

GENERAL PURPOSE STANDING COMMITTEE No. 3

Friday 9 June 2000

Examination of proposed expenditure for the portfolio areas

**ATTORNEY GENERAL, AND
INDUSTRIAL RELATIONS**

The Committee met at 1.00 p.m.

MEMBERS

The Hon. Helen Sham-Ho (Chair)

The Hon. R. D. Dyer
The Hon. M. J. Gallacher
The Hon. J. Hatzistergos
The Hon. J. R. Johnson

The Hon. A. B. Manson
Ms Lee Rhiannon
The Hon. J. M. Samios

PRESENT

The Hon. J. W. Shaw, *Attorney General, and Minister for Industrial Relations*

Attorney General's Department

Mr L. Glanfield, *Director-General*

Mr W. Grant, *Deputy Director-General*

Mr R. Cox, *Director, Finances/Strategic Services*

Ms M. Allison, *Managing Director, Legal Aid Commission*

Department of Industrial Relations

Mr W. McDonald, *Director-General*

Ms P. Manser, *Assistant Deputy Director-General*

Mr P. Hollis, *Business Support Manager*

Mr K. Napper, *Director, Business and Construction Industry Long Service Payments Corporation*

CHAIR: I welcome everyone to this public hearing of General Purpose Standing Committee No. 3. I thank the Minister and departmental officers for attending today. At this meeting the Committee will examine the proposed expenditure from the Consolidated Fund for the portfolio areas of the Attorney General and Industrial Relations. Before questions commence, some procedural matters need to be dealt with. As you would be aware, part 4 of the resolution referring the budget estimates to the Committee requires the Committee to hear evidence on the budget estimates in public. Under Standing Order 252 of the Legislative Council, this Committee has resolved to authorise the media to broadcast sound and video excerpts of its public proceedings held today. The Committee's resolution conforms with the guidelines governing the broadcast of proceedings adopted by the Legislative Council on 11 October 1994. The attendant on duty has copies of those guidelines.

I emphasise that only members of the Committee and witnesses before it may be filmed or recorded. People in the public gallery are not considered to be part of the proceedings and, therefore, should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee, as with reporting the proceedings of both Houses of Parliament, you must take responsibility for what you publish or what interpretation is placed on anything that is said before the Committee.

While there has been provision in previous years' budget estimates resolutions for Committee members and substitute members to refer directly to their own staff at any time, there is no such provision in the current resolution. Members and their staff are therefore advised that any messages should be delivered through the attendant on duty or the Committee clerks. For the benefit of members and Hansard, and the effective operation of this Committee, it is important that departmental officials identify themselves by name, position and department or agency before answering each question.

There is wide latitude allowed in asking questions on any of the budget estimates and related documents before the Committee. However, when a member is seeking information in relation to a particular aspect of a program or subprogram, it will help the Minister and the Committee if the program or subprogram is identified.

The Committee has agreed to the following format for the hearing. The Committee has agreed not to allocate specific blocks of time to individual parties or members. Members will be provided with an opportunity to pursue specific lines of questioning until such time as they have exhausted questions relating to that issue. I will endeavour to ensure this process is as equitable as possible and that all members are given an opportunity to ask questions.

As you are aware, a period of two hours has been set aside for today's public hearing. If at the conclusion of the hearing members have not exhausted the questions to which they require answers, the Committee may decide to hold additional hearings before it is required to report on 23 June 2000. As we will examine two portfolios today, I propose that we commence with the Attorney General portfolio and when questions are exhausted on that portfolio the remaining time will be devoted to Industrial Relations. I declare the proposed expenditure for the Attorney General portfolio open for examination. Minister, do you have an opening statement?

The Hon. J. W. SHAW: I am afraid I do not.

CHAIR: I refer the Attorney General to Budget Paper No. 3, Volume 1, page 4-6. Under the heading "Judicial Commission of New South Wales" it states that the commission examined 151 complaints against judicial officers in 1998-99, which was an increase of 19 per cent on the preceding year. Can the Attorney General tell the Committee the reasons for this significant increase in the number of complaints? What is the nature of those complaints? How has the process for examining complaints been streamlined since February 1999?

The Hon. J. W. SHAW: I do not regard an increase of 19 per cent in the relative modest number of complaints as a statistically significant phenomenon. When we are dealing with 151 complaints, it is very easy to say that in one year or the other there is a 20 per cent increase or 20 per cent decrease. That percentage figure tends to camouflage or perhaps mislead the significance of what is happening in the real world. My broad understanding is that most of the complaints received by the Judicial Commission are from aggrieved litigants, that is, people who have lost their case and who, therefore, are critical of the judicial officer in that respect. But of course some of them have substance. I am not seeking to make light of the process. Indeed, I believe the legislative regime put in place in 1987 amid some controversy is a useful and constructive way of dealing with complaints by members of the public against judicial officers. It has worked well since 1987.

My information is that for the 1999-2000 financial year to date the complaints made during the year total 112. If I can update that material for this year: 89 of that 112 have been summarily dismissed, minor complaints disposed of during the year number nine, there have not been any complaints which have been disposed of and which have been characterised as serious during the 1999-2000 financial year, and four complaints have been withdrawn. All in all, I do not believe anyone could draw a reasonable conclusion that there is some systemic difficulty in the judicial system. The idea that there is an independent body that, by its conduct or discipline division, can deal with such complaints is something that in the public mind gives greater legitimacy to the judicial process and is appropriate and defensible.

CHAIR: How much of the Judicial Commission's \$3.2 million budget is being spent on educational or professional development of the judiciary?

The Hon. J. W. SHAW: I will see what information I can provide about that. I must say that I regard the educational functions of the Judicial Commission as very important. Indeed, my understanding is that the Judicial Commission provides, on a contractual basis, educational functions for other jurisdictions in Australia. Perhaps surprisingly, it is the only Judicial Commission in Australia, despite its apparent success in the years since 1987. I was interested to attend a conference of judicial officers in Melbourne a few months ago when there was debate about the appropriateness or otherwise of judicial education. It is fair to say that the predominant opinion at that conference was that judicial education was a good and useful thing, and that what we were doing in the New South Wales Judicial Commission was appropriate and useful to judges.

For example, judges are appointed to courts that play a multifaceted role. The District Court, for instance, has a big civil jurisdiction and a major and important criminal jurisdiction. It is the way of things that appointees are made to that court who do not necessarily have substantial experience in all the areas that it deals with. Therefore, those eminent and appropriate appointees find it useful to get training, education or information about areas of practice that they might not have encountered in their private practice or in their practice in the public sector.

The commission offers an extensive conference and seminar program for judicial officers, ranging from induction courses for new appointees to specialist conferences on specific aspects of law procedure and judicial skills and techniques. The conferences organised by the commission frequently cover matters of wider community interest, including social concerns. I was pleased to talk sometime ago with Judge Bob Bellear who had been involved with educational programs increasing awareness of indigenous issues. The judge gave me the impression—I hope I am not being indiscreet—that he thought those programs have been successful and useful.

More specifically, the majority of expenditure of the Judicial Commission is on education and its justice information research system, which is a computerised sentencing data process. Some 22 out of a total of 28 staff deal with sentencing consistency and judicial education and training. Therefore, it can be said, at least in terms of staffing—and I believe in terms of budgetary allocation—that the predominant function of the Judicial Commission is educative and includes training and conducting seminars for judges and magistrates.

CHAIR: I am pleased to hear about Judge Bellear. Are you aware that young Aborigines have a particular problem with offensive language charges? Do any educational programs highlight the importance of implementing measures to address this issue?

The Hon. J. W. SHAW: You will appreciate that that is a difficult question, Madam Chair. We have a liaison committee with the Police Service to consider the question of offensive language and the disparate impact of that phenomenon on particular communities. I believe there is goodwill between the Police Service and the Attorney General's Department and I hope that we can work through that difficult issue. Your point is very apt. I accept entirely the statistical information from the Bureau of Crime Statistics and Research [BCSR] that indicates an increase in the late 1990s in the number of Aboriginal people arrested for using offensive language. Aboriginal people tend to face a vicious cycle of arrest, unemployment and criminal behaviour. You highlight a real social problem, but the solution to it is not so easy to specify.

CHAIR: Also in that area of cultural and social concerns, is any specific program targeted at people of non-English speaking backgrounds to help them understand the judiciary?

The Hon. J. W. SHAW: In terms of the role of the Judicial Commission, there have been some seminars to address the specific problems of particular cultural or ethnic groups in the community. For example, a conference was held on 29 March this year for court and judicial officers about Vietnamese people in the

courts, which looked particularly at the question of domestic violence. That does not answer your question completely, but the Judicial Commission has also been able to provide training for overseas judicial officers. For example, Indonesian judges received training in May this year. It is generally fair to say the Judicial Commission is aware that judicial officers who may not have encountered some of these cultural problems in their lives and careers need to be made aware of them. Educational seminars are conducted to increase their sensitivity to those issues in performing their judicial tasks.

CHAIR: Are these educational or professional programs optional or mandatory for the judiciary?

The Hon. J. W. SHAW: The courses conducted by the Judicial Commission are generally optional. It would be difficult to require judicial officers to undertake a particular program or educational activity. However, every year there is an annual conference for each of the courts—the Supreme Court, District Court, Land and Environment Court, Industrial Relations Commission and Local Court—stretching over two or three days. All of the judges attend that conference and their attendance is not mandatory—that might not be the correct word to use—but is an ordinary obligation associated with being a member of the court. I have attended many such conferences over the past five years and they are addressed by a wide variety of people. Many of the speakers and sessions deal with the kinds of issues that you have mentioned, including the need for sensitivity to cultural matters and different groups within the community.

