Parliamentary Debates
(HANSARD)

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LEGISLATIVE COUNCIL

Wednesday, 15 March 2000

Legislative Council

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

VOLUNTARY EUTHANASIA LEGISLATION, SUPPORT

Motion

HON NORM KELLY (East Metropolitan) [4.05 pm]: I move -

That -

(1) The Legislative Council supports the need for an appropriate form of voluntary euthanasia legislation to be passed by Parliament, in recognition of the public support for, and use of, forms of voluntary euthanasia currently being practised in Western Australia.

(2) The text of the Voluntary Euthanasia Bill 1998 be referred to the Legislation Committee for the purpose of determining whether its provisions provide a suitable basis for any change in the law relating to voluntary euthanasia.

I welcome the opportunity for this House to finally have a debate on voluntary euthanasia. It has been two and a half years since I first introduced the Voluntary Euthanasia Bill into this place. Unfortunately, because of the Government's unwillingness to bring these types of Bills on for debate, the public of Western Australia has seen this Parliament neglect its responsibility to debate issues of serious public concern in this place. The Leader of the Government has been quoted in the media as saying that this is not the place to debate such issues. However, the purpose of this place is to debate such issues of importance.

Hon N.F. Moore: Nobody has said we should not debate it.

The PRESIDENT: Order! Leader of the House and other members, I regard this as an important motion. I would like to hear what is being said.

Hon NORM KELLY: The Government has turned its back on people who have either died suffering, unable to access the medical help they desire, or who have had to resort to suicide or assisted suicide under the cloak of darkness and fear, without experiencing the compassion that this State should extend to such people. It is also interesting to note that previously the Government has neglected the people of Western Australia and has gone against its promise to introduce legislation in the form of the medical care for the dying Bill, which it had promised at the last election, so that issues relating to the withdrawal or withholding of treatment from patients and dealing with matters of medical powers of attorney would be dealt with by this Parliament. The Government has failed to introduce that legislation.

In commencing my comments on this motion, I will cite a brief quotation from Dr Helga Kuhse, who is the Director of the Centre for Human Bioethics at Monash University. She says -

> A dignified death is one which accords with the patient's values and beliefs, a death that does not contradict the patient's own view of what it means to lead a good human life and die a dignified death. A mode of dying that is prescribed by the imposition of the moral or religious beliefs of others is not a dignified death - even if it is relatively pain free.

What I am trying to achieve by getting voluntary euthanasia legislation passed by this Parliament is the opportunity for people to have control over their own bodies so that they can access the means to such a dignified death. As elected members of Parliament, we should take into account that we represent a diverse community made up of individuals and groups with different and often competing viewpoints and belief systems. As legislators, we have a duty and a responsibility to deal with this important community issue. We must not bury our heads in the sand and say that it is too difficult to deal with. We must encourage wider community debate based on the legal and moral issues surrounding voluntary euthanasia. These issues include modern medical technology and practice and the balancing of individuals' rights with community interests.

Given the previous research to which I referred in the second reading of the two relevant Bills I introduced into this place, it can be reasonably and fairly estimated that approximately 500 people have accessed active voluntary euthanasia in Western Australia since I first introduced the Voluntary Euthanasia Bill in 1997. The Government has failed those 500 people in this State.

The definition of voluntarily euthanasia refers to the termination of life at the request of the person killed. It may be active - that is, when there is a positive contribution by either the individual or someone assisting to bring about the death; or it may be passive - that is, when there is an omission of steps which may otherwise sustain life, the withholding or the withdrawal of treatment, which is commonly accepted and quite widely practised already in this State.

Voluntary euthanasia does not refer to the termination of life against the will of the person killed or without the consent of that person. As I said, we already have legally sanctioned non-voluntary euthanasia - that is, passive euthanasia - in that it is common practice for treatment to be withdrawn or the plug pulled. In some cases, this is not necessarily voluntarily. Quite often, it is done without the consent of the individual who is to die.

The best way to assess most accurately the level of public support for some form of legalised voluntary euthanasia would be through a referendum. In that way, we could see the position of Western Australians accurately. This House is not in a position to initiate a referendum. That is why I stated previously that I would support any move for voluntary euthanasia legislation passed by this House to be dependent upon a referendum which could be imposed by the other place before such legislation came into force. It is important that those in the wider community have a legitimate say in this type of legislation. We must look at public opinion surveys to give us a good indication of where public sentiment lies. Numerous surveys, polls and reports have indicated that there is a demand for this type of legislation in the Australian community, and this demand has increased over time. That increase is partially commensurate with the ability of modern medical technology to prolong and sustain life for far longer than was possible previously.

I will refer to a few surveys which were included in the report by the Senate Legal and Constitutional Legislation Committee on the commonwealth euthanasia laws Bill of 1996. Page 81 of the report refers to a Morgan poll conducted in October 1962. It asked a question which has been asked consistently for the following three decades: If a hopelessly ill patient in great pain with absolutely no chance of recovering asked for a lethal dose so as not to wake again, should a doctor be allowed to give a lethal dose or not? Of those surveyed, 47 per cent responded in the positive that a doctor should give such a lethal dose. As I said, that question has been asked in numerous surveys since. By June 1995, the figure was 78 per cent in support of administering that lethal dose. Other surveys asked this question: "Thinking now about euthanasia, where a doctor complies with the wishes of a dying patient to have his or her life ended. Are you personally in favour or against changing the law to allow doctors to comply with the wishes of a dying patient to end his or her life?" The poll recorded 53 per cent strongly in favour, and 22 per cent partly in favour; that is, a subtotal of 75 per cent in favour of allowing doctors to comply with those wishes.

As with all surveys, we must take the result with a grain of salt, because quite often it may ask a simplified question to a very complex issue. The Morgan poll referred to the phrase "so as not to wake again". I believe that part of the question could be rephrased to reflect more accurately the seriousness of what is occurring. The question refers to lethal doses. Often in such surveys the terminology of the question can influence the answer; however, when these results are combined with those of many other surveys and polls, there is a consistent statistical base to show that about two-thirds to three-quarters of the Australian population are supportive of a legal form of active euthanasia.

There is also support among health care professionals for a form of legalised voluntary euthanasia. A series of recent surveys in Australia and overseas has consistently shown that a considerable portion of these health care professionals support such euthanasia or physician-assisted suicide in certain conditions. Once again, the report of the Senate committee openly recognised that voluntary euthanasia is already widely practised in Australia. The report referred to a number of surveys undertaken to measure the actual practices and attitudes of Australian medical practitioners regarding voluntary euthanasia. A 1993 survey of 1 268 doctors in New South Wales and the Australian Capital Territory, conducted by Professors Peter Baume and Emma O'Malley, found that nearly 50 per cent of respondents had been asked by a patient to hasten his or her death. Almost 30 per cent had taken steps to bring about the death of a patient and, of those doctors, over 80 per cent had done so more than once. Nearly 60 per cent felt that the law should be changed to permit active voluntary euthanasia. There is some discrepancy when we see more doctors participating in this practice than the number of those who want a change in legislation.

A number of doctors who have written to me or to whom I have spoken have stated that they would prefer that voluntary euthanasia not be legalised, that they be allowed to continue what they do currently without any legislative framework. Even though I do not have any reason to question the doctors' intentions in carrying out what is best for their patients, I am concerned that such a lack of a legislative framework not only renders the current situation open to potential abuse, but also makes it far more difficult for the patients to access medical assistance openly and readily in the way in which they would like. Unfortunately, patients must seek out secretly the professionals who are compassionate to their wishes, and then they must go through various ways of having those choices carried out in the way they would like.

Another recent survey conducted by Professors Helga Kuhse, Peter Singer and Peter Baume, published in the *Medical Journal of Australia* in 1997, found that almost 2 per cent of all deaths in 1995 and 1996 were the result of active voluntarily euthanasia.

Overall, Australia had a higher rate of intentional ending of life without the patient's request than the Netherlands where euthanasia is openly practised. This level of acts of intentional ending of life equates to about 2 000 cases per year Australia-wide, which, on a population basis, equates to 200 acts of voluntary euthanasia each year in Western Australia.

Hon Derrick Tomlinson: It was a survey of 800 doctors.

Hon NORM KELLY: Yes. Two per cent of all deaths in Australia are acts of active voluntary euthanasia. In my research into voluntary euthanasia, I conducted a survey with two doctors in the eastern metropolitan region. My survey reflects the results achieved by the professors to whom I referred. Over 50 per cent of respondents to my survey had been asked by a patient to hasten his or her death, and 30 per cent had taken active steps to assist with the death of a patient. Many of these doctors had done so more than once.

There are no revelations in the figures I cite, as the practice of active voluntary euthanasia is widely accepted in our society. I find it disappointing that some of those opposed to a legalised form of voluntary euthanasia choose to ignore a regular and common occurrence. If they oppose the legalised form of voluntary euthanasia, they are not trying to prevent the current practices.

As shown in the Senate committee report, many people die in hospital as a result of a withdrawal or a refusal of life sustaining treatment, the administration of life shortening pain and symptom control, euthanasia or assisted suicide. Dr Robert Marr, representing the Doctors Reform Society, told the Senate committee that every doctor in Australia knows that secret euthanasia is practised. He recommended that "We need to bring it into the open and stop sticking our heads in the sand and saying that this is not going on." Only then can the issue be subject to formal controls, stringent safeguards and proper scrutiny.

A major study by Waddell, Clarnette and Smith titled "Treatment Decision Making At The End of Life: A Survey of Australian Doctors' Attitudes Towards Patients' Wishes and Euthanasia" found also that Australian doctors did not make a consistent decision in the treatment of severely ill patients. The doctors' decisions were influenced by their medical training and socio-demographic backgrounds. The data suggested that there were no clear criteria to guide doctors in managing the euthanasia-related clinical scenarios. These findings also intimate that patients do not have equal access to medical help, which is more indicative of the overall health system than of matters pertinent to end-of-life decisions in themselves.

Hon Barbara Scott interjected.

Hon NORM KELLY: I said that there was no consistency in the decision making in how it is applied. If one wanted to compare patients in an identical situation, the treatment would vary to a wide degree depending on the doctor seen.

Hon Peter Foss: That is appropriate, isn't it?

Hon NORM KELLY: Given that there is a difficulty in accessing and locating doctors who may be compassionate to the needs of the patient only exacerbates the problem.

Hon Peter Foss: Are you suggesting that they should have a rule - that way everybody will knock them off?

Hon NORM KELLY: That is not right, Attorney General.

Hon Peter Foss: Sounds like it.

The PRESIDENT: Order! Everyone will have an opportunity to speak.

Hon NORM KELLY: I move now to the choices confronting people in these situations. The Senate committee report highlighted the number of elderly people who suicide in this country. Attachment D of the committee report records that over a five-year period from 1990 to 1994, 672 people over the age of 75 years committed suicide, of whom 137 were aged 85 or older. This equates to 134 elderly suicides each year. Although it is difficult to determine the reasons for such suicides, it is obvious that a number of these suicides were likely driven by the dread of an inevitable painful death or a continuing unbearable existence as a result of a serious disease. Letters and phone calls I have received have further confirmed the alternatives open to people. A number of people with whom I have come into contact asking about the progress of my Bills have also provided information. I add that the information was not asked for, but they proffered information about how they intend to lose their lives. I am not qualified to deal with such people at a medical level, and I would never attempt to do so. However, it is clear that reasonable and rational people are meticulous in the way they prepare to end their lives. We see from the elderly suicide figures some of the ghastly ways people chose to commit suicide. It is extremely sad. Some opponents of voluntary euthanasia say that a legal form of voluntary euthanasia is simply a way of shortening life; however, I say that the lack of voluntary euthanasia is shortening the lives of many Australians as they are having to take the option of suicide at a much earlier stage of their medical condition because of the fear of the onset of the pain at a later stage of the illness or the fear of losing control of their body and the ability to take appropriate action at a later stage. An important part of this legislation is to provide a higher quality of life for people than the one they are experiencing at the moment.

Some of the reported suicides were by firearms, hanging and carbon monoxide poisoning, which are the most regularly used forms. The list extends to more unpleasant ways of dying, such as drinking agricultural chemicals - those more regularly used by farmers - jumping or lying in front of trains, taking various other types of drugs, stabbings and the like. They are desperate ways to end a person's life, and they are unnecessary. In many of these cases, a far more compassionate, helpful and loving way to end these lives could have been through a legal form of voluntary euthanasia or the current practices of the medical profession. As the current practices do not allow for open access to such medical help, those people find it far more difficult to find doctors who are compassionate to their needs. We should not be forcing these people into a position where they feel compelled to take their own lives and must use whatever means they have available to escape this threat, or the reality, of their unbearable pain. A civilised, mature and humane society should offer a more merciful and dignified option for those who desire it. A contradiction in the arguments of those people who are opposed to a legal form of voluntary euthanasia and who say that active voluntary euthanasia shortens people's lives is that people's lives are often shortened because they feel compelled to take earlier action to end their lives.

Help is also legally available through the purchase of books and access to the Internet for the relevant medical information. People can simply walk into a book store and select a how-to book and perform the deed themselves or with people they love and trust. A book which has been openly admired because it is a practical, reasonable and responsible how-to guide is *Final Exit: The Practicalities of Self-Deliverance and Assisted Suicide for the Dying* by Derek Humphry. It has also been condemned because it is a practical guide on how to end a person's life. I have read this book. I believe that the author, who has assisted in three deaths - one legal and two illegal - is coming from a compassionate viewpoint of not wanting to encourage people to end their lives unnecessarily, but to be fully aware, as most people should be, that people will take these

steps anyway and if they can be assisted in those steps to ensure that it is a more peaceful, more dignified, more humane way of dying, those people should be so assisted. The book goes into detail as to what are better ways to end one's life. It is unfortunate that at the moment as the law stands in this State a person must go into a book store to purchase a book such as this, read the book and then take action. I would much rather see a person consult with someone in the medical profession, who is experienced and competent at handling not only the technical but also the psychological side of ending one's life and giving assistance in all forms. It can be dangerous if people who read these books are not in a state to reasonably take actions for their own lives. It is far better to provide a structure that encourages people to access those decisions with qualified medical help.

Common law currently protects the right of patients to demand that their treatment be withdrawn. It protects medical practitioners who follow the wishes of their patients and remove life support or life sustaining drugs. I believe the decriminalisation of voluntary euthanasia is consistent with this common law tradition. Giving drugs which will end a person's life is widely practised and widely accepted throughout the medical community. The medical profession refers to a "double effect", which relates to drugs that are given to reduce pain but have the consequence of ending a person's life. However, the majority of the medical profession accept that giving those drugs with the probable effect of ending that person's life is a perfectly acceptable form of assistance to that person. What I am proposing as active voluntary euthanasia is a very similar, if not the same, practice in which doctors are able to give drugs that will cause the end of that person's life.

The Report on Euthanasia Workshop, sponsored by the Cancer Foundation of Western Australia and held last year, presented a survey on medical end-of-life decisions. The report indicated that the proportion of all Australian deaths that involved a medical end-of-life decision was 1.8 per cent from euthanasia, 3.5 per cent from ending of a patient's life without the patient's concurrent, explicit request, 28.6 per cent from the withholding or withdrawing of potentially life prolonging treatment, and 30.9 per cent from the alleviation of pain with opioids in doses large enough that there was a probable life-shortening effect. Basically, 30 per cent of deaths were affected by the double effect of ending lives with pain reducing drugs, and only 1.8 per cent were from active voluntary euthanasia.

Hon Peter Foss: The use of opiates with valium is the most usual practice.

Hon NORM KELLY: Opiates are also combined with alcohol. Although alcohol is probably not as accessible if the patient is in a medical institution, it is widely accepted as assisting the impact of those drugs.

Hon Peter Foss: The thing about valium and opiates is that there are legitimate medical reasons for their use, and it is the combination that has that effect.

