their furniture they can deal with short sections of jarrah - which is a very fine furniture wood - about 30 centimetres long. They will then install kiln drying facilities and a manufacturing base for fine furniture in the complex at Nannup. They will beautify the mill area and also invite other manufacturers into the area to manufacture fine furniture. The last stage of the whole process will be to open a gallery for the presentation and sale of that furniture.

It is worth enlarging on a couple of points that Max Jensen made at the launch of that project, which Hon Christine Sharp and I attended. I am sure that we both saw it as a very positive pointer to the future. Afterwards in a letter to Max and Kerry Jensen I wrote -

I am quietly confident that we all may well be sitting around sipping a suitable chardonnay sometime in the future and reflect back to this day as the dawn of a new era for the timber and fine furniture industries!

The reason I couched the letter in those terms is that Max's vision is that the sawmilling and furniture industry can increasingly work closer together. In his notes he wrote -

I see that our industries should be complimenting the excellent food and wines from the district. My goal would be that just wine draws tourists to Margaret River, Furniture will help draw tourists to Nannup.

The first key point in the Jensen Jarrah proposal for Nannup is a 10-year vision for what can be achieved, with an export goal of 50 per cent of production to the United States. Mr Jensen is equating that to his existing business based in Busselton. He has built up that business since 1983 and, through sheer hard work, has established an extensive export market in the United States. He has been very successful in that. He employs about 80 people in Busselton making fine furniture. Members of Parliament are familiar with that product because some examples are located in the courtyard of Parliament House. He already has a significant track record. Incidentally, the proposal will not impact at all on the operation at Busselton. The second key point is the retention of all staff associated with the timber industry in Nannup. That is a minimum requirement. I am sure that over time his plans will involve significant additions. Other key points are -

3. We will train people in the additional skills needed in wood machining and furniture component manufacturing.
4. By maintaining a close working relationship with Bunnings, we will achieve a smooth transition from Bunnings to Jensen Jarrah. Maintaining all jobs throughout the transition period.
5. The current enterprise agreement for wages and conditions will be maintained. If any minor changes are to be considered it will be done in full consideration with Australian Workers Union.

It was pleasing that Nick Oaks was represented at the launch. I did not see Hon Bob Thomas there. I am not sure whether he was aware of the launch, but it would have been nice if he had taken an interest. The sixth point is that the focus of mill production will be to produce timber for the furniture industry. The point of that is that although second and third grade jarrah logs may not be useful for structural purposes, sections of those logs are excellent for the fine furniture business and they can be milled in such a way that short lengths can be extracted and used to produce magnificent jarrah furniture. The seventh point is -

Using the total resources of Jensen Jarrah to assist other furniture manufacturers to expand or set up in Nannup.

It is not an exclusive operation; Jensen Jarrah sees itself as a catalyst for a larger fine furniture manufacturing business using that site in Nannup. A further key point is -

Depending upon finance both our own and soft loan government assistance we will build a gallery.

He concluded his comments by saying -

If a better proposal comes up for Nannup I will be the first to congratulate them.

That gave a lot of encouragement to the people who attended that launch. I am sure all those present felt positive about the future after a few weeks of doom and gloom when individuals and organisations involved in the industry were pitted against each other. People felt very wounded and bitter about the whole process, and some felt very uncompromising in their attitude towards the timber industry. It is probably the case that some of those elements will never agree, but this is one area in which I believe there can be significant agreement. Some of the timber, particularly the third grade jarrah logs, can be used and at the moment it is left on the forest floor in greater quantities than it should be. The Jensen Jarrah proposal for Nannup provides a very positive pathway to the future.

The conclusion I draw from that is that the whole RFA process was put together as a result of scientific assessment. It has been put together with a comprehensive analysis of what the industry involves, where it is going, what good forest management means, and the alternative uses for fine native timber and regrowth, as well as plantation timber. From all that, I am confident that the RFA process has been handled very well, and the first signs are emerging from people such as Jensen Jarrah that proposals can be put together to provide a positive future for the industry. There is still some negativity.

Hon Bob Thomas: Do you realise Jensen was looking at this place before the RFA?

Hon BARRY HOUSE: He has been involved in value adding since 1983. He is the first one to get in front and put his money where his mouth is, and I wish him all the best. He must go through various hoops and over various hurdles. He must win a tender and he knows he will be in a competitive environment. He does not expect anything that is not available to everybody else in the industry. I wish him well in that respect. He has provided a pointer to the future and it is a great credit to him. This is a very positive aspect on which there can be agreement from various elements who may remove themselves from their totally selfish and intolerant views at some stage to regard the future positively.

I wish now to address the amendment, which is staggering in its audacity, coming as it does from a south west member of the Labor Party. That party walked away from its supporters in the industry. The amendment is factually incorrect on all counts.

Debate adjourned, on motion by Hon Muriel Patterson.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL (No. 2) 1999

Second Reading

Resumed from 7 September.

HON J.A. SCOTT (South Metropolitan) [7.58 pm]: I pointed out yesterday that I support this Bill but I regret that redemptions were not reintroduced in 1998 when the opportunity was available, although in a limited form. I regret also that the proposed redemptions are not as open as those recommended by both the Standing Committee on Legislation and the Pearson report. It is quite clear that they represent an important saving in the system. That was indicated by practically

every person who came before the committee. It was indicated very strongly by all the members of the Pearson committee. The Government has been out of step with regard to the redemptions. The limited forms in which they are being introduced and linked to changes in another Bill are somewhat frustrating, given that the intent is to save money in the system. After all, we find ourselves in this situation today because of the previous legislation that passed through the Parliament in 1993.

While some of the aims of that legislation were reasonable in that it was an attempt to ensure a big percentage of the money was spent on useful purposes as the Government saw it, such as rehabilitation, unfortunately because of this mistake with redemptions we have seen that insurance companies have freely used the second gateway, with its very complicated set of access arrangements, since they found it was a way to have a quasi-form of redemption. As I recall, more than 60 per cent of cases were settled for less than half of the amount required to access the second gateway. That shows clearly that these were not genuine claims in many cases but were quasi-redemptions. The people who came forward from the insurance industry freely admitted that a large number of the people accessing the second gateway did so because the insurance companies themselves used it as a quasi-redemption system. In dollar terms, with the introduction of the 1993 legislation the redemptions payout fell from about \$26.7m to \$6.8m and the common law payouts rose from \$73m to \$86.4m. There was a trade-off between these two areas. However, worse than that was the fact that it was a very complicated system. The previous system of redemptions and the one which has been recommended by both the Standing Committee on Legislation report and the Pearson report are far more efficient ways of settling these claims and are usually to the advantage of both the injured person and the insurance company. They can both get on with other things and not have to worry about weekly payments. The injured person can change his life and get an education or something. I have heard of people who received such redemptions after being badly injured and have gone on to higher education. For example, a freezer door fell on a crayfisherman and left him unable to continue with that work. He is now working for a lower wage but is very happy, has a doctorate and is doing well. Those opportunities are available to people under that sort of system.

A copy of the July 1999 *Business Advocate* was put on my desk. It is a publication of the Chamber of Commerce and Industry of Western Australia and contains an article entitled "CCI Formula to Fix Workers' Comp Crisis". It states in part -

The escalation in common law costs has been a result of unintended benefits and unrestrained common law access and damages.

As a proportion of total compensation outlays, common law payments have increased from 6 per cent in 1983 to 28 per cent in 1998.

The submission questions the rising costs incurred in the current system by the indirect participants in workers' compensation - mainly doctors, lawyers, insurers, and administrators.

That rise has been partly caused by the Government's attempt to bring about the opposite effect. The Government intended to keep people out of the courts, unfairly I believe because it is an infringement of their human rights. Article 7 of the Universal Declaration of Human Rights, of which Australia is a signatory, states that people should be guaranteed access to the law, and injured people probably need that access more than anybody else. The Government's intention was wrong in the first place but in its clumsy efforts to prevent people having access to the courts, it established a series of convoluted paths for lawyers to pick their way through and it was very expensive. To get into the court for these quasi-redemptions, one needs to satisfy a raft of government-imposed obstacles. We know the legal profession is quite good at eventually overcoming obstacles and it did so in this case but the ground work cost a lot of money. By dropping the redemptions and establishing a complicated system of access to common law for injured workers, the Government has pushed up costs considerably. In addition, because the Government set a monetary amount as the final hurdle for the second gateway, the claims were often for more than a straight redemption. This has led to leaping costs and payouts from the quasi-redemption system. The monetary hurdle was a mistake.

Another thing the current Bill - and the last legislation even more so - fails to recognise is the human element in this issue. Not everybody who is injured is in the same situation, indeed most of them are in different situations. A clinical psychologist, Graham Guest, gave evidence to the Legislation Committee and his evidence was included in the committee report, which I recommend members read. He gave the example of a person who had experienced severe trauma at work from a bank holdup in which she was bashed by the bank robber. This woman had been severely traumatised and the psychiatrist and psychologist who had been working with her were keen to get her back to work as quickly as possible because they saw that if she did not go back to work after some treatment, she might never do so. Mr Guest pointed out that in that case, the expert advice was overridden by legal advice from the woman's lawyers that she should go to court for a settlement of her claim. However, that was a disaster, because she ended up being a total recluse and unable to go out the door. It totally wrecked her life that she had not gone down the path of the statutory system. He said also that in another case of an older person who was Italian-speaking, had poor English skills and was near the end of his working life, it would have been hopeless to put that person onto a retraining program; therefore, the statutory system would have been no good.

We cannot look at the situation of those people only in monetary terms. When we set thresholds or allow redemptions, we must be mindful that we are talking not just about money but about people's lives. What concerns me most about this legislation is that it has monetary hurdles all the way through it, and while that is certainly important for the health of the workers compensation system and cannot be neglected, neither can the human element in this system be neglected. What I have seen has not been mindful of that human element. I would like to see redemptions opened up a lot more, because that would save money and allow for better decision making. It would also empower the victims of workplace injury, who are usually the losers in this situation. After all, in order for a person to have access to other than the statutory system, whether it be redemptions or the common law, there must be some sort of negligence by the employer. That no longer applies to

redemptions in the same way as it does to the common law, but it did under the old legislation, and I dare say that under the new proposal, people on the statutory system can choose to go down that path. It should be recognised also that the statutory system will probably benefit the most from redemptions. I have not costed it out, but my off-the-cuff thought is that the savings that will result from not having to administer these claims for a long time will be greater than the overall savings from not going down the full legal path. A redemptions system would result in savings on both sides.

The report of the Standing Committee on Legislation in relation to the Workers' Compensation and Rehabilitation Amendment Bill 1997 states at page 53 -

Most submitters who addressed the issue of redemptions advocated a broadening of the availability of redemptions to a system something like the pre-1993 system.

The report said also that it was not just the people who advocated the closure of common law who said that but also the people who advocated that access to common law should be kept open. In other words, both sides of the argument said that redemptions were important.

The committee found that the reintroduction of the pre-1993 redemption regime would have a range of advantages. The report states -

The proposal involves only marginal alteration to the Bill, which already contains a proposal for some liberalisation of the redemption regime. The proposal should be generally acceptable to interested parties.

The Government has made a half-hearted improvement on that redemption package. The report continues -

Redemptions offer an appropriate mechanism for finalisation of a claim where the injured worker and the insurer agree that payment of a lump sum is preferable to ongoing weekly payments and other costs.

Allowing insurers and workers to redeem claims for lump sum payments removes an unnecessary constriction on the operation of the market and gives each party more control over their own affairs.

Claims which are currently being settled at common law as "de facto redemptions" because there is no other redemption mechanism available will no longer have to be brought under the artifice of the second gateway. On the evidence the Committee has heard, this is likely to result in the diminution of the number of second gateway claims of between 25% and 50%. Only the more serious claims will go to common law.

That would result in considerable savings to the system. I support this legislation and this change to loosen up redemptions. However, I end with three clichés: Too little too late; trying to make a silk purse out of a sow's ear; and, unfortunately, with regard to the legislation that backs this up, it is like getting blood out of a stone.

HON BOB THOMAS (South West) [8.18 pm]: I had not realised that Hon Jim Scott was concluding his remarks. I had not intended to speak on the Workers' Compensation and Rehabilitation Amendment Bill, but some negotiations are taking place between some members of this Chamber with regard to the other part of the workers compensation changes which have been introduced into this Chamber, so I have been asked to present my views for several minutes until those members return to the Chamber, and I am very pleased to do so. I have not had time to do the research that I would have liked to do for a Bill of this nature, but had I done that research, I would have read the Pearson report, because several members, including Hon Nick Griffiths, referred to some of the recommendations in that report. I wish I had read it, but unfortunately I have not.

Having read the Bill, I notice that it is very simple. It reinstates redemptions to the workers compensation legislation. It is a very short Bill, one which is long overdue. In 1993 I sat in this House when the newly elected coalition was almost Rambo-like in ramming through the anti-worker legislation. We had Bills covering workplace agreements, changes to the industrial relations laws and significant changes to not only workers compensation but also the common law aspects of it. The removal of redemptions was one of those changes to the workers compensation system, along with other things, to make workers compensation more difficult for workers to obtain. That was done through the conciliation and review process whereby insurance companies could be represented by paralegal officers, but the workers could not have qualified practitioners to assist them with their claims until they got to an appeal process. Even some aspects of that appeal process were more difficult for workers because they could appeal on only matters of law. These changes, including the removal of the redemptions, were all aimed at removing workers' rights and making it more difficult for them to obtain proper assistance when they were injured in the workplace.

The minister at the time seemed to have some sort of zealotry about the way in he went about removing those redemptions. He had a view that people who were opting for the redemptions were workers who were malingering and bludging on the system. He felt that by removing all redemptions and taking those injured workers out of the system, he would somehow or other get them back into work and they would no longer be bludging on the system. A major problem occurred in the workers compensation system and for employers who must pay the ever increasing workers compensation premiums. Many of those workers who were previously claiming the redemptions were never going to come back into the work force, or be rehabilitated and work again because some had significant injuries. They went to see lawyers who looked at the common law gateways. Because there were some significant changes to the common law associated with workers compensation - for example, the 30 per cent threshold - the lawyers had to put a lot of work into proving up the claims. Many injured workers had increased expectations. They had to prove their loss of earnings would be more today than the 1993 value of \$106 000, whether it was \$97 000 or \$103 000 or whatever. The lawyers spent a lot of time proving up these claims. We have had an avalanche of second gateway claims. That is where the cost of workers compensation has blown out in Western Australia. It is a direct result of changes made in this Parliament by the coalition. Will it accept that it made a mistake? No.

It has run around the place and misled business into believing that these changes were aimed at reducing costs. It blamed the Labor Party, the Greens (WA) and the Australian Democrats for defeating the Bill last year and said that, therefore, workers compensation costs have gone up.