I assure the Committee that the programs that I have experienced and seen are diverse and very useful for judicial officers. There is a mixture of regular annual conferences of each of the courts and optional programs that I have mentioned that are conducted by the Judicial Commission. Some educational sessions are held during court time, but many others are conducted after court hours and on weekends in the private time, if you like, of the judicial officers. Approximately 1,750 days of continuing judicial education were attended by judges and magistrates between July 1998 and June 1999. As I have said, we regard their attendance as voluntary, but the figures show that there is a significant take-up rate on the part of judges and magistrates.

The Hon. J. M. SAMIOS: Returning to the question of training judges about the cross-cultural needs of the community and the needs of people of non-English-speaking backgrounds, the evidence provided so far relates to only one conference on 29 March regarding the Vietnamese community. Is that the only conference of that nature to be held in the past 12 months?

The Hon. J. W. SHAW: I am advised that, ordinarily, the expectation is that at the annual conference of the particular courts, when the judges come together for a time either in Sydney or in country areas, there is a session about matters of that kind—whether it be a session about Aboriginal issues or issues involving other cultural or ethnic groups within the community. For example, I attended a conference of magistrates in Coogee in the past week or so—the Hon. J. M. Samios will appreciate that magistrates deal with the vast bulk of matters, both criminal and civil, affecting ordinary citizens—that included a particular session, conducted by Leah Purcell, about matters concerning the Aboriginal community. I have received positive reports that the program was useful for those judicial officers from country and city areas who deal frequently with Aboriginal defendants or litigants in their courts. Those are the kinds of things that the Judicial Commission has been doing. It may be implied in the Hon. J. M. Samios' question that perhaps it could do more—one can always say that. I am happy to take on board your point that more may need to be done, and I will pass it on to the Judicial Commission.

The Hon. J. M. SAMIOS: That is a very constructive comment. Over the years the Family Court has been a controversial area in relation to cross-cultural training and understanding of the social mores of many people of non-English speaking backgrounds. I would have thought that there would need to be an emphasis on that. Cross-cultural training is a big issue in law and order generally, across the spectrum.

The Hon. J. W. SHAW: I agree with you. In one sense the easy answer would be to say that the Family Court is beyond my remit, being a Federal Court. At the behest of the Federal Government we are having constructed a Federal magistracy to deal, *inter alia*, with family law matters in lieu of the Family Court, and other matters in lieu of the Federal Court. The simplicity of my answer might be misleading, because our magistrates deal with Family Court matters and matters referred by the Federal Government and vested in the State courts. The leading case of *Re Wakim*, about cross-vesting, left available the prospect of the Federal Government vesting powers, conferring powers, on the State courts. It said that it is not open for State legislatures to confer powers on Federal courts.

In the limited area of family law that we deal with, that is State magistrates dealing with family law matters, I take your point, it is valid. It is not precisely clear to me how the development of a Federal

Magistrates Court will change the role of our magistrates in relation to family matters. It may not make a lot of difference. State Attorneys-General, Liberal and Labor, suggested to the Federal Attorney-General that he might make greater use of State magistrates rather than setting up this new Federal Magistrates Court. But that is water under the bridge; the Federal Parliament has decided to go the way of a Federal Magistrates Court.

It is likely that State magistrates will continue to deal with the difficult Family Court matters, matters of access, custody and the like, from time to time, mainly because we have that infrastructure spread throughout the rural and regional areas of New South Wales. We can provide that service, and I think it will continue. It is likely that at least initially the Federal Magistrates Court will be confined to a limited number of main centres. In many other centres in New South Wales our magistrates will continue the role in the family law area.

Ms LEE RHIANNON: Minister, what provision has been made for legal aid to deal with the increasing cases hearing highly technical evidence from expert witnesses which will inevitably flow from the passage of the Crimes (Forensic Procedures) Bill?

The Hon. J. W. SHAW: One cannot assume that the legislation will pass the Parliament.

Ms LEE RHIANNON: That is comforting.

The Hon. J. W. SHAW: To that extent, the question is premature. I say that as a matter of legal and political theory. I do not know which way your vote will go on the legislation. But one cannot assume unanimity of support for legislation. Assuming that the legislation does pass the Parliament, obviously there would need to be resources for the police to conduct the testing which is contemplated by it, of both suspects as defined; that is, people reasonably suspected of committing some crime, and in relation to prisoners currently incarcerated who have been convicted of offences for the maximum sentence of five years or more. The implication in your question, Ms Rhiannon, is quite correct; assuming the legislation passes. Obviously, there would need to be resources.

Ms LEE RHIANNON: My question related specifically to legal aid?

The Hon. J. W. SHAW: We have certainly kept up to the mark on the legal aid budget every year of the five years that the Labor Government has been in office in New South Wales. Perhaps we have not increased it enough to meet some critics but we have increased it in a time of substantially declining Federal legal aid. That is something that I am pleased about.

Ms LEE RHIANNON: Have you considered it in light of the highly technical nature of the evidence that will now be before the courts? Matters are becoming more complicated. Has consideration been given to increasing the provision for legal aid?

The Hon. J. W. SHAW: I have made a general point that your question assumes the passage of the legislation.

Ms LEE RHIANNON: Coalition members say that they are supporting it.

The Hon. J. W. SHAW: I am never dogmatic about assuming the passage of legislation through the Legislative Council, because one cannot confidently predict any particular outcome. Assuming it does, the outcome in terms of impact on legal aid would be a rather complex matter. It depends on one's view of the science and statistical reliability of DNA testing, but on one view DNA testing may be calculated to produce more pleas of guilty in the sense that if the defendant accepts the scientific evidence, a plea of guilty may ensue. I accept what you say, that there is an opportunity, and there ought to be an opportunity, in a free society under the rule of law for a defendant to contest that scientific evidence.

We saw the most notable example in the O.J. Simpson trial in America in which the DNA evidence was subject to ferocious critique from the defence, but mainly on the basis—as I understood it and as I followed it—of alleged incorrect laboratory procedures and doubts about whether the right sample was tested, and the like. But if the procedures are correct my understanding is that the statistical nature of the evidence is so dramatic and overwhelming that it tends to provide evidence of guilt or innocence.

Ms LEE RHIANNON: Will convicted offenders, who have previously exhausted avenues of appeal, be permitted to mount new appeals should there exist forensic evidence which may exonerate them by application of new forensic techniques?

The Hon. J. W. SHAW: Yes, I am not sure whether "appeal" is the correct word, but certainly there are avenues in the Crimes Act whereby a doubt or question that has arisen in relation to a conviction can be reviewed by the Attorney General or his or her advisers. That is regularly done. A number of reviews have been undertaken flowing from the royal commission into the Police Service. That process has been satisfactory. We send material to either the Crown Advocate or independent counsel for review, we send it back to the court, in particular the Court of Criminal Appeal, where a doubt or question mark has arisen in relation to a conviction. Certainly, if DNA evidence were to come to light which raised a question mark over a prior conviction, that would be attended to pursuant to that process. It could lead to the conviction being quashed or a pardon given, et cetera.

The Hon. M. J. GALLACHER: I refer to the TeleService Centre. My question is directed to Margaret Allison. The budget provides for a whole-of-government legal TeleService Centre. Will that legal help line be manned by lawyers or by call centre personnel?

Ms ALLISON: The short answer is that there will be both types of personnel in the centre. The plan is that initially calls will be taken by non-legal personnel who will respond to inquiries of a general nature and make some preliminary determinations about whether it is necessary to speak to a solicitor. It is anticipated that many people who phone centres will have inquiries of a relatively simple nature which can be responded to immediately or referred to another service. If it is deemed appropriate for them to speak to a legal officer, in the second instance they will be referred to a legal officer, who may give advice on the spot or make a specialised legal referral to another service.

The Hon. M. J. GALLACHER: Will it be manned 24 hours a day, seven days a week?

Ms ALLISON: It is not envisaged that it would be a 24-hour, seven-days-a-week service. The hours of service delivery have not yet been determined. One option is that there be some limited after-hours service, that is, in relation to the possibility of being able to listen to recorded tapes of legal information.

The Hon. M. J. GALLACHER: A method of "say nothing" or "admit to nothing".

Ms ALLISON: There might be a range of matters on which it is possible to seek information.

The Hon. M. J. GALLACHER: How many lawyers do you anticipate will be available in the call centre?

Ms ALLISON: That is unclear as yet. We are still doing some mapping around the likely call load, and that will suggest the number of lawyers that might be available.

The Hon. M. J. GALLACHER: How many personnel are you looking at?

Ms ALLISON: Again, that has not been absolutely determined. I would think that as a very broad and indicative answer we are probably looking overall at about 20 people.

The Hon. M. J. GALLACHER: Twenty people in total to operate what appears at this stage to be a Monday to Friday, 9.00 a.m. to 5.00 p.m. service.

Ms ALLISON: Probably slightly outside those hours but certainly on those days.

The Hon. M. J. GALLACHER: What provision will be made in relation to assistance for people from non-English speaking backgrounds?

Ms ALLISON: At this stage we are still dealing with protocols with some of the people to whom referrals will be made. Although the processes have not occurred as yet, I understand that there is to be some discussion with the Telephone Interpreter Service in situations where the matter is clearly one of such urgency or importance that advice needs to be given virtually on the spot. In other situations it may be preferable or desirable, depending on the circumstances of the case, to refer the matter for face-to-face legal advice, whether it be a Legal Aid Commission officer, a Chamber Magistrate or a solicitor through the Law Society who is prepared to give a first advice free and to arrange for an interpreter to be present at the interview.

The Hon. M. J. GALLACHER: Do you anticipate approval rates for legal aid assistance to be affected by this telephone service?