Hon NORM KELLY: The issue is then whether it is legitimate, when the giving of those drugs will probably shorten that person's life.

Hon Peter Foss: Are you suggesting it is not?

Hon NORM KELLY: No. I am suggesting it is legitimate. I am suggesting that argument is similar to the argument that I am putting here as to the express intention. I am not saying it is the same argument, but it is a similar argument.

I will look at the impact of the unavailability of voluntary euthanasia for people dying in our society. I refer to a letter that I received from a person whom I will call Jean who died recently. Prior to her death Jean wrote about the lack of compassionate help to end her final days. She writes -

> Look back in history to the time of slavery. Think of how society accepted as normal, the chaining up and abuse of human beings. It sounds incredible, doesn't it? Thank heaven, that public opinion has changed and this kind of brutality is no longer lawful.
>
> Unfortunately the laws of slavery have not been changed in regard to some terminally ill, suffering individuals, who are chained in a vacuum of forced brutality.
>
> Against my wishes, I am forced to continue suffering, until death, because the law will not honour my last wish to be helped to die. I am given no choice.
>
> . . .
>
> Imagine being at the dentist, and having your teeth drilled without an anaesthetic. Well, that is what my pain is like **except** it is constant and relentless. Sixty seconds to every minute, Sixty minutes to every hour, 24 hours to every day. This is not living. This is just **existing**.
>
> . . .
>
> I have no fear of death itself, only a fear of being forced to **exist** in mental, physical and emotional pain. That is what is happening now: Existing against my wishes purely to please others, people who do not even know me.

Her wishes were denied and she died alone two days after she spoke those words. It was not possible for her to have her family with her at the time of her death.

A more public situation occurred in the Northern Territory a few years ago with the legal availability of voluntary euthanasia. As a result, Bob Dent's name has gone into the history of Australia as the first person to legally access voluntary euthanasia.

Hon Peter Foss: How did the Democrats vote in the Senate to overturn the Act?

Hon NORM KELLY: They voted 1:6 - one person voted to overturn the Northern Territory Bill.

I refer briefly to the case of Bob Dent.

Hon Tom Stephens: Who was the decent Democrat?

Hon NORM KELLY: There were six of them; shall I list them?

In a letter Bob Dent indicated his support of the Northern Territory legislation and was appalled to see that very close to the time of his death the potential existed for the legislation to be overturned by the Federal Parliament. To give members an understanding of what he faced, I will read part of his letter. He was diagnosed with prostate cancer in 1991. His letter, which refers to treatment, reads -

> An incision was made across my lower abdomen from hipbone to hipbone and several lymph nodes were removed. They were all cancerous. . . . both testicles were removed. . . . two days later a large haematoma (blood clot) . . . developed.

He goes on to say -

> . . . a hernia developed under the same right hand end of the haematoma.

He lost 25 kilograms in weight and the acceleration of the cancer with the prostatic specific antigen rose to 1 298, whereas normally it is 0 to 4. The fact that the cancer had infiltrated the bone marrow was withheld from Bob Dent. It was considered by those entrusted to help him that he should not be aware of it. He said -

> I have no wish for further experimentation by the palliative care people . . . Other drugs given to enhance the pain-relieving effects of the morphine have caused me to feel suicidal to the point that I would have blown my head off if I had had a gun.

He refers to the debilitation of his illness, the 24-hour nursing care he required and the impact it was having on his family. It was not so much a matter of how they felt, but how he felt about his family having to deal with his condition to care and nurse him through his condition. Towards the ends of his letter he states -

> What right has anyone, because of their own religious faith . . . to demand that I behave according to their rules until some omniscient doctor decides that I must have had enough and goes ahead and increases my morphine until I die? If you disagree with voluntary euthanasia, then don't use it, but don't deny me the right to use it if and when I want to.

As difficult as the Northern Territory legislation was, Bob Dent was able to take advantage of that legislation, as did three other people in the Northern Territory, before the law was repealed by the Federal Parliament.

Much of this debate is about individual choice. In the context of a modern, liberal, democratic society, individuals should have the ability to exercise personal choice on moral issues of this nature. Voluntary euthanasia inherently centres on the individual and his or her right to self-determination over his or her body. It is a personal decision that can be made only by the individual and in accordance with the individual's conscience and moral sensibilities. However, individual rights should be balanced with the rights of the wider community. Human beings are not isolated individuals. They are interconnected and affect one another. We share a common humanity. That is why we must consider not only the rights of the individual but also the rights of the community.

One of the distinguishing features of a modern democratic society is that we believe it is wrong for vocal or powerful groups in our community to have a disproportionate say in determining or limiting the choices for the rest of society. We must acknowledge the rights of individuals to have their own belief system, so long as it does not adversely affect others.

As the motion indicates, I would like the text of the Bill referred to the Standing Committee on Legislation to examine whether it is in the best possible format to pass through this Parliament. The Bill was formulated after much consultation with the general public, various medical professionals, legal opinions, groups such as the Voluntary Euthanasia Society of WA and other relevant community groups. It establishes administrative structures that can be enacted only by mentally competent adults suffering a medically diagnosed illness or condition which, as it progresses, will most likely cause the death of the applicant, and when the patient has no desire to continue living due to the pain, suffering or debilitation associated with the illness or condition.

The legislation seeks to regulate a restricted form of voluntary euthanasia. It is not concerned with either involuntary or non-voluntary euthanasia. The consent of the person concerned is crucial, and rigorous safeguards are included in the Bill to ensure the authenticity and reliability of that consent, including a cooling-off period. The legislation is not unfettered authorisation to seek medical assistance to terminate life. It can be triggered only by a person who is suffering from a serious, incurable illness. Existing provisions in the Criminal Code are effective in relation to all circumstances that fail to conform with that legislation. The purpose of the Bill is to formalise and decriminalise procedures that are being practised.

We also want to ensure that doctors who work in accordance with those controls and safeguards are afforded legal security

over their actions. The Bill does not impose the principle or practice of voluntary euthanasia on anyone. The essential principle behind the Bill is to give individuals the ability to exercise personal choice and to have control over their own body.

Under the Bill, a person should be an adult, mentally competent and have a medically diagnosed illness or condition which, as it progresses, will necessarily and inevitably result in serious, irreversible deterioration or loss of the applicant's mental or physical faculties and, therefore, have no desire to continue living due to the pain and suffering or debilitation associated with that illness or condition.

The patient would need to sign a request witnessed by two others and present it to a doctor willing to accept it. The doctor must inform the patient of the likely progress of the illness or condition and of the treatment that is available, including palliative care, respective risks, side effects, possible outcomes of those treatments and of the availability of counselling and psychiatric support services.

The doctor must be satisfied that the applicant has a terminal or serious, incurable illness or condition, that any medical treatment is available for the easing of pain, that the patient is mentally competent and not suffering from clinical depression and that the patient is freely and knowingly consenting to the administration of euthanasia. A second doctor must be separately satisfied that all those conditions have been met. A period of 48 hours must elapse before the administration of euthanasia. A doctor or medical practitioner who administers voluntary euthanasia in accordance with the Bill will incur no civil or criminal liability. Whenever a death by voluntary euthanasia occurs, the medical practitioner involved must inform the State Coroner within 48 hours and provide a copy of the request and the death certificate. Only a medical practitioner can administer or assist in self-administration. Administration can be only by the use of drugs or by the withdrawal or withholding of treatment. A further requirement is that the death must be quick and without pain or distress. The term of the request will lapse after three months.

The Bill does not cover living wills and other mechanisms for future consent such as enduring power of medical attorney. The request of a patient at the time of the illness is more certain and reliable than advance directives which involve some speculation about future circumstances. I am at odds with the Western Australian Voluntary Euthanasia Society with regard to living wills or future requests. I am seeking to provide a structure whereby a person can make a decision while being fully aware of his or her condition and the likely outcome of that condition. If a patient becomes mentally incompetent after making a request but before all the administrative conditions have been met, the request will lapse automatically. A doctor is entitled to refuse a request on personal grounds. However, that doctor must make reasonable efforts to refer the patient to a doctor who is willing to accept the request. We fully appreciate the need to respect the views of those medical practitioners who do not want to be involved in this practice, but the overriding consideration must be the need to ensure that the wishes of the patient are met. A request for voluntary euthanasia must be made in the presence of two adult witnesses, of whom one must not be a friend or relative. A witness who signs on behalf of a patient will forfeit any financial gain or advantage that may result from the death of the applicant.

The Bill has been based on a variety of legal opinions and an examination of the workability, or otherwise, of statutes in other legislatures. As I said, Australia experienced a legal form of voluntary euthanasia for a short time through the Rights of the Terminally Ill Act in the Northern Territory. Despite the media attention, the difficulties contained in that Act and the Federal Parliament's debate on the Northern Territory's rights, the Rights of the Terminally Ill Act did provide a way for people to legally and openly access genuine and compassionate assistance. Opponents to the enactment of similar legislation in this State would deny Western Australians that same access to genuine and compassionate assistance.

I turn now to a report from the Cancer Foundation of Western Australia about a recent workshop on this issue, and I am thankful that the Cancer Foundation organised this workshop. The report sums up this issue in a very accurate and balanced way by saying -

> It was noteworthy that in much of the discourse that occurred at the debate there was an apparent struggle over value systems, issues of power and dominance and in particular institutional control over the life of the terminally ill person. For example supporters of legalised euthanasia wish to instil ultimate decision making power to the state and the medical profession via legislation. In the case of the opponents there is a reinforcement of the views of the state in not wanting to be seen to sanction voluntary euthanasia. The opponents viewpoint clearly gives power to the dominant ideological value systems inherent in the medical and Christian discourse, with the control of the current covert practices of euthanasia being essentially left to the institution of medicine and its practitioners. Future debates should attempt to redress the imbalance which exists and to allow terminally ill patients to be elevated in the structural power discourse to be truly independent and empowered.

That statement identifies the need to elevate the position of the terminally ill in the decision making process so that the process is inclusive rather than exclusive of their wishes and opinions. Unfortunately, because the terminally ill are often not in a position to actively participate in these discussions, their thoughts and opinions are frequently overlooked, trivialised or ignored. I congratulate and thank the Cancer Foundation for sponsoring this workshop last August.

Hon Derrick Tomlinson: I do not think it would thank you for your interpretation of its conclusion, though.

Hon NORM KELLY: I think it probably would.

Hon Derrick Tomlinson: I read it quite differently.

Hon NORM KELLY: This was not a public workshop but was for medical, health and religious professionals who are

directly involved in the issue of euthanasia, and as such I believe what has come out of that workshop is very important and relevant to this debate. I want to make it clear that the Cancer Foundation has not advocated a position on voluntary euthanasia but has advocated in both the conclusion and introduction of its report that a wider, informed and rational debate take place on this issue. I am pleased that the Cancer Foundation has had an active involvement in that debate, and I remind members that this motion is our opportunity to be part of that informed, rational and balanced debate.

A position statement put out by Palliative Care Australia identified the primary elements of the debate as being -

1. That dying is a natural process and that declining or withdrawing futile treatment is acceptable.

2. That while pain and other symptoms can be helped, complete relief of suffering is not always possible, even with optimal palliative care.

This is virtually universally agreed to in the medical profession. It continues -

3. Recognition and respect for the fact that some people rationally and consistently request deliberate ending of life.

4. Recognition that there is a wide divergence of views about euthanasia in Australian society, and also within the caring professions, including the palliative care service community.

5. Welcoming of open and frank discussion within the community and within the health professions about all aspects of death and dying.

This statement is quite refreshing and realistic and also identifies in part that palliative care is not the answer in all situations.

In a similar vein, I now refer to a Health Department management plan for medical practitioners and patients with HIV/AIDS in Western Australia. Once again, this plan gives a good outline of how health professionals can assist people who request self-induced or physician-induced death. The steps are: First, listen to the patient's request; second, continue to give emotional and physical support to the patient; three, assess the patient for reversal of causes of depression and discuss treatment options; four, discuss with the patient, if appropriate, the patient's and the health professional's ethical view on suicide and physician-induced death; and, five, share with the palliative care team the patient's situation and request support and advice.

Debate adjourned, pursuant to standing orders.

[Questions without notice taken.]

MANDATORY SENTENCING LEGISLATION

Statement by Attorney General

HON PETER FOSS (East Metropolitan - Attorney General) [5.35 pm]: This inquiry is linked to Green Senator Bob Brown's private member's Bill to override state and territory legislation and repeal mandatory sentencing provisions for juvenile offenders in these jurisdictions. The Senate Legal Constitutional References Committee released its report yesterday. Since I prepared this statement I believe that the Senate has now passed the Bill.

Once members have had an opportunity to examine the report I am sure that they will come to the conclusion that Western Australia's "three strikes" sentencing laws for home burglary do not contravene United Nations conventions, and form a necessary part of the State's sentencing response to crime.

In its report, the Senate Committee distinguishes between the legislation in Western Australia and that in the Northern Territory. The Northern Territory mandatory sentencing legislation, as it affects juveniles, is seen to contravene Australia's international obligations. However, the committee believes that the practice in Western Australia, as distinct from the legislation, is less obviously in contravention. I do not understand this distinction because the practice it refers to is authorised by the law. The fact that some of this law is in another Act makes no difference. This opinion by the committee relates to the fact that in Western Australia, the judiciary have discretion to place juveniles sentenced under this legislation on conditional release orders. This discretion emanates from provisions contained in the Young Offenders Act 1994 which provides that a conditional release order can be substituted for a detention order. The Young Offenders Act 1994 preceded the three strikes legislation. At the time the three strikes legislation was introduced, Western Australia had the highest rate of home burglary in Australia. In 1993 11 per cent of homes experienced a burglary or attempted burglary in Western Australia compared with the overall rate for Australia of 6.8 per cent. Home burglary is a very serious offence that has a devastating and lasting effect on the lives of victims. The seriousness with which this offence is viewed is reflected in the maximum penalty of 18 years imprisonment; 20 years in circumstances of aggravation.

The three strikes provisions play a minor, but necessary, role in the juvenile justice system in Western Australia. The three strikes legislation applies to only a small number of repeat offenders, and more importantly, it only applies to home burglary convictions within a two-year period. The juveniles sentenced under this legislation have extensive criminal records, including at least three convictions for home burglaries. Of the approximate 13 500 sentences handed out in the Children's Court since the introduction of the legislation in 1996 until the end of December 1999, only 92 sentencing events were under the three strikes legislation. All of these children have been aged between 11 and 14 years.

Since the introduction of the three strikes legislation there have been a number of rulings which have qualified the operation of the three strikes provisions in respect of juveniles. In making these rulings, the judiciary can clearly be seen to be exercising its discretion in a responsible and appropriate manner. These include -

as an alternative to immediate detention, the President can, where it is deemed appropriate, place a young person on a Juvenile Conditional Release Order, which means that the offender is supervised in the community - with detention as a default option;

giving credit for time spent on remand and backdating sentences;

ruling that previous convictions more than two years old do not count as strikes; and

ruling that previous convictions for home burglary where no penalty was given do not count as a strike.

The fact that the judiciary has discretion when dealing with juveniles undermines the specious argument that the Western Australian legislation is in breach of United Nations conventions. This point was acknowledged by the inquiry when referring to the application of the legislation in Western Australia.

Since the introduction of the legislation on 14 November 1996 until 31 December 1999, a total of 88 juveniles have been sentenced under this legislation. This includes nine juveniles who received conditional release orders, and two cases that were overturned on appeal. This involves a total of approximately 0.5 per cent of sentencing appearances in the Children's Court since the introduction of the legislation - that is 88 conviction appearances out of about 14 000.