I will read to members a letter signed by the member for Mitchell and sent to business proprietors in the Bunbury area. It states -

Fighting the cost blow-out!

I think this has been produced on a very good photocopier. It continues -

Are your workers' compensation costs increasing.

In 1993 the workers' compensation legislation was thoroughly overhauled and, for the next two years, workers' compensation premiums across the board fell noticeably.

Then, quite unexpectedly, extensive use of so-called "second gateway" provisions in the legislation resulted in a large number of high payouts in circumstances for which the provision was not designed. As a direct result, premiums began to increase significantly.

Last year, the State Government introduced legislation into Parliament to overcome this problem and to reduce insurance premiums. However, the legislation was defeated in the Upper House by the Labor Party, Democrats and Greens, who hold the balance of power.

No such thing happened. We amended the legislation to make it fairer for both workers and business proprietors alike, but we did not defeat the legislation. The Government withdrew the legislation. This is one of a number of examples of those opposite misleading the public. People are no longer surprised when they do that because it is common place. The Bill we are dealing with at the moment was necessary because of the action of the Government in 1993. It would not listen to people who knew what they were talking about. It was an attack on workers. Now it has to go through the process of making good the damage that was done. I will support the legislation; however, we should not be in a position of having to fix something that the Government messed up when it had advice telling it not to do what it did in the first place.

Debate adjourned until a later stage, on motion by Hon Peter Foss (Attorney General).

[Continued below.]

SITTINGS OF THE HOUSE - EXTENDED AFTER 10.00 PM

Wednesday, 8 September

HON PETER FOSS (East Metropolitan - Attorney General) [8.27 pm]: I move -

That the House continue to sit beyond 10.00 pm.

In so doing, I say that it is purely for the purpose of enabling us to complete the debate on Order of the Day No 4.

HON N.D. GRIFFITHS (East Metropolitan) [8.28 pm]: No doubt the Attorney General will correct me if I am wrong -

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): I have had a motion from the Attorney General. I am not interested in what the member thinks the Attorney General thinks. I am more interested in dealing with the motion.

Hon N.D. GRIFFITHS: The motion is that the House sit beyond 10 o'clock. The Attorney General pointed out the reason the House is doing so, in his view. I think the Attorney General referred to Order of the Day No 4. I was about to comment on the reason. I invited him to correct me if I was wrong when I thought he meant to refer to Order of the Day No 5. I invited him to interject briefly and I was not referring to anything other than the motion.

The DEPUTY PRESIDENT: Having had that explanation, we shall move to the motion.

Question put and passed.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL (No. 2) 1999

Second Reading

Resumed from an earlier stage of the sitting.

HON PETER FOSS (East Metropolitan - Attorney General) [8.30 pm]: One question arose in the speech by Hon John Cowdell about the period of time before redemption could take place. He queried why the date had been selected. We are adhering to the idea that it should be as close to the previous situation as is practicable. One wonders what the rest of the debate was about. Apart from the point raised by Hon John Cowdell, most of it appeared to be about a Bill other than the one before the House. It is not my intention to debate the other Bill but I am grateful that it was debated. Now we will not have to debate it when it does come before the House. If it were not for Hon John Cowdell asking his question or members debating another Bill, the rest of the debate could easily be described as a filibuster. I owe the House, or at least the people who read *Hansard*, an explanation as to why there was a filibuster.

Hon N.D. Griffiths: You know there was not a filibuster.

Hon PETER FOSS: I am sure anybody reading the debate would come to the conclusion that there was a filibuster. I certainly came to that conclusion. I owe history some explanation as to why that filibuster took place in case there is another person who reaches that conclusion.

Hon N.D. Griffiths: At least members on this side have the courage to say where they stand, unlike the sheep on your side.

Hon PETER FOSS: The member will find that what I say will have the unanimous support of the members who sit on my left, right and behind. They are waiting to hear somebody pick up the amazing amount of rubbish that has been spoken by those opposite during this debate.

Hon N.D. Griffiths: You are the expert when it comes to rubbish.

Hon PETER FOSS: Most of which I would describe as rationalisation. It is clear that our problem, which has been addressed in every other State of Australia bar Tasmania, is the problem of unlimited common law access in cases involving employer liability. It is plain that there are now two virtually no-fault situations: A no-fault workers compensation law and a no-fault common law. The employer liability situation has become so strict that any injury suffered by a worker comes under a common law claim. This is one of the things that Hon Max Evans submitted to the Standing Committee on Legislation when it considered the legislation. There were a number of references to that. A big problem is that there are two no-fault systems. The difficulty is that while we all support a no-fault system of workers compensation, it is important that Parliament set the limits of compensation. At present, there is no limit set by Parliament regarding employer liability. The statutory scheme where employers pay a regular premium and associated costs is set at nought when the wild-card of almost unlimited damages is considered. A big problem that has been identified across Australia is the question of unlimited common law liability being a no-fault situation. It is interesting that the last State to find this a disaster is Tasmania. There are probably two reasons for that. One is that Tasmania is considerably smaller than other States. This impact was first felt in the larger States before moving towards those with smaller populations.

Tasmania has been such a cot case in terms of its employment that the issue of people losing their jobs because of workers compensation premiums is probably minuscule compared with some of the other reasons people in Tasmania are losing their jobs. It is quite clear that the real problem has nothing to do with redemptions; the real problem is that we have unlimited common law damages in a no-fault employers' liability scheme, and the 1993 amendments attempted to address that. For a while they seemed to have addressed them. It had an impact on premiums and common law claims. However, we could not predict how the courts would respond. Many times it is hard to predict how courts will respond. It would be lovely to pass a law and guarantee the response of the courts. Unfortunately, sometimes the courts can be a bit of a wild card, and that is what happened in that case. It became quite clear in the manner and process by which the courts dealt with employers' liability claims that the so-called second gateway turned out to be not a gateway at all, but a wide open field.

First of all we should find out where the second gateway came from. The first gateway is the usual gateway across Australia; that is the usual gateway to common law. The second gateway was for the mythical person, the concert pianist, who injured his hand while working at something else. As far as I know, this mythical person has never been anywhere near a court and has never suffered an injury. The idea that the first gateway did not allow for the concert pianist who injured his hand was trotted around and ended up in our legislation. I will tell members where it came from: It came from a group to which I will refer again later in my speech; that is, the Australian Plaintiff Lawyers Association. It has quite a bit to answer for in this whole debate and consideration. I must confess that my profession has the capacity to come up with examples which sound extremely credible and which could happen, but which, from a practical point, never will. It is of no great surprise that the concert pianist with the injured hand has never been seen. However, the Plaintiff Lawyers Association persuaded the Parliament that we should have the second gateway. The second gateway turned into a wide open field. It is true that one of the reasons the second gateway was used was for the purpose of putting back redemptions, and that is what this Bill is about.

Hon J.A. Cowdell: Did you request the six months?

Hon PETER FOSS: I did. While the member was moving, I said that the Bill is as it is because we are trying to make it as similar as possible to the previous situation. There are two considerations: Firstly, there should be no redemptions prior to the person's situation settling down; therefore, there must be a period to ensure that is the case. Secondly, the period which was chosen was the period that was previously the case, because we are taking up the suggestion that it should be as near as practicable to the case previously.

Hon J.A. Cowdell: If you hold it to the option of a period of six months, surely you will want to offer redemptions just before that six months is up so as to encourage people not go to common law.

Hon PETER FOSS: I have given my explanation, and we may wish to argue about it. The reason the member heard was that we will restore redemptions as near as practicable to the situation previously.

Hon J.A. Cowdell: If your new proposed legislation follows on, this will be difficult at the same time.

Hon PETER FOSS: That should probably be raised in that legislation. At this stage we do not know whether that legislation will be passed. I hesitate at this stage to make any predictions on that. It is true that to some extent the second gateway was used to effect redemptions. However, contrary to the strange statements by many members opposite, including an extraordinary speech by Hon Jim Scott, it did not cause an increase in the amount of money being paid out by way of common law damages. It meant that for all intents and purposes if a claimant wanted a redemption, it was still possible to get one using the second gateway. The fact that we will change from a system of using the second gateway as the method of redemption to using what is proposed by this Bill will not make one jot of difference to the amount of money paid out

by way of redemption or by way of common law. The extraordinary statement of Hon Jim Scott that we will save 8.5 per cent is bizarre and unsupported by logic or evidence. It means we will substitute one form of redemption for another.

The other extraordinary thing is that which has occurred since 1993. In 1993 we tried to close off the common law avenue. However, it became clear after a period of time that the means by which the court interpreted the second gateway meant that effectively the gateway had not been closed at all; we ended up in a Tasmanian situation. The important thing is that it did not increase common law claims. Members opposite utter rubbish when they say that the 1993 legislation caused the common law claims. I can see Hon Jim Scott nodding his head inanely; I expect that from him. Only he could suggest that common law claims were caused by the fact that people could bring them. We know that the big problem is that we failed to close off the common law avenue in the way it was intended; we certainly did not increase it.

Hon J.A. Scott: You increased the costs.

Hon PETER FOSS: Hon Jim Scott said we increased the amount of litigation. These changes occurred in every other State of Australia before they occurred in Western Australia. It was seen to be coming in Western Australia and I am pleased to say that in 1993 Hon Graham Kierath tried to do something about it. It disappoints me that, although for a short period of time the law was effective, the way it was interpreted by the court rendered it null. The intent of Parliament was clear. The intent of Parliament was so undermined by the way it was interpreted, because in the end the second gateway did not exist. However, it did not cause any increase in common law claims. That is the biggest load of codswallop I have heard. Members opposite are saying that because they must explain to the public the little problem they caused.

Hon Ljiljanna Ravlich: We've caused? You've got to be kidding!

Several members interjected.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! I suggest the Attorney General focus on summing up the debate and ignore the interjections. I suggest that the members who are interjecting encourage the Attorney General to ignore their interjections by not interjecting.

Hon PETER FOSS: Hon Graham Kierath was very well informed and well prepared in attempting to prevent Western Australian employers and employees from being affected by the serious, negative results of the blow-out of common law claims throughout the rest of Australia, and the intent of Parliament was clear to do that. Once that door was opened so that there was no limit whatsoever, Western Australia became exposed to the full blast of that cost of common law claims. That is what has caused the increase in premiums; that is what we knew would cause the increase in premiums; that is the reason for the attempt in the first place to put that limitation on common law claims. We do not increase damages by allowing people to sue; allowing people to sue means Parliament is prevented from having its way.

Hon J.A. Scott interjected.

Hon PETER FOSS: It is bad enough that Hon Jim Scott talks arrant nonsense when he is on his feet. Why cannot he sit there and stop talking arrant nonsense? I should deal with the other glorious bits of arrant nonsense from Hon Jim Scott as to why employers are likely to go broke and dismiss large numbers of staff because of workers compensation premiums.

Hon Ljiljanna Ravlich: Because your Government is mishandling workers compensation, and you know it.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! I have just suggested to the Attorney General that he ignore interjections. I also suggested that the other members not interject. I suggest now that the Attorney General address the summing up to the Chair, and not invite interjections.

Hon PETER FOSS: I am trying not to.

I must refer to some of the arrant nonsense that has been spoken about the myth that somehow insurers have caused the increase in premiums or, alternatively, are responsible for the shock over the increase.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: I sat quietly, almost to the point of falling asleep, during the garbage that was spoken by the Opposition, and I would be grateful if members opposite would allow me to clarify for the public some of issues - as opposed to their clouding of the issues and nonsense that they spoke. I would be grateful if members opposite would allow me the opportunity and courtesy that I gave them. I will deal with the point that was made by Hon Jim Scott, who conceded that the premiums could not possibly be increased by discounting; although that has not always been conceded by people. I have heard people suggest that premiums are going up because of discounting. Premiums are based on expense - that is, the actual money that is paid out. What was charged by the insurers is of no relevance in determining premiums. Premiums are determined by the Premium Rates Committee and are based totally on the amount of the claims.

Hon Ljiljanna Ravlich interjected.

Hon PETER FOSS: We are all keen to finish this debate. However, every time I try to develop it I hear a little voice from a person on my right.

The DEPUTY PRESIDENT: Order! If the Attorney General continues to address the Chair and the summing up he will not hear too many little voices in his head.

Hon PETER FOSS: Nonsense has been spread about premiums. The only way that premiums can go up is if the cost of workers compensation goes up. The reason that premiums are going up so drastically is that the costs of workers

compensation and employers liability have gone up drastically. Hon Jim Scott would have us believe that it would not have been such a shock if it were not for the fact that insurers had been discounting the rates set by the Premium Rates Committee. I am sure those discounts would have been of great comfort to the employers. Hon Jim Scott has suggested that had they been charging employers more over the past two years they would not have been so shocked when premiums went up this year.

I advise the House that premiums are going up without any reference to the amount of discounting. They are going up because of reference to cost. Had there not been any discounting, those people would have gone broke earlier as a result of the disgraceful actions of members opposite. If they had paid increased premiums for another two years there would not be very many employers left. The employers should be grateful that the impact may have come later than it otherwise would have come. The impact is based on one thing - the costs of workers compensation. That is why the premiums are high. It has nothing to do with discounting. If anything, discounting has preserved the Opposition and others who voted against previous attempts to do something about this from the full wrath of the employers and employees whose businesses and work they have threatened. Members opposite have tried their best to divert the blame to somebody else, but the only factor that drives premiums is the expense of workers compensation. The one factor that is driving premiums at the moment is the expense of common law. The only group in this House that is responsible for common law being what it is now is the Opposition. They know they are responsible. I have heard the rationalisation time and again.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! The Attorney General is doing it again. Hon Ljiljanna Ravlich has been very good; there have been times when she has been quiet for as long as five minutes. I ask the Attorney not to encourage interjections.

Hon PETER FOSS: The fact is that this legislation has had a history. In 1993, the Government sought to tackle what is the only real problem; that is, the cost of common law.

Hon Ljiljanna Ravlich: Everyone else has it wrong and you have it right!

Hon PETER FOSS: No, people know that is the problem.

The DEPUTY PRESIDENT: Order! I just paid Hon Ljiljanna Ravlich a compliment. Does she want another one? I ask the member to let the Attorney continue and I suggest that he confine himself to the debate rather than invite interjections.

Hon PETER FOSS: I am confining myself to the debate. I am simply replying -

The DEPUTY PRESIDENT: The Attorney should address the Chair rather than invite interjections.

Hon PETER FOSS: I have not invited interjections. I am simply replying to everything that has been said.

The only real problem that has been identified around Australia is the question of common law, and the Government identified that as early as 1993. When it became clear that the courts had subverted Parliament's intention, Hon Graham Kierath again tried to introduce legislation. Unfortunately that legislation suffered the same fate -

Hon N.D. Griffiths: In 1995?