Ms ALLISON: I certainly think that one consequence may be that we have a higher rate of application. I would hope that people are, through the TeleService Centre, well-informed about their eligibility for legal aid. While I expect possibly a greater number of applications to be generated, if anything my expectation would be that there would be a slightly higher approval rate of those applications because people would be better informed about the likelihood of their getting aid on particular matters.

The Hon. M. J. GALLACHER: Is it a correct proposition, therefore, that at this stage you do not know the exact number of telephonists or call centre operators versus legal practitioners who will be on the floor at any given time? I think the agreement is a proper one. I suspect that you are looking at an incredibly high level of qualification in the call centre operator, above the average call centre operator that we see—for example, the operators at the Police Assistance Line at Tuggerah. Obviously, we must be looking at extremely qualified people to fulfil the wide spectrum of responsibilities in legal aid.

Ms ALLISON: And it is certainly not a matter of legal aid only, because the concept of the legal helpline is a construct of the Attorney General's Department, the Bar Association, the Law Society and the Legal Aid Commission. We are only one of four key players, along with community legal centres, who are involved in the development of this project. Training needs to be a key feature of the TeleService Centre, including ongoing training. Operators need to be supported by a very good screen-based information environment. There has also been some discussion around the operating environment of the TeleService Centre so that, for an example, lawyers would not only be taking calls but also be available if you just want to make a quick inquiry of them to find out about the appropriate referral. So there would be that opportunity for on-the-job coaching.

The Hon. J. W. SHAW: May I add that we are talking about a proposal being worked out jointly by the Attorney General's Department, the Legal Aid Commission, the Bar Association and the Law Society. Obviously, the details need to be worked out, but part of the proposal is the contemplation that where appropriate, where necessary, a caller will be referred to a legally qualified person. At this stage we are getting significant support from stakeholders for the aims and objectives of the proposal. People are giving us input. So this is a positive for the Government, and I know the Leader of the Opposition will acknowledge that.

The Hon. M. J. GALLACHER: You will obviously need an incredible computer system with all the right answers. Have you thought about getting John Laws' computer? He seems to have all the right answers.

The Hon. J. W. SHAW: I do not believe it is an idea we have considered. We will need to take that idea on notice and get advice.

The Hon. J. M. SAMIOS: I address my question to Mr Glanfield. What would you describe as the primary purpose of the Drug Court program?

Mr GLANFIELD: As you know, the Government's initiative in relation to the Drug Court arose out of an idea that was first developed overseas. The Government, as a matter of policy—and I will leave that for the Minister to address—had to do something different in relation to the way in which people who have a serious drug problem and who were committing offences were dealt with within the court system. It was an idea that the Government, the Premier and the Minister saw as offering a different solution that could be tested. So the Drug Court was set up as a pilot.

As to the objective of the Drug Court, I think that is probably a matter for the Minister because the Government made the decision to set it up. My role was simply to assist in the administration and the setting up of the pilot, and to arrange for its evaluation through the Bureau of Crime Statistics and Research. That is what we are doing at the moment. It is still in the pilot phase. We are looking forward to an evaluation later this year.

The Hon. J. W. SHAW: Certainly, a major policy objective was to encourage rehabilitation rather than punishment, to get people out of drug dependency, rather than simply putting them in gaol and keeping that vicious cycle in place. It is an American model. I think it was initiated in the State of California but it has spread throughout the United States of America. Its proponents have argued that it is not a soft option, that it is a rigorous system requiring regular reporting back to the court. That is the difference between conventional courts and the Drug Court. The Drug Court monitors regularly the person who has pleaded guilty to the offence. Only time will tell whether it is successful, but some anecdotal material suggests that it has been a useful model in a very difficult area of social policy.

I do not think that any of us here would pretend that this is anything other than an enormously difficult issue of social policy. The Attorney General's Department was very astute, in the early days of thinking about this, by being able to make available to me for a conference an American judge who is very senior in the Drug

Court program and who has been seminal in the thinking about the Drug Court program. Although he was in Guam, we were able to have him out here for a few days, at fairly minimal expense because he was so close. We were able to have conferences with him. He certainly had conferences with me and officers of my department, and we learned a lot about the United States Drug Court experience.

It is fair to say that the genesis of our program, which is headed by Judge Gay Murrell at Parramatta, is the idea that was embraced by the Drug Summit of expanding it into the Children's Court. It is innovative. To be candid, I guess there were always risks about it for a government. However, by and large it seems to have been a success, and it needs rigorous analysis for a government that determines policy on an evidence basis. We will be reporting back to the Parliament in due course as to what the outcomes have been.

The Hon. J. M. SAMIOS: Attorney, I take it that those comments are specifically related to the Drug Court in Parramatta?

The Hon. J. W. SHAW: That is so.

The Hon. J. M. SAMIOS: How is compliance with the program of remaining drug-free monitored?

The Hon. J. W. SHAW: That is at the Drug Court in Parramatta. I will see if I can provide some information.

The Hon. J. M. SAMIOS: How is compliance monitored?

The Hon. J. W. SHAW: In the broad, it is monitored by the defendant coming back to the court regularly—I think weekly; perhaps even more frequently from time to time—and reporting to the judge, and that is buttressed by objective medical tests.

The Hon. J. M. SAMIOS: On the basis of that formula, are you happy with the way it is proceeding? Do you have any concerns about the testing program?

The Hon. J. W. SHAW: It is true that a monitoring committee or some body put the spotlight on one potential defect in the process. It was a report of the Bureau of Crime Statistics and Research, within my department. The report pointed out that the urine testing may not be entirely satisfactory. That is fair enough. That is the point of an evaluation. I have asked that steps be taken to cure any defect, so I am covered by the BCSR report.

The Hon. J. M. SAMIOS: Can you be a little more explicit?

The Hon. J. W. SHAW: Concern was expressed about the frequency of testing and the appropriateness of the process that was adopted. Two reports, the report of the Drug Court itself and the BCSR report, drew attention to those issues. I am informed that the monitoring and evaluation committee has been working closely with the Drug Court to resolve the problems in this area. As part of the process of overcoming the difficulty, I understand that arrangements have been made for a nurse to join the Drug Court team to assist with the collection of urine samples necessary for drug tests. Other measures have been taken, and a number of longer-term options are presently under development.

The Hon. M. J. GALLACHER: With the nurse being present, what provision do you have to prevent urine sample swapping?

The Hon. J. W. SHAW: I am not familiar with the precise logistical issues there. I am told that the people involved with the Drug Court, the defendants, can be randomly told to go down and give a sample at that particular time—presumably in the physical presence of the nurse.

The Hon. M. J. GALLACHER: But that random testing is only carried out when they attend the court, is that correct?

The Hon. J. W. SHAW: Yes.

The Hon. M. J. GALLACHER: If they know that they are to attend court on a certain day, blind Freddy would be able to work out that it would be best to have something ready to take should he be one of the people randomly selected, would he not?

The Hon. J. W. SHAW: This is an add-on—that is, it is a supplement to the existing testing regime.

The Hon. M. J. GALLACHER: Are you able to provide an indication of how many random tests have been done at people's homes unannounced—that is, those who are undertaking the programs?

The Hon. J. W. SHAW: I would need to take that question on notice.

The Hon. M. J. GALLACHER: Is there such a provision in place for random testing to be done at people's homes unannounced?

The Hon. J. W. SHAW: No, I do not believe so.

The Hon. M. J. GALLACHER: Do you not think that, for it to be a successful program, you need to monitor that aspect of it? Do you not believe that would be a realistic proposition?

The Hon. J. W. SHAW: I take the advice of the experts and the judge conducting the court. As I have said, the initial reports are that it has been successful. It may be that some cunning individual can escape the strictures of the regime. However, by and large, the reports I have are that people are getting off drugs by using this court. I would not think it would be appropriate to be hypocritical of the process, particularly without any alternative solution.

The Hon. M. J. GALLACHER: I think we are all working together for the same outcome. How many negative results have been found since the program was implemented? I am speaking about situations where people have been caught for urine swapping. I am not speaking about the ones who have been proved to have a negative test. I am speaking about the ones who have been proved to have swapped their urine samples.

The Hon. J. W. SHAW: I need to take that question on notice.

The Hon. J. M. SAMIOS: As I understand it, the BCSR report stated that, even though participants were given several days notice of their urine tests, allowing them to either get the drugs out of their system or to swap samples, 45.1 per cent of participants tested positive to drugs prohibited by the court. That might be of some value to you in dealing with the issue.

The Hon. J. W. SHAW: It is. I think it helps to provide an answer to the question asked by the Leader of the Opposition.

The Hon. J. M. SAMIOS: Does it suggest that perhaps 80 per cent of the participants are still using illegal drugs?

The Hon. J. W. SHAW: It does. But they could be put out of the program if there is clear evidence of non-compliance with the rehabilitation program. If what you say is accurate—and I do not doubt it for the purpose of this discussion—there is empirical data which can be provided to the court which negatives the proposition that the defendant is complying with his or her undertakings to the court in relation to rehabilitation. If there is that objective material, that shows that there is the capacity to test compliance.

The Hon. J. M. SAMIOS: An editorial in the *Sydney Morning Herald* of 6 April suggested that the retention rate may well be high because the program is soft on participants; it allows them to continue using drugs while avoiding gaol. Why would they not remain on the program?

The Hon. J. W. SHAW: I would like to see that *Sydney Morning Herald* editorial as a whole, because my recollection is that on balance it was very favourable towards the project.

The Hon. J. M. SAMIOS: How many participants have been given rapid opiate detoxification treatment?

The Hon. J. W. SHAW: I do not know.

The Hon. J. M. SAMIOS: Would you be able to take that on notice?