There have been arguments about the effectiveness of the three strikes legislation. I do not agree that the legislation needs to be defended on that basis. The question is whether the penalty is appropriate in the circumstances. However, if we look at the statistics, in 1997 there were 57 juveniles sentenced under the three strikes provisions. Forty-eight received a sentence of detention or imprisonment and nine received a conditional release order. Of those who re-offended and were again sentenced under the three strikes provisions, four detainees were detained again and three juveniles who received conditional release orders were subsequently detained. The fact that only seven out of the 57 three strikes juveniles have been resentenced under the same provisions suggests that in respect of serious offenders the law has been effective.

I also draw the attention of members to the fact that only one-twelfth of juveniles who were detained under the three strikes provisions repeated their offending behaviour. In comparison, one-third of those juveniles who were given conditional release orders re-offended and were again sentenced under the three strikes provisions. These statistics show a significantly higher incidence of recidivism by juveniles who received community supervision than by juveniles who were detained.

The Government will review the operation of the legislation after it has been in operation for four years. Based on this review, the Western Australian Government will make any changes to the legislation that are necessary.

The Government remains very concerned about the general over-representation of Aboriginal people in the justice system, especially juveniles. In respect of Aboriginal over-representation, the issue is not one of mandatory sentencing but rather addressing the social disadvantage being experienced by Aboriginal people. The Government has undertaken a number of initiatives to address this, including the development, with the State Aboriginal Justice Council, of the Aboriginal Justice Plan which will provide a focus for addressing issues underlying the unacceptably high rate of Aboriginal involvement in the criminal justice system and the Aboriginal Cyclical Offending Projects in Geraldton and Midland.

In summary, I assure this House and the Western Australian community that the State Government has no intention of repealing the three strikes legislation. The three strikes legislation was enacted to send a clear message to repeat offenders that they will face a harsh penalty if they continue to commit this crime. I can confidently say that there is not one example of a person in jail for home burglary under the three strikes law who should not be there. A person sentenced for home burglary has not just accidentally offended in a minor manner. There is no such thing as a minor home burglary. Usually the offender has also had many other offences before starting on the more serious offence of home burglary. Home burglary is not just a simple property offence but an invasion of a person's most private and privileged place.

The Senate inquiry has found that the application of the three strikes legislation in Western Australia does not constitute mandatory sentencing. That application is within the law. Despite this, the inquiry has recommended that the State Government should repeal this legislation and, failing this, that the Commonwealth should legislate to do so. I note that the Senate has already passed that Bill. This is nothing more than meddling by a political show pony.

The Government's response to this is that, although the Western Australian community wishes to retain this legislation to signal its abhorrence of repeated violations of the sanctity of their homes and although the judiciary responsibly exercises its discretion in sentencing young offenders, the three strikes legislation will remain on Western Australia's statute books.

CRIMES AT SEA BILL 1999

Second Reading

Resumed from 24 March 1999.

HON N.D. GRIFFITHS (East Metropolitan) [5.41 pm]: The Australian Labor Party supports the passage of the Crimes at Sea Bill 1999. It is one of a significant number of measures on the Notice Paper which are not controversial. The Bill has been the subject of an examination and a report by the Standing Committee on Constitutional Affairs. Its purpose is to give effect to a cooperative scheme to simplify the application of the criminal law in waters surrounding Western

Australia. It does not alter the substantive criminal law of Western Australia but merely extends its operation to, in practical terms, 200 nautical miles from the low water mark, the normal baseline for which is the low water line along the coast. It is the Australian Labor Party's view that this measure, along with many similar non-controversial measures, should be passed without undue delay.

HON HELEN HODGSON (North Metropolitan) [5.42 pm]: I had a look at this Bill some time ago, and I thank the Standing Committee on Constitutional Affairs for the work it did in preparing its report. I agree with Hon Nick Griffiths that this is fairly non-controversial legislation. Essentially it will ensure that the Western Australian Criminal Code will apply to offences which are committed within Western Australian territorial waters. There are a number of problems of jurisdiction with maritime law, not only occurring between the Federal Government and the different States in a federation such as Australia, but also involving international issues. That is the reason that there must be interaction between the commonwealth Attorney General and the State when matters of international jurisdiction may be involved, such as foreign ships with foreign registration. The effect of this legislation is that when an Australian jurisdiction applies to a territorial sea, the laws of the State which is adjacent to that part of the sea will apply. There could be some interesting effects when the laws between the States are inconsistent. An absurd situation could arise because of a difference in the laws on possession of cannabis between Western Australia and South Australia. A person might commit an offence in Western Australia by being in possession of cannabis while he or she is on the ocean adjacent to the port at Esperance. By the time that person gets to Adelaide, it is perfectly legal to possess that cannabis. However, the police in Adelaide will have to act on the offence that has been committed in Western Australia's territorial seas. It would be an absurdity if that situation applied but, in practical terms, ways will be developed to deal with this.

There is also the ongoing issue of intergovernmental agreements whereby law can be modified by publication of a notice in the gazette. I have spoken formerly in this place about my concerns when publication in the gazette of a law that is passed in another jurisdiction may be considered binding on the State. However, in this case we are not passing laws; we are merely clarifying jurisdiction. In this case it is not likely to result in any anomalies.

The committee report raised the issue of the regulation-making power when effectively the Governor General will be involved in the regulation making by which our State will be bound. Again, it could have anomalous effects, but I trust that these will be resolved by appropriate communication between state and federal authorities. Although there is a potential for some anomaly, I note that it is clarifying jurisdiction rather than creating new offences. I trust that appropriate administrative steps will be taken to resolve any potential anomalies as they are identified and, accordingly, we hope that the Bill will be passed through this place without further delay.

Question put and passed.

Bill read a second time.

CHILD SUPPORT (ADOPTION OF LAWS) AMENDMENT BILL 1999

Second Reading

Resumed from 18 August 1999.

HON N.D. GRIFFITHS (East Metropolitan) [5.47 pm]: The Child Support (Adoption of Laws) Amendment Bill 1999 is also supported by the Australian Labor Party. It does so with enthusiasm but regrets the delay in bringing this measure before the House. In June of last year I pointed out to the House through an urgency motion that the State was derelict in its duty in failing to bring forward this legislation because as at 1 July 1998 children throughout Australia - whether children of a marriage or exnuptial children - would have the benefit of commonwealth legislation; namely, the Child Support Legislation Amendment Act 1998. However, that would not be the case in Western Australia for children who were exnuptial children. From 1 July 1998 until this Bill is eventually passed by the Parliament and receives royal assent, as is envisaged in clause 2, the benefits of the Child Support Legislation Amendment Act will not be available to children who are exnuptial children in Western Australia. That is a matter of great regret. This Bill should have been dealt with a year ago. I will not revisit the terms of the debate on the urgency motion which took place last June but, frankly, there is no difficulty in the drafting of this Bill. It lists the changes which occurred in the commonwealth Act over the previous years. The important point was the failure to adopt sooner the Child Support Legislation Amendment Act 1998. When child support legislation was adopted in 1994, the Attorney, who at that time occupied another office, referred to the inequity of the difference in treatment involving children. That inequity, regrettably, has continued to occur because of the delay for which he, at the end of the day, must be personally responsible.

I have urged this legislation on the Government now for many months. I do not propose to play any role in delaying it, but the community should properly castigate this Attorney and his Government for their delay in dealing with the matter. I note that this Bill came before the House before prorogation and then was introduced shortly after prorogation. It is not controversial and it could have been dealt with early in the spring session; there is no good reason it was not dealt with early in the spring. The records indicate that the speech I am now making would have been even shorter had the matter been brought before the House in the spring.

HON HELEN HODGSON (North Metropolitan) [5.52 pm]: The Australian Democrats will support the Child Support (Adoption of Laws) Amendment Bill. Essentially, it will implement a matter that has already been passed by the Federal Parliament in respect of the Family Court, and the equivalent legislation is being enacted for the Western Australian Family Court.

The core issue to the Democrats is that it is essential that all children be treated equally, regardless of the marital status of their parents. This Bill will ensure that maintenance of children born outside marriage will be governed by the same laws that govern children born within marriage. The Commonwealth has already passed its legislation, and at this stage I digress slightly to say that other matters in respect of couples not in a married situation must be addressed as a matter of priority. I refer, for example, to property issues for de facto couples, and I wait to see when such legislation will be brought before this place. I presume all members have the same experience of calls to their offices from constituents experiencing difficulties when they find laws that may be applicable to married couples do not apply to them because they have not taken the step of obtaining a marriage licence.

Legislation dealing with child access and maintenance for de facto couples has been passed in this place since I have been a member - I believe two years ago - but we have yet to see state laws introduced to mirror federal laws in respect of property. The Australian Democrats support any laws that ensure parental responsibility for the care of their children because that will serve to protect the children of broken relationships. It is highly emotive subject matter, and both custodial and non-custodial parents can be devastated by the implications of custody decisions. Often it is a matter of not understanding the system, and sometimes the issues with respect to dysfunctional marriages are carried through the court system and impact on the children. Because complaints come from both sides of the issue about the calculation, collection and distribution of maintenance payments, it will never be possible to please everybody.

It is interesting to note that the Child Support Agency is the subject of one of the highest rates of complaints to the federal Ombudsman. When the Federal Parliament considered this matter, the inquiry received the highest number of submissions received by any federal parliamentary committee to that time. The Federal Parliament has thought this through and implemented the legislation at a federal level. It is now time to implement it at a state level and to make sure the legislation is as fair as possible to all parties involved, and to consider the position of the children. A couple of issues were considered slightly controversial at the federal level, particularly the ability for non-custodial parents to pay 25 per cent of their child support liability in kind payments. That was resolved federally and the issue is not before the Parliament today.

The Australian Democrats will support this Bill, and hope more resources and efforts will be put towards encouraging people to think about the responsibilities involved in having children and not simply regard them as rights and property, as sometimes happens in child custody matters.

HON PETER FOSS (East Metropolitan - Attorney General) [5.56 pm]: As Hon Helen Hodgson said, the Child Support Agency is probably subject to more complaints than any other area, and even though, strictly speaking, it is a federal matter, all state members receive many complaints from their constituents. The reason for that was the child support legislation, and this Government advisedly did not adopt some of the child support legislation because it believed it would cause problems. It has caused problems, and the latest amendments to the child support legislation were made principally to overcome the problems in the amendments that this Government did not adopt. I still have some hesitation in putting forward this legislation because I believe we will still receive complaints. I still get complaints about the Child Support Agency for children of married couples. The legislation is not perfect; I do not know that it will ever be perfect.

We know that the situation in Western Australia for children born outside wedlock has been considerably better than that of other children in that position because this State did not adopt the other federal legislation. It was done advisedly, and I am pleased about that because we saw the problems that have now been addressed in this legislation. I have moved to adopt this legislation because I believe uniformity is good, but I do not believe the situation has been as severe in Western Australia, simply because we did not follow the commonwealth lead in that area. The Government's actions are appropriate and correct in the circumstances.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Assembly.

Sitting suspended from 6.00 to 7.30 pm

APPROPRIATION (CONSOLIDATED FUND) BILL (No. 3) 1999

Second Reading

Resumed from 18 November 1999.

The PRESIDENT: Before I call Hon Graham Giffard, I remind members that it is a well-established custom that members on both sides of the House refrain from interjecting during a maiden speech. It is also a well-established custom, but not always followed, that a maiden speech is couched in moderate terms designed to be non-controversial and certainly not provocative.

HON G.T. GIFFARD (South Metropolitan) [7.31 pm]: I would like to start by saying how much of a privilege it is to be a member of the Legislative Council representing the Australian Labor Party and the people of the South Metropolitan Region. I look forward to working with the people on this side of the Chamber in helping to make a positive difference in the lives of ordinary Western Australians. I would also like to take the opportunity to acknowledge my predecessor, Hon John Halden, and wish him well in his new position of State Secretary of the Western Australian Branch of the Australian Labor Party. I am extremely grateful that John found the party's job too good to refuse. Thanks go to my friends, my family and especially to my wife Mandy who continues to be a source of support and encouragement.

When I joined the Labor Party in 1986, it was not my intention to ultimately become a member of this Parliament nor any

other Parliament. I joined the Labor Party because I wanted then, and still want, to make the best contribution I can to help people improve their life opportunities and circumstances. I joined the Labor Party because I have for a very long time embraced the values of the Labor Party; the values of social justice, of egalitarianism and of striving to ensure that all of us have the opportunity of reaching our potential. Since 1986 I have had the honour of working for two Labor members of Parliament. Firstly, I spent two years working for the federal member for Fremantle, Hon John Dawkins. This was in a sense my formal introduction to many people in the party. It exposed me to a range of wonderfully committed people, some of whom I continue to hold as friends today, no more so than my good friend Mark Cuomo. Secondly, I spent two years working for the then Parliamentary Secretary of the Cabinet, Hon Bill Thomas. He still serves as a member of the lower House of this Parliament although he has announced that he will not stand again. I take this opportunity to congratulate Bill on his career. I wish him well in whatever he decides to do once he leaves this place.

In July 1992, I commenced working for what was then known as the Australian Builders Labourers Federation, now known as the Construction, Forestry, Mining and Energy Workers Union of Australia. I worked there for seven and a half years. I worked in the trade union movement and the CFMEU in particular because I saw it as an opportunity to make a genuine contribution to help improve working conditions for thousands of workers in Western Australia. I am proud of the contribution that I have made to the trade union movement in Western Australia. The past seven years in the trade union movement have not been all beer and skittles. Every day I went to work I confronted what the Court Liberal Government had done to workers. Individual work contracts, attacks on wages and conditions, the decline of our public infrastructure, selling off State assets and draconian restrictions on trade unions are some of the results of seven years of bad government.

Over the past seven years the Court Government has attempted to systematically and brutally destroy the basis of the industrial relations system in this State through the imposition of highly regressive workplace laws. The deregulation of the industrial relations system has resulted in wages and conditions being negotiated increasingly between the employer and employee with no external intervention in the bargaining process. Workplace agreements are insidious because they ignore the basic power relationship that exists between an employer and an individual employee. Workplace agreements are insidious because they disadvantage the most vulnerable members of society. Where people have been employed under workplace agreements they receive minimum or lower rates of pay. A 1998 study by the Commissioner of Workplace Agreements found that 29.2 per cent of people on workplace agreements received below award rates. Workers are worse off when they are forced to accept conditions that place them below the rates contained in minimum rates awards. The creeping emphasis on individual rather than collective bargaining has had serious implications for job security. It has led to job losses, workforce fragmentation and casualisation. Recent Australian Bureau of Statistics figures indicate that more than one-quarter of the work force is employed on a casual basis. Conservative politicians assert that the majority of people prefer casual employment to permanent forms of employment. Can we take this to mean that casual workers prefer the fact that they can be sacked with little notice, or that casual workers prefer not knowing whether they are on this week's roster or next week's? I do not think so.

Deregulation of the labour market has also greatly affected the status of women in this State. Over the 1990s the earnings of Western Australian women employed full time in comparison with their male counterparts and women nationally have fallen. Western Australian women earn 3.3 per cent less than the national average for women. In a recent submission on the adult minimum wage, the Western Australian Pay Equity Coalition stated that the increasing gender gap in Western Australia makes it imperative that remedies be put in place to address the problems of gender equity. It is the contention of the WA Pay Equity Coalition that based on available research, the deterioration in female relative pay in Western Australia is the product of labour market deregulation and pay decentralisation. I support the contention of the WA Pay Equity Coalition.

The rights and conditions of workers in this State have been eroded to an unprecedented extent. The Government's actions are all the more shameful, because there was simply no need for any of this to have occurred in the first place. The carnage that has been wrought in the name of reform results from the Government's obsession with ideological purity over the interests of good government. Members should consider the attitude of the Court Government to increases in the minimum wage. It always trots out dogma that increases in the minimum wage will reduce employment opportunities. On that basis it seeks to suppress increases in the minimum wage. In truth, most of the beneficiaries of increases in the minimum wage are women, part time or casual workers, and migrant workers. In truth, increases in the minimum wage do not generally impact adversely on employment. In truth, increases in the minimum wage impact on industries where workers most need it. In truth, increases in the minimum wage are justifiable for reasons of social justice and the need to remove competitive advantages exploited by unscrupulous employers.