Hon PETER FOSS: In 1997 he introduced legislation that was rejected in this place. He tried again in 1998. In late 1998, legislation was introduced into this place to address the question of the second gateway and the problem of common law damages. That legislation had the support of employers and the Trades and Labor Council. Why did it have that support? It had it because those groups recognised they had a common interest. Workers compensation is an essential part of our society, but it must be reasonable if employers are to be able to afford it and if it is not to have an impact on people's capacity to be employed. That legislation was supported by employers and employees. Despite that support, it attracted vigorous opposition.

One must ask from where that opposition came. Who was advising the Opposition that it should not support that legislation? We now know it was the same group that suggested we needed the second gateway - the Plaintiff Lawyers Association. I have no idea why the Labor Party took a position that had a detrimental impact on employers and employees.

We now know that unless we rapidly address this question we will see employers going out of business and employees losing their jobs. Two groups in this community are saying to us, "Do something about this now; do something urgently to restore a no-fault system which we can afford and which will allow employers to pay workers." That is what they want. The only group that has consistently opposed that is the Plaintiff Lawyers Association. I admit that it has an interest.

Hon J.A. Scott: What about the injured workers?

Hon PETER FOSS: They are being represented by the TLC, which knows the situation is out of hand. We all want a fair system of statutory no-fault liability. The 1993 legislation increased the statutory benefits in that no-fault situation, and we all agreed with that. No-one has suggested that workers should not have an adequate system of no-fault support. Everybody is in favour of that. What we have had a problem with is a system that we cannot afford; a system that ends up with people not being justly compensated but being over-compensated. It is not a system which deals with the problem, but rather it creates a problem. There is an interest in another group - the Australian Plaintiff Lawyers Association.

Point of Order

Hon J.A. SCOTT: I understood that we were not dealing with the Bill which the Attorney General is dealing with but the one that was supposed to be before the House to do with redemptions. I have not heard very much about those. He has been talking about another Bill.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): What is the point of order?

Hon J.A. SCOTT: I understand the Attorney General is not supposed to be talking about another Bill.

The DEPUTY PRESIDENT: Are you suggesting the Attorney General is not addressing the matter in hand?

Hon Ljiljanna Ravlich: That is exactly right.

The DEPUTY PRESIDENT: I appreciate that advice from Hon Ljiljanna Ravlich because Hon Jim Scott did not do a very good job explaining his point of order. However, the point of order is one of which note needs to be taken. The Attorney General might focus his attention more closely on summing up the debate.

Debate Resumed

Hon PETER FOSS: I am, of course, obliged to reply to what was said during the course of the debate. As I mentioned earlier, the debate ranged very widely and most of the time was spent on another Bill. I would prefer that it had not done so, but it did. I am trying to bring the attention of the House back to some of those issues. The fact is one of the major costs has not been redemptions but plaintiff lawyers. In party-party costs they directly received \$25m last year. That is their interest. If they have an interest for the plaintiff, they also have a very considerable interest for themselves. That figure applies to only the party-party costs. I would imagine that solicitor-client costs could very well take that figure to considerably more than \$25m.

The point I am trying to make is that during the course of this evening we have heard speaker after speaker trying to divert the responsibility from themselves to the Government by saying that the cause of the blow-out in premiums has been the 1993 legislation. That claim has been made dozens of times during this debate. It has been wrong every time. No matter how many times the Opposition, the Australian Democrats and the Greens (WA) make that claim it is wrong. The real reason has been that common law has not been constrained. It is the same reason members will find in every other State in Australia. Without some rein on common law, workers compensation will become unaffordable and will affect the capacity of people to pay it and thus the capacity of people to be employed.

One of the members opposite talked about the impact this will have on disability services. It will impact not only on disability services within government but also on disability services outside government, homes for the aged and people who have fixed amounts of money. We know people are saying that unless the problem is addressed they will be closing their doors because they will have no capacity to continue. I am pleased this has been mentioned by members opposite. That indicates the sort of pressure in that area. Members opposite cannot go around saying that this is due to the Government's legislation because patently that is false.

Hon N.D. Griffiths: It is your legislation.

Hon PETER FOSS: Members of the Opposition keep saying it is our legislation when they know that, until such time as the courts undermined the whole legislation by allowing the second gateway to open up, it was working and having an impact. That is the problem, not what members opposite said. All we have heard from opposition members is rationalisation after rationalisation. They have continually tried to point the finger at the 1993 legislation, whereas the problem is they have continually refused to stop the runaway cost.

Hon Bob Thomas: Not so.

Hon PETER FOSS: It is the reason. Everyone knows that. The member can rationalise all he wants, but that is the reason. I know why so many members from the Opposition spoke in the debate. They are like the well-known bellman in the *Hunting of the Snark*, who said that anything he said three times was true. Members opposite think that if they get the entire Labor Party, the Australian Democrats and the Greens (WA) to stand up and say something, eventually someone will believe it. No matter how many times they say it in this debate and outside the House, the reality is that there is one cause for the blow-out in workers compensation costs, and that is the lack of limitation on common law claims.

The Government tried to address it in 1993, 1997, and twice in 1998, and it will again try to address it in 1999. The nonsense talked in this debate was to try to pass off the responsibility of members opposite. Instead of listening to the only people with a legitimate interest in the workers compensation system - the employers, the employees and the State Government - they listened to the people who had introduced the second gateway in the first instance; that is, the Plaintiff Lawyers Association. That group certainly has a very big and expensive interest in workers compensation but I do not think it is a legitimate interest when making legislation in this House.

Hon Kim Chance: Did you say you tried to fix it in 1995?

Hon PETER FOSS: No, I said the Government tried in 1993, in 1997, twice in 1998 and again in 1999. If the courts had not subverted it in 1993, it would have worked, as it did for a while.

Hon N.D. Griffiths: You are blaming the courts now.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order! Let us not get sidetracked. Let us get to the summing up of the debate.

Hon PETER FOSS: It is quite clear what the intent of the Parliament was in 1993; that is, to limit common law claims. It did not succeed.

Hon Kim Chance: You did not try.

Hon PETER FOSS: The way in which the courts have interpreted the second gateway is hard to understand, because in the end they did not apply a threshold test at all but allowed everyone to go straight in. That is the reason we have ended up with the problem again. The Government tried to address it in 1993, in 1997, and twice in 1998. It has been defeated because members opposite have refused to allow that to happen. The day will come when they must answer to the people with a legitimate interest in workers compensation - the employers and the employees. I urge opposition members to stop listening to the Plaintiff Lawyers Association and stop paying attention to it, as they did when they ignored the Trades and Labor Council. I agree that the Opposition does not have to always listen to the TLC, but if the Chamber of Commerce and Industry of Western Australia and the TLC are saying the same thing and opposition members are listening to the PLA, they must wonder whether their ideas are right.

I must mention one point about the question of redemptions, and it is important.

Hon N.D. Griffiths: It has something to do with the Bill!

Hon PETER FOSS: I am about the first person in this debate to speak on the Bill.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon PETER FOSS: I am very pleased to speak on the Bill.

Hon N.D. Griffiths: It is about time you did.

The DEPUTY PRESIDENT: Order! I will judge whether the Attorney General is working within the standing orders, and at the moment Hon Nick Griffiths is not. I suggest that he allow the Attorney General to continue.

Hon PETER FOSS: I sat in the Chamber quietly, patiently and politely while member after member stood and beat his breast, tried to pass off the blame to somebody else and spoke about everything except redemptions. They talked about 1993. I am the only person who has tried to talk about redemptions.

The DEPUTY PRESIDENT: Order! The Attorney General will get back to his response.

Hon PETER FOSS: One of the important issues that came up and was not properly understood was that under the previous system that allowed both redemptions and common law claims, frequently common law action was commenced and a consent judgment was entered into. I tried to point this out at one stage and I believe I pointed it out to the Standing Committee on Legislation. The Workers' Compensation and Rehabilitation Act is an unusual Act in that there is a remote possibility, even though it is not often resorted to, for the board to reconsider its decisions. A final decision can turn out to not be a final decision. The one thing which brought a workers compensation entitlement to an absolute end was a judgment in a common law action. Therefore, often when redemption was agreed under the system, the insurer would insist on the issuing of a writ and a consent judgment. Once the consent judgment was entered into, one knew there was no way the matter could be reopened by a request to review the workers compensation entitlement. Members will note that this Bill deals with that point by making the redemption one which not only disposes of the workers compensation but also plainly disposes of common law and gives the same sort of result as the issuing of a writ and a consent judgment. That is important. We are keen for redemption, if we have it, to have some finality because everyone would agree that redemptions must give everybody finality. It is in the interest of the worker and the employer to have that finality. This redemption provision is better than has historically been the case with redemptions. However, I reject any suggestion that we will have a massive saving as a result of this provision because people have been getting their redemptions through the second gateway. This amendment will be important if we are to do something about the second gateway and continue to have redemption. If there is a relevance between this and any other legislation which might be considered by this House, it is because if we pass the other piece of legislation, hopefully this will be the means by which people will obtain their redemptions.

I ask the House to completely disregard the hours of self-justification, rationalisation and excuse that came from -

Hon Kim Chance interjected.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): Order!

Hon Ljiljanna Ravlich interjected.

The DEPUTY PRESIDENT: Order! Hon Kim Chance and Hon Ljiljanna Ravlich, the Attorney General was on the verge of winding up, so do not wind him up.

Hon PETER FOSS: You are quite right, Mr Deputy President, you picked that I was aiming for my peroration, and once one is interrupted, one has to find one's place again.

Hon N.D. Griffiths: Why didn't you fix it up in 1995?

The DEPUTY PRESIDENT: Order! We are fixing it up in 1999. The Attorney General will now fix it up.

Hon PETER FOSS: I am asking everybody who listened to that debate to treat what was said by the Labor Party, the Democrats and the Greens for what it is; that is, a lengthy diatribe trying to divert attention from the fact that the Opposition has continually frustrated the proper dealing with this matter and is responsible for the current problems faced by employers and employees. No matter how much the Opposition tries to point the House in every other direction, the fact remains that the Opposition is responsible and particularly culpable considering that something had been agreed by the necessary parties. I hope the Opposition will see the error of its ways and get on -

Hon Kim Chance: You just didn't want to admit that you were wrong.

Hon PETER FOSS: Mr Deputy President, I have tried to be quiet through all of the nonsense from the Opposition. I tried to sit patiently while members opposite talked about everything other than redemption, trying to get rid of their blame, yet even now when I am trying to bring my speech to an end -

The DEPUTY PRESIDENT: Order! I think we are all being tried. I suggest the Attorney General try to finalise his comments.

Hon PETER FOSS: I am trying hard -

The DEPUTY PRESIDENT: Order! I know you are trying; you are also trying me.

Hon PETER FOSS: Under the rules of debate, I am entitled to the last word and I am trying to get the last word out.

Several members interjected.

The DEPUTY PRESIDENT: Order! Let us bring some decorum to the debate.

Hon PETER FOSS: As I was trying to say, I hope that anybody who listened the debate and anybody who reads the debate -

Hon N.D. Griffiths: Will realise you are not filibustering?

Hon PETER FOSS: Will treat with the contempt that it deserves, the feeble attempt by a group of people who were beguiled by the Plaintiff Lawyers Association into rejecting a solution to the problem agreed to by all the other people. It did so because it was beguiled by people who, although they had a substantial interest, had an interest which was not to the benefit of the employers or the employees of Western Australia. I hope we will get on with the job that has been delayed now for some years by the failure of those people to recognise and address the real problem.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon J.A. SCOTT: It is interesting to find out that the Labor Party, and the Greens (WA) and the Democrats, who were not in this House in 1993, were responsible for the failure of the 1993 legislation that went through this Parliament and ended in the option of redemptions being removed from the workers compensation laws, particularly when that Bill was rammed through both Houses of the Parliament because the Government had the numbers in both Houses. I am rather puzzled how one can be blamed for legislation in which one was not able to amend a clause, but perhaps the Attorney has some ideas about how that was achieved. I did not realise we were so subversively clever in that regard.

Point of Order

Hon BARRY HOUSE: Mr Chairman, I believe that the comments about the short title must be specific. The material that the member seems to be introducing appears to be very debateable. The standing orders are quite clear about the nature of the debate that should take place on clause 1.

The CHAIRMAN: Certainly the debate on the short title cannot be a response to any second reading comment. However, it can encompass the amendments or be an overview of the amendments. I will pay attention to what Hon Jim Scott now says.

Debate Resumed

Hon J.A. SCOTT: Thank you, Mr Chairman. The clauses that we will debate will to some degree retrieve the situation in the workers compensation system and will, I hope, result in some savings. I wish to dissociate myself from any blame for the previous legislation. It is an absolute nonsense that any blame can be attributed in the way that the Attorney General has attempted to attribute blame. This legislation will make some difference to the workers compensation system, and I support most of these clauses, but I will ask some questions in due course.

Hon N.D. GRIFFITHS: I note we are dealing with the short title. I will canvass in my comments the fact that there are no amendments to this Bill on a Supplementary Notice Paper. The reason for that is that the Australian Labor Party is very concerned that this Bill pass, and that it pass tonight. We are concerned because we have long recognised that the removal of redemptions has caused major problems to our workers compensation system in Western Australia. It has been a significant factor in putting at risk the workers compensation system and in the dramatic rises in premiums which affect many people. Those categories of people have been described in the second reading debate.

By our treatment of this Bill and the fact that I, on behalf of the Labor Party, will not be moving any amendments or opposing any word in the Bill, unless the Government realises in the debate that it can be improved, we are showing, first, a sense of goodwill and, second, an absolute responsibility for those to whom we have the primary responsibility - that is, the people of Western Australia - because we are very concerned about what we can do to resolve as best we can the awful mismanagement that has occurred over recent years of the most awful regime that has ever existed. We see this liberalisation of redemptions as being an important first step in that regard.

I have a number of observations to make about other clauses in the Bill. I say this in general terms at this stage; I will not particularise my comments. I am talking about the absence of amendment and the reason for it. The fact that there are no amendments on a Supplementary Notice Paper for this Bill does not mean that we find the wording satisfactory. There are a number of concerns which I may express or other members have expressed before me or in a way which would not require me to speak further. If that is the case, so be it. Essentially our primary concern is to do what we can to resolve the very serious difficulties that our workers compensation system is facing. As the Australian Labor Party Opposition, we are trying, in so far as we are a minority in this place, to do what we can to ensure this Bill passes through this Chamber tonight. We recognise the great harm done to the people of Western Australia overall in employment, the people who must pay workers compensation premiums, and the injured workers by the removal of redemptions by that very stupid piece of legislation passed in 1993. We want to remedy this situation. We have dealt with this Bill in a proper and relatively expedited manner, notwithstanding comments to the contrary.