The Hon. J. W. SHAW: Yes, certainly.

The Hon. M. J. GALLACHER: I refer to the point you made earlier, with regard to the 45 per cent of participants testing positive to drugs. What guarantees do you have that the remaining 55 per cent are not using their "cunning"—the expression you used—to get around what seems to be a fairly easy system?

The Hon. J. W. SHAW: I do not agree that it is an easy system, and I do not use the word "guarantees" in this area of social policy.

The Hon. M. J. GALLACHER: You would agree with me, however, that your understanding is that many of those who use drugs do it in a very sophisticated way—not only to carry their drugs but also to use them—and that some of the methods they employ to avoid detection are quite ingenious?

The Hon. J. W. SHAW: I really do not know. I do not feel I have the expertise to comment on that.

The Hon. M. J. GALLACHER: Therefore, there is no guarantee whatsoever that there is not some form of manipulation of the system by the remaining 55 per cent? There is no guarantee, is there, that they are not taking advantage of a swapping mechanism?

The Hon. J. W. SHAW: There are very few guarantees in life or in social policy areas. The real question is whether, on balance and on objective analysis, the Drug Court project is doing some good. That is the question. It is a cost-benefit analysis. On balance, are the resources being provided to the court achieving some worthwhile end in terms of drug policy? That is what government has to look at. Any evaluation will be made available to you, and we can debate whether it is worth continuing. If it is not worth continuing, obviously it would not continue.

However, I would avoid the word "guarantee", because we are living in an imperfect world and there is not 100 per cent certainty about any of these things. It is just a question of working out statistically whether we are actually doing some incremental good. That is what you and I have to turn our minds to constructively. My impression at the moment is that, although you may raise some sceptical points about the process, on balance it is probably doing some good.

The Hon. M. J. GALLACHER: I refer to the figures that the Hon. J. M. Samios has given you, that 45 per cent are testing positive to the test. With respect to the remaining 55 per cent, you cannot guarantee to this Committee that they are not manipulating the system through sample swapping. Therefore, how can you say it is a success?

The Hon. J. W. SHAW: I have not said in an unqualified way that it is a success. What I have said is that there will be a rigorous evaluation of the process and that some anecdotal material suggests successful results. However, that would need to be subject to a cost-benefit analysis as to whether the degree of success is worth the resources that are being poured into it. I can assure you that if on an objective analysis it is not regarded as a useful and successful model, it would not be continued. But my inclination is to think that it is doing some good.

The Hon. M. J. GALLACHER: Bearing in mind what I put to you this afternoon, do you agree with me, therefore, that there are possibly grounds for introducing some of more rigorous forms of random testing, such as those I alluded to a short time earlier, rather than adhering to what appears to be a fairly easily manipulated testing procedure as it currently stands?

The Hon. J. W. SHAW: I do not accept that it is easily manipulated. People are dealing with professionals, both legal and medical, who are familiar with that area of social problem, and I have faith in their capacity to assess these defendants who come before the court.

The Hon. M. J. GALLACHER: But you will not guarantee it.

The Hon. J. W. SHAW: I have repudiated the use of the word "guarantee". I have tried to argue—perhaps not persuasively so far as the honourable member is concerned—that the word "guarantee" is entirely inappropriate for a difficult area of social policy. One cannot guarantee.

The Hon. M. J. GALLACHER: I did not ask you for a 100 per cent guarantee, Minister. It could be a 50 per cent guarantee or a 25 per cent guarantee.

The Hon. J. W. SHAW: I think that is a contradiction in terms.

CHAIR: In the Drug Court program, I gather there is phase one and phase two?

The Hon. J. W. SHAW: Yes.

CHAIR: I gather that there is a slowing down in the progress through phase one and phase two which was expected. What are the reasons for this?

The Hon. J. W. SHAW: I do not think there is a slowing down of the progress. First of all, there is the question of a final evaluation of the trial program by the Bureau of Crime Statistics and Research. Second, there is a question about whether there should be a modest expansion of that program. I am told—and this might be what you are referring to—that the intake of people was perhaps slower than was anticipated. What I am about to say may assist the Leader of the Opposition. There are quite high hurdles to overcome to get into this process. I am sure that the judge presiding over the Drug Court is astute and would ensure that appropriate cases are taken in at the threshold. I think you are correct if you are suggesting that the intake was perhaps slower than expected.

CHAIR: Are there any other drug crimes diversion options that are being developed aside from the Drug Court program?

The Hon. J. W. SHAW: There are all the outcomes of the Drug Summit. That is being superintended by the Hon. J. J. Della Bosca rather than me because he is the Minister who is dealing with the outcomes of the Drug Summit. However, I can say that on the North Coast there are diversionary regimes for people who are in possession of small quantities of drugs generally, including so-called hard drugs and soft drugs. As I understand, that will be trialled through the Lismore Local Court. As well, more generally throughout the State, there are some diversionary programs for people who are found to be in possession of small quantities of cannabis to try to get them out of the criminal justice system. Again, these are trials and no doubt they will be evaluated after the expiration of the trial period to see whether it is worthwhile continuing with them or not.

I can provide more information about the Lismore early court intervention scheme. I actually went to Lismore to announce that in the wake of the Drug Summit. The scheme is designed to target less serious offenders who are motivated to seek treatment. Their progress will be closely supervised by the court. It will be introduced for 12 months from July this year at the Lismore court, as I stated earlier. Prospective participants must meet a number of criteria. Specifically, participants must live in the Lismore police local area command, be arrested for an offence which does not involve violence or sexual assault, have a demonstrable drug problem, and be willing to comply with the conditions of the program. The offenders will be placed on bail for up to three months and their progress will be closely supervised by the court.

The scheme is an important complement to the trial of the Drug Court at Parramatta, which targets more serious repeat offenders who are facing a gaol term. The Lismore early court intervention scheme will aim to reduce rates of recidivism and reduce substance abuse as well as to enhance the rehabilitation of drug users. My impression is that it was quite well received up on the North Coast although some people, predictably, interrogated me about why it was not going a lot further. Nonetheless, in the interests of a cautious State Government, it is at least a start towards emphasising rehabilitation rather than punishment.

May I say that I do not have any difficulty with Opposition representatives raising sceptical questions about it because they ought to be raised and we ought to be considering the scheme at every step. But I would like to think that there is broad bipartisan support for some of these more innovatory programs as distinct from what I think is a pretty much discredited policy of just putting people in gaol and doing nothing else.

CHAIR: I totally agree.

The Hon. M. J. GALLACHER: Are the urine test samples analysed on a wide spectrum drug base; or if a person is in there for, say, heroin, is testing done only for heroin?

The Hon. J. W. SHAW: I must say that I do not know the answer to that. I will try to find out.

CHAIR: It is a medical question, actually.

The Hon. M. J. GALLACHER: No, it is not. It is a fairly straightforward one.

The Hon. J. W. SHAW: I am told that it is done on a reasonably wide basis for at least four or five different types of drug inputs.

The Hon. M. J. GALLACHER: For many drug users, prescribed drugs such as rohypnol, et cetera, are a preferred option. Are they also identified? Is there any follow-up if someone is identified who is on a prescribed drug as opposed to an illicit drug?

The Hon. J. W. SHAW: I am getting detailed instructions and advice. Mr Bill Grant has been quite significantly involved in this process. Perhaps he can inform the Committee about it.

Mr GRANT: In relation to the drug tests that are available, there are a number of things that are done presently and a number of things that are being considered at the moment to increase the ability to scrutinise these drug tests. My understanding is that drugs like rohypnol will probably not be detected in the drug tests that are being provided at the moment. But, in addition to drug testing, there are a whole range of other ways of finding out whether people are complying with the Drug Court program. One is continual observation. As the Attorney has pointed out, in the first stage of the program—for the first three months—people are coming before the court weekly. In addition to doing that, they are attending health programs and they are seeing the probation and parole officers. They are really under constant scrutiny. Apart from just testing them, there are the powers of observation which are equally as important in working out whether people are using drugs.

I have to say that while I have been at Parramatta Drug Court observing its operation, the drug court teams have been suspicious of persons turning up for the court appearance and have directed them to the registry to undertake further drug tests. The power of observation is fairly important. Another matter which the Attorney is considering at the moment is the mobile collection facility. That really is an additional facility which is, in effect, a drug testing bus staffed by nurses that will complement some of the drug testing procedures currently in place. That is being worked on at the moment. Final approval has not yet been given but it will probably occur fairly shortly. The difficulties are: How would this bus operate? Where would it go, to not inconvenience the public? And so on. Those details are being worked out at the moment and that will provide an extra weapon in the armoury of tightening up on the drug tests that are available at the moment.

The Hon. M. J. GALLACHER: How intrusive is the department prepared to be with respect to those tests?

Mr GRANT: I am not sure that "intrusive" is the word I would use. In terms of the way the Drug Court operates, it will probably be as intrusive as it needs to be to ensure that the tests are reliable. If it means attending a mobile collection facility, that will be a requirement of the Drug Court. If it means turning up at a normal court appearance and being directed to the registry to undergo tests, that is what is occurring at the moment.

CHAIR: Do you give them any notice before you carry out the urine tests?

Mr GRANT: It depends on the categories of persons you are talking about. There is a fair bit of misunderstanding about which groups of clients are the problem clients. For example, people in residential rehabilitation places, such as Odyssey House, are constantly scrutinised and frequently tested. There are no concerns about the validity of the tests of the people in full-time rehabilitation. The more difficult ones are those on the methadone programs. Some of those methadone programs are provided by health treatment providers who are not providing the drug testing to the forensic standard that the Drug Court provides. The Drug Court is trying to come up with ways to tighten procedures and to introduce more random testing of these particular groups of clients.