Early in the term of this Parliament, the Government forced through this Chamber legislation for which it had no mandate nor any moral right to impose on Western Australians. It was able to do what it did because of one of the quirks of our electoral system in which the Government was able to use the numbers it enjoyed as a result of the 1993 election to crunch through legislation it refused to put to the electorate in the 1996 election. The Government had promised with a lot of the legislation that it would not be introduced without the consent of the major stakeholders. However, after the election it showed its duplicity. I am speaking of the Labour Relations Amendment Act - the third wave. I have read what my colleague Hon Ljiljanna Ravlich said about this legislation when she made her first speech here on 27 May 1997. I concur entirely with the views she expressed. I repeat that the Labor Party will continue to work to remove the third wave from the statute books. It is anti-union, anti-worker legislation that should never have passed through this Chamber. The Court Government had no right to put the legislation before the Parliament, and it did so by stealth. As Hon Ljiljanna Ravlich said, "It is bad law."

The Court Government is not content to stop short at selling out the rights of workers to fair, just and decent working conditions. In fact, the Court Government appears equally committed to selling out from under all Western Australians their public utilities and government services. I am concerned at the fire sale mentality of recent years. Before we wilfully sell our public assets, we must examine the very question of public ownership. We must do so from a historical and a contemporary perspective in terms and concepts that are relevant today. I do not oppose all privatisations, but I have grave concerns about the basis on which this Government decides to privatise or contract out. A number of important considerations are involved and this Government shows a glittering indifference to those considerations. It should be remembered that the concept of public ownership of necessary infrastructure did not emerge in a vacuum; it was developed in the interests of efficiency and coordinated delivery of services and to guarantee equality of such services in the interests of fairness. However, what has long been an Australian tradition is fast becoming folklore. This country currently has one of the largest programs of privatisation or part privatisation among OECD countries. Although it has taken 100 years for the present system to emerge, it has taken this Government little more than seven years to destroy it. The Court Government has sold at least seven Western Australian assets, with another three on target to be sold over the course of the year. This is the fire sale mentality that concerns me and many other Western Australians.

There are no signs that the Government's policy in this respect will abate any time soon. Although the Court Government indicated late last year that it did not intend to privatise the Water Corporation, we would be foolish to accept its word on this. In 1996 when Hon Norman Moore was questioned in this Chamber about whether the Government intended to privatise AlintaGas, he replied that it had no plans to sell that entity. Yet three years on the Court Government again shows its duplicity as AlintaGas is being prepared for sale. It is not just that the Government makes up the rules of the game as it goes along, but that it is seemingly blind to the fact that privatisation often represents a sell-out of community values. The sale of public utilities is more than just about the sale of bricks and mortar; privatisation sells out the right of the members of the public to own something of their State, irrespective of their age, earning capacity, educational status or where they live. It also sells away the rights of future generations to draw benefit from the social dividend that joint ownership in community enterprises creates.

What the Government has failed to grasp is that public ownership engenders a sense of social belonging. The leader of my party and the soon to be Premier of Western Australia, Dr Geoff Gallop, has pointed out that in selling off public assets, this Government has managed to downgrade the status of the people of Western Australia from joint proprietors to little more than customers. This ill regard for community is unforgivable and stems from a socially regressive Government which believes that every man, woman, child and canine companion should fend for themselves. However, privatisation does not just undermine the sense of social belonging; it also sells out the economic basis of the State. The privatisation push is predicated on the erroneous belief that only the private sector is capable of running viable economic entities. Underlying this claim is the assumption that public utilities are costly, inefficient money guzzlers. If this is true, how is it that in 1999 Western Power managed to post a profit of $141m, the Water Corporation $262m, and AlintaGas over $40m?
Privatisation ignores essential truths about private operators. Private corporations, unlike public utilities, are driven by the imperative to generate profits. As a result of this, they cut back on costs without any real concern for the provision of public service. They are also more likely to cut back on jobs. This can have and has had a critical impact on the quality of service delivery, particularly for rural and regional Western Australians. Implicit in the idea of government owned and run utilities is the expectation that services will be supplied to all citizens at a price they can afford. Privatised utilities in contrast are not concerned with protecting the disadvantaged or achieving redistributive ends. Only democratically elected Governments are likely to take the necessary steps to ensure that everyone is given fair and equitable access to core infrastructure. Countries that have implemented privatisation programs often have little to celebrate. Although New Zealand is held up as the poster child of privatisation, it is a country facing enormous economic and social challenges. Despite having done everything right in the eyes of the economic rationalists, New Zealand is experiencing growth and GDP below the OECD average, high levels of unemployment, a huge current account deficit and growth in poverty and inequality. Similarly, evidence recently presented by Dr Stephen Gale from the New Zealand Institute of Research before one of our Legislative Assembly committees revealed that very few efficiency gains were attained by state enterprises in New Zealand once they were privatised.

Closer to home in Victoria, the Australian Gas User Group suggests that the Victorian gas sale has delivered only measly benefits to consumers. The Australian Industry Group has also been critical, saying it will lead to increases in gas prices, particularly to contestable customers.

The enthusiasm of government to privatise as much of this State as it can lay its hands on, is matched only by its eagerness to contract out critical government services. Outsourcing of public services has grown from $1.06b in 1994-95 to $3.09b in 1997-98. In this time the Court Government managed to outsource core areas such as health care facilities, catering services, prisons, road design, electricity generation and security.

The Government's record on contracting out is poor. In the Government's zeal to contract out services, it has ignored many of the perils that outsourcing carries. There are big costs associated with preparing and monitoring contracts. Contracting out can be expensive. An Industry Commission report estimated that contract expenditure in Western Australia conservatively totalled $670m in 1994-95 alone. Contracting out also requires large numbers of senior bureaucrats to prepare and monitor contracts with private companies previously carried out by Governments. The total salary of senior staff members at Western Power and AlintaGas has increased by 1 800 per cent during the six years since 1993-94.

While senior bureaucrats have clearly benefited from contracting out initiatives, the same cannot be said for others employed in the Public Service. Since 1993, there has been a reduction in the number of full-time public servants.

Approximately 10 000 public servants have lost their jobs. It has also been estimated that there has been a 10 per cent drop in permanent employment and an increased use of short-term contracts particularly among new employees. Those who have remained in the public sector have experienced an erosion of real wages and conditions. Similarly there is no evidence that any benefits from contracting out of government services is being put back into the community in the form of lower taxes and charges. Nor is there any proof that the private sector has shown itself to be particularly effective in the delivery of services previously undertaken by government agencies. The contracting out of public bus services resulted in prices of public transport fares increasing substantially. A survey report tabled last year in Parliament revealed overall customer satisfaction with private bus contractors to be as low as 18 per cent. Only last month many thousands of WA homes were overcharged with false metre readings. Rereading of 8 000 water metres in 10 suburbs found that more than half were incorrect. This hardly vindicates the Government's claim that outsourcing delivers efficiency and cost savings.

More important perhaps is that contracting out has important implications for democracy. When the supply of these critical services is handballed to the private sector, it raises serious concerns about accountability, responsibility and transparency in government. Private operators are less likely to involve the community in commercial decisions and to deny the public access to that information on the grounds that it is commercial in confidence information. This effect is compounded when the public does not have the same right to redress when the Government becomes a purchaser of services rather than a supplier. Traditional intermediaries such as the Ombudsman, who normally review administrative decisions or intercede on behalf of the public when problems arise, lose their jurisdiction to act.

Essentially there is little to support the claim that privatisation and outsourcing offer any substantial or enduring economic benefits for the State. It seems that this Government is impervious to the facts and blind to the evidence. We have now reached the point at which Western Australians are able to claim ownership of fewer public utilities and Governments bear the responsibility for carrying out fewer services in the public interest. This is not to suggest that profitability is not an important consideration or that we should tolerate inefficiencies in the public sector; nor does this mean that these goals or objectives should supersede the State's social and moral obligations to the men and women it claims to represent. To determine that the only way to reform these entities is to sell them off is superficial, inadequate and non-visionary. So where does this leave us? If privatisation and contracting out does not appear to deliver tangible economic benefits and if it comes at the expense of transparent and accountable government, equity and fairness and the long-term viability of the State, why has this Government so fervently pursued this agenda? Put simply, the decision to privatise is about political and economic expediency.

So far the Court Government has managed to sell off over $4b in State assets. That is nearly $3 000 for every man, woman and child in this State. The Government is expected to raise an additional $1.4b once the sales of Westrail Freight and AlintaGas are finalised. Privatisation will effectively net the Government somewhere in the vicinity of $5b. The massive financial windfall enjoyed by the Government does not appear to be reflected in spending on essential services. The health budget has been slashed by $30m. Chronically underfunded public hospitals are forced to make do with outdated and obsolete medical equipment and waiting lists continue to grow. There are currently 11 500 people waiting for elective surgery and of this number 2 083 are classified as either urgent or semi-urgent.

The education system is also under enormous stress. Public education in Western Australia is increasingly characterised by teacher shortages and low retention rates. Meanwhile, the police force is having to scavenge tyres in order to keep their vehicles on the road and is facing the likelihood of budget cutbacks which will result in fewer recruits and ultimately, fewer police patrolling our streets.

More critical is the fact that the budget is in deficit. The budget is over $600m in the red. It would seem that despite having raised $4b from the sale of assets, this Government has been unable to prevent a budget blowout. So where has the $4b gone? The only reasonable conclusion to be drawn is that the sale of private utilities has been used to fund largely superfluous and unwanted capital works projects. Yet the Premier is the first to boast that his Government is spending record amounts on capital works projects around the State. This is hardly an achievement to be proud of when the State is $600m in debt. The Court Government continues to throw money into these projects despite the pleas of the Chamber of Commerce and Industry and his own deputy who warned him last year against undertaking a massive public works program. This Government will ultimately be remembered by the people of this State for having traded profitable and viable public utilities for belltowers, convention centres, museum redevelopments and a $400m tunnel. Let us not be mistaken: The Court Government's privatisation push is also about political expediency. The sale of public assets is about offloading critical aspects of the Government's job in the interests of removing risk. This Government honestly believes that its job description does not, or should not, include the running of public utilities. They contend that it is a task best left to entrepreneurs and big business. This not only sounds like a cop out but reveals the Government's incredible lack of understanding about the function of government. The role of the Government is to manage the affairs of the State including the provision of public services and utilities in the public interest. This is a Government eager to shirk its responsibilities and to allow market forces, rather than government policy, to determine social outcomes.

More importantly, the sale of public enterprises flies in the face of public opinion. Opinion polls indicate that privatisation is not supported by the people of this State. The public has had enough, but the wishes of the people appear to be of no consequence to the Government, and the Premier does not care for the findings of a recent report of the Standing Committee on Uniform Legislation and Intergovernmental Agreements. Despite the committee consisting of a majority of government members, the Premier rejected its recommendation that the Government develop a strategy to provide information and consultation before privatising any more public utilities. Sadly, the Court Government's position on this issue is symptomatic of its disregard for public opinion and ill regard for the political process. The Government's record is littered

with numerous examples of its unwillingness to sit down and listen to the people of this State. Throughout the debacle surrounding the closure of Scarborough Senior High School, the Leighton Beach disaster and the Regional Forest Agreement, the Government has consistently ignored the public's legitimate fears, grievances and questions. The Court Government's gross mishandling of issues and projects of community importance has not only forced many Western Australians to take their protests onto the streets, but also has resulted in some of its own people proposing to stand candidates against it at the next state election.

What lessons has the Premier taken away from his experience in Government? If Leighton Beach is anything to go by, the answer is none. After years of massive and sustained protests spearheaded by the Leighton Action Group, the Government eventually conceded it handled the matter poorly. However, rather than take steps to rectify its mistakes, the Government baulked. The Government has not only denied people meaningful representation on the new planning committee, but also it has delayed making a decision until the end of the year in the hope of avoiding it being a potentially embarrassing election issue. All evidence points to the fact that this is a small-minded Government peddling a small-minded, non-visionary agenda for this State. This Government is responsible for selling off people's enterprises, undermining the working conditions of Western Australian workers, creating a massive budget blow-out and allowing increasingly larger disparities to emerge between the haves and the have-nots.

Possibly the greatest charge that can be levelled against this Government is that it has failed in its one essential duty; that is, its duty to listen to the people of Western Australia. There are important lessons to be learnt from the Court Government's failures over the past seven years. It is incumbent upon all of us fortunate to be sitting in this Chamber to be receptive to the needs of the people; to listen, respond and lead. Decision makers frequently confuse strong leadership with arrogant governance. Leaders must, at all times, be fully aware of the wishes of the people. It is not enough to make decisions and expect community compliance. It is vital to consult the public, to ask questions and involve communities in decision making to achieve outcomes that are in keeping with the public interest and in line with their expectations. When we fail to govern according to the public's wishes, we not only fail the people we claim to represent, but also we disrespect the political system.

The Court Government's handling of planning issues plainly illustrates this point. At the very least, it should be mandatory for the Government to be cognisant of what the people want before it acts. That is the difference between token consultation and meaningful dialogue with those most affected by the Government's actions. As legislators, we must recognise that the world is changing and we must change the way we do things. The community demands that government processes are more open and accountable and we must respond to that. At the same time, the level of information and resources that are available is far beyond what it has ever been. We must be mindful of that. Our political system is changing because the community is willing to challenge decisions made from on high and is better able to hold governments to account. We must govern in a way that respects that. I look forward to taking up the fight with the Government in what is, in all probability, an election year. I look forward to working with my colleagues in the Australian Labor Party, both in this Chamber and the party room, to defeat this Government. Most of all, I look forward to working alongside the people of this State to restore fairness, equity and moderation to Western Australia.

Debate adjourned, on motion by Hon Bob Thomas.

PRISONERS (INTERNATIONAL TRANSFER) BILL 1999

Second Reading

Resumed from 14 September 1999.

HON N.D. GRIFFITHS (East Metropolitan) [8.00 pm]: The Prisoners (International Transfer) Bill 1999 has the support of the Australian Labor Party. It is one of a number of non-controversial Bills which I think will receive a relatively speedy passage in the course of this Parliament. In facilitating that, the Australian Labor Party is doing its duty by the Australian public; we are not filibusters. When we have a point to make of controversy or disagree with the Government, we will put forward that point of view; where we agree, we agree and that is the end of the matter.

This is the sort of measure that will be introduced by a Labor Government, just as it is introduced by a Liberal Government. It is also a matter that has had the benefit of appropriate scrutiny by the Standing Committee on Constitutional Affairs. The committee has reported, and its report deals with the Bill in appropriate detail. I do not think I can express what the Bill is all about any better than the committee has. I concur with the committee's comments. I trust the Bill will be handled with appropriate expedition.

HON HELEN HODGSON (North Metropolitan) [8.02 pm]: The Australian Democrats also support this Bill which will probably pass through this House expeditiously this evening. It is a step forward to ensure prisoners are able to be transferred back to Western Australia to complete their sentences. That will help rehabilitation and reintegration and, in the long run, may reduce costs for the Western Australian taxpayers as well as other jurisdictions.

I note the difference between the federal legislation in relation to the remaining period of the sentence before prisoners are eligible to apply. The federal legislation specifies a six month period and this Government has extended that to two years for administrative reasons. I hope it does not work to the detriment of the scheme and that if a problem arises in the future, the Attorney General will undertake to have that reviewed.

Regardless of whether it reduces costs for the Western Australian Government - it is expected to - the Democrats think that

the humanitarian aspects of prisoners being able to serve their sentences in a country where they have ties, cultural connections and can speak the language are very important. We have all heard stories of people serving sentences in Asian jails in which they are isolated by not only the nature of their treatment, but also the language and other cultural barriers.