The second reading speech of the Attorney General was short, although his response was somewhat longer. I suppose it was longer because, like most people who are guilty of wrongdoing, he feels a great need to justify the actions of the culprits that the Pearson Premium Rates Committee said it would not look at. We know who they are - those whom the Attorney General represents. He is one of them because he had the conduct of the 1993 legislation in this House on behalf of the Government of the day.

I am pleased we are moving fairly quickly to resolve one of the immense difficulties created by that draconian piece of 1993 legislation. I am pleased the Bill will be passed this evening. It should have done so many years ago. A Bill was presented in 1995. One of the clauses in this Bill refers to one that was presented in 1997. In that context I note the short title of the Bill -

This Act may be cited as the *Workers' Compensation and Rehabilitation Amendment Act (No. 2) 1999*.

When we move to the next clause I will make some brief observations about another proposed piece of legislation. The Australian Labor Party has not delayed the passage of this legislation but has dealt with it with relative expedition. The second reading debate commenced yesterday and I was the lead speaker for the Opposition. Although my speech was in three parts - because of the breaks - I took less than an hour to deal with a major piece of legislation. The legislation is considered major because it deals with a major problem. The House has entered the committee stage, which will be concluded tonight. The Opposition wants the Bill to go through all stages tonight and it will do everything in its capacity to facilitate that. We will make observations as the Bill progresses through the committee stage. If it takes longer than the normal finishing time, so be it. It is not our intention in making those observations that members opposite lose too much sleep. The Opposition is taking this course of action because it recognises the harm that has been done to the people of Western Australia by the draconian 1993 legislation. We are pleased that, at last, something is being done about it.

Hon PETER FOSS: The Western Australian public will not be deceived by another feeble attempt to divert blame away from the Opposition for their failure to go along with what the Chamber of Commerce and Industry of Western Australia and the Trades and Labor Council said was necessary. Redemption will not make the slightest difference to the cost of workers compensation. It has never made any difference because redemption is still available. This will not change. Change will come about when we deal with common law.

Hon Ljiljanna Ravlich: Then why did you bring the Bill to this place?

Hon PETER FOSS: It is worthwhile doing it. We hope the next legislation will be passed. We will also deal with the question of the second gateway. However, redemption has always been available. I draw the Chamber's attention to one detail. It is clear who has the most interest in this legislation. The gallery is not full of members of the Chamber of Commerce and Industry of Western Australia or the Trades and Labor Council. There have been up to seven members of the Australian Plaintiff Lawyers Association sitting in the gallery. If members ever wanted to know who is really interested in what happens, there is the answer. I am pleased to say that I hope that when we deal with this legislation, those seven people will leave disappointed. I hope the members of the Trades and Labor Council and the Chamber of Commerce and Industry of Western Australia and workers throughout Western Australia are happy with the result. They were not here to hear the rubbish spoken by the Opposition. However, they know who to blame and that is what we will have to answer.

Hon HELEN HODGSON: I was not going to speak on the short title but a couple of comments that were made have prompted me to rise. Firstly, the Attorney General raised the issue of whether the redemptions would have any impact on the cost of workers compensation in this State. It is quite clear from the figures that were presented in the Pearson report that it is an important part of the costing of the workers compensation system. The Pearson report indicated an increase in the costs of premiums because of the redemptions. If I remember my comments last night, that is about a 1.7 per cent increase in the cost in the short term and about a 2.5 per cent increase in the premium cost in the steady state or the medium term. That is not the whole answer because we are looking at the fact that there is so much leakage and uncertainty about what costs in the common law system are de facto redemptions. If this were not the case, this recommendation would not be coming from every review body that has looked at this issue over the past 18 months. They are right: Redemptions should be freed up.

Hon J.A. Scott interjected.

Hon HELEN HODGSON: The Attorney General thinks they were wrong. The point is that it is an important factor in the cost structure of the premiums in the workers compensation system, and it is a factor before us. To say that it would have no impact is incorrect.

The Attorney General also said that members of this place would abrogate their responsibilities to the electorate by accepting

a deal that was signed off on by the Western Australian Chamber of Commerce and Industry and the Trades and Labor Council. It is also significant that the people who are in the gallery tonight are probably the people who are looking after the workers in a different way from that of the TLC and the CCI. I am not saying that they do not have an interest for workers, because of course they do. However, they see a different perspective from those people who are working with them to manage their legal cases and deal with the whole situation.

All members of this place would accept that ultimately it is our responsibility to sign off on what we think is in the best interests of the citizens of this State, be they employers or workers. Although we always listen to what these interest groups have to say, if they reach an accommodation between themselves which we do not feel is statutorily supportable, we are here to do what we feel is right. It is our responsibility to make laws in the best interests of the citizens of this State and in the best interests of all people affected by the legislation. This continual harking back to discussions of nine months ago, which were rejected by the House at that time, is harking back to a solution that was not appropriate. We must look at what is before us today instead of continually going over old ground and remedies that were rejected at the time.

Hon N.D. GRIFFITHS: I have already pointed out that the Australian Labor Party is concerned to have this legislation passed this evening, and that will occur whenever this evening ends. The Attorney General made a number of observations which must be answered because they were inaccurate. It would be a sad state if the people of Western Australia were deceived by his words, because his words were very much mistaken. They were the words of a minister -

Hon Peter Foss: Must I again reject your comments or will you keep this up all night?

Hon N.D. GRIFFITHS: The Attorney General has already exhibited a desire to have the last word. Whether he speaks again is entirely up to him.

Hon Peter Foss: I will not, because I was not paying attention.

Hon N.D. GRIFFITHS: I am very pleased that he will not speak again. I believe the Attorney General has concluded his observations with respect to the short title. For years members on this side of the Chamber have been advocating a liberalisation of redemptions. The Attorney, as the spokesperson for the Government on those matters in this House, has finally got around to dealing with the issue in a piece of legislation that has been hanging around for years in one form or another. However, it is a matter of great regret that the Attorney, one of the culprits in what has occurred to our workers compensation system, has the audacity in a regrettably shameless manner to blame those who have been urging a solution and who have consistently pointed out what went wrong with the system.

I note the Attorney's comments. He ignores the great weight of evidence presented to the Standing Committee on Legislation over the years. The Legislation Committee of this Chamber presented two substantial reports on these matters and consistently urged a liberalisation of redemptions; the Pearson committee report, as it has been referred to, recommends that. This government has been at great fault in delaying the inevitable; that is, a liberalisation of redemptions. It has consistently delayed. It has consistently given workers compensation remedial legislation -

Point of Order

Hon BARRY HOUSE: My point of order is much the same as the previous point of order. The debate on clause 1 is not intended to be a re-run of the second reading debate or a tit-for-tat argument. It is intended to be a specific discussion on the short title.

The CHAIRMAN: Members will be aware of the purpose of the short title debate and should conform with the standing orders.

Debate Resumed

Hon N.D. GRIFFITHS: The treatment of this issue by the Government contrasts with the treatment by the Australian Labor Party. Our treatment of the issue is evidenced by the fact that we will not move to amend the Bill in any way, notwithstanding some imperfections that are patent on a reading of the Bill before us. By contrast, there has been a failure to legislate for many years; a failure to heed that which has been presented before the Chamber by the Legislation Committee; a failure to bring the legislation forward in a realistic way; and a failure to set up the Pearson committee in a reasonable time. The Minister for Labour Relations announced a review of the legislation on 18 November 1998 and the committee was not set up until March 1999. That is typical of the great managers of the State of Western Australia. They are incompetent and their incompetence is evidenced by their handling of workers compensation legislation, in particular their handling of the redemption issue.

Clause put and passed.

Progress reported and leave granted to sit again.

[Continued on page 840.]

MINISTER FOR TRANSPORT

Answers to Questions - Motion

President's Ruling

THE PRESIDENT (Hon George Cash): At the commencement of today's sitting, the Leader of the Opposition moved a motion under Standing Order No 155 alleging that a contempt of this House had been committed by the Minister for Transport.

The Attorney General, when speaking to the motion, asked me to rule on three points -

- (1) The motion discloses no basis for contempt;
- (2) the mover's speech in support of his motion shows no ground for the contempt;
- (3) the debate thus far provides no support for the motion.

The rules and customs of this House reserve questions about privilege to be judged by the House alone. In some Houses, issues going to the existence or otherwise of a case to answer are determined to a greater or lesser degree by the presiding officer, particularly where the rules dispense with notice requirements. That has never been the practice of this House and I am not about to introduce it.

To answer the Attorney's questions, I would have to say whether I thought the minister had a case to answer. However, under our standing orders, that question can be judged only by the House. It follows that I am powerless to rule on the issues the points present. However, I will make some remarks about the questions members might ask themselves before bringing forward motions impugning the integrity of another member, minister or not.

Although it is not part of my ruling, I should say something about the nature of the contempt under debate and the standard of proof required to prove it. Unlike some contempts, where a particular state of mind is irrelevant, two elements must be proved before it can be said that a member deliberately misled the House. First, the statement must, as a fact, have been misleading. Second, the member must have known at the time of making the statement that it was misleading and intended that it be so.

The parliamentary authorities state that the requirement to prove the case is to be on the balance of probabilities, illustrating the high standard of proof required. They make the point that recklessness alone is not sufficient to sustain such a charge. The member must have had, and be shown to have had, the intent to mislead the House.

Asking the House to judge a serious allegation against a member, on the floor and without notice, is inconsistent with the way in which the House has come to deal with privilege issues. If Standing Order No 155 is used, it is usually for the purpose of appointing a committee of privilege to advise on the matter, rather than, as here, have the House decide on the spot. It is right, in my opinion, for Standing Order No 155 to provide the opportunity to deal with privilege matters expeditiously. Whether its use is appropriate is for the House to judge as each occasion arises.

Before proceeding with matters of privilege, members might wish to consider the Senate's criteria used in deciding whether it will send a matter to its privileges committee -

- (a) the principle that the Senate's power to adjudge and deal with contempts should be used only where it is necessary to provide reasonable protection for the Senate and its committees and for Senators against improper acts tending substantially to obstruct them in the performance of their duties, and should not be used in respect of matters which appear to be of a trivial nature or unworthy of the attention of the Senate;
- (b) the existence of any remedy other than that power for any act which may be held to be a contempt; and
- (c) whether a person who committed any act which may be held to be a contempt:
 - (i) knowingly committed that act, or
 - (ii) had any reasonable excuse for the commission of that act.

I therefore rule that there is no point of order, and debate on the question can be resumed where it was interrupted.

Debate (on Motion) Resumed

HON PETER FOSS (East Metropolitan - Attorney General) [9.41 pm]: I have nothing further to say. I urge the House to move quickly to a vote.

HON NORM KELLY (East Metropolitan) [9.42 pm]: I appreciate the President's ruling on this matter. However, it does not change the comments I intended to make earlier about the motion before the House. We have before us extremely serious allegations about the conduct of the Minister for Transport. Given the manner in which this matter has been brought before the House, I question the Labor Party's seriousness in wishing to pursue this matter.

A number of issues come to mind. First, the lack of notice given. I received a copy of Hon Tom Stephens' motion about two minutes before the House was due to sit this afternoon. It was definitely within five minutes of the ringing of the bells at the commencement of the sitting. The copy of the motion I have is partially typed and partially scrawled, and I cannot read some of the words. The mover has made no attempt to clarify the wording.

The motion states that the Minister for Transport should be adjudged guilty of a contempt and making deliberately misleading and contradictory statements. That is very strong language and a serious allegation. If this motion were passed, it would be extremely damaging to the minister's career. As such, it should not be taken lightly. However, members must determine their position without any further knowledge or opportunity to investigate the arguments being put forward. The mover's comments in support of the motion confused me even further. I had to refer to *Hansard* and the comments made on 17 and 19 August and yesterday in response to the question without notice to get a better understanding of the accusation.

I have been a member of three different Select Committees on Privilege. Although each committee inquired into serious

matters of privilege, the motion before us today is far more serious, and, of course, the ramifications are much more serious. Yet, rather than pursuing this through the normal avenues of a committee, the Opposition has asked members to judge this case within a few hours. Potentially, prior to the Attorney General's call on a point of order, we may have been asked to adjudge the question in a matter of minutes. I think Hon Tom Stephens said that he wanted to have the matter dealt with within about 45 minutes. I am sure that the Australian Labor Party would love to destroy some careers in such a short time but it would be extremely irresponsible for this House to do so without properly investigating the matter.

During the recess I had a further look at the matters to which Hon Tom Stephens referred. They are the comments made by the Minister for Transport on 17 and 19 August and again yesterday. I could see why I was confused by the comments made earlier in the House. It is interesting to note that the mover of the urgency debate of 17 August has not felt compelled to comment on the motion before us today. During that urgency debate the Minister for Transport referred to a number of figures for state and national road funding. Two days later, in response to question without notice 109 asked by Hon Tom Stephens, the minister again referred to various figures for road funding. I looked at those figures to see whether there was anything contradictory or misleading. There are some differences in the figures. For national highways funding, a reference is made to \$50.3m on 17 August and \$55.94m on 19 August. The black spots funding was \$4.3m on 17 August as against \$4.23m on 19 August. The figure for roads of national importance was \$10m on both dates. Interstate road transport funding was \$700 000 on both dates. On 19 August the minister referred to \$38.18m in untied road grants. That figure may lie at the heart of some of the concerns of the Australian Labor Party. The minister went on to give various figures for state funding for roads.

If members look at those references, they will see that there are some different figures. Of course, during those times some adjustments have been made because some of the figures can be fluid and some based on estimations. Although they are different, I do not think they are contradictory. Although they are different, I could not say that they are misleading because it is clear from the answers and the comments made by the minister that he was trying, clearly, to itemise the different factors of road funding. As to whether the figures were deliberately misleading, from the fullness of the answers members can see that the minister has been attempting to fully explain the issue of road funding. As some members on this side of the House have stated, state and federal road funding is indeed a very complex matter.

After those comments of 17 and 19 August, the ALP felt there was some concern about what had been said by the minister. That is fair enough because, as I have said, there are different figures and major differences in the amounts of money. To further clarify the position, yesterday Hon Tom Stephens asked a question, without notice interestingly. If it was the intention of the Australian Labor Party to pursue the minister in this way, it is strange that a question was asked without any notice being given of that question. As can be seen from *Hansard*, this matter involves complex funding and various figures, and it would be asking a lot to expect the minister to explain all those figures without warning. If the intention of the question yesterday was to pursue the matter with a motion without notice today, it seems an extreme act of trickery to try to get the minister to foul up the answer to a question of which he had no notice. In that case, it would be hard to say he had deliberately misled the House, given the lack of notice. It seems a strange course of events for the ALP to pursue this line of questioning and action if its true intent was to show some errors in the figures provided for road funding.