The Hon. M. J. GALLACHER: I take it from your answer that you are now looking at further measures. Is that in recognition that the current system is not strong enough?

Mr GRANT: Yes. As the Attorney pointed out, these things are being evaluated as we go. The Bureau of Crime Research and Statistics [BCRS] report pointed that out—and the Attorney referred to the Drug Court review where the Drug Court said that these are problem areas that are being identified along the way. Drug testing was one of them. As an example of additional steps that have taken place, the Health Department has been working with methadone providers in the treatment areas so that they themselves tighten scrutiny of how these people are drug tested. There have been a lot of actions behind the scenes to try to tighten this up, and new initiatives are being thought of, such as the mobile collection facility, which hopefully when implemented will be able to tighten up scrutiny even more. As to being 100 per cent sure that someone is not using at some time, I do not think you will ever get to that stage.

The Hon. M. J. GALLACHER: Would you agree then that any suggestion that it is successful at this stage is somewhat premature, bearing in mind your own recognition that there needs to be much more done in this area?

Mr GRANT: Success has to be looked at across a broad range of different factors. If you are talking "successful" in terms of drug testing, we have a way to go and we are working to get there. I would say that a considerable number of people, as you would know from the BCRS report, have been terminated. Most of them have been terminated not for additional criminal activity but because they continue to use. You would also be aware that many of those people when detected are—although I will use this word, I do not particularly like it—sanctioned by the Drug Court, which means that they are sentenced to a term of imprisonment. They know that if they are found out on a drug test they will go to gaol for up to 10 days, I believe the judge is sentencing people. That is to try to turn them around and to let them know that with any continuation of that activity they will be terminated from the program.

The Hon. M. J. GALLACHER: That works on the basis that people are rational in their thought. You would probably know as well as I do that many of them are not rational in how they deal with their problems.

Mr GRANT: In terms of that comment, I would certainly agree with you.

CHAIR: The Committee's examination of the Attorney General's expenditure is concluded. I thank departmental officials for their attendance.

[Short adjournment]

CHAIR: The Committee will now examine the portfolio area of Industrial Relations. I refer to Budget Paper No. 3, Volume 1, page 4-12, which states that home-based workers, or outworkers, employed in the clothing industry are a high priority for the Department of Industrial Relations. What actions have been and will continue to be taken by the Department of Industrial Relations to show that outworkers are a high priority? More specifically, I refer to the information and education campaigns for outworkers, which are mentioned in the budget paper. Minister, would you inform the Committee what these campaigns involve? How will they benefit outworkers and how will the information be disseminated?

The Hon. J. W. SHAW: The question of an outworker strategy has been a significant one for the department for some time now. It is a difficult issue because it deals with people who work in their own homes or in somebody else's home and who are often severely exploited. It is not an easy industry for a government to regulate or superintend. In the United States of America, for example, the Clinton administration has endeavoured to develop strategies to try to come to grips with this problem. I suspect that other liberal democracies are also attempting to deal with this area of exploitative work.

The Premier made an announcement on 8 February 1999 about outworkers, and the Government has made subsequent announcements generally outlining our policy to try to deal with this area, while stressing that there is no simple, single solution to it. But essentially we have had in mind four elements: enhanced industry regulation, consumer education and mobilisation, outworker education and training, and support for small and medium clothing companies to operate legally. A comprehensive strategy, known as Behind the Label, contains proposals for legislation and programs in each area. Those legislative proposals are currently being considered by the Government and, if approved, will, of course, come before the Parliament in due course.

In the meantime the Department of Industrial Relations has been busy with a range of additional options. The enhancement funds of \$350,000 in last year's budget have been used to commence pilot or small-scale projects in relation to the four strategy elements I have summarised, and to supplement the compliance resources within the department. First, a multilingual clothing industry unit has been established, with the employment of a Chinese and Vietnamese inspector and a temporary team leader. The new inspector's role is to conduct targeted education and compliance campaigns, and to be an access point for workers of Vietnamese and Chinese background. Second, a new project manager is co-ordinating a range of projects funded under the enhanced money.

This year's projects are as follows: a new web site, posters and written material to begin consumer education; a Fair School Wear Campaign, which targets school communities to deal only with ethical suppliers of school uniforms. I was pleased to launch that campaign at Leichhardt High School a month or so ago and to see the tremendous enthusiasm of the teaching staff and the students for that ethical campaign, seeking to ensure that school uniforms are purchased from and supplied by ethical manufacturers who pay reasonable wage rates and the like; the Homeworkers Code of Practice Committee Project, which will develop sewing time standards for school uniform manufacture; and two projects focused on meeting outworkers skill development needs.

A rural and regional project will compare the issues of clothing outworkers with home-based workers in other industries. There will be continuing additional funding for the outworker program in the coming

financial year. As I understand the policy, the focus will be on the enforcement and education work of the multilingual unit. Project funding commitments planned are to an industry supply chain improvement project and, again, to the successful Fair School Wear Campaign. More details can be provided, but I will not take up the time of this Committee. I know of your interest in this, Madam Chair, and I would be happy to supply to you a full schedule of the activities in this regard.

CHAIR: I would very much appreciate it if you could supply me with that information.

The Hon. M. J. GALLACHER: My question is to Paul Hollis, the Manager of Business Support. What does Business Support entail?

Mr HOLLIS: In my case Business Support entails the management of the finance, administrative and information technology functions of the Department of Industrial Relations.

The Hon. M. J. GALLACHER: So there is no relationship between you and the business community from an industrial relations point of view?

Mr HOLLIS: Only via the inspectors and other people who have to do the core activity work of the department.

The Hon. M. J. GALLACHER: In actual fact, Business Support is somewhat misleading in the sense that it has more human resource and information technology resource facilities?

Mr HOLLIS: It provides support for people to get on with the core business of the organisation.

The Hon. M. J. GALLACHER: I will not need anything further from you. I just wanted to clarify that. I suspect that the question might be better directed to Mr Warwick McDonald as Director-General of the Industrial Relations Department. I draw your attention to page 55 of the 1998-99 annual report of the Ombudsman in reference to the mystery shopper audit.

Mr McDONALD: Yes, I am familiar with that.

The Hon. M. J. GALLACHER: The report states that approximately half of the referred calls were placed in the holding queue for an average of 6 minutes and 42 seconds, and later there was comment that the general level of courtesy could also be improved. What measures have you introduced to rectify these concerns?

Mr McDONALD: I am glad that question has been raised, Mr Gallacher, because the department, like any modern organisation, whether it is a public sector organisation or a private sector organisation, is constantly keen to improve the quality of its services. We were moderately happy with the mystery shopper audit that the Ombudsman carried out that year. I must say that the Ombudsman in her report and in conversations with me was even more effusive in saying that the level of service was very good. But of course in any customer survey you can identify areas that could be improved. So far as our staff training effort is concerned, we continually have increased the percentage of our budget going into staff training, and that includes customer consciousness training. That has been boosted in the last two years.

In addition, we have paid a lot of attention to the way in which we provide information. About 600,000 people call us by phone each year at our call centre. I was told earlier this week that the three hundred thousandth caller to our award inquiry service centre called in last Monday. So we have a large and growing number of customers. We also have a faxback service directed to customers. But in addition to the, if you like, labour-intensive way that we provide services, we have expended about \$100,000 in the last six months in developing a new system that we are calling Director, which is an Internet-based system by which the 1,100 industrial awards of New South Wales are now placed on our Internet site.

Those that have the most interest amount to about 100 awards. Individuals now are logging on to our site and they can interrogate the awards and can answer the questions themselves. In summary, we are aware of the survey. We have reacted to that survey but we survey ourselves as well. We survey the customers on the award inquiries. We survey the customers of our other services and we are constantly trying to improve those services. We must be doing something right because more and more people are coming to ask for that sort of advice and service.

Ms LEE RHIANNON: Is it correct that the Women's Equity Bureau [WEB] is being cut from 11 staff to five? I think that is from \$850,000 to \$250,000. If that is the case, I have questions which flow from that.

The Hon. J. W. SHAW: On my understanding that is the case.

Ms LEE RHIANNON: I think we would agree that the Government has a mandate to redress gender inequalities within industrial relations and at workplaces. So does this budget cut reflect the Government's belief that those inequalities no longer exist or just that they are no longer a priority?

The Hon. J. W. SHAW: Neither, really. It reflects our view that we can pursue our program to grapple with gender inequalities with five competent professional officers rather than 11. By way of background, in this area the Government has initiated and conducted a very extensive ministerial reference before the Industrial Relations Commission [IRC] into the question of pay inequity. That finished quite some time ago. That was conducted before Her Honour Justice Glynne. Obviously, the Women's Equity Bureau played a pivotal role in conducting that inquiry. That report is now available to us. It very comprehensively and rigorously analyses pay inequities in the wage structure. A test case was initiated about principles to be applied by the Industrial Relations Commission to the award system and possibly to enterprise agreements, although I think that is a matter of dispute between the parties.

That test case has also been completed before a Full Bench of the Industrial Relations Commission. The decision has not been delivered but the case has concluded and the decision has been reserved. I pay full tribute to the Women's Equity Bureau. It played an important role in the conduct of that test case. In addition to that, it developed a number of other strategies, including family and work responsibilities strategies, which have been developed and announced and, insofar as government has a capacity to do, put into place. All of those events have taken place. It does not reflect a lower priority for these issues; it simply reflects a decision made by Cabinet that the continuation of any such work can proceed with five officers.

Ms LEE RHIANNON: So it was made more for cost saving reasons rather than in terms of actually carrying out the work?