In working through this legislation, it was interesting to go through the Senate committee report and pick up some of the comments by witnesses. A criminologist, Mr Biles, has done a lot of work in the area of international transfers of prisoners. He said he was fearful that because of the pressure of numbers, some States may take the position that they would be happy to lose prisoners, but would decline to accept prisoners. If that happened, the spirit of the legislation would be completely lost. I trust that Western Australia will be as willing to consider transferring prisoners in as it will be to transfer them out.

Evidence was also given by Chris Sidoti focusing on the issue of cultural and family support which can be significant, particularly when they are absent because the prisoners are overseas. It is important to ensure that family and cultural support are part of the rehabilitation and reintegration of the prisoners into the community. This is a step forward, and the Australian Democrats will support the Bill through all stages.

HON GIZ WATSON (North Metropolitan) [8.05 pm]: Having considered this Bill on behalf of the Greens (WA), we will support it.

HON PETER FOSS (East Metropolitan - Attorney General) [8.05 pm]: I thank members for their contribution. I join with Hon Nick Griffiths in congratulating the committee on its work. I have not said this before, but this committee has proceeded with remarkable efficiency in all of its work. It gets on with the job, does it well, and the House can always rely on its work.

I would like to pick up Hon Helen Hodgson's point about the six months and two years. That was a departmental requirement, and I am looking at that because I am not as convinced as it is that it is a good idea. We have applied it to some extent already with interstate transfers, and I am reviewing it for that matter as well. I also assure the member that we will be quite even-handed on it, and the question of whether we can or cannot fit them in has never been a consideration. I commend the Bill to the House.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Assembly.

JURIES AMENDMENT BILL 1998

Assembly's Amendments

Amendments made by the Assembly now considered.

Committee

The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

The amendments made by the Assembly were as follows -

No. 1.

Clause 5, page 2, lines 18 to 21 - To delete the clause.

No. 2.

Clause 8, page 4, lines 1 and 2 - To delete the clause.

No. 3.

Clause 9, page 4, lines 3 to 16 - To delete the clause.

Hon PETER FOSS: I move -

That amendment No 1 be disagreed to.

That amendment No 2 be disagreed to.

That amendment No 3 be disagreed to and the following be substituted -

Clause 9, page 4, lines 12 to 15 - To delete the lines and insert instead -

challenge 5 jurors peremptorily.

Since this matter was dealt with in the other place, a discussion has taken place, and the net result of the amendments on the Notice Paper is that in both the country and the city, the number of jurors per defendant will be five, irrespective of the number of defendants, and that the right of the Crown to stand aside will be removed.

Hon N.D. GRIFFITHS: For the purpose of the debate, the record should be set out a little more fully. A year ago. the

Legislative Council insisted that the number of peremptory challenges be maintained at eight for a single accused and six per accused if there is more than one accused. The Government put to the House a proposition that that be reduced to three in Perth and five outside of Perth. At the same time, in its wisdom, the Legislative Council agreed that stand-asides be done away with. It agreed with the Attorney General's proposition as set out in the second reading speech, in which he stated -

> The right of the Crown to stand aside four jurors will also be removed. This is because the current practice in the jury selection process of allowing the Crown to stand aside prospective jurors from the panel, has the potential to cause unnecessary concern on the part of members of the community. It also increases the number of citizens required for jury service.

The Labor Party agreed with that proposition. As we see from the original message, the Government in the other place saw the reduction in peremptory challenges and the removal of stand-asides as a package - not matters that stood on their own merits - thus we received message No 87. Time has passed, discussions have occurred and a compromise has been reached. It is very good that stand-asides will be done away with, and I trust that having five challenges will serve the interests of justice. I also trust that those who have an interest in the matter will keep their eyes on it and that no doubt we will receive reports if that causes or has the capacity to cause a diminution of justice in our system.

Hon HELEN HODGSON: The Democrats will also support this amendment. The key issue of concern a year ago was the need to ensure the ability to challenge jurors, particularly in small communities or some courts in close-knit areas, such as Fremantle and outlying suburban areas. Having considered the amendments that were moved a year ago, I think we were looking at eight peremptory challenges to a juror as opposed to the Bill's propositions of three and five. With the effluxion of time, the Australian Democrats have had further discussions with the Law Society of WA. Whenever one is choosing numbers for this type of thing, it becomes a question of practicality. Given that the Law Society is happy with the number of five across the board, we are willing to accept the proposals put forward by the Attorney General.

Question put and passed.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

ACTS AMENDMENT (FINES ENFORCEMENT) BILL 1999

Second Reading

Resumed from 14 September 1999.

HON N.D. GRIFFITHS (East Metropolitan) [8.17 pm]: The Australian Labor Party supports this Bill and welcomes its enactment. However, we regret its delay and note the great fanfare that preceded today. In fact, the announcement by the Attorney General is ancient. His media machine gave him great publicity in *The West Australian* on 8 February 1999 under the heading "Fine defaulters offered option to work off debt". If I may be kind, there was the usual flattering photograph of the Attorney, saying how he would save the world, and the article led the people of Western Australia to believe that had already happened. Eventually - this is a non-controversial matter like the rest of them - the Bill was introduced into this House on 5 May 1999. We have seen this evening that it is not taking long to deal with these non-controversial matters. This matter will not take much time. The Attorney has never had any reason to believe that this matter was controversial. It has always been given the tick by the Opposition. However, notwithstanding that it was non-controversial, the Bill lapsed on prorogation - great efficiency, great management and lots of jobs for the boys. It was mismanagement. The Bill was reintroduced on 14 September 1999. It could have been easily dealt with in September last year; it could have been dealt with in May or in June, but it was not - very important. The one difficulty I have with this matter is the way it has been treated by the media which has given the Attorney General lots of credit for doing something which has not occurred.

The legislation is welcome. It provides for fines to be converted to work and development orders by a court or the Registrar of the Fines Enforcement Registry. With respect to the Fines Enforcement Registry it does so sooner than would otherwise occur and it is very welcome insofar as it improves things. However, it does not resolve many of the difficulties which continue to exist with the primary legislation. It is still very restrictive. Whether involving the actions of the registrar of the agency or the actions of the court, I suggest it is still unduly restrictive. I hold the view that unless there are very exceptional circumstances - I cannot envisage any off the top of my head and I do not want to - it is the job of the Government to bring before the Parliament legislation which will become law. That is the job of the Government; it has been elected to govern. This is an improvement but it is very deficient.

I refer in passing to what is contained in clause 5 which deals with the criteria for the registrar and clause 10 which deals with the criteria for the courts. The criteria are the same. To come within this scheme, the offender must be someone who does not have the means to pay the amount owed, who is not the holder of a vehicle licence, who does not have personal property which can be taken, who is unlikely to pay or to have within a reasonable time of a fine being registered personal property that can be seized, or someone who is the holder of a drivers licence but, to use the quaint words, "is disqualified from holding or obtaining such a licence". That seems to be bit of a nonsense. We might go into committee to deal with that unless the Attorney General wishes to leave it the way it is. I do not want to go into committee but that phrase seems to be a bit nonsensical; one either has a licence or one does not but I think it deals with suspension. The last criterion is when the issuing of a licence suspension would not progress the result for the community; namely, the payment of the fine.

This Bill is eventually being dealt with by this House. I trust we will deal with it expeditiously this evening, we certainly will from the Australian Labor Party's point of view and we would have dealt with it expeditiously at any time from when

it was introduced - it just had to be brought up the Notice Paper and it would have been disposed of. It would not have held up any matter except for maybe 10, 15 or 20 minutes subject to my colleagues from the other parties on this side of the House and I do not think they are interested in filibustering on this measure. This Bill could have been dealt with earlier but it still does not address the real problems with this area of administration; that is, although one aspect of fines enforcement reform is very welcome in terms of fine defaulters not going to prison first up, this is a time bomb - many people are driving under suspension and they are going to jail as a result.

Hon Peter Foss interjected.

Hon N.D. GRIFFITHS: The Attorney General may deny it but it is having an effect on our musters. I have heard from those who are in a position to state that, that that is so. I sought that information from the Attorney General by way of questions when I had primary responsibility for this area of policy and the definitive answers could not be given. It is very unfortunate that there is a move to first take away the capacity for people to drive. It incites people to break the law and leaves them open to imprisonment. Notwithstanding protestations to the contrary, musters are higher than they otherwise should be. A number of people in judicial office at the magisterial level have said so. Notwithstanding those comments, I wish this Bill to be passed speedily. I have pointed one matter out to the Attorney General; he may wish to address it in committee; I will leave it up to him; it is his call. I want the substantive measure in this Bill passed with appropriate expedition.

HON HELEN HODGSON (North Metropolitan) [8.26 pm]: The issue of fines enforcement procedures has had a bit of history over the past five years or so. The changes which came about as a result of the Fines, Penalties and Infringement Notices Enforcement Act 1994 were generally positive. However, a few issues are still simmering underneath and when one looks at the statistics in respect of admissions into our prisons and lockups, one can see that there is still a need for further work to be done in this area.

I am not sure whether this is the most current report but I have the "Crime and Justice Statistics for Western Australia" from the University of Western Australia Crime Research Centre. It is the statistical report for 1998. This report shows the cause of imprisonment for adults in Western Australia and between January and December 1998, 8.8 per cent of people sentenced were sentenced for fine defaulting. That is by no means the highest percentage when one looks at the comparable Australian jurisdictions. It is interesting because the figures in Queensland, South Australia and Tasmania are all high and the Northern Territory's are excessively so. New South Wales', Victoria's and the Australian Capital Territory's figures were all less than 1 per cent. There seems to be two distinct bands - very high rates of imprisonment versus very low rates of imprisonment - and Western Australia is sitting in the middle at 8.8 per cent. That figure shows that work still needs to be done.

Hon Peter Foss: That is not 8.8 per cent at any one time.

Hon HELEN HODGSON: These are the receptions between January and December 1998.

Hon Peter Foss: You must keep in mind that they are the receptions. It is 8.8 per cent of the people but the period of time is actually very short - the number at any particular time is small.

Hon HELEN HODGSON: I recognise that. That figure was for the whole year - 8.8 per cent of receptions were fine defaulters.

Hon Peter Foss: It is about 600 a year.

Hon HELEN HODGSON: That figure will vary depending on the number of admissions into prison. I have that figure here; it was the next statistic I was going to. Of the 2 900 received during the period, 509 - which was 17.6 per cent- were serving sentences in default of fines. The interesting point is that in 1995 there was a dramatic drop due to the original legislation. The figure went from over 2 000 to 76 receptions and it has been progressively increasing over the past three years to 7.3 in 1996, 14 per cent in 1997 and 17.6 per cent in 1998. Those figures show that although the new procedure of people losing their licences is effective in the first instance, there is still a problem with what happens when people either drive without a licence - I will return to that in a moment - or when they do not have a licence to suspend.

The issue of driving without a licence raises another figure that is hidden and very hard to analyse. How many people who run into difficulties with the law for driving without a licence have had their licences suspended under the fines enforcement legislation?

Hon Peter Foss: Very few.

Hon N.D. Griffiths: Do you have the statistics on it?

Hon Peter Foss: I checked it.

Hon HELEN HODGSON: I will be pleased to hear that statistic. It is clear that work must still be done in this area but the situation is nowhere near as bad as it was five years ago. In 1997 an Auditor General's report found a serious deficiency in the collection of fines. A total of 11 000 fines worth $9.59m had been outstanding for more than six months. We therefore still have a problem with fine defaulters. What do we do with them? Do we send them to prison? We are all aware of the need to keep people out of prison for this type of offence. It does no good to people to put them into a prison environment for fine defaulting. Issues of rehabilitation, appropriate penalties for a particular person and other reasons for imprisoning people are not relevant to fine defaulters.

Many fine defaulters may have had no exposure to the criminal system or to criminals in the sense that we normally use that word; then all of a sudden they are placed into prison for the non-payment of a fine. That can have not only a psychological effect but also lead to feelings of a loss of self worth which in turn can impact on them and may produce longer term effects in the way in which they will respond to society in the future.

Hon Peter Foss: It is their choice.

Hon HELEN HODGSON: If they do not have the money, they do not have the money. These issues must be addressed and I believe this Bill will assist in addressing them. There is also an issue of the immediacy of the penalty. It is preferable that a penalty for an offence be handed down promptly so that it can be dealt with swiftly to minimise delays. The time that the matter will take to go through the court system to result in imprisonment will lead to a very lengthy process. Although there was a dramatic drop in the numbers of fine defaulters in 1995, the lag time necessary for a matter to work its way through the criminal justice system could be one of the reasons for the numbers creeping up again.

Although those underlying issues must be addressed, this legislation is a step forward. I am aware that Aboriginal communities will find these alternatives of assistance in remote regions. Anything that keeps Aboriginal people in their country areas while they deal with the problem of the fines, particularly Western Desert communities and Kimberley communities, will be worthwhile.

For those reasons the Australian Democrats will be supporting the Bill although we believe there is still a long way to go in keeping fine defaulters out of the prison system.

HON GIZ WATSON (North Metropolitan) [8.33 pm]: The Greens (WA) also support this Bill. The Bill seeks to allow fines to be converted to work and development orders either by the court or by the Registrar of the Fines Enforcement Registry. This amendment is long overdue. The rate of incarceration of fine defaulters has been unacceptable for a long time. One of the matters on which I seek comment from the Attorney General is whether there will be additional assistance to move any backlog in the system to ensure that this measure is implemented quickly as it has been an untenable situation for a very long time.

One of the interesting aspects about the issue of fine defaulting, particularly in relation to the use of vehicles, is that it is an enormous additional problem in our community of people who are so car dependent. A particular problem is created when people drive under suspension because they are often caught in a situation where they have no other means by which to go to their work or to get around the country unless they have a car. This is a particular problem in Western Australia. This amendment goes some way to redressing the balance although it is not entirely perfect. As other members have said this evening, to put fine defaulters in jail is a classic example of an inappropriate response to the problem. It goes against the presumption that imprisonment should be very much a last resort.

Hon Helen Hodgson also made the point that putting fine defaulters in our prison system is likely to lead to negative impacts to the individual with the long-term consequences of returning to the community feeling alienated having mixed with more hardened criminals than they would otherwise associate with.

I foreshadow some specific questions to be dealt with in more detail in committee. I am interested in the Attorney General's comments about clause 10(5) which requires evidence to be taken on oath by the offender. That requirement is not imposed on many occasions, so why is it felt necessary in this Bill to have the requirement that the court be satisfied by evidence on oath from the offender? Also, the second reading speech reads -

> There are other difficulties with people who have no means to satisfy fines while their vehicle or drivers licence is under suspension, and these will be addressed in later amendments.

I seek some indications of what those amendments might be and when they might be seen. The Greens (WA) suggest that more could be done by the Government in education campaigns, particularly for young people, about the consequences of driving under suspension or driving without a licence. That preemptive campaign might also prevent people being caught driving without a licence. It is only a suggestion, but I am not sure that we are doing enough to make it clear to people that if they transgress this area of law, they will be in trouble. There is an attitude, particularly among young people, that it is worth taking the risk. The Greens (WA) support the Bill.

HON PETER FOSS (East Metropolitan - Attorney General) [8.39 pm]: A lot of very interesting issues are involved in this fascinating area of human behaviour. Under the previous system of fines enforcement, many people elected to go to jail rather than pay the fine. They had the means and property to pay the fine, but they decided to make a point and go to jail instead. Others would do a community service order as they felt it was easier than paying the fine. The number of people going to jail was in excess of the people who, using that term, really "needed to go to jail".

We would prefer that nobody went to jail for the non-payment of a fine. I remind members of the two streams of fines enforcement that we have. We have the fines enforcement after an infringement notice and the fines enforcement after a court fine. The fines enforcement after an infringement notice goes no further than the suspension of a licence; it does not follow through to the other penalties. The fines enforcement after a court fine goes right through ultimately, if other methods do not work, to imprisonment. Members will see in the Act the order in which they occur. There are matters such as warrants of execution, suspension of licence, community service orders, and then finally, if the person does not comply, jail. However, if the fine being enforced results from an infringement notice, it goes only as far as suspension.