I am not saying I totally believe the figures that have been provided, and the ALP may have a good argument about statements that have been made in error. However, it does not achieve anything for the credibility of the Opposition to pursue the minister in this way; nor does it hold the Government accountable for how it is funding roadworks in this State. After those questions on three separate days, we are left with the motion before us today which was moved without notice. Once again, given the information to which the ALP already had access, it seems bizarre that it did not take the normal course of action - as was pointed out in your ruling, Mr President - of moving for the appointment of a Select Committee of Privilege to investigate those matters. It is hard to work out the reasoning behind this. I have asked members of the ALP why this has happened, and I am still not clear about what it is trying to achieve.

Hon Tom Stephens: If you move an amendment to have that effectively put to a privilege committee for the purpose of assessing it, we will agree with it.

Hon NORM KELLY: It is not for me to make amendments to this ALP motion. It believes it has rigorously researched the information the minister has given this House. It is hard to fathom the reasons behind the original course of action and why the obvious step of moving for the establishment of a Select Committee of Privilege was not followed in the first place. We know that matters of privilege take priority in this place, and a call for the establishment of such a committee would be dealt with with a sense of urgency and priority. No time would be lost by moving in that direction.

It is unfortunate that once again the Parliament's time has been wasted by this complete lack of notice. If there is a good case to argue, the Democrats would be happy to look at the figures and information and to judge the matter on its merits. The lack of notice combined with the extreme implications were such a motion to succeed, just do not add up. It was extremely irresponsible of the ALP to move this motion without notice in the first place and, for those reasons, the Australian Democrats will not support this motion.

HON J.A. SCOTT (South Metropolitan) [9.54 pm]: Much has already been said about this motion and I agree with most of it. This has been a rushed affair for such an important debate with such major ramifications. I also note that only half of the answer has been supplied to the most recent question which allowed this motion to be a proper motion. That rather weakens the motion in that it is dependent on the inaccuracy of a question which has not yet been fully answered. I find that rather difficult to support. During the break in this debate, I had a brief chat with the minister and was able to find out where that money had gone in about 30 seconds. That may have been an easier way to have done it. I do not support the motion.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.56 pm]: The die has clearly been cast on

this motion. On the basis of the comments of the two members who have just spoken, the motion will not succeed and that is a pity. Often in this House people choose not to remember history and -

Hon Max Evans: You told us to forget history yesterday.

The PRESIDENT: Order! The Leader of the Opposition has a right to reply. I have asked members not to interject because, as I have said before, this is a serious issue. Members should read the ruling and see how other people consider these matters.

Hon TOM STEPHENS: Members who have been here for a long time will know that I am probably the only member of this House who has been charged with and convicted - in a summary matter by members opposite - of holding this place in contempt. That charge was brought against me by members opposite summarily and without any regard to the processes that members like Hon Norm Kelly and Hon Jim Scott -

Several members interjected.

Hon TOM STEPHENS: There was no attempt to form a privilege committee to have the matter assessed. There was no weighing up of the evidence or even the pleas of mitigation. It was simply a crashing through of the political divide in this place in which I was charged, convicted and thrown out of the place for the purposes of assisting members opposite in getting a particular agenda through the Parliament at that time.

Hon Derrick Tomlinson: What nonsense! You were given the opportunity to speak afterwards when you were not entitled to. Speak the truth!

Hon Peter Foss: He didn't even apologise.

The PRESIDENT: Order! The Leader of the Opposition is addressing the Chair.

Hon TOM STEPHENS: The Attorney General says I did not even apologise. In the process of my speech I apologised about 35 times.

Hon Peter Foss interjected.

Hon TOM STEPHENS: Then talk the truth, Attorney General, or shut up. Do not interrupt my speech!

The PRESIDENT: Order! The Leader of the Opposition will resume his seat. I ask the Attorney General not to interject. Until a few seconds ago, the Leader of the Opposition was on track with his right of reply. The Leader of the Opposition has now digressed into a discussion about something that happened to him some time ago, which I do not believe is relevant to the current motion. There is no problem in making passing reference to it - that would be relevant - but this is not the time to go into a debate on that issue.

Hon TOM STEPHENS: The House, in my view, and I had hoped in the view of all members of the House, has a right to expect ministers in this place to answer questions honestly and accurately, and not to utilise the processes of this place to provide to it inaccurate, misleading and untruthful information. When ministers are caught out doing that, I had hoped that in the first instance those ministers would take the opportunity of correcting the record and of apologising for that transgression, and of seeing whether in the face of that apology and that correction of the record, the House was prepared to leave the matter there. For my part, I would have been prepared. Regrettably, that has not happened on this occasion. The minister, in my view, knew exactly what he was up to in providing wrong and inaccurate information about road funding, as he did first on the Tuesday of the last parliamentary week. When he was presented with the opportunity to apologise about the information that should have been supplied to the House, he chose not to do that and persisted both in this place and more widely in endeavouring to portray the reality as being different from the facts.

I have now tabled in this House voluntarily the information that was made available to the Opposition. Members will see from the schedule that has been tabled in this place what has come to this State by virtue of the commonwealth contribution and what that means, when calculated through, for Western Australia's allocation for road funding. That is at odds with what the Government is claiming it is spending and allocating, and, more importantly for the purposes of this debate, it is at odds with the claims made by the minister in this House about the state allocation. The minister knows that I think he is a good bloke, and members of the House are generally of the view that the minister is a good bloke. However, ministers in this House are required to be more than just good blokes. They are required to be open and accountable to the people of Western Australia for the portfolios that they administer. I am of the view that this Government is increasingly embarking upon a course of action where secrecy, misinformation and deliberate misleading of the Parliament -

The PRESIDENT: Order! This is the Leader of the Opposition's right of reply. It is his opportunity to consider what has been raised in the debate so far, and, if necessary, make some comment on that. It is not his opportunity to re-run his debate on the original motion. The issues that the Leader of the Opposition is now raising were not raised, as I recall, during the original debate. The Leader of the Opposition is starting to digress from his right of reply.

Hon TOM STEPHENS: There were opportunities for this motion to be amended to accommodate the concerns of members on this side of the House, as has been expressed by Hon Norm Kelly and Hon Jim Scott, and by the Leader of the Government. It would be possible to have these matters tested if further testing was required. That option was available, should a member on this side of the House have chosen to go down that path.

Hon Norm Kelly: To your own members. They may have fomented it for you.

Hon TOM STEPHENS: We have looked at the facts which we have shared with members of the Australian Democrats and

the Greens (WA). We are convinced by the information we have that the minister has deliberately misled the House and has effectively put on record claims about the road funding which are untrue, and which he knows are untrue.

Hon Norm Kelly: You are perfectly entitled to ask a properly framed question tomorrow, with some notice, if you believe you can pursue this matter and that the minister has a case to answer. Then you still have Standing Order No 155 to pursue the next sitting day after that you if feel aggrieved.

Hon TOM STEPHENS: The member conveniently has ignored what happened to me in Question Time yesterday when I asked the minister about this matter again and in full flight his response was to put the question on notice. I would have hoped the Australian Democrats and the Greens would see what is going on in this place when this Government is faced with problem areas in portfolios. The ministers simply ask members to put their questions on notice. That puts them off to the never-never.

Hon Norm Kelly: You did not even give notice. You wanted the figures off the top of his head.

Hon TOM STEPHENS: It leaves it to the convenience of that minister as to when the question will be answered. We in the Australian Labor Party have had the opportunity of studying this minister's record on these issues. We are convinced that he has had information that equipped him to answer accurately the questions asked on these issues. Instead of doing that, he has chosen to provide a different portrayal of the reality that is at odds with the truth. On that basis, we are of the view that it is time for this Chamber to hold this minister accountable for those misleading answers and at the same time to give all of his colleagues a set of standards to which they should rise in reference to their accountability for their answers and actions as ministers of the Crown in this State.

This opportunity would appear about to be lost to this Chamber on this occasion. In the face of the imminent failure of my motion, all I can say to members is that, in part, it will be on the heads of all of us, regrettably, that poor standards are being set and, further, that over time more evidence about this matter will become available on the behaviour of this minister in reference to road funding and commonwealth-state expenditure in this area. Increasingly, all members of fair mind will come to the same conclusion as we in the Labor Party have - the minister has deliberately obfuscated, withheld the truth and portrayed inaccurate information in the figures that have been available to the House. At this time, the minister should be held accountable for those answers. Later will be too late and we will have missed the opportunity to get the Government to lift its standards in terms of accountability. I regret that will be the case on this occasion, given the comments of the Greens and the Democrats. At the very least, I hope this will be a warning to the Minister for Transport and his ministerial colleagues that we will be taking opportunity after opportunity to try to get them to lift their standards of honesty and accuracy in their answers to this House. I hope the fact that the Government is getting away with it on this occasion is not seen as an invitation to government ministers to continue handling their ministerial responsibilities in the same flippant and cavalier manner. Although the warning shot was fired, it did not hit the target on this occasion. However, I hope it will at least provide a basis for ministers to lift their game.

Hon N.F. Moore: It was a misfire and he shot himself in the foot.

Hon TOM STEPHENS: I hope that ministers will start giving information freely and openly to the people of Western Australia. They are entitled to this by virtue of the ministers' presence in this Chamber. For all of the people interested in open, accountable government, this was an opportunity for that to happen. I hope that the members who do not join us on this occasion see the difficulties they cause themselves in trying to make governments accountable for their words and their actions while on the government benches.

Question put and negatived.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL (No. 2) 1999

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 2: Commencement -

Hon N.D. GRIFFITHS: Clause 2 is the commencement clause. Although everyone agrees that redemptions stand alone on their merits, this Bill will not come into operation until another event occurs. The clause states -

The commencement of sections 14, 15 and 32 of the *Workers' Compensation and Rehabilitation Amendment Act 1999*.

I understand that to be the subject of another order of the day and currently referred to as the Workers' Compensation and Rehabilitation Amendment Bill 1997. It will be renamed after it is passed. It does not come into operation until after the commencement of sections 14, 15 and 32.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 67 amended -

Hon J.A. SCOTT: Clause 4(1)(3) states -

The statement is to be provided by the employer or the employer's insurer.

Why has the word "or" been used, rather than one or the other or putting the responsibility on both? I am worried that it might end up as something which will cause time delays at some stage with each one putting it off onto the other.

Hon PETER FOSS: Although there is a requirement under the Workers' Compensation and Rehabilitation Act to ensure that, it is possible for certain employers to gain exemption from the obligation. They are termed "self-insurers", but despite using that term, they are employers. Under those circumstances one would expect the employer to provide the information because there is no insurer.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Section 76 amended -

Hon HELEN HODGSON: This picks up on something that I raised in my speech during the second reading stage, which worked primarily on the issue of redemptions. I did not hear a response from the Attorney General when he gave his summing up. Clause 6(2) refers to the requirement that the director be satisfied that the worker is aware of the consequences of the recording of the memorandum. What administrative procedures and hurdles will be put in the way of workers in establishing whether they understand the consequences of their decisions?

Hon PETER FOSS: I understand that this provision has always been there, but the method by which it is currently undertaken is to make sure the worker is interviewed to ensure he understands the seriousness of the decision he is making. In my experience, and this goes back a long time, the person was required to be examined to find out whether he knew it was final.

Hon N.D. Griffiths: Who conducts the examination?

Hon PETER FOSS: It used to be the registrar.

Hon N.D. Griffiths: Who will now conduct the examination?

Hon PETER FOSS: In this case it will be the director.

Hon N.D. Griffiths: What will be his level of satisfaction?

Hon PETER FOSS: If one wants to make it highly prescribed, one can do so, but this provision has been in there for some time. It has not been highly prescribed in the past. I think it was going to prescribe what was necessary, but that could be done under the regulations rather than in the Act.

Hon HELEN HODGSON: I take it from that that some procedural guidelines or regulations will be drawn up so that people at least know what is going on.

Hon PETER FOSS: No. That has not been done in the past. There may be guidelines for people carrying out their tasks, but it is not presently intended that there be regulations, because there have not been regulations in the past.

Clause put and passed.

Clauses 7 and 8 put and passed.

Title -

Hon N.D. GRIFFITHS: We are just about to deal with the title of the Bill. I will comment briefly that one can hardly say the Australian Labor Party has filibustered on this matter; it has expedited it.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Peter Foss (Attorney General), and transmitted to the Assembly.

MIDLAND REDEVELOPMENT BILL 1999

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Peter Foss (Attorney General), read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [10.23 pm]: I move -

That the Bill be now read a second time.

The Bill provides for the establishment of the Midland Redevelopment Authority with planning, development control and other functions to undertake the redevelopment of parts of Midland. In the history of Western Australia, Midland has long filled a strategic role as a transport centre and gateway to the agricultural areas to the north and east and the mining and pastoral areas beyond. With improvements in technology and work methods, a number of traditional industries closed, including the meatworks and the Midland Workshops. This had an impact on Midland and adjoining areas.

Out of adversity comes opportunity and this Government, the Shire of Swan and the Midland and District Chamber of Commerce have worked together to promote opportunities in the Midland area. The Midland revitalisation charrette developed in 1997 identified a number of opportunities including -

- redevelopment of the Midland Workshops as a vibrant mixed use development strongly complementing the town centre;
- redevelopment of Tuohy Gardens;
- a number of major changes to highways and streets and in particular to change the one-way pair of the Great Eastern Highway and Victoria Street into two-way two-lane streets with parallel parking and street trees; and
- connection of the town centre to the Swan River via the proposed "Woodbridge Landing".

The charrette recognised the need to focus on these opportunities to create employment, particularly employment for young people, and to increase the residential population that utilises Midland as a retail and service centre. The Shire of Swan and the Midland and District Chamber of Commerce view a redevelopment authority as the way of implementing these opportunities. This is supported by government.

This Bill will operate in the same way as the East Perth and Subiaco Redevelopment Acts, which have an established and successful record in redeveloping outworn areas of urban development. It will create a Midland Redevelopment Authority with responsibility for planning and development within the redevelopment area defined in schedule 1 of the Bill and which will include those parts of Midland identified as where the most immediate development opportunities occur.

The priority for the new authority will be the redevelopment of the Midland Workshops site including pedestrian and road linkages to the Midland town centre. This will facilitate the relocation of the Western Australia Police Service support services to this site. The Midland Workshops site will be transferred to the authority. The redevelopment of Tuohy Gardens is also a priority. The "Woodbridge Landing" proposal requires detailed planning and environmental studies as part of determining its feasibility and is of lesser priority. The authority will facilitate development by preparing a redevelopment scheme, the provision of essential infrastructure, undertaking subdivisions, marketing and selling land and buildings, and promoting the establishment of business.