The Hon. J. W. SHAW: No, it was not made for cost saving reasons; it was made on an analysis of what the workload was and what the need was. Governments are always changing the allocation of staff numbers in particular subsections of departments, depending upon the perceived need for staff in particular areas. There is a never-ending reallocation of numbers and resources in relation to particular subject areas or areas of policy. The decision has been taken in that light. Some might disagree with it. I can understand that. But the decision has been taken on what is the need for people to work in this particular area.

Ms LEE RHIANNON: I appreciate your saying that the outcome has now been delivered but surely there is now a need for various education programs to inform unions, employees, employers and the community in general. When there is a slashing or cutting of the department by a bit more than half I imagine that we would at least agree that the perception is that again women's issues are falling off the agenda? Getting back to the substantive question, surely you would agree that more staff is needed to ensure that these outcomes are delivered out into the community?

The Hon. J. W. SHAW: I think that if the perception were as you stated it would be a wrong perception. It is simply that, as I have argued, in one sense the tough, substantive tasks of working out a policy in relation to pay equity have been achieved. I say that although the decision of the IRC has not been produced—I take that point—but the case has been finalised. It is not a case of priorities. I would agree with you that there will need to be an educational program and an information program following on from the commission's decision. That is absolutely right. The critical question is whether that can be done by five officers. If it cannot, we will obviously need to revisit this decision. But at the moment the decision is that five competent professional officers ought to be able to do that task. It is not as if we are abolishing the unit or forsaking the policy. It is just that we have taken the view in terms of juggling human resources—a fairly ugly term but one that is used—that five people can do it.

CHAIR: Has the Women's Equity Bureau been transferred from the Department of Industrial Relations to the Department for Women?

The Hon. J. W. SHAW: My understanding is that it has not been.

Ms LEE RHIANNON: How do you think the cuts will impact on the work around the maternity rights campaign that I understand is supposed to be coming on track?

The Hon. J. W. SHAW: I might be advised by Mr McDonald on this, but the only issue that I know of as a current issue about maternity leave rights—or as I would prefer to call it parental leave rights—is a legislative proposal which has passed through the Legislative Assembly and which will come to the Legislative Council, I believe, next week.

Ms LEE RHIANNON: Is there an educational component of the work for WEB?

The Hon. J. W. SHAW: On the assumption that it is passed by the Parliament, there will be an educational campaign in the sense of publications; that is being worked on at present.

Ms LEE RHIANNON: I presume your answer is the same. Even though the number of staff has been cut, do you think there is sufficient to undertake it?

The Hon. J. W. SHAW: I believe so, but if that proves to be incorrect obviously the matter would need to be revisited.

Ms LEE RHIANNON: At what stage do you make an assessment of whether or not it is working?

The Hon. J. W. SHAW: I would be advised by the departmental head—if he or she says, "We have not got enough resources in that area." There would be a number of options. A person in the policy area of the department could be allocated to assist in that task or we would just have to engage more people.

Ms LEE RHIANNON: Would you agree that there could be a perception in the community that once again women's issues are being downgraded, maybe because of budgetary measures?

The Hon. J. W. SHAW: There could be, but it would be incorrect.

The Hon. J. M. SAMIOS: How many State Executive Service officers are employed by the Department of Industrial Relations?

The Hon. J. W. SHAW: Five, I am instructed.

The Hon. J. M. SAMIOS: What is the total salary package for State Executive Service officers?

The Hon. J. W. SHAW: Do you mean an aggregate figure for the five?

The Hon. J. M. SAMIOS: And an individual figure?

The Hon. J. W. SHAW: And a break-up?

The Hon. J. M. SAMIOS: Yes.

The Hon. J. W. SHAW: I would need to take that on notice. There is no secrecy about it. These SES officers, as you know, are all assigned to a particular level on the scale determined by the Statutory and Other Officers Remuneration Tribunal [SOORT] and there is no question of confidentiality about it. We would be happy to provide that material. I am not sure that we have it to hand at the moment but I undertake to give you that information.

The Hon. J. M. SAMIOS: How many SES officers have left in the past year?

The Hon. J. W. SHAW: None.

The Hon. J. M. SAMIOS: How many have been employed in the current financial year?

The Hon. J. W. SHAW: None, except for the five.

The Hon. J. M. SAMIOS: Can you tell the Committee whether you have approved the payment of any performance bonuses to members of your department in the past 12 months?

The Hon. J. W. SHAW: Yes. In accordance with the SOORT determinations I certainly have approved performance bonuses, if that is the correct expression. I have only approved a performance bonus amount for the director-general of the department, Mr McDonald, and I approved that earlier this year.

The Hon. M. J. GALLACHER: Well earned.

The Hon. J. W. SHAW: Could that be recorded, Madam Chair?

CHAIR: Yes.

The Hon. J. W. SHAW: I have approved that and I should say, putting it candidly, that the director-general, I would understand, has approved various bonus amounts in conformity with the SOORT determination for each of the other four SES officers in the department.

The Hon. J. M. SAMIOS: Can you be specific as to how much the bonuses were?

The Hon. J. W. SHAW: I can be, yes. The bonus amount for the director-general was \$10,000, paid in February this year. That is the one I approved. In relation to the other SES officers whose bonuses can be approved by the director-general, as understand it, Mr Keith Napper, SES level 1, was paid a bonus of \$5,000 from May this year; Ms Patricia Manser, SES level 1, was paid a bonus of \$5,000 from January this year; Mr Paul Lorraine, head of the policy section, SES level 2, was paid a bonus of \$6,000 from January this year; Mr Gary Donnison, SES level 2, was paid a bonus of \$4,000 from January this year; and Mr Steve Eggins, who heads up the Workers Compensation Conciliation Service, was paid a bonus of \$7,000 from January this year. This is against the background that the SOORT salary increases for those senior officers was determined to be 1 per cent this year

The Hon. J. M. SAMIOS: What was the basis on which they were awarded?

The Hon. J. W. SHAW: The director-general's performance. I would say that it was compliance with the service agreement, delivering the policy objectives of the Government, providing efficient, intelligent and effective advice to the Minister and administering the department in a competent, professional manner.

CHAIR: I gather that the general manager of WorkCover is going to retire. When do you expect to replace him?

The Hon. J. W. SHAW: The former general manager of WorkCover did resign his position and was appointed to a position on the Industrial Relations Commission. That is Mr John Grayson. Mr Warwick McDonald is acting general manager of WorkCover at the moment and I anticipate that that position will be advertised and filled in the usual way. In fact, I believe it has been advertised.

Ms LEE RHIANNON: Has provision been made in the budget to ensure that private companies that perform safety audits are accountable for their reports, especially in the area of asbestos removal? You are probably aware that this has received publicity recently and I want to explore this issue.

The Hon. J. W. SHAW: Yes, I have seen that publicity. I am not clear in my mind as to the relationship between safety audits and the programs we run in relation to asbestos removal. My understanding over the years is that WorkCover has been assiduous in superintending the difficult area of asbestos removal and has worked well with the relevant unions—the Construction, Forestry, Mining and Energy Union, the Australian Workers Union, the electrical union—and others concerned with asbestos removal. I have seen demonstrations over the years as to the processes that are required by WorkCover, in co-operation with the unions, for this task. Whenever there is a notification about a problem in this area of asbestos removal and some alleged breach of proper processes, whether that notification is by the union, by an individual or for that matter by a member of management, then WorkCover does undertake a safety audit. I think in the case to which you refer WorkCover was called in. There was an inspection and some directions were given by WorkCover.

Ms LEE RHIANNON: Just to go back to the original question, I was trying to explore the involvement of private companies that perform safety audits. I understand that in this case they gave the go ahead for the building, no asbestos was identified in the building and six months later it was found. They asked for the safety report and it has gone. What are the mechanisms to ensure that private companies that perform safety audits are doing the right thing and that WorkCover can get access to them?

The Hon. J. W. SHAW: I will take this question on notice to make sure that I get a correct answer. However, whether private companies are used or not, my view is that it does not and should not detract from the fundamental responsibility of WorkCover as a public institution to perform an audit and to investigate any complaints that are made. I know the shocking consequences of inappropriate contact with asbestos. We all know the tragic problems of mesothelioma and asbestosis and the devastating effect that can have on individuals. I would be very concerned that WorkCover never abrogated its responsibilities or functions by handing them over to a private company. However, in so far as this raises the question of the role of private

companies in setting out safety processes, I would like to take that on notice and undertake to get back to the Committee with more information about it.

Ms LEE RHIANNON: To take that a little further, and considering your concern for the people involved, you are probably aware that in the building industry sometimes ethnic groups occupy different areas of work. The Cambodian community largely do construction labour work. Many members of the Cambodian community who have little or no understanding of English were involved in this particular job. Therefore, one must assume that they have been exposed to asbestos. Have any special measures been taken to provide them with information, give them access to detailed health checkups and any other measures to ensure that they are aware of this problem?

The Hon. J. W. SHAW: Again, that is a detailed question. I will take it on notice and come back to the honourable member with more information.

CHAIR: I should like to ask a question about work safe policy. You recall I approached you about the Staysafe committee and about having a work safe committee for members of Parliament to devise work safe policy. I am not sure whether you have applied your mind to it and whether any funding is projected towards establishing such a committee.

The Hon. J. W. SHAW: The funding question essentially would be one for the Legislature, if it decided that was an appropriate course. I know the Standing Committee on Law and Justice recommended the establishment of such a committee. My understanding is that no decision has been made about it, but I undertake to apply my mind to it and liaise with the Premier about whether such a reference would be appropriate. Questions would arise as to whether, for example, we could make that reference to an existing committee or whether a separate committee would be needed. I would indicate, in all candour, a suggestion that has been made is that perhaps the Staysafe committee could be combined with an existing committee which deals with, for example, motor accidents and the like. I would be happy to have your input on that as it might be a satisfactory outcome rather than to establish a new committee of the Legislative Council.