Generally speaking nobody has to go to jail for the non-payment of a fine. A person has at least the option of doing a work

and development order. I say "generally speaking" because it is true that some people probably cannot do WDOs. That is one of the aspects I shall be dealing with in the amendments which, I am pleased to say, look like coming in this session; that is, the situation of people who go past the licence suspension stage without having made arrangements to pay their fine. The problem with those people is that up until the time their licence is suspended, they can go to the Clerk of the Court and say that they would like to make arrangements to pay their fine by instalments. They can make that arrangement and the matter does not go on to the next stage. Unfortunately, human nature being what it is, a lot of those people do not do it. It is not until they get a notice that says that their licence is suspended that they say, "But I cannot afford to pay it. I need time to pay it." Unfortunately, they cannot do that because there is no power at that stage for their licence suspension to be lifted so as to allow them time to pay. Of course, once they have lost their licence, the capacity for some people to earn money is lost.

Hon N.D. Griffiths: And for most it is diminished.

Hon PETER FOSS: Yes. Therefore, one of the amendments I have been drafting, and it is pretty well ready to go, is designed to allow people whose licence has been suspended to go into the Fines Enforcement Registry to make arrangements for time to pay, and whilst they observe that time to pay, their licence is reinstated. That is a fairly important measure.

I do not have a solution to this, but there are other people who find it difficult to do a WDO. Generally they are women looking after young children. It often is difficult for a young single mother in particular to make arrangements to do a WDO. Obviously this could help to some extent with that because we could make a very extensive time to pay in the case of a young single mother, because a young single mother for all practical purposes cannot really do a WDO. Apart from that, the people who go to jail for non-payment of fines go because they refuse to do a WDO. We are happy to give all sorts of WDOs. It is not simply a question of working on the roads. We are prepared to accept a very wide range of community work for WDOs. Unless somebody is totally unprepared to cooperate on a WDO, the person should not go to jail.

To some extent it is the choice of the individual. Some people do choose to go to jail. All evidence is on oath. We call it evidence on oath to make it quite clear that we do not mean merely a statement but that it has been sworn, thereby making it evidence. Some people prefer to go to jail instead of paying. Many of the people from whom we tried to recover money could have paid but thought, "Blow them, I will not pay the fine. I will go to jail instead. They can pay for my food and board for 14 days. I will not pay the blooming fine." We instituted the fine enforcement system to stop those who can pay from going to jail. If they have the money they will pay. We can execute a warrant to seize someone's lawn mower to make them pay that fine or we will suspend their licence while they do not pay. A fairly important basic philosophy in the Fines, Penalties and Infringement Notices Enforcement Act is that a person does not have to go to jail. One always has the option of a work and development order.

I was asked whether more people are driving without a licence. It seems that more people are being caught driving without a licence. I do not have the general statistic, because that is not one that is kept. I have conducted two investigations. I did an investigation in one of the courts in which a large number of people had been jailed for multiple offences of driving without a licence. The magistrate provided a list of the offences for which he was jailing them.

Hon N.D. Griffiths: What court?

Hon PETER FOSS: The Armadale Magistrate's Court. I think I tabled it in this House, and I certainly gave it to Hon Ljiljanna Ravlich. I cannot remember the particular Bill that we were debating when I read from that table. However, it indicated that the persons who were being jailed had not lost their licences for non-payment of fines but either for accumulated points or more frequently for drunk driving. It is a problem that people will not stop driving even though they are drunk. It is a serious addiction problem. I went through the whole list and every single person had been sent to jail as a result of multiple offences of driving without a licence with the first disqualification occurring, generally speaking, as a result of drunk driving or reckless driving and on some occasions accumulated points.

Hon N.D. Griffiths: Was this survey based on a daily or monthly list?

Hon PETER FOSS: It was daily.

Hon N.D. Griffiths: The Attorney General would appreciate that the police structure their lists, so they deal with driving under the influence offences all on one day?

Hon PETER FOSS: These were all arrests. There was no choice in it. They came up on arrest.

Hon N.D. Griffiths: They do not necessarily plead guilty on their first appearance. They will be dealt with on a Friday.

Hon PETER FOSS: No, they were all arrests and they pleaded guilty. Usually, while they are there, they are picked up again.

Hon N.D. Griffiths: Was it Monday morning?

Hon PETER FOSS: No, it was not. I am not saying it is a scientific study, and I did not try to say it was scientific. The other investigation was a result of somebody asking why women were in Bandyup. I got the list for one day, and 12 of the women in Bandyup were there for driving without a licence.

Hon N.D. Griffiths: It is a significant percentage.

Hon PETER FOSS: It is a large number. I asked that each of those women's records be checked for the reason that they

lost their licences and whether any of them had lost their licences for non-payment of fines. The answer with all 12 was no. There were a number of reasons for their having lost their licences - they were obviously in there for a number of offences - but none lost her licence due to non-payment of fines. I do not claim it to be a scientific investigation, but on the two occasions I asked for a person's records to be searched to find out the first occasion on which they lost their licence, interestingly enough, not only did the first occasion have nothing to do with the fine enforcement legislation but also that did not appear in their record.

Hon N.D. Griffiths: It is interesting that you are the AG, but you are the Attorney General and not the Auditor General.

Hon PETER FOSS: I did not for one moment suggest what I did was a scientific study. I am giving members what I have and they can judge it as they like. It was reassuring. One of the reasons that these people are being picked up more frequently is that enforcement is increasing. If a person drives without a licence now, there is a high chance that that person will be picked up by either a booze bus or a Multanova. The people who lose their licences are amazingly obtuse. Having lost their licence, one would think that they would then drive around carefully neither drinking nor speeding, but they do not. They drive around at high speeds, straight through Multanovas and into booze bus stops and get caught again. One of the consequences of the increased enforcement of Multanovas and booze buses is that years ago people who had lost their licences would have had a reasonable chance of driving around without being picked up. However, now people are picked up regularly by the police. Not only are these people being picked up for speeding or drink driving, but also they do not have licences because they have been picked up for something else. We are getting that increasingly, but it is not because of fines enforcement. Interestingly, the people who have been issued with a fines enforcement order seem to learn their lesson, but the people who are picked up in the other situations are a different group. I suspect that the people who lose their licences for drink driving and so forth have a tendency not to learn their lesson and are the ones who get picked up for the third time and are then sent to jail.

Hon Derrick Tomlinson: When they drink they forget, and that is why we drink.

Hon PETER FOSS: That is possibly so. It is a definite problem. How many times can a person be allowed to drive without a licence before he or she is sent to jail? We are hoping to extend that a little by allowing as an alternative some form of intensive supervision or community service order. At the moment the Road Traffic Act states that the only penalty for a third time offence of driving without a licence is either a significant fine of about $1 000 or a jail sentence.

Hon N.D. Griffiths: This is a separate matter which, unfortunately, is not before us but for which we have been calling for a long time.

Hon PETER FOSS: That also will be in the same Bill.

Hon N.D. Griffiths: It is under the Minister for Transport and he has been very slack indeed.

Hon PETER FOSS: Nonetheless, I am introducing it in my Bill. Again there is a limit, because the worrying matter about these people is that some of them are not just on their third offence of drink driving or driving without a licence, but some people offend four, five or six times. I mentioned one case of a woman from Armadale who I think had been arrested for the seventh time for driving without a licence. The magistrate fined her, the police took her to the railway station, and 20 minutes later they arrested her again when she came back to the court to pick up her car and drive it away.

Hon N.D. Griffiths: She had to get her car home somehow.

Hon Derrick Tomlinson: That's understandable.

Hon PETER FOSS: I know it is understandable, but it is not very clever.

Hon Derrick Tomlinson: She did not have her licence. How could she drive without a licence?

Hon PETER FOSS: She had not had her licence for the last six appearances in the court.

Hon Derrick Tomlinson: If she didn't have a licence, she couldn't drive with a licence.

Hon PETER FOSS: Then she should not have had her car at the court at all because she obviously drove it there.

Hon N.D. Griffiths: When Hon Derrick Tomlinson reads the Bill, he will understand how that is done.

Hon PETER FOSS: On the question of lack of enforcement, the biggest problem identified by the Auditor General was not so much a lack of enforcement, but a lack of write off. When we changed to the new system, not much enforcement was taking place under the previous system. The police would accumulate warrants and, generally speaking, the only times they would execute the warrants was if they arrested someone for another purpose, and they would then execute all the warrants. Also people would turn up and say, "I have 50 warrants out against me now and I would like to cut them out." The enforcement of fines by warrant was not carried out all that diligently. In fact, it took us several years to retrieve the warrants so that we could put them through the system. Approximately 5 000 warrants in the metropolitan area alone, dating back many years, had not been enforced. The reason for the big reduction when we first brought in this legislation was that we started them all through the whole process. For the first time we had it on record. The Auditor General was critical because we had a vast quantity of not only unenforced fines from the old system, but also unenforceable fines. The Auditor General asked for a rigorous write off to be done, which is now occurring. I have written off approximately $5m

worth of fines, some of which apply to people who may not even be alive. Being warrants for arrest, they have remained on the books.

Hon N.D. Griffiths: They will be falling out of their graves to pay.

Hon PETER FOSS: To serve their time - exactly. The problem from the Western Desert was different. Under the Aboriginal Communities Act we took away the power to jail for breach of community by-laws, mainly due to the Royal Commission into Aboriginal Deaths in Custody, which recommended short periods in jail. When we took away the power to jail, the Aboriginal communities were concerned because, although fines could be imposed, the offenders could not pay them and it could be months before a work and development order was imposed. By that stage the offender had moved to the Northern Territory, or gone somewhere else and nobody could remember what the fine was for.

The Aboriginal communities wanted punishment to be administered immediately. The whole idea of being able to move quickly to the WDO was to serve it then and there. The communities queried the point of giving them the degree of autonomy in passing and enforcing their own laws if the enforcement was so delayed it was ineffective. That is one of the reasons for this alteration.

They asked that they be given the power to jail. However, after we had discussed it at a meeting they agreed that jailing was not an appropriate alternative. I explained that it was contrary to the recommendations of the Royal Commission into Aboriginal Deaths in Custody. I said that I could not believe they wanted their young people jailed. The women attended the meeting and said there was no way they wanted their young people sent to jail. They said they would go along with the alternative method. I have been trying to do that.

In the meantime, in the Western Desert, we have tried to reduce the time between fines and enforcement. It is now down to 50 days, although that is still slightly rare.

We have also employed private debt collectors to work on warrants of execution. They have been so successful that we are running out of warrants of execution in the metropolitan area. Most of the fines were chased up during the day, but not surprisingly, people were not at home. Private debt collectors operate after hours.

Hon N.D. Griffiths: It is their second job.

Hon PETER FOSS: Possibly so. They are collecting fines at an enormous rate. One of the significant things about the process is that large numbers of fines now require no enforcement. Ninety five per cent of infringement notices are paid without any enforcement process. The rate of payment of court fines has increased to about 70 per cent without enforcement; whereas previously it was about 45 per cent. There has been a marked increase in non-enforced payment of fines and infringement notices. That, of course, increases revenue and means the law is being enforced. People are paying their fines and we do not have to jail people or impose WDOs or warrants of execution, all of which cost money. Through WDOs we are trying to get back value, but it costs money to impose them.

If the Opposition could come up with a system for what to do with people who having been fined, will not pay, and if they cannot pay, will not work, I would be very pleased to hear it. The problem is that if it became generally known in the community that if a fine is not paid nothing will happen, not too many people would pay their fines. I can remember living in London before what was called the "Texas shoe" was brought in. The Texas shoe was attached to an illegally parked car. Prior to that nobody bothered to collect parking fines and so people parked everywhere. It is amazing how, shortly after the Texas shoe was introduced -

Hon N.D. Griffiths: You left London.

Hon PETER FOSS: It was not introduced until after I left London. Fines were not enforced against people from overseas. The Texas shoe worked on everybody, and suddenly people started parking appropriately in London because of that form of enforcement.

Ultimately, not enforcing fines would be self-defeating. There has to be some form of sanction. At the moment, the second last sanction is a work and development order. Most people will do a WDO and I think the amendment which allows people time to pay will help people, such as single mothers, who find it particularly difficult to do WDOs. I think that will assist that kind of situation. We will also bring in an amendment to deal with people who are dangerous by giving them WDOs. Occasionally a person who turns up to serve a WDO creates havoc among the other people serving WDOs, hitting them and disrupting the work gang. Although they can be charged with assault in those circumstances, we still are obliged to take them back to try them on the WDO and that is not terribly satisfactory for the other people who are on WDOs. That aside, we do not have any alternative but to send to jail people who say that they will not cooperate. I am looking at the possibility of giving WDOs to people who have infringement notices because at the moment none of that enforcement process is available for infringement notices - it stops at the suspension of licence. That is not too helpful for someone who really does not have the money to pay. I want to give them the opportunity of serving a WDO as an alternative to getting their licences back. It was not included originally because a person who has been given an infringement notice has not received a conviction, and imprisonment should not be an alternative for someone who has not been convicted. I believe that a WDO is a sensible alternative that should be available as well as recourse to a warrant of execution.

I think I have dealt with everything.

Hon N.D. Griffiths: I think you have dealt with everything.

Hon PETER FOSS: I thank members for their support. I think every point that has been raised has been considered by government and legislation will be introduced in this session to deal with those points. Most of the drafting has been done and I hope that legislation will be introduced into the House before the end of the session. From the speeches that I have heard today, I am sure it will enjoy all-round support.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon N.D. GRIFFITHS: During the second reading stage I indicated the Australian Labor Party's support for the Bill; however, I think it is my duty at this stage to formally invite the Attorney General to consider amendments to proposed section 47A(1)(b) in clause 5 and proposed section 57A(5)(c) in clause 10. I think they can be dealt with through an amendment to delete a word and substitute another word. However, I will leave that to the Attorney General as he has the carriage of the Bill and, after all, represents the Government.

Hon PETER FOSS: I will have to check that because I know the Government went through this Bill a number of times with parliamentary counsel. There are some difficulties with amending those clauses because of the wording of the Road Traffic Act. I suspect it is because a person can still be a holder of a drivers licence even though he has been disqualified from holding a licence if he has an extraordinary licence.

Hon N.D. Griffiths: The wording in the Road Traffic Act is "disentitled". The holder of the licence loses his entitlement. That is the effect of the wording of the Act. The relevant clauses of the Acts Amendment (Fines Enforcement) Bill could be amended to delete "disqualified" and put in its place "disentitled".

Hon PETER FOSS: Section 103 of the Road Traffic Act states -

> (1) Subject to the succeeding provisions of this section, the Governor may make regulations providing . . .
>
> (b) that, upon the points recorded against the person pursuant to the regulations (including points accumulated pursuant to regulations in force under the repealed Act) amounting to a prescribed aggregate, the person shall be disqualified from holding or obtaining a drivers' licence, for a period not exceeding 3 months.

The word "disqualified" is used in that section. I think that a person who holds an extraordinary licence is actually a holder of a licence, but is disqualified from holding a licence.

Hon N.D. Griffiths: I think the word "disentitled" is used in section 49 of the Road Traffic Act.

Hon PETER FOSS: Section 49 uses the word "disqualified".

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Sections 47A and 47B inserted -

Hon N.D. GRIFFITHS: I point out to the Attorney that section 49(2)(a)(iii) of the Road Traffic Act contains the words "commits, whilst still legally disentitled". The use of the word "disentitled" has operation with respect to the categories listed before it. It seems to me that may be an appropriate way out of this perceived problem.