Particular features of the Bill include -

- a board of five members - section 7 - comprising two members nominated by the Shire of Swan and three members to be appointed by the minister with expertise in one or more fields of urban planning, business management, property development, financial management, engineering, transport, housing and community affairs;
- part 4 provides for the preparation of a redevelopment scheme following public consultation and consultation with the Shire of Swan. The redevelopment scheme replaces the town planning scheme and the metropolitan regional scheme;
- part 5 enables the authority to undertake the development control function for proposed developments within the scheme area. Where the authority is the applicant or owner, or has a financial interest, the development application is determined by the minister. Building licences will continue to be the responsibility of the Shire of Swan.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.26 pm]: I move -

That the House do now adjourn.

Department of Minerals and Energy, Advice to Minister - Adjournment Debate

HON TOM HELM (Mining and Pastoral) [10.26 pm]: I will follow on from the adjournment debate last night, when I was asked by the Minister for Mines if I was accusing his officers of not telling the truth and telling him what they thought he wanted to hear. I stand by the statement I made last night. I will reiterate what I have said in other speeches. I have the highest regard for the people at the coalface. Those people implement the measures that are determined in the Mines Act - that is, the inspectors and their support services. I worked shoulder to shoulder with those people in the mining industry, and since my election to Parliament I have been exposed to the other kind of work that they do. I do not question their judgment or integrity. I still have extreme difficulties with some of the people who may be advising the minister. I have difficulties with the minister, which goes without saying. However, I do not wish my comments to be interpreted by anyone in the Department of Minerals and Energy as attacking their integrity. I hope it is clear that I have the finest regard for those people who implement the rules. I have doubts about some of the people who are advising the minister.

Hon Tom Stephens, Past Treatment by the House - Adjournment Debate

HON PETER FOSS (East Metropolitan - Attorney General) [10.27 pm]: I thought I would draw the attention of the House to the debate that was referred to by Hon Tom Stephens and his allegation that he was treated by the House in the same way as he has tried to treat Hon Murray Criddle. It is important that members know it was a different occasion. Mr President, as the then Leader of the House, you were on your feet at the time making a statement. You were interrupted by an interjection by Hon Tom Stephens to this effect, "Rubbish! You are a liar." The ensuing debate reads -

The PRESIDENT: Order! Hon Tom Stephens will apologise for using that language, and withdraw it.

Hon Tom Stephens: I cannot withdraw that description. He is a liar.

The PRESIDENT: Order! The member leaves me no alternative than to ask him again to withdraw that statement and apologise to the House for his refusal to conform with a request that I have made.

Hon Tom Stephens: I cannot withdraw that description of the Leader of the Government in this House.

President's Report to House

The PRESIDENT: Unfortunately the member leaves me no alternative but to advise the House that, in accordance with Standing Order No 116, Hon Tom Stephens has refused a request by me to withdraw a statement.

Hon Mark Nevill: The Leader of the House is a disgrace and he should apologise for that.

The PRESIDENT: Order! Hon Mark Nevill is not normally inclined to defy the Chair. I will give him the benefit of the doubt. I am addressing the Chamber on the very difficult situation that Hon Tom Stephens has placed me in. He gets no marks for placing me in this position.

In accordance with Standing Order No 116 I have to advise the House that Hon Tom Stephens has refused to conform with the request of the Chair and I have no alternative but to name him and ask the House to deal with him.

However, in accordance with Standing Order No 118 Hon Tom Stephens has an opportunity to make some comment to the House that may persuade it not to take the action that the House is able to take under standing orders.

That is obviously designed to give a member an opportunity to apologise. I made an interjection that Hon Tom Stephens refused to apologise. He said that he apologised three times. The apology reads -

I regret very much the position in which I have placed you, Mr President. I understand the regret that you feel as President in this context of having to name me. I truly regret the situation. However, I am left with no choice. The Leader of the House has told a disgraceful lie in this debate. I will not withdraw that statement of fact. I hope the Leader of the House will learn from this experience.

I do not know what members regard as an apology, but that was tantamount to sticking his finger up the member's nose in no uncertain fashion.

Hon George Cash then moved that Hon Tom Stephens be suspended from the sitting of the Council, to which Hon Mark Nevill interjected, "You're a joke!" The President called for order and the question was put. A division was taken and Hon Tom Stephens left the Chamber. The President clarified the situation by stating -

I take it that Hon Mark Nevill apologised to me in the course of that unfortunate division. Therefore, I do not intend to take the matter any further.

I cannot believe what members have just had to do. Never before in all the years I have been the President has this occurred. It is with very deep regret that I find myself sitting here with honourable members having allowed the debate to degenerate to such a stage where a member would, in the heat of the moment, make a statement that he refused to withdraw. I can do nothing about that; however, I ask honourable members to be temperate with their comments and have regard for the basic decorum that should go with a House of Parliament.

The important issue for members to understand is that there are occasions, in the face of flagrant defiance of the Chair and when the rules have been breached, on which the House must move immediately, especially when the dignity, decorum and order of the House cannot be maintained unless there is that power of summary punishment.

It is unfortunate that the Leader of the Opposition has so prominently figured in defiance of the Chair. His statement that he has apologised is wrong. He is one of those members who has found it very difficult to accept a ruling from the Chair that he should apologise. In fact, on many occasions he has aggravated the situation by the way in which he purports to apologise.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [10.33 pm]: The Attorney General was referring to an event to which I was not referring. I was referring to a very different incident.

Hon Peter Foss: Give us that reference.

Hon TOM STEPHENS: I do not have the *Hansard*, but I recall the event much more clearly than the incident to which the Attorney has just referred. It appears that I am a double felon because I was summarily convicted on another occasion for contempt of this House by the brutal use of numbers -

Hon Peter Foss: Are you suggesting that was a brutal use of the numbers and not a proper decision of the House?

Hon TOM STEPHENS: This is my point. In the past when this House did not deserve the respect of the community because of the way in which it was constituted and the way it behaved while under conservative domination and, in particular, on the two occasions on which I was thrown from this House, I wore like a badge of honour the conviction dished out to me by members opposite for having treated this House with contempt.

The House deserved that contempt on both those occasions.

Point of Order

Hon PETER FOSS: I do not wish to precipitate anything, but I do not believe the member should be reflecting on the decisions of the House in this way.

The PRESIDENT: I have been listening pretty closely to what is being said. I intend to let the Leader of the Opposition continue but I will certainly listen closer. I do not believe he was reflecting on a decision of the House.

Debate Resumed

Hon TOM STEPHENS: On another occasion, the Attorney General participated in an action that simply had the effect of getting rid of me out of the Chamber despite the fact that I apologised on a number of occasions to the presiding officer for the offence that he took from incidents that arose around this House at that time. The number of apologies I issued in the process of trying to ensure that the House did not dispense with my services were legion. It did not protect me from the brutal use of numbers by those opposite.

The only point I make in response to the Attorney General is that this House now has an opportunity to rise above its history. In particular, the ministers of this Government have the opportunity of ensuring that this place does operate to appropriate and acceptable standards. For those reasons I will continue to pursue into the future those opportunities for making sure that the minister and his ministerial colleagues no longer operate to the lowest common denominator and beneath, and accept their responsibility and show accountability to the people of Western Australia.

Hon Peter Foss: It is amazing that you do not have a member of your party sitting behind you.

Hon TOM STEPHENS: The kindest thing I can say to the Attorney General is that he was mistaken when he referred to one instance that I did not have firmly in my mind. I have very firmly in my mind another instance when, despite all of my apologies, of which there were many, the Attorney General did not take any opportunity of allowing the circumstances to be assessed by a privileges committee; it was a summary charge and execution and out the door, so I was not able to participate in one of the Government's efforts at that time to extinguish either native title, or it may have been to do with workers compensation.

Hon Peter Foss: I think it was native title.

Hon TOM STEPHENS: I think it was workers compensation; it was one or the other.

Hon Peter Foss: I remember your apologies too.

Hon TOM STEPHENS: They were regularly peppered throughout the comments I made to the House. It was not sufficient to protect me from the political wrath of members opposite.

Department of Minerals and Energy, Advice to Minister - Adjournment Debate

HON N.F. MOORE (Mining and Pastoral - Minister for Mines) [10.39 pm]: In respect of the matter raised by Hon Tom Helm, unfortunately I do not have a corrected copy of last night's *Hansard*, but from what I gathered the member to say, what he read in the *Hansard* today is what he said in the House last night. It was to the effect that I listen to my officers who give me advice that they think I want to hear and not the truth. He reaffirmed tonight that that is his view about some people who give me advice. It is quite outrageous for the member to consistently and constantly denigrate members of the Public Service who work in the Department of Minerals and Energy without his ever producing any evidence to suggest that what he is alleging is true or even mentioning whom they might happen to be. The time has come for Hon Tom Helm to put up or shut up.

He continues to denigrate the whole department by refusing to be specific about whom he is referring to. I find that objectionable because I know that the vast majority of public servants in Western Australia work diligently, honestly and to the best of their ability. I know that to be the case in the Department of Minerals and Energy and I also know that to be the case with regard to the people who give me advice on mining matters. It is appalling that Hon Tom Helm continues this unwarranted attack on anonymous people every night the House rises on the adjournment debate. I repeat that it is time he put up or shut up.

I know the member is seeking to have an inquiry into the Department of Minerals and Energy, and has been floating it around the goldfields for some time. Originally it was to get rid of Hon Mark Nevill, and he has perhaps succeeded in that because of Hon Mark Nevill's resignation from the Labor Party. I thought Hon Tom Helm might have figured by now that he had reached his objective and there might be peace once and for all for those people who work in the Department of Minerals and Energy. However, the member seems to want to continue his campaign. I look forward to the day that he will do something constructive about it, instead of his sniping away on the sidelines every night the House adjourns. I again repeat that it is time for him to put up or shut up and, if he has no evidence that people are telling me lies, which is what he is implying, he should apologise to them collectively.

Question put and passed.

House adjourned at 10.42 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

MONKEY MIA, TOURIST FACILITIES

37. Hon TOM STEPHENS to the Attorney General representing the Minister for Planning:

- (1) Has planning approval been sought by developers to expand the tourist facilities at Monkey Mia?
- (2) If yes, has planning approval been given?
- (3) If planning approval has been given, what environmental conditions will be applied to the development?

Hon PETER FOSS replied:

- (1) Yes - within existing lease area.
- (2) Yes.
- (3) Nil - none required by Council.

FRIARS REVIEW PANEL, MEMBERSHIP

71. Hon J.A. SCOTT to the Attorney General representing the Minister for Planning:

- (1) Who are the members of the FRIARS review panel?
- (2) What forms of assessment did potential members undergo to be selected?
- (3) What was the selection criteria used to assess potential members?
- (4) Who was involved in the selection process and what positions do they hold?
- (5) How many public hearings will be held and where will they be held?
- (6) What community organisations were contacted for an opinion as to who should be represented on the panel?
- (7) If none, why not given the significant community concern about this issue?

Hon PETER FOSS replied:

(1)-(4), (6)-(7)

The hearings panel consists of Mr Stuart Hicks, Ms Elizabeth Brice and Mr Don Miguel. The panel members were appointed by me to take oral submissions from those community members who wanted to give a verbal submission on the FRIARS. Mr Hicks has a wide knowledge of government processes and policy, Ms Brice has property and planning expertise and Mr Miguel has a long-standing knowledge of the area.

- (5) 34 Public and 21 Private - at Kwinana Arts Centre.

GOVERNMENT VEHICLES, NUMBER LEASED AND OWNED

101. Hon NORM KELLY to the Minister for Finance representing the Minister for Citizenship and Multicultural Interests:

As of June 30, 1999, for all agencies under the control of the Minister for Citizenship and Multicultural Interests -

- (1) How many vehicles are leased or owned by those agencies?
- (2) Of these, how many are -
 - (a) passenger vehicles; and
 - (b) commercial vehicles?
- (3) Of the total number of vehicles, how many are -
 - (a) petrol or diesel powered;
 - (b) LPG powered; or
 - (c) powered by other means?

Hon MAX EVANS replied:

- (1) Two vehicles.
- (2) (a) Two vehicles.

- (b) Nil.
- (3) (a) Two vehicles.
(b)-(c) Nil.

GOVERNMENT VEHICLES, NUMBER LEASED AND OWNED

113. Hon NORM KELLY to the Attorney General representing the Minister for Planning:
As of June 30, 1999, for all agencies under the control of the Minister for Planning -

- (1) How many vehicles are leased or owned by those agencies?
- (2) Of these, how many are -
 - (a) passenger vehicles; and
 - (b) commercial vehicles?
- (3) Of the total number of vehicles, how many are -
 - (a) petrol or diesel powered;
 - (b) LPG powered; or
 - (c) powered by other means?

Hon PETER FOSS replied:

Ministry for Planning and Office of the Minister for Planning (Planning Appeals):

- (1) 45.
- (2) (a) 32.
(b) 13.
- (3) (a) 45.
(b)-(c) Not applicable.

East Perth Redevelopment Authority:

- (1) Three.
- (2) (a) Three.
(b) Not applicable.
- (3) (a) Three.
(b)-(c) Not applicable.

Subiaco Redevelopment Authority:

- (1) One.
- (2) (a) One.
(b) Not applicable.
- (3) (a) One.
(b)-(c) Not applicable.

GOVERNMENT VEHICLES, NUMBER LEASED AND OWNED

114. Hon NORM KELLY to the Attorney General representing the Minister for Heritage:
As of June 30, 1999, for all agencies under the control of the Minister for Heritage -

- (1) How many vehicles are leased or owned by those agencies?
- (2) Of these, how many are -
 - (a) passenger vehicles; and
 - (b) commercial vehicles?
- (3) Of the total number of vehicles, how many are -
 - (a) petrol or diesel powered;
 - (b) LPG powered; or
 - (c) powered by other means?

Hon PETER FOSS replied:

Heritage Council of Western Australia

- (1) Two.

- (2) (a) Two.
- (b) Not applicable.
- (3) (a) Two.
- (b)-(c) Not applicable.

GOVERNMENT VEHICLES, NUMBER LEASED AND OWNED

115. Hon NORM KELLY to the Leader of the House representing the Minister for Employment and Training:

As of June 30, 1999, for all agencies under the control of the Minister for Employment and Training -

- (1) How many vehicles are leased or owned by those agencies?
- (2) Of these, how many are -
 - (a) passenger vehicles; and
 - (b) commercial vehicles?
- (3) Of the total number of vehicles, how many are -
 - (a) petrol or diesel powered;
 - (b) LPG powered; or
 - (c) powered by other means?