CHAIR: You might recall that we discussed that perhaps the Staysafe committee could investigate road safety and work safety?

The Hon. J. W. SHAW: Yes. On the face of it, it seems an attractive suggestion. I undertake to look at that urgently in the few days break we will have from the parliamentary session next week.

Ms LEE RHIANNON: Did you say that there are 35 new inspectors?

The Hon. J. W. SHAW: Twenty-five.

Ms LEE RHIANNON: I could not find in the budget papers any additional money being allocated for them or for resources for them. Has existing funding just been reorganised? Will those new inspectors be resourced? How will it be paid?

The Hon. J. W. SHAW: It is not in the budget papers because it comes from the WorkCover fund, which is an off-budget matter.

Ms LEE RHIANNON: There is additional money?

The Hon. J. W. SHAW: There is additional money, definitely, to employ 25 new safety inspectors, increasing the number to 301 safety inspectors. However, because it comes from the WorkCover fund, it does not need to be and is not in the budget.

The Hon. M. J. GALLACHER: My questions relate to the Industrial Relations Commission [IRC]. I shall start by asking Mr McDonald: How many New South Wales based awards are there?

Mr McDONALD: Approximately 1,100. There used to be about 1,600, the upshot of the previous Coalition Government creating a number of splinter awards. The 1,600 have been condensed to about 1,100. That is a broad figure.

The Hon. M. J. GALLACHER: You might recall some legislative reform passed through the previous Parliament allowing an extension of time for the Industrial Relations Commission to review all awards as it is legislatively required to do so.

Mr McDONALD: Yes.

The Hon. M. J. GALLACHER: Your new Director program, which you mentioned earlier, allows all members to investigate awards. Are you monitoring the progress of those reviews, bearing in mind that the IRC failed to fulfil its responsibilities to progressively review them as required by law and thereby necessitated a two-year extension?

Mr McDONALD: I can say that part of the responsibility of the department is to monitor the operation of the system. I am aware that the Industrial Relations Commission is progressing through the process with speed.

The Hon. M. J. GALLACHER: How many of the 1,100 awards have now been reviewed?

Mr McDONALD: I could not tell you that, no. The Industrial Relations Commission is a responsibility of the Attorney General's Department. Naturally we take an interest in its activities, but I could not tell you the precise number.

The Hon. M. J. GALLACHER: Minister, could you tell the Committee how many of the 1,100 have been reviewed? From memory, four had been done necessitating the changes for the legislation to go through. What number are we up to now?

The Hon. J. W. SHAW: I do not know the exact figures. My understanding is that significant progress has been made and, by the way, it is a terrific process. However, it is fairly labour and resource intensive for the parties and for the tribunal. I would not join with you in any criticism of the tribunal. I believe the deadline was a bit tough. It was set in the legislation and, as you know, we persuaded Parliament—I cannot remember whether that was with or without your support—to put it back.

The Hon. M. J. GALLACHER: We tried to assist a little bit.

The Hon. J. W. SHAW: Of course, as you would! In any event, in general they are making substantial progress in going through these awards eliminating archaic aspects of them and making sure the conditions and wage rates are suitable to employers in the new millennium. I undertake to get for you statistics about how they are proceeding with it.

The Hon. M. J. GALLACHER: The total number of matters filed in 1990 was 1,495 and last year it was 7,081. That is a significant increase over that time, which may or may not be as a result of various changes. Can you explain why in 1990 there were eight judges and two deputy presidents, yet last year there were only nine judges and two deputy presidents?

The Hon. J. W. SHAW: So is there an implicit criticism that we have reduced the numbers?

The Hon. M. J. GALLACHER: No, it is not a criticism. I am trying to explore what is happening with their workload, especially when one considers the statement in the fourth annual report of the Industrial Relations Commission: "The significant burden carried by them"—referring to the IRC—"is not assisted by the difficult conditions under which they work"?

The Hon. J. W. SHAW: Luckily you are asking me about a topic that I actually know a bit about! If you are comparing figures of 1990 and 1999 I would say the significant increase in the number of applications—which is, by the way, a pretty raw and crude figure and not really terribly helpful, but you talk about a drastic increase in applications—is that under the Coalition Government there was introduced a right of individual access for unfair dismissals. If I had to make a calculated guess, I would say that the change in the number of applications reflects the fact that, unlike the old days when the union had to apply for unfair dismissal, it was opened up to individuals, which led to a proliferation of unfair dismissal cases. Of course, I am not being critical about that. We continued that phenomenon in 1996 legislation.

But what has happened, and I should inform you of this, is that there has actually been a decline in unfair dismissal applications over the last year of about 20 per cent and the year before of about 14 per cent. I do not know with precision what the causes are of that decline. I think you have seen a comparable decline in the Federal jurisdiction and in applications made to the Anti-Discrimination Board also. I am not sure what factors in the economy are leading to that, but there has been that decline in applications over the last year or so. To the

extent that you are asking me precisely about the difference between applications in 1990 and 1999, I probably put my finger on the real causal factor—that is, the individual right to claim for compensation or reinstatement for unfair dismissal.

The Hon. M. J. GALLACHER: Are you agreeing, therefore, that its work has increased substantially in recent years?

The Hon. J. W. SHAW: I am saying the contrary. In terms of unfair dismissals at any rate, there has been a significant decline in the past two years; but it is a complicated matter. Since the 1996 Act there have been some major test cases that have required the resources of the Full Bench of the commission. For example, there was a test case about the principles to be applied to enterprise agreements that, thankfully, was dealt with largely by consent between the trade union movement and the employers. As I said earlier in answer to Ms Lee Rhiannon, there was a test case about pay equity, and several other test cases of a critical nature. They have taken resources, so I am not saying that the commission is underworked. However, it would be simplistic to make some sweeping generalisation that its work has increased dramatically.

The Hon. M. J. GALLACHER: Minister, have you asked the author of the fourth annual report of the Industrial Relations Commission to account for this statement:

The work of the Commission has increased significantly over recent years, resulting in members of the Commission dealing with extended lists.

The author is obviously on a different wavelength from you.

The Hon. J. W. SHAW: What is the date of that report?

The Hon. M. J. GALLACHER: It is the fourth annual report. The report is for the year ended 31 December 1999. It states:

The work of the Commission has increased significantly over recent years ...

The Hon. J. W. SHAW: That may be so; I do not deny it. However, I was focusing on unfair dismissals. In fairness to the commission—

The Hon. M. J. GALLACHER: I did not ask you about unfair dismissals; I spoke about the overall workload.

The Hon. J. W. SHAW: Unfair dismissals are a very significant percentage of the work, particularly the work conducted by the commissioners located at Xerox House. They are a very significant slice of the total workload and a very significant percentage of the total number of applications. One area that has increased is occupational health and safety prosecutions. There is no doubt that WorkCover has been more assiduous in recent years in prosecuting people for breaches of the Occupational Health and Safety Act 1983. That is beyond doubt. In that sense, there has certainly been an increase in the work.

The Hon. M. J. GALLACHER: So now you are saying that there has been an increase? I want to clarify this point.

The Hon. J. W. SHAW: I am talking about different components: there has certainly been an increase in occupational health and safety prosecutions and there has certainly been a decrease in unfair dismissals.

The Hon. M. J. GALLACHER: So what I put to you originally, Minister, you are now saying is correct: there has been a significant increase in recent years in the workload of the IRC?

The Hon. J. W. SHAW: I am saying that it is difficult to make such a generalisation; I am not acceding to it or denying it. I am not sure what point you are seeking to make. Let us assume there has been a significant increase in the work: So what?

The Hon. M. J. GALLACHER: I ask you to return, Minister, to the first question that I asked—when you were quite happy to tell me how fundamentally wrong I was. If the IRC is right about the workload—I used the expression "difficult working conditions"—do you not recognise that there is certainly a significant need to increase the resources? You said earlier that I was wrong when I cited the differential between the 1990 figures, eight judges and two deputies, and the 1999 figures, nine judges and two deputies.

The Hon. J. W. SHAW: There does not seem to be much difference really.

The Hon. M. J. GALLACHER: Has the workload gone up? The workload in 1990 was just under 1,500 and it was 7,000 in 1999—

The Hon. J. HATZISTERGOS: The numbers are not the workload; it depends on the length of the cases.

The Hon. J. W. SHAW: I pointed out that the difference in the number of applications over that decade is due principally to unfair dismissal applications—which, by the way, have a very high settlement rate and which are dealt with by the commissioners. The Leader of the Opposition seems to be focusing on the judges and deputy presidents. I am telling you that the commissioners at Xerox House do the overwhelming preponderance of unfair dismissal cases and there is an extremely high settlement rate.

CHAIR: We are not here to cross-examine the Minister. I ask the Leader of the Opposition to ask a question.

The Hon. M. J. GALLACHER: When the Minister raises evidence in the hearings, I am duty bound, in accordance with the standing orders, to clarify the matters that are raised. I think the Minister would agree that anything he raises in a committee hearing can be subject to further clarification.

CHAIR: I am not saying you cannot do that; I am asking you to ask the question.

The Hon. M. J. GALLACHER: I make the point, Minister—

The Hon. J. W. SHAW: It is questions, not points. That is the point that Madam Chair is making.

The Hon. M. J. GALLACHER: I will put a question mark on the end of it.

The Hon. J. W. SHAW: Use the interrogative.

The Hon. M. J. GALLACHER: To clarify the matter: Minister, do you agree, therefore, that the commission is correct in its fourth annual report about its difficult working conditions?