Hon PETER FOSS: I remember this when the Bill was being drafted because we had a problem with it. The member can see what must be proved here: First, the person is not the holder of a licence - that is one possibility; secondly, when the person is the holder of a licence but is disqualified. There is the time limit, and I am trying to remember how we arrived at it. One of the first drafts was trying to deal with the situation where the person had already been disqualified and would not get his licence back within the following three months, or something of that nature. It was looking at the possibility that the person would soon get his licence back and could be disqualified all over again. It seemed to be better to deal with a situation that where a person did not have a licence, he could be holding an extraordinary licence while he fitted within section 49(2)(a)(iii). Under that provision, it is a person who has been disqualified from holding or obtaining a driver's licence. That is not the same as having a licence cancelled. That is the difficulty with the wording. The first category was that if the licence is cancelled, a person fits under the category "is not the holder of a licence".

Hon N.D. Griffiths: I see that distinction.

Hon PETER FOSS: I wish I could remember the debate. It was difficult and we went through a few permutations and combinations to arrive at every possibility.

Hon N.D. Griffiths: It remains difficult. I have done my duty by drawing your attention to it. If the Attorney is satisfied that it does the job, having taken the advice of parliamentary counsel and having had this debate, I will not move an amendment.

Hon PETER FOSS: I think it is right. I remember it was the subject of some debate, but it was some time ago. I cannot remember the exact detail of the debate with parliamentary counsel on how it should be worded.

Hon N.D. Griffiths: Is the Attorney confessing to not being able to recall?

Hon PETER FOSS: I remember the debate but the detail is a little difficult. I can go back and work it out, but it would require an adjournment while I researched it.

Hon N.D. Griffiths: I do not think we require that.

Clause put and passed.

Clauses 6 to 10 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

TELECOMMUNICATIONS (INTERCEPTION) WESTERN AUSTRALIA AMENDMENT BILL 1999

Second Reading

Resumed from 15 September 1999.

HON N.D. GRIFFITHS (East Metropolitan) [9.15 pm]: The Australian Labor Party supports this Bill with great enthusiasm. However, we regret that this Bill, like so many others that we have dealt with appropriately today and would have dealt with many months ago, has been the subject of great delay on the part of a Government which has no concern about the true interests of the people of Western Australia. This Bill will provide the Anti-Corruption Commission with the capacity to obtain telecommunications interception warrants in its own right without the need to rely on the police. That will have two immediate benefits. It will enhance the independence of the Anti-Corruption Commission from the police, and it will relieve the police from the need to look after the ACC and allow it to get on with its own important job. The Bill also defines officers' positions within the ACC, I believe quite appropriately in the context of the State of Western Australia, and designates the office of the Attorney General as the responsible minister for this function.

This non-contentious Bill was introduced some months ago, and I recall from reading a progress of Bills document that it was dealt with expeditiously from go to completion in the other place on 15 September 1999. I do not know why it has been languishing in this place for the best part of half a year. I do not want to hold up this Bill any more than the Government has already, to its shame, held it up.

HON NORM KELLY (East Metropolitan) [9.18 pm]: The purpose of the Telecommunications (Interception) Western Australia Amendment Bill is to provide telecommunications interception powers for the Anti-Corruption Commission by declaring it an eligible agency under the principal Act. It will also give ACC officers the power to obtain warrants. That will enhance the independence of the ACC, because it will no longer be required to rely on the police to obtain such warrants, and given that one of the tasks of the ACC is to investigate allegations of serious improper conduct and corruption by the police, it makes sense to give the ACC this power.

The Bill specifies that the Attorney General is the responsible minister in matters regarding the ACC and it also repeals some obsolete sections of the principal Act. Protection is provided if officers are required to report under the principal Act in respect of the secrecy provisions of the Anti-Corruption Commission Act. To achieve that, a minor amendment is included in the Bill.

I originally intended to make the point that the commonwealth Telecommunications (Interception) Act would need to be amended to accommodate the ACC. However, this Bill has been in this Parliament for a long time and I understand that the federal Act has already been amended and the Commonwealth Parliament has moved on to more important issues. The Australian Democrats support the Bill.

HON GIZ WATSON (North Metropolitan) [9.21 pm]: The Greens will also support this long-overdue Bill. It is obvious that requiring police involvement in telecommunications interception would be a major impediment to the independence of the ACC. I am surprised that this change was not facilitated sooner to enable the ACC to operate more efficiently, effectively and independently from the Police Service. The Greens accept that it is necessary to allow the ACC to be eligible under the Telecommunications (Interception) Act, and therefore will support the Bill.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and passed.

CORONERS AMENDMENT BILL 1999

Standing Orders Suspension

HON PETER FOSS (East Metropolitan - Attorney General) [9.22 pm]: I move -

> That so much of standing orders be suspended as will enable me to move in Committee of the Whole House on the Coroners Amendment Bill 1999 to insert a new clause 5 that proposes to amend section 21 of the principal Act.

The amendment I seek to move is not cognate with the rest of the Bill. Without the suspension of standing orders I would not be able to move the amendment. The small amendment I wish to move is urgent and it would be convenient for it to be added now. Had the Government known that this amendment was required, it would have had it included in the original Bill.

Hon N.D. Griffiths: I would like the Attorney to bear in mind that I do not have any instructions on this matter. I would like him to explain the urgency. I have read it as "such findings as are possible . . . by a day". That appears to mean that one judicial officer will be able to direct another judicial officer to do something that is possible by a specific day. I have some concerns and I would like the Attorney General to explain the urgency and why this rather loose wording is being used.

Hon PETER FOSS: I had not started to allude to the amendment.

The PRESIDENT: Order! We are dealing with the first stage, which is a motion to suspend standing orders. If that is agreed to, no doubt the Attorney General will move the amendment in Committee. However, I am sure that the Attorney General would wish to put Hon Nick Griffiths' mind at ease.

Hon PETER FOSS: Yes, if I may. I did not want to go into too much detail at any stage. Within the administration of the State Coroner's Office, the inability to properly ensure that the business of the State Coroner throughout the State is despatched in an appropriate manner has proved to be of some concern. The scheme of the Coroners Act sets up a State Coroner and allows him to set in place a number of arrangements in respect of how the work of coroners is to be done. At the moment there is a State Coroner, and the remaining coroners are magistrates. They perform the work of coroner. The State Coroner is able to make various directions about how the magistrates go about their work. I congratulate Mr Hope, the State Coroner, because since he has taken up that position the complaints and distress that had previously occurred in the conduct of the proceedings under the Coroners Act have largely disappeared. He has proved a positive, well-organised and sympathetic person. However, one area of fairly considerable complaint remains; that is, the due completion of findings by coroners, other than the State Coroner. If a hearing takes place, it is important that the parties get a decision at some stage.

Hon N.D. Griffiths: We spoke earlier. I do not have instructions. The Attorney knows as well as I do what this means. I would prefer to have instructions so that we do not have an unnecessary dispute. It would therefore be preferable that the Attorney not proceed with this matter at this time.

Hon PETER FOSS: I am sorry, I thought it had been fixed with -

Hon N.D. Griffiths: I do not have any instructions at all. I do not have the carriage of this area of policy on behalf of my party.

Hon PETER FOSS: I had understood from the member's spokesperson that he did not have any problems with it.

Hon N.D. Griffiths: I spoke to the Attorney during the dinner suspension.

Hon PETER FOSS: Yes, but I spoke to -

Hon N.D. Griffiths: The Attorney may have spoken to him, but he has not spoken to me.

Hon PETER FOSS: No, I did not speak to him. I understand the member's position. Perhaps at this stage I should proceed with the motion to suspend standing orders but not proceed with the amendment.

Hon N.D. Griffiths: I would rather the Attorney did not proceed with this. It is a threshold matter.

Hon PETER FOSS: After I have finished speaking to the motion, perhaps the member could move that the matter be adjourned.

Hon N.D. Griffiths: If the Attorney is seeking leave, I will say no.

Hon PETER FOSS: I am not seeking leave; I have moved a motion to suspend standing orders. However, I am happy for the member to move that the matter be adjourned.

Debate adjourned, on motion by Hon N.D. Griffiths.

CORONERS AMENDMENT BILL 1999

Second Reading

Resumed from 14 September 1999.

HON N.D. GRIFFITHS (East Metropolitan) [9.28 pm]: Save for that which has just occurred, this Bill is substantially non-controversial, and I would have anticipated that in the normal course of events it would have been dealt with reasonably

expeditiously, as has been the case with a number of Bills today. The Bill seeks to amend the Coroners Act 1996. It deals first with the dispensation of the position of the Acting State Coroner and inserts in its place a Deputy State Coroner and an Acting Deputy State Coroner. The eligibility for either of those positions is to be a coroner. The Coroners Act provides that every magistrate is contemporaneously a coroner and the Interpretation Act defines a magistrate as a person appointed under the Stipendiary Magistrates Act.

The position of the Deputy State Coroner is to assist the State Coroner by performing such functions of the State Coroner as are assigned by the State Coroner and to act in the office of State Coroner when that office is vacant. The Acting Deputy State Coroner is to act in the position of Deputy State Coroner when that office is vacant. The Bill also contains a number of provisions which extend the time limit for applications to the Supreme Court relating to decisions by the coroner regarding post-mortem examinations. The Bill extends the two-day time limit for applications to two clear working days and provides for an extension of time to be granted by the Supreme Court in exceptional circumstances. It provides that the Supreme Court may order a body to be exhumed so that a post-mortem examination may be performed, and that a certificate for disposal of the body must not be issued until the time has expired for making the application to the Supreme Court.

Another aspect, other than that which has been adjourned and which I will not venture into, relates to the method of appointment of the Deputy State Coroner. It is proposed that the appointment be made by the Attorney General on the recommendation of the State Coroner. The usual practice with respect to judicial office is that appointment is made by His Excellency the Governor in Executive Council. It is appropriate that the Attorney tell us the reason for this change.

HON HELEN HODGSON (North Metropolitan) [9.32 pm]: The Australian Democrats support this Bill. The changes in the Bill are primarily administrative to facilitate the State Coroner's function and also to improve the ability of the coroner to respond to the specific needs of families. I note that, by coincidence, a report on the review of the Coroners Act 1996 was tabled in this place yesterday. I had the opportunity during debate earlier today to have a quick look at some of the issues in that report. A matter that is yet to be discussed concerns the possibility of including further matters. The report was prepared by Mr Wayne Chivell, the State Coroner of South Australia, who reviewed the Coroners Act 1996, and his report was presented for tabling by our own State Coroner, Mr Alistair Hope.

A number of issues Mr Chivell recommended could be addressed as deficiencies in the legislation. It is fortuitous this report arrived when the Bill was on the Table before us. I note that the matters which Mr Hope agrees require amendment are generally not addressed in this Bill. Will subsequent legislation be introduced to address these issues, which include defacto rights? The fact that a defacto relationship is not recognised as having rights is out of step with society these days. The issue of same sex couples is addressed in the recommendations, as is the power of police officers to seize certain classes of evidence at a scene, specifically items such as suicide notes, drugs with an overdose, rope at a hanging, suicide weapons and other articles which will clearly be required as evidence. Another matter is the power to bring up a prisoner as a witness at an inquest. The State Corner does not have the power to make such an order although other judges, including stipendiary magistrates and justices of the peace, have such power. Also, if the Director of Public Prosecutions decides that it is not appropriate for a matter to proceed, some procedural matters arise. If it is clear that an investigation does not warrant prosecution, the corner is still required to make a report to the DPP, and that may not be appropriate on occasions.

Also, a number of other matters are raised in the Chivell report which Mr Hope has reviewed and said should be addressed through administrative measures or require further discussion. I particularly congratulate Mr Hope: Attached to his report are some draft guidelines for police concerning deaths in custody and guidelines for the Coronial Ethics Committee. It is important that such guidelines be properly laid down. I know the Ministry of Justice and the police have their own procedures, but it is excellent that the corner has reviewed the procedures to ensure that evidence could not be inadvertently damaged or not made available to a coronial inquest. I congratulate Mr Hope for these guidelines.

These matters are not in the Bill before us. Will the Attorney include these matters in other legislation? If additional matters are to be introduced in legislation at the request of the coroner, the matters to which I referred are undoubtedly too new to be part of that request. I am sure that if they were brought to Parliament, they would be dealt with expeditiously by the Chamber for the Attorney General.

HON PETER FOSS (East Metropolitan - Attorney General) [9.38 pm]: I start with the last point first. The State Coroner's recommendations are too new for forthcoming measures. I have cabinet approval to have the recommendations drafted in a Bill, but it is difficult to tell the member what will be in the Bill as it is no further advanced than having receiving the approval of Cabinet.

Hon N.D. Griffiths: Do they know?

Hon PETER FOSS: Cabinet members know it has been approved. Not necessarily everything the coroner recommended has been approved. I do not expect that Bill to appear this year as it is only at the drafting stage.

Turning to the point raised by Hon Nick Griffiths, the person to be Deputy State Coroner will already be appointed by His Excellency as a magistrate, and his judicial appointment will remain exactly the same. He is appointed by the Governor on the recommendation of the Executive Council.

The position of coroner is unusual. The coroner, or corouner, was originally an administrative officer whose job was to travel around the countryside fining hundreds - that was groups of 100 families - on the basis of the lists the hundred gave of the crimes that had occurred within that 100 families. It was an interesting method of enforcing the law.

The coroner would have a list of what he thought were the crimes that had taken place in the hundred. The hundred had to have a list of what they thought were the crimes that had taken place in the hundred. Of course, the hundred had an obligation to solve crime. When a crime occurred, they had to raise the hue and cry and either secure the person or pursue him to the edge of the hundred where the next hundred would take up the hue and cry. If they failed to solve the crime by apprehending and prosecuting the defendant, they were fined for it. One might think they would obviously keep quiet about it but the coroner had his own list. He would compare his list with their list, and for any crimes that they left off they were fined double. So there was a very good incentive to tell the coroner about unsolved crime as opposed to keeping it quiet. There was a very good incentive to solve crime because they were fined if they did not. That was a fairly primitive way of doing things.

He was called a corouner because he went round on behalf of the Crown, the king, looking after the king's peace. As I said, he was an administrative rather than a judicial officer. However, over a period, as has happened with a number of administrative officers, he ended up as a judicial officer. Of course, a magistrate is another classic example of an administrative officer who has ended up with a far more judicial role than an administrative role. In medieval times, administrative and judicial roles tended to roll themselves into one. Only with the passage of time have they tended to separate and only with the passage of time have people with mixed roles ended up with principally a judicial role. I suppose in many ways the role of the coroner is one of the few that really in character is of a higher administrative nature. He does not decide matters between people but still inquires on behalf of the Crown and in the interests of the public and makes recommendations of an administrative nature, again in the interests of the public.

The Deputy State Coroner's position is even more administrative, because the intent with the Deputy State Coroner is for that person to take over from what is now known as the Perth coroner and also to assist the State Coroner in his administrative role as head of the state coronial system. Because it is a fairly small office with the coroner and deputy state coroner, together they will run the coronial system using people drawn from the magistracy. The consultation that will take place is indicated in the second reading speech but the Chief Stipendiary Magistrate and the State Coroner will together work out who should be the deputy state coroner, and the person will be appointed for a period of time because essentially it is an administrative task. Because of the administrative nature of the appointment it was felt that the Attorney General would be the person who would appoint them to those roles rather than asking His Excellency or in the case of other lent officers, the chief judicial officer, as happens with the President of the Children's Court. A District Court judge is appointed by the Chief Judge of the District Court. We have the proposition that there not be a separate Liquor Licensing Court judge but there be a nominated District Court judge. This particular appointment is slightly different because the positions of the Chief Stipendiary Magistrate and the State Coroner are equivalent. It was felt that the appropriate person under those circumstances to appoint them would be the Attorney General.

Question put and passed.

Bill read a second time.