Hon N.F. MOORE replied:

Western Australian Department of Training and Employment

- (1) 72.
- (2) (a) 67.
- (b) 5.
- (3) (a) 72.
- (b) 3 - dual fuel.
- (c) Not applicable.

Central Metropolitan College of TAFE

- (1) 32.
- (2) (a) 27.
- (b) 5.
- (3) (a) 32.
- (b)-(c) Not applicable.

West Coast College of TAFE

- (1) 26.
- (2) (a) 21.
- (b) 5.
- (3) (a) 26.
- (b)-(c) Not applicable.

South East Metropolitan College of TAFE

- (1) 25.
- (2) (a) 21.
- (b) 4.
- (3) (a) 25.
- (b)-(c) Not applicable.

South Metropolitan College of TAFE

- (1) 25.
- (2) (a) 13.
- (b) 12.
- (3) (a) 25.
- (b)-(c) Not applicable.

Midland College of TAFE

- (1) 6.

- (2) (a) 4.
 (b) 2.
 (3) (a) 6.
 (b)-(c) Not applicable.

South West Regional College of TAFE

- (1) 17.
 (2) (a) 14.
 (b) 3.
 (3) (a) 17.
 (b)-(c) Not applicable.

Great Southern Regional College of TAFE

- (1) 17.
 (2) (a) 14.
 (b) 3.
 (3) (a) 17.
 (b)-(c) Not applicable.

Central West College of TAFE

- (1) 19.
 (2) (a) 10.
 (b) 9.
 (3) (a) 19.
 (b)-(c) Not applicable.

Hedland College

- (1) 19.
 (2) (a) 9.
 (b) 10.
 (3) (a) 19.
 (b)-(c) Not applicable.

Karratha College

- (1) 9.
 (2) (a) 3.
 (b) 6.
 (3) (a) 9.
 (b)-(c) Not applicable.

Kimberley College of TAFE

- (1) 19.
 (2) (a) 17.
 (b) 2.
 (3) (a) 19.
 (b)-(c) Not applicable.

RADOCK PTY LTD, TRAINEESHIPS

140. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:

I refer to the practice of Radock Pty Ltd of delivering the Construction Worker Grade 1 Traineeship for General Construction and representing it as a New Apprenticeship Stage 1 Wall and Ceiling Fixer Workplace Agreement -

- (1) Is the Minister for Employment and Training aware the apprentices and their parents or guardians are signing these agreements in the belief that they are genuine full-term apprenticeship agreements?
 (2) Is the Minister concerned that this arrangement is a blatant misuse of the traineeship as it was never intended to replace Stage 1 of any building industry apprenticeship?

Hon N.F. MOORE replied:

- (1) I am aware of one parent who was confused about the transition arrangements between the traineeship and apprenticeship agreements. Information provided to the Department of Training regarding that particular parent suggested that there was confusion created by the use of terms such as New Apprenticeship. Department staff were assured that the situation would be made clearer to all future apprentices and trainees. This will continue to be monitored across the whole system not just Radock.
 (2) It is imperative that the quality of training provided to apprentices and trainees is of an extremely high quality and

meets the needs of industry. Any changes to the system need to support this objective. I am not aware of any changes to building industry apprenticeships which undermine this objective.

WORKSAFE WA, DR RAZLAN MUSA

342. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Labour Relations:

With regard to the WorkSafe Western Australia 1997 international project for a Work Placement Program for Dr Razlan Musa, can the Minister for Labour Relations state -

- (a) the total cost of the project;
- (b) the cost of the project in -
 - (i) 1996/97;
 - (ii) 1997/98;
 - (iii) 1998/99; and
 - (iv) 1999/2000;
- (c) the commencement and cease dates of the project; and
- (d) the names of any private contractors which assisted WorkSafe with the project, and the remuneration received by them?

Hon PETER FOSS replied:

- (a) Nil (\$600 was paid to WorkSafe Western Australia for the program arranged by the department for Dr Musa).
- (b) (i) See (a) above.
(ii)-(iv) Not applicable.
- (c) 20 to 22 May 1997.
- (d) The Standards Association of Australia; the Independent Living Centre of Western Australia and Curtin University. No remuneration was provided to these organisations by WorkSafe Western Australia.

QUESTIONS WITHOUT NOTICE

KALGOORLIE-KWINANA RAIL LINE

143. Hon TOM STEPHENS to the Minister for Transport:

- (1) Can the minister confirm that in recent weeks the Deputy Prime Minister, John Anderson, on behalf of the Federal Government, has offered to purchase or lease the Kalgoorlie-Kwinana rail link from the State Government rather than have it handed over to private interests?
- (2) Can the minister confirm that as part of the deal the Federal Government will provide a much-needed upgrade of the east-west track?
- (3) Will the State Government accept this offer and preserve the integrity of the national rail link?

Hon M.J. CRIDDLE replied:

- (1)-(3) I spoke to the Deputy Prime Minister last Wednesday. I have received no official offer in regard to that.

AIR SERVICE, PILBARA AND THE KIMBERLEY

144. Hon TOM STEPHENS to the Minister for Transport:

I refer the minister to today's reports of an increase of some 400 per cent in net profit for Ansett Australia and comments by the State Department of Transport about the lack of air services linking the Pilbara and the Kimberley and the deteriorating air service to that region, and ask -

- (1) Did the June aviation policy committee meeting, chaired by the Premier, discuss the air link concerns and general degradation of air-related services in the north west?
- (2) Did the committee take steps to immediately improve those links and air-related services in the north west? If so, what steps?
- (3) Does the Government have any plans to place pressure on Ansett, particularly in view of its revitalised finances, to improve its north west air services and to restore to that region the quality, daily jet service that was available to the people of the region and interconnecting that region with other parts of Western Australia?

Hon M.J. CRIDDLE replied:

- (1)-(3) I will not disclose conversations that the Government had in a committee chaired by the Premier. Certainly, I have

had discussions with both AirLink Pty Ltd and Ansett Australia not recently but over time. I am greatly concerned about the services to the north west. However, if we want a prolonged service to an area there must be viability, as the member would well and truly know. We could not expect an airline to go into a particular area without viability. The Government has negotiated a service between Broome and Derby, and in other areas in the north west, with an assistance package. We are concerned about services in the area but I repeat: An airline going into those areas would have to be backed by a viable business plan.

GOLD ROYALTY, EXEMPTIONS

145. Hon N.D. GRIFFITHS to the Minister for Mines:

I refer to reports that Great Central Mines Ltd has sacked 25 employees from its gold mining operations and that 60 jobs have been lost in recent months in mining and exploration due to the continuing low gold price, and ask -

- (1) Will the minister undertake to support Labor's plans to legislate to exempt gold producers from paying the gold royalty when the Australian gold price falls below \$425 an ounce?
- (2) If not, why not?

Hon N.F. MOORE replied:

- (1)-(2) I am aware of the Great Central Mines situation. I am also aware that a number of gold mines are experiencing difficulties due to the very poor gold price; that is the fundamental problem. A gold royalty was established initially by this Government, and agreed to by this Parliament. The gold royalty has two components and the first component has now been implemented - 1.25 per cent, if my memory serves me right - to be increased only if the price of gold increases above \$450 an ounce. The way things are headed, that will not happen. Therefore, the principle has been established that there shall be a gold royalty in the same way as a royalty is paid on other minerals that companies extract from Western Australia and from which they make money.

I share the concern of the honourable member about the gold industry. However, the worth of the current gold royalty to companies - bearing in mind that if they are making a profit the royalty itself is a tax deduction - is probably in the vicinity of \$2 or \$3 an ounce. I suspect that Great Central Mines is not putting workers off because of \$2 or \$3 net an ounce; a far more significant cost than that is involved. Therefore, the Government has established that there will be a gold royalty at a level which will cause minimum inconvenience and difficulty for the industry. It is the view of the Government that that principle should remain.

INTERNATIONAL MOTOR SPORT COMPLEX, KWINANA

146. Hon J.A. SCOTT to the minister representing the Minister for the Environment:

With regard to the proposed international motor sport complex in Kwinana -

- (1) Has the Minister for the Environment given a commitment or indication that she will not exempt the proposed motor sport complex from environmental noise regulations? If so, to whom?
- (2) Has the Minister for the Environment given a commitment or indication that she will exempt the proposed motor sport complex from environmental noise regulations? If so, to whom and will the minister give details?
- (3) Will the Minister for the Environment rule out using section 6 of the Environmental Protection Act 1986 to override noise regulations?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

- (1)-(2) No.
- (3) No. The proposal is currently being assessed by the Environmental Protection Authority and it would be inappropriate for the Minister for the Environment to make any decision regarding the appropriateness, or otherwise, of using section 6 of the Environmental Protection Act 1986 to override noise regulations, until the EPA has submitted its report.

DEMOUNTABLE CLASSROOMS, CONSTRUCTION TIME

147. Hon HELEN HODGSON to the Leader of the House representing the Minister for Education:

- (1) On average, how long does it take, from planning to completion, to erect a demountable classroom at a school site?
- (2) On average, how long does it take, from planning to completion, to build a conventional classroom at a school site?
- (3) In determining the type of classroom to be provided to a school, is the time from planning to completion taken into account?
- (4) Does the cost of a demountable classroom come from the capital works budget?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) If a demountable classroom is available, it can be installed for use onsite within a fortnight of the need being identified. Should a demountable classroom need to be built new, it would take approximately four months from planning to installation.
- (2) Permanent classrooms are constructed as part of major building works and subsequently may require 12 months or more for planning and construction.
- (3) The Education Department's policy for providing a single classroom at a school is to use a demountable classroom. As long as one is readily available, it could be supplied within a fortnight.
- (4) Yes.

ELECTIVE SURGERY, CENTRAL WAIT LIST

148. Hon MURIEL PATTERSON to the minister representing the Minister for Health:

Can the minister outline to the House how the central wait list process works and if it allows people from regional areas to go on the list?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

The Central Wait List Bureau was set up in April 1998 to facilitate the earlier and appropriate treatment of long wait elective surgery patients; develop strategies to validate and ensure the ongoing accuracy of waiting list data; and develop long-term management strategies to manage elective surgery waiting lists, in consultation with the medical directors and other senior health personnel. The CWLB has a number of strategies for facilitating the earlier treatment of patients -

- (1) The CWLB identifies patients who have waited longer than clinically appropriate for their urgency category and contacts those patients, offering them options of alternative treatment sites - this includes regional patients.
- (2) Patients contact the CWLB direct on their free-call telephone number and options for treatment are offered.
- (3) General practitioners and surgeons contact the CWLB to determine where and when treatment can be undertaken.

This is a statewide service for all public patients in Western Australia. A major publicity campaign was undertaken in April/May 1999. This involved contact with all general practitioners; all public hospitals, metropolitan and rural; and all community newspapers and major media outlets.

Through the wait list initiative, additional surgery has taken place at Albany, Bunbury, Esperance, Geraldton, Kalgoorlie, Merredin and Northam.

POWERTEL, ROLL OUT SERVICES

149. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Commerce and Trade:

- (1) Has the Office of Information and Communications examined the reported roll out by the company PowerTel of a fibre optic cable network spanning Brisbane, Sydney and Melbourne which uses electricity ducts and other infrastructure?
- (2) If not, why not?
- (3) If such discussion has occurred, what was the outcome?
- (4) Has the Minister for Commerce and Trade discussed the outcome of any such examination with the Minister for Energy?
- (5) If not, why not?
- (6) If such discussion has occurred, what was the outcome?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The Office of Information and Communications is aware of PowerTel's activities in Sydney, Brisbane and Melbourne but has not examined its services in detail.
- (2) It is not practicable to examine the services of all carriers and service providers in detail. The State Government supports competition and innovative and efficient use of existing facilities. PowerTel is only one of several new carriers which are introducing competition into the central business districts of the capital cities. The Office of Information and Communications maintains a watching brief on products and services provided by these carriers and service providers. PowerTel has not advised the State Government of its timetable for roll out services in Perth but has undertaken to provide a briefing when its plans are clearer.
- (3)-(6) Not applicable.

ALINTAGAS, COLLIE

150. Hon J.A. COWDELL to the Leader of the House representing the Minister for Energy:

- (1) Is the minister aware that AlintaGas has refused to connect Collie to the gas network because it claims it is too expensive?
- (2) Will the minister advise the cost of connecting Collie to the gas network?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) Yes; \$6.1m to extend the pipeline to Collie and reticulate Collie township.

DIODE RED LASERS

151. Hon GIZ WATSON to the Attorney General representing the Minister for Police:

In respect of the newly proclaimed Weapons Act 1999 and the classification of diode red lasers with reported incidents of misuse around the State -

- (1) Has the minister at any stage considered following both Victorian and New South Wales legislation which sees diode red lasers over class 1 classification listed as designated objects within regulations pertaining to the Weapons Act 1999?
- (2) If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) No.
- (2) Diode red lasers were not listed as a "prohibited weapon" because they do not come within the prohibited lists of the Customs (Prohibited Imports) Regulations. A diode red laser is also not listed as a "controlled weapon" because the laser is not specifically designed as a weapon and, as such, is not a weapon. Depending on the circumstances, should the laser be used or carried with intent to harm, it will fall under the category of "article" under the Weapons Act.

I am slightly surprised by this question in view of the line of questioning that took place in committee during debate on the Weapons Bill about the distinction between the various kinds of prohibited and controlled items, and what they are used for. In light of that discussion a diode red laser would definitely be one of those items which are not normally a weapon. The classic example would be a baseball bat. If one made it into a weapon, it would be rather difficult to use it to play baseball. However, the Weapons Act does control people who use baseball bats as weapons. In the same way it would be difficult for someone who made a diode red laser into a weapon to use it to present a slide show, because he would have a weapon in his hand. It is not until one intends to use the item as a weapon that it offends the Act.

KALGOORLIE-KWINANA RAIL LINK

152. Hon TOM STEPHENS to the Minister for Transport:

I refer to the first question I asked today and the minister's answer that the Deputy Prime Minister had made no offer in regard to the Kalgoorlie-Kwinana rail line.

- (1) Has the minister had discussions with the Deputy Prime Minister, John Anderson, about the Kalgoorlie-Kwinana rail link?
- (2) Has the minister invited the Deputy Prime Minister to put forward a proposal?
- (3) Does the Minister for Transport expect an offer to be made?