The Hon. J. W. SHAW: Every head of every jurisdiction would say to me that their court or tribunal is operating under difficult working conditions. At that level of generality, I accept that. It is difficult to adjudicate objectively on disputes—whether they are industrial disputes, disputes between citizens, or disputes between citizens and the Government. Of course that is a difficult job, and I pay tribute to those who do it.

The Hon. M. J. GALLACHER: Minister, if you look at page 3 of the fourth annual report—you do not appear to have a copy of it with you—you will see the heading "New Matters Filed". It talks about percentage changes and says that awards and agreements are up 93 per cent, unfair dismissals are down 20 per cent, disputes are down 2 per cent, occupational health and safety prosecutions are up 42 per cent, unfair contracts are down 33 per cent, appeals are up 23 per cent, and all other matters are up 48 per cent. That would indicate that there has been an increase.

The Hon. J. W. SHAW: I am familiar with those statistics and they correspond broadly with the sort of data—or generalisations—that I have given you: occupational health and safety prosecutions are up and unfair dismissals, which constitute the bulk of the work, are down substantially by 20 per cent in the past year. I accept all of that statistical material. It is not clear to me whether you are saying that more people should be appointed to the commission, but I must say that I have received no application from the commission to increase the numbers.

The Hon. M. J. GALLACHER: If you have had no application, Minister, were you not therefore alarmed by the claims set out in the fourth annual report about the difficult working conditions? Have you made inquiries about that?

The Hon. J. W. SHAW: No. I have said that that generalisation would be made by every head of every court or tribunal in the land.

The Hon. M. J. GALLACHER: Have you queried it at all?

The Hon. J. W. SHAW: I have not queried it because it is a statement of the obvious.

Ms LEE RHIANNON: Are there any plans to relocate the Department of Industrial Relations?

The Hon. J. W. SHAW: No, there are not. The Premier's Department is conducting some feasibility study, but there is nothing in the nature of a plan to transfer the department.

Ms LEE RHIANNON: Have any sites been shortlisted yet?

The Hon. J. W. SHAW: No.

Ms LEE RHIANNON: Can you outline how the process of relocating WorkCover to the Central Coast played out? What other sites were considered and what analysis was done of cost savings from the relocation?

The Hon. J. W. SHAW: I cannot really do that because the relative policy decisions were taken by the Premier's Department and/or Public Works in that regard. It was determined that Gosford would be the site for the relocation of WorkCover.

Ms LEE RHIANNON: You must be aware of what somebody sees as the benefits of ending up on the Central Coast.

The Hon. J. W. SHAW: In general terms, the idea is that government departments should be placed not just in Sydney but in various regions, and the Central Coast is both a congenial and an appropriate region for a government department.

Ms LEE RHIANNON: So I should ask the Premier's Department for more information about that?

The Hon. J. W. SHAW: Yes.

CHAIR: The new Aboriginal and Torres Strait Islander Unit, which your department launched last year, is not mentioned in the budget. It meets the particular common needs of this group. How much funding has been allocated to this unit?

Mr McDONALD: There is no specific line item for the Aboriginal and Torres Strait Islander Unit this year and there was none last year. It is funded out of the department's basic funds. Two officers are employed in that unit and they provide advice and assistance to people who employ most Aboriginal people in the State.

The officers, who are Aboriginal and Torres Strait Islanders, are in touch with Aboriginal communities. They have done a lot of work in establishing their existence. They have provided 300 handbooks to the employers of Aboriginal and Torres Strait Islanders. Their work is now proceeding to a higher level and is providing training for employers in employment law. They do that on the ground and offer their services; soon that will be taken up in a couple of country cities. Their service includes giving advice to employers on how to organise enterprise agreements or, indeed, enterprise awards. The assurance the Chair is looking for is that the unit exists, it has been funded from the basic funds of the department and it will continue.

CHAIR: Do you know how many Aboriginal people benefit from the unit?

Mr McDONALD: Thus far we have distributed 200 or 300 comprehensive manuals about employment law—that is employment law in the broadest sense, not just the Industrial Relations Act but also anti-discrimination law, et cetera—to Aboriginal communities. The officers of the unit are extremely enthusiastic and have been in touch with practically every Aboriginal and Torres Strait Islander interest group in the State. They are moving to a stage where they will go out to communities and give on-the-job advice.

CHAIR: Are you going to monitor their effectiveness?

Mr McDONALD: Of course.

CHAIR: I am looking forward to next year's report.

Mr McDONALD: We will provide specific statistics next year. I cannot tell you the exact number of calls but I have seen a report which stated that the number of calls coming to them continues to increase.

The Hon. J. M. SAMIOS: My question is to the director-general in relation to private sector industrial relations. I understand that the project objective is to develop and promote workplace changes and assess the community and industry to understand and comply with the industrial laws of New South Wales. Can you explain a reduction of average staffing equivalent full-time positions from 236 in 1999-2000 to 200 for 2000-01?

Mr McDONALD: That is as a result of a Government policy decision. It is my responsibility to carry out that Government policy decision.

The Hon. J. M. SAMIOS: How will that affect your department's ability to help the community understand the proposed changes to the Industrial Relations Act in addition to its other responsibilities, particularly in light of the halving of the members in the policy advice section?

Mr McDONALD: It has to be understood that the Department of Industrial Relations has gone through a transformation in the past three years. The work of all officers in the department now includes the promotion and understanding of employment law particularly to employers and employer associations. Clearly, they control the workplace. We cannot simply say that it is only one section of the department that does that work. I have been at pains to ensure that all sections of the department now play a role in the promotion of understanding of the State's employment laws. That will continue.

The Hon. M. J. GALLACHER: How many prosecutions by the Department of Industrial Relations are expected this financial year?

Mr McDONALD: That is a matter of what happens this year, I cannot say what I expect.

The Hon. M. J. GALLACHER: What have you budgeted for? Many other portfolios budget for a certain level for certain expectations.

Mr McDONALD: Continuing on from the answer I gave to the Hon. J. M. Samios a moment ago, the whole of the department is refocused on promoting and understanding the laws of the State. One of the performance indicators may well be that we have to prosecute fewer people if we can encourage more employers to understand the laws. I do not see the department as a police-type organisation, with all due respect to you.

The Hon. M. J. GALLACHER: Nothing wrong with the police.

Mr McDONALD: No, they are a fine body of people. Many people have passed through the service quite honourably. I do not see it is a purely police-type organisation, but as an educational body to educate employers in the understanding of the employment law. We are doing more and more of that each year. I would hope that prosecutions would level off or decline.

The Hon. M. J. GALLACHER: Can you tell the Committee how many working days were lost in industrial disputes in New South Wales in 1999?

Mr McDONALD: I cannot give the precise figure. I will take the question on notice.

The Hon. J. W. SHAW: It is a matter of record in the Australian Bureau of Statistics information.

The Hon. M. J. GALLACHER: Do you not have it available?

The Hon. J. W. SHAW: No.

The Hon. M. J. GALLACHER: That is fair enough. Mr McDonald, how many industrial complaints were received by you or your department in 1999?

Mr McDONALD: We finalise approximately 5,000 industrial complaints from individual workers each year. The Minister has kindly suggested that that does not include complaints from his office. Many of those complaints are now resolved expeditiously because of new systems that we have in place. We encourage the complainant and the employer to be in contact with one another in an attempt to resolve the complaint amicably. That activity is working.

The Hon. M. J. GALLACHER: Continuing on from the previous answer about refocusing from a police-style focus to one of compliance and assisting businesses, could you explain the private sector part. I refer to Budget Paper No 3. Following on from the refocusing of the department, can you explain the reduction in average staffing in 1999 from 236 to 200 for this financial year?

The Hon. J. W. SHAW: It is a matter of policy. As I said in answer to earlier questions, the Government has to work out how many people are required to do the tasks it decides as a matter of policy. We can do the job with that particular number of staff, as specified in the budget papers. In relation to the compliance section, that is the inspectors and the legal section, conducting prosecutions, it is not contemplated that there will be any change or diminution in staffing levels in that area.

The Hon. M. J. GALLACHER: On 18 May you announced reforms to the Industrial Relations Act, including an inquiry into labour hire firms to clarify the responsibilities and rights of employees and employers. At that time you said that the details of the inquiry would be worked out in consultation with the employee and employer groups. When did that inquiry commence?

The Hon. J. W. SHAW: It has not commenced as yet, but it is about to.

The Hon. M. J. GALLACHER: Minister, can you explain why, only 19 days after this announcement, you introduced, in another place, reforms that will potentially deem contractors employed by labour hire firms as employees? Is that not part of the consultation process?

The Hon. J. W. SHAW: With respect, you are misunderstanding a portion of the bill. You asked me about this in the House recently. Obviously this will be subject to parliamentary debate and perhaps it is not appropriate for the Estimates Committee to discuss it. There is a provision in the bill that has been introduced into the Parliament which enables the Industrial Relations Commission to deem certain classes of contractors to be employees, or to regard them as employees for the purposes of the industrial relations system. It is actually modelled on a Queensland provision. That does not grapple with the specific difficulties about labour hire companies that are the subject of this task force or inquiry. The problem that surrounds labour hire companies is who, in law, is the employer. Is it the host company or the labour hire agency?

Who is responsible for the payment of workers compensation premiums? Is it the labour hire company or the host company? Who is responsible for occupational health and safety matters? I assure you those matters are regarded as difficult questions on both the employer and employee side. There is support from the employer and employee side for some kind of significant inquiry. To my knowledge and belief that inquiry has not taken place anywhere in Australia. An inquiry is needed to grapple with those difficult, legal and industrial problems. But that is a qualitatively different question, or problem, area than that raised by the bill currently before the Parliament.

The Committee proceeded to deliberate.