Hon M.J. CRIDDLE replied:

- (1)-(3) I wish I could read the Deputy Prime Minister's mind. I am not sure that an offer will be forthcoming. Obviously discussion is occurring in the general community that an offer may come forward. The State Government has decided to sell the railway in a vertically integrated fashion, and that will include the entire network in Western Australia. As the Leader of the Opposition knows, the State Government owns the east-west line - the Kalgoorlie-Kwinana line - and it has made the decision to sell that. I had a brief discussion with the Deputy Prime Minister the other day about rail issues. Those issues are discussed every day of the week, although not necessarily with the Deputy Prime Minister but in the community. A representative of the Australian Rail Track Corporation has briefed the committee. Some of the things that he said are interesting, to say the least. I understand that communications are ongoing in that regard. I have not spoken to him for some time. I know he was in Western Australia recently, but I have not received an official offer on this matter.

WORKERS' RIGHTS TO CLAIM AT COMMON LAW

153. Hon RAY HALLIGAN to the Attorney General representing the Minister for Labour Relations:

On the issue of workers' rights to claim at common law against their employers, can the minister advise the House -

- (1) What was the situation in New South Wales, Victoria, Queensland, South Australia, Tasmania and the Northern Territory as at 1 July 1998?
- (2) Will Western Australian workers be better or worse off under the proposed legislation before the House?

Point of Order

Hon HELEN HODGSON: I have not checked the standing orders but this relates to a matter that is on the Notice Paper and I thought it would be out of order.

The PRESIDENT: Questions are permissible on matters on the Notice Paper. However, the last part of the question sought an opinion and is definitely out of order, and will be struck out.

Questions Without Notice Resumed

Hon Tom Stephens: Are answers giving opinions out of order?

Hon PETER FOSS: I do not think they are; it is just questions seeking opinions that are out of order.

I thank the member for some notice of this question.

- (1) In New South Wales the worker is required to elect between a table of disabilities, pain and suffering under the Act or modified common law subject to a threshold of 25 per cent of the maximum entitled under non-economic loss being greater than \$54 700.

In Victoria there is no access to common law. In Queensland access is subject to a threshold of permanent impairment of 20 per cent of statutory compensation. If less than 20 per cent impairment, the worker must make an irrevocable election between a statutory lump sum and common law access. In South Australia there is no access to common law. In Tasmania there is unrestricted access to common law. The Northern Territory has no access to common law.
- (2) I leave members to form their own opinions as to the situation. However, workers will receive increased statutory benefits of about 10 per cent under the Western Australian legislation and access to open redemptions under the statutory system. This will impact positively on over 97 per cent of injured workers. Restrictions on common law will impact on 2 per cent of workers. I leave it to members to make up their own minds as to which is better.

GOVERNMENT FLEET POLICY, REVIEW

154. Hon LJILJANNA RAVLICH to the minister representing the Minister for Works:

I refer to the review of the government fleet policy.

- (1) Has there been pressure to reclassify some level 9 and above positions to the senior executive service level, so that those public servants can have access to the executive vehicle scheme and obtain private-plated cars?
- (2) If so, how many level 9 and above positions will need to be reclassified?
- (3) Have any level 9 and above positions been reclassified so far?
- (4) If so, how many?

Hon MAX EVANS replied:

- (1) As of 1 July 1999 the executive vehicle service was replaced by the government vehicle scheme. Under the new scheme there is no special provision for senior executive service members. The scheme allows PSA level 8 and above officers to access a government operational vehicle for after-hours private use for a financial contribution at the chief executive officer's discretion.
- (2) Not applicable.
- (3) No positions have been reclassified as SES positions to provide access to private-plated vehicles.
- (4) Not applicable.

TAXI DRIVERS' LICENCES, REVOCATION

155. Hon KIM CHANCE to the Minister for Transport:

Some notice of this question has been given.

- (1) Which offences have led to taxi drivers' licences being revoked?
- (2) In relation to each offence, how many licences have been revoked in the past five years?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) Taxi drivers' licences are revoked for both criminal and traffic offences. The Transport Department, in conjunction with the Police Service, has established guidelines to assess a person's suitability to be issued with or continue to hold a taxi driver's licence. These guidelines were established in 1996, when a review of taxi drivers was undertaken.
- (2) The number of licences revoked for each offence is not readily available. However, since 1996, approximately 89 taxi drivers' licences have been revoked. I seek leave to table the guidelines.

Leave granted. [See paper No 143.]

KWINANA-KALGOORLIE STANDARD GAUGE LINE, INTERSTATE ACCESS

156. Hon NORM KELLY to the Minister for Transport:

- (1) Is the Australian Rail Track Corporation currently negotiating an agreement with Westrail which would give ARTC exclusive rights to retail interstate access to the Kwinana-Kalgoorlie standard gauge line?
- (2) Would such an agreement be in contravention of the Government's commitment to competition on that line?

Hon M.J. CRIDDLE replied:

- (1) Westrail and ARTC are close to an agreement about the wholesaling of access to ARTC.
- (2) Obviously I am not required to answer this part of the question because it asks for an opinion.

RAIL ACCESS REGIME, INDEPENDENT REGULATOR

157. Hon TOM STEPHENS to the Minister for Transport:

- (1) Will the minister confirm that, as predicted by the Opposition, the National Competition Council would not approve a rail access regime under which the Director General of Transport held the position of regulator?
- (2) Will the minister confirm that he will now have to bring the legislation back to Parliament for amendment?

Hon M.J. CRIDDLE replied:

- (1)-(2) I announced yesterday that we would have an independent regulator to deal with access. That will be part of the amendments to the Act. Obviously the Government hopes those amendments will be passed.

Hon Tom Stephens: We were right and you were wrong.

Hon M.J. CRIDDLE: The Government is putting in place a situation -

Hon Ken Travers: Just admit that you were wrong.

Hon M.J. CRIDDLE: I did indicate -

The PRESIDENT: Order! When members interject on others who are answering questions there can sometimes be confusion as to what was asked and what was said in reply. That is one of the problems we face. Members should think about their interjections and the way they can distort the written word.

SOUTH METROPOLITAN COLLEGE OF TECHNICAL AND FURTHER EDUCATION, OVERSPENDING

158. Hon JOHN HALDEN to the Leader of the House representing the Minister for Employment and Training:

- (1) Is the minister aware of allegations of significant overspending at the South Metropolitan College of Technical and Further Education?
- (2) Has the Department of Training brought forward payments or made any special payments to the college to assist with or cover the alleged overspending?
- (3) Has the Auditor General conducted an investigation of the college's financial position in respect of this allegation?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) In December 1998, advice was received from the management of the South Metropolitan College indicating that it was experiencing a cashflow problem. The department fully briefed the Minister for Employment and Training on the issue in December 1998. Poor accounting and a reduction in external revenue brought about by the loss of a training delivery contract with the Royal Australian Navy were seen as having significantly contributed to the college's cashflow difficulties. It should be noted that the cashflow difficulties identified at no time impacted on the training delivery capability of the college, and payments to creditors were not affected.

Hon Ljiljanna Ravlich interjected.

Hon N.F. MOORE: I do not know why members opposite ask questions if they have all the answers.

The PRESIDENT: I have said in the past that if I were a minister and members interjected on me I would sit down and not bother to answer the rest of the question. I am not a minister and the discretion is with the minister on his feet. However, the interjections do not help.

Hon N.F. MOORE: I know that the first law of asking questions in this House is that one should know the answer. However, it is not necessary to give the answer.

- (2) Subsequent to the briefing in December 1998, the Minister for Employment and Training approved the department's making a one-off payment of \$1m to the college. This payment was to ensure that the college's training delivery and ongoing financial viability would not be jeopardised. No special payments have been made to the college and no payments have been specifically brought forward to assist with the cashflow issue.
- (3) As required under the Vocational Education and Training Act 1996, the college's financial records for 1998 have been fully examined by the Auditor General. On 30 April 1999, the Auditor General issued a totally unqualified opinion on the college's financial statements for 1998.

CANNABIS OFFENCES

159. Hon CHRISTINE SHARP to the Attorney General representing the Minister for Police:

I refer to question without notice 64 of 17 August.

- (1) Of the 412 charges laid in Mirrabooka and the 75 charges laid in Bunbury during the period 1 February 1999 to 31 July 1990 for simple cannabis offences, how many were first-time offences?
- (2) Of these first-time offences, how many involved the possession of less than 50 grams of cannabis and a smoking implement?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1)-(2) Regrettably the Western Australia Police Service statistical database does not record this information.

AMITY QUAYS DEVELOPMENT, CONTAMINATION

160. Hon BOB THOMAS to the minister representing the Minister for the Environment:

- (1) Did the Minister for the Environment meet with Mr Gerry Kelly and Mrs Yvonne Attwell on 3 June 1999 to discuss the contamination of the site of the Amity Quays development on the Albany foreshore?
- (2) Who was present at that meeting and which organisations did they represent?
- (3) Did the Minister for the Environment state at that meeting that the Government was responsible for the contamination of the site and, therefore, would have to be responsible, in conjunction with the City of Albany, for the removal and storage/disposal of the contaminating material?
- (4) If no, what did the minister say?
- (5) What else was resolved at that meeting?

Hon MAX EVANS replied:

I thank the member for some notice of this question. It was not possible to provide the information in the time available and I request that the member place the question on notice.

Hon Bob Thomas: You have had five hours!

Several members interjected.

The PRESIDENT: I am not ready to call the Leader of the Opposition. The Minister for Finance had not completed his answer when the leader stood up. I ask for further questions without notice.

CULTURE, LIBRARIES AND THE ARTS BILL, OPPOSITION

161. Hon TOM STEPHENS to the Minister for the Arts:

- (1) Is the minister aware of the Pilbara librarians' view that the proposed Culture, Libraries and the Arts Bill fails to meet the previous legislative safeguards that acknowledge the rights of the people of Western Australia and ensure equity of access to information for all Western Australians?
- (2) This group has joined with the Association of Western Australian Art Galleries, the President of the Friends of the Art Gallery, the Arts Voice Forum and Sir James Cruthers - who has confirmed that this Bill is opposed by the entire arts community in Western Australia and many outside the State - and numerous organisations that have contacted me stating categorically that the issue they are most concerned about is this Bill. Given that situation, will the minister withdraw the Bill and inform the House which coalition members have reservations about it as referred to in the recent article by Sir James Cruthers?

Hon PETER FOSS replied:

Dear, dear! I always love questions from the Leader of the Opposition because they lack substance and end up being some sort of general statement. I am not aware that the Pilbara librarians said that.

Several members interjected.

The PRESIDENT: Order! If members ask a question, they should let the minister answer.

Hon PETER FOSS: I am aware that a number of people hold a view that has been given to them that is incorrect. For the first time we have a Bill, the Culture, Libraries and the Arts Bill, that deals with the issue of local government having some input into public libraries. Until now that has not been the case. I am glad the member began by referring to the Pilbara librarians because the Government has dealt with something that was not previously in legislation, but which is now in legislation and is a marked improvement on the present situation.

The comments of the Leader of the Opposition illustrate that many people have been misled about what is in the Bill. Unfortunately some people do not want to know otherwise. I have tried on a number of occasions to speak to Sir James Cruthers and he has declined to speak to me. It is difficult to deal with people's misunderstanding of legislation when they refuse to discuss it. The other day Sir James suggested that money in the foundation would not be able to be spent for the purposes for which it was intended by the donors. That is an interesting statement.

During the Labor Government's term the Arts Foundation had an appeal on the basis that the Government would contribute on a dollar-for-dollar basis. Not only did the Labor Government not make that contribution but also it reduced the consolidated fund contribution. One of the first things I had to do as Minister for the Arts was put in the dollar for dollar that Labor had failed to contribute. As I was aware of the situation, I saw that foundation funding was capable of being used for other purposes. If members opposite read the Bill they will see that it will place an obligation on bodies to use foundation funds for the purposes for which they are donated. That was not previously in legislation. It is a 180 degree turnaround from the real situation. No wonder people do not understand the situation.

I included that in the Bill because I was horrified to learn that the foundation had used foundation moneys which I believe should have been spent on acquisitions to fix the stairs in the Art Gallery. When I queried how on earth the Art Gallery could be spending foundation money on maintenance in the Art Gallery I was told that I could not stop it. I said that it would completely undermine the public's faith in how its donations to the Art Gallery were spent.

I suggest the Leader of the Opposition read the Bill and Sir James Cruthers' comments about foundation funds. He will find that the advisory board will completely control the foundation. There will be no ministerial involvement in the foundation whatsoever. It will be totally in the hands of the board. More importantly, the board will be obliged by statute to spend that money for the purposes for which it is given. I think that is fairly important. Most protections are in the Bill due to what I saw as abuses that occurred.

If the Leader of the Opposition reads that part of the Bill, finds out what occurred with the foundation funds in the Art Gallery under his Government and later when I had no capacity to prevent the way the money was spent, he will find -

Hon Tom Stephens: It is ancient history. The Burke Government was elected 17 years ago.

Hon PETER FOSS: At least ancient history will not be repeated under this legislation. I know what the Government of the Leader of the Opposition did.

The PRESIDENT: Order! I can hear the Attorney General; he does not need to raise his voice.

Hon E.R.J. Dermer interjected.

The PRESIDENT: Order! Hon Ed Dermer will come to order.

Hon PETER FOSS: I know what the Labor Government did and what it is capable of. If the Bill is enacted at least we will know that the abuses that occurred under his Government and the continued misuse of foundation funds, which I am powerless to prevent, will stop because the legislation requires that the money must be used for the purposes for which it is donated.

Hon Tom Stephens: You want to be an arts czar, don't you?

Hon PETER FOSS: Rather than coming out with his wonderful statements containing unsubstantiated information, he should read the clause in the Bill regarding foundation funds and what Sir James Cruthers says about them and make up his own mind.

Hon Tom Stephens: Do you know what people in the arts say about you?

The PRESIDENT: Order! The Leader of the Opposition should not invite those comments or I will take some action.

Hon PETER FOSS: The wonderful thing about this is that although that question is full of persiflage and allegations, the reality is different. The Leader of the Opposition makes his statements and so do many others. However, sometimes it is a matter of knowing what is reality. I am asking him to make that one little inquiry. He should check whether his Government contributed its dollar for dollar and whether foundation funds were used for maintenance of staircases in the Art Gallery and find out who is telling the truth. It is always easy to make wild statements and all sorts of claims, but sometimes the answers come down to facts. I will tell members about a couple of other things.

Hon Ljiljanna Ravlich: Is this a ministerial statement?

Hon PETER FOSS: I was asked to do that. I am always being asked to do that by the Leader of the Opposition.

The PRESIDENT: Order! The minister should wind up his answer now.

Hon PETER FOSS: I will not talk about the sale of the Percy Markham collection, the purchase of the Louis Allen collection or the many other purchases made during the term of the Labor Government which show the excesses that need to be controlled and that will be controlled under this legislation. We will debate that in time and I will have great pleasure referring to facts, rather than the wild accusations in which members opposite have engaged.