GUARDIANSHIP AND ADMINISTRATION AMENDMENT BILL 1999

Second Reading

Resumed from 23 September 1999.

HON N.D. GRIFFITHS (East Metropolitan) [9.45 pm]: The Guardianship and Administration Amendment Bill 1999 has the support of the Australian Labor Party. It is a matter without controversy and one which should not occupy much time of the House. It deals with a number of matters relevant to guardianship and administration. First, in the issue of enduring powers of attorney, the Bill will enable a donor of a power of attorney to nominate a substitute donee. That is, a person who nominates a power of attorney will nominate the donee and if the donee cannot do it he can in the same instrument nominate a substitute donee. That is good sense.

In the issue of consent for medical treatment the Bill provides a hierarchy of persons who will be able to provide consent without the need to apply to the board for the appointment of a guardian. The Bill sets out in detail the relevant person to deal with treatment termed "controversial" in the second reading speech but otherwise termed urgent. The Bill also sets out what comprises that category. If there is a conflict between the medical team and the person who would otherwise have the responsibility, application can be made for the appointment of a guardian. That is an important safeguard against the sort of abuse which would put people at risk and which causes fear in the community. The Bill also makes clear the powers of plenary guardians. These matters are not controversial and have the support of the Australian Labor Party. We do not see any need for a committee stage.

HON HELEN HODGSON (North Metropolitan) [9.48 pm]: The Australian Democrats will support this legislation. We have all received calls to our offices from time from people who have been affected in one way or another by the Guardianship and Administration Act. I know that over the past couple of weeks my electorate officer has been dealing with a woman who is having difficulties because her children are going through this process. It is sad, because while we recognise the need for these processes to be followed in many cases, sometimes it is difficult to explain to the person affected what one is doing, and why it is needed. This can be difficult in a family relationship. One of the reasons enduring powers of attorney are so important is that people can make decisions about who has the right to look after their affairs while they are still in a position to do that. It gives them the empowerment to feel they have a say now over what might happen in the future. These measures are basically technical measures which look at the rights of people who could be

subject to an order under this Act. It works towards protecting their rights and facilitating the use of these sorts of orders, and we will be supporting the legislation.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Assembly.

GENDER REASSIGNMENT BILL (No. 2) 1997

Second Reading

Resumed from 25 November 1999.

HON N.D. GRIFFITHS (East Metropolitan) [9.50 pm]: The Australian Labor Party supports the passage of the Gender Reassignment Bill (No. 2) 1997.

Hon N.F. Moore: That is going back a bit in time.

Hon N.D. GRIFFITHS: I will give the Leader of the House a sense of deja vu. I will not reassign him in any way. We supported the Gender Reassignment Bill 1997, and I will remind the House of how that proceeded. I am referring to an old progress of Bills from 27 June 1997. I recall that the original Bill was first and second read by the minister on 13 March 1997 and we debated it on 26 March 1997. I think we sat beyond ten o'clock that night - in those days we used to sit beyond ten o'clock. The Bill eventually went through the second reading stage on 26 March 1997. We had the committee stage on 8 April 1997 and the Bill was third read on 8 April 1997. It ended up in the other place and was ruled out of order by the Speaker because of a ruling with respect to the setting up of the board and what that would mean as an imposition on the public purse. That did not matter on the face of it because it was reintroduced as the Gender Reassignment Bill (No. 2) 1997, which is the one we are dealing with, in the Legislative Assembly on 9 April 1997.

Because of those who provide jobs for the boys and girls, and their great management of the business of Parliament, we find ourselves assigned to deal with the Gender Reassignment Bill (No. 2) 1997 in March 2000. At the rate the Government is going - except it will not be the Government in the next millennium, which is occurring in a few months - we may have to wait until the next millennium to deal with the issue of gender reassignment. The matter has had a difficult history because of the views of some members opposite and perhaps those in the other place. Perhaps it has received a bit of publicity in the Labor Party. It is a non-controversial measure. The Bill is consistent with the policy of the Australian Labor Party. Its principles were endorsed by me on behalf of the Labor Party three years ago. Nothing has changed as far as the Labor Party is concerned. We did not hold it up for three years; I will not hold it up now.

HON GIZ WATSON (North Metropolitan) [9.55 pm]: The Greens (WA) will support this Bill. I have had a number of meetings with representatives from the trans-gender community on this Bill. As much as they welcome it and are pleased that at last this legislation is being dealt with, it falls short of their expectations. One of the key issues raised with me, with which I agree, is that the Bill addresses only the post-operative situation for gender-reassigned people. There is a real need to address the preoperative situation for people who are undergoing gender reassignment.

As much as the Greens are pleased to support the legislation and acknowledge that it is a step forward, other issues concerning recognition of trans-gendered members of our community need to be addressed. Gender reassignment is a very difficult personal issue for people to address. I will support anything we can do under the law to make that easier. The Bill is long overdue. The Greens will support this legislation and welcome its speedy passage.

HON HELEN HODGSON (North Metropolitan) [9.57 pm]: We have dealt with so many Bills this evening that I had to fetch the file from my office. The Australian Democrats also support the passage of this Bill. We note that it has had a fairly checkered history through the Parliament. It is notable that this Chamber supported an earlier form of the Bill, which, for technical reasons, is different from this Bill. I hope we pass this Bill promptly.

I heard the comments of Hon Giz Watson about some of the Bill's inadequacies, which should be brought to the attention of this place. It is clear that it applies only to post-operative reassigned persons, although that includes people who have received chemical and hormonal treatments as well as surgical processes. It is also clear that the people who need protection most are the ones who are going through the transition, which is a very difficult process.

A person in another State, who is gender reassigned, has described some personal experiences. I have before me examples of comments made to her. In 1990, when she started to live as a woman, a male grabbed her breast and called out, "They're real." A few weeks later he said they were not real because they grew from hormones rather than naturally. Any woman would treat that as sexual harassment; yet because she was in the process of gender reassignment and had not completed the treatment, she would have no protection under this legislation. Comments have been made about sexual perversions. She received a phone call for "Mr Julie" - I will leave the surname anonymous - and was told, "You'll always be a bloke to me". She said her business card had her title crossed off and "transsexual" added. She has been told, "You'll need to tell people because they might think you're a woman." This is the sort of harassment that will occur in the transition between living as a woman and living as a man and it will occur most commonly in the case of a person who has not yet completed the procedures. This Bill does not provide any protection for a person in that situation. The protection which is provided here under the Equal Opportunity Act to people who have completed the procedure should be available for people who have commenced the procedures. That issue is not addressed in the Bill before us today.

I support the Bill, albeit in the knowledge that it is inadequate but in the hope of being able to remedy some of these inadequacies in the future. The issues to do with birth certificates are absolutely essential and there are some issues to do

with certification and documentation. There are stories, and I do not know if they are true or not, that there is a belief in the community that a passport can be identified as belonging to a trans-gendered person because of the way in which it is coded. Whether that is true or not I have not been able to find out.

Debate adjourned, pursuant to standing orders.

NATIVE TITLE (STATE PROVISIONS) BILL 1999

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

PROSTITUTION BILL 1999

Assembly's Message

Message from the Assembly received and read notifying that it had considered the amendments made by the Council and had agreed to amendments Nos 1, 2, 9, 12, 22, 26 and 29; had disagreed to amendments Nos 3, 4, 7, 8, 11, 15, 17 to 21, 24, 25 and 27; and had disagreed to and substituted new amendments for amendments Nos 10, 13, 16 and 23, as set forth in the schedule annexed, and agreed to amendments Nos 5, 6, 14, 28 and 30 with further amendments as set forth in the schedule annexed.

PLANNING LEGISLATION AMENDMENT BILL 1998

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by and insisted upon by the Council.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.02 pm]: I move -

That the House do now adjourn.

Gantheaume Point, Broome - Adjournment Debate

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [10.02 pm]: Yesterday I asked a question of the minister representing the Minister for Lands in reference to what steps were being taken in response to the failure of the Pearl Bay Resorts Development proponents for a project at Gantheaume Point to come forward with the lodgement of a $10m bond and was told that the question needed to be placed on notice. It is well past time for the Minister for Lands, Doug Shave, to recognise that he has effectively botched up in his efforts to put a tourist development on the Gantheaume Point site in Broome. With the failure of the company selected by the Government to do the development, Pearl Bay Resorts Development has not come up with the $10m bond required under its memorandum of agreement with the Government. It is now past time to cancel that agreement. In recent weeks we have seen the resignation of three directors of the board of PBRD and that has included in the past two weeks the former leader of the Liberal Party, Barry MacKinnon. Minister Shave should recognise that this development is going nowhere. Clearly the company is going through some sort of corporate turmoil. When I asked the minister yesterday whether the funds that were required to be lodged as a performance guarantee bond had been so lodged, he refused to answer. Clearly the company is in no position to proceed with the development if it cannot come up with the required money that was associated with its being selected as the preferred proponent for this development.

Now the directors are jumping ship. The failure of this company to provide a performance bond, which was due on the signing of the memorandum of understanding some six months ago, should be sufficient reason to terminate the company from any connection with the development. People have every reason to ask why the minister does not demand immediate payment of the bond and, if it is not paid, why he does not pull the pin on the company and reopen the tender process for the development.

Hon Mark Nevill: Has the company not effectively been terminated by not paying the bond?

Hon TOM STEPHENS: One would have hoped so. Regrettably, the Minister for Lands continues to keep open this particular memorandum of understanding as if it were a live arrangement between the Government and Pearl Bay Resort Developments Pty Ltd. There appears to be no good reason for the minister not to do so, unless something is underlying the arrangement. Given the minister's track record in failing to answer questions about this deal, it is beginning to look more like the minister, and therefore the Government, is facing a substantial problem. Tomorrow I intend to ensure that the Opposition again asks questions concerning this development. It is time for the minister to end this charade over which he has presided. Not only the people of Broome will continue to suffer through the uncertainty over this project; if the minister does not end this charade immediately, the entire community also will be affected. The minister's credibility is on the line. It has been sorely dented through his handling of the finance brokers scheme and now we see it being tested in another of his portfolios.

Sex Industry, Busselton - Adjournment Debate

HON BARRY HOUSE (South West) [10.07 pm]: At the request of a group of constituents, I bring a petition to the notice of the House. It does not conform to standing orders so I was unable to present it during the normal time for petitions. However, I undertook to present it on behalf of this group of constituents. The petition is signed by 731 people and opposes sex industry advertisements. It states -

> We the undersigned, would like to state that we find the establishment of a business selling sexual services in the community of Bussleton offensive.
>
> We do not accept this business as a responsible service to the community.
>
> We believe this business will have a detrimental effect on our community in a number of ways:
>
> It promotes a demeaning view of the value of women.
> It encourages men to view women as de-humanised objects for their personal use.
> It seeks to deny the commitment of marriage as worthy of respect.
> It undermines the integrity of the family unit.
> It seeks to exploit the innocence and dignity of our youth, for cash.
>
> We also believe the sex industry should not be able to impose itself on a community by threatening to sue any publisher who responds to widespread objections and disgust by refusing to promote the business.
>
> We ask that the local newspapers support and reflect the widespread community views by not placing advertisements for sex industry services in their advertising columns.
>
> We your humble petitioners are duty bound to pray.

I seek leave to table the document.

Leave granted. [See paper No 771.]

Search for Darryl Clancy - Adjournment Debate

HON MARK NEVILL (Mining and Pastoral) [10.08 pm]: I raise an important matter. It is no secret that police in regional areas are cash-strapped. The Police Service has had to find money to pay for the wage increases under the new enterprise bargaining agreement in its existing budget. Not much money is available to spend on anything extra or unforeseen.

Over the past few days four young lads in the Kimberley travelling from the Yakanarra community to the Bayulu community were caught in the floods. Three of them went ahead and one turned back. The three who went ahead arrived safely but the fourth, Darryl Clancy - I know his father - turned back and is now missing. The police have been out in a helicopter looking for him, and I understand from a few telephone calls today that the police have now run out of money to fund that search. They have asked Aboriginal communities to contribute money so that they can continue the search for the young lad. That is reasonable. I know the Billiluna community, which is now known as the Mindibungu community, raised $1 000 today for the fund to keep the helicopter in the air looking for this young lad, Darryl Clancy. If the Premier will allow it, I am happy to transfer $5 000 to the police from my air charter allowance so that they can continue the search. If Parliament were not sitting tomorrow, I would probably go to Fitzroy Crossing, hire a helicopter, and go out there myself, along with other people, for half a day, to try to find this young lad.

Most Aboriginal kids in the Kimberley are natural born swimmers and most can swim from the minute they are thrown into the water. There are many trees in that area and, unless he has been swept away in some rip, there is a good chance he is still alive. Most people who perish in those areas do so because of lack of water, and that is obviously not the situation in this case. The search needs to be continued, and if the local police do not have the funds, they should be made available. This situation contrasts starkly with the effort put into finding Robert Bogucki and the amount of money spent searching for him, and he headed out into the desert quite wilfully for 40 days. There is a good chance that Darryl Clancy is still alive, and I ask the three ministers in this House to ensure that the search continues for the next week or 10 days at least.

I have quite a bit of money in my air charter allowance and I will use it before the end of the year. However, if I can transfer $5 000 of that to the police to enable them to hire a helicopter, I am happy to do that. These four boys come from the Balgo area and the people are really concerned about them.

Hon Barry House: Is the problem more a lack of fuel than lack of an aircraft?

Hon MARK NEVILL: It could well be, but I have been told today that the police are strapped for cash. I know they are because they withdrew some of the patrols to the Aboriginal communities just before Christmas, which had some bad consequences. To their credit, they have reinstated the back-to-back patrols to Balgo and the situation has improved. The police are finding it difficult to manage within their budget and if it is a case of their not having enough money, it should be made available. If it is a case of not enough fuel, that could be addressed by flying planes from Broome or Derby. It may not be as effective as helicopters, but I do not know that the Fitzroy Crossing road has been out for the past 10 days. It may well be but it has not been suggested to me that the problem is a lack of fuel. Even so, planes could still be flown from Derby or Broome to search the area, which is only an hour's flight. The planes could still stay out for two or three hours. I would like some assurance that the intensity of this search will not wane.

Shark Bay Solar Salt Industry Agreement Act - Adjournment Debate

HON GIZ WATSON (North Metropolitan) [10.15 pm]: I wish to take some time to discuss an issue which I raised yesterday and which I was denied the opportunity to debate today; that is, the excision of a further area from the Shark Bay World Heritage area. I want to explain to the House what that variation to the Shark Bay Solar Salt Industry Agreement Act 1983 will do and why I was eager to have the House debate this excision. Despite the debate yesterday, I did everything I could to inform all members and parties in this House of what I intended to do, and as it turned out I had little option other than to request a suspension of standing orders; but as members know that was not successful and was denied.

Hon N.F. Moore: It was not denied. The debate did not finish.

Hon GIZ WATSON: I sought leave to introduce that motion, and leave was denied.

Hon N.F. Moore: You did not ask for leave. That is what you said you intended to do.

Hon GIZ WATSON: I certainly did ask for leave.

Hon Barry House: Leave to move to suspend standing orders.

Hon GIZ WATSON: We will go through this, then. I drafted a motion under Standing Order No 128 to change the order of motions so that motion No 15 standing in my name would become motion No 1. However, because of the way the business went in the first hour, I was unable to do that. When it became apparent that I was unable to do that, the President indicated to me that I should discuss it with him. He said that I should approach the leader of the Government for leave to introduce it later, but leave was denied.

Hon N.F. Moore: I told you I would not give you leave. You did not bring it to the House.

Hon GIZ WATSON: That is right, so I had no option other than to request a suspension of standing orders. That was the order of events. I guess that as a member of a minor party in this House, very few options are available to me. However, I do not wish it to be on record that I somehow sprung that on people, because I went through all the processes that I could to enable that motion to be raised, but that was not possible.

I will not use up any more time to debate that procedure, because I want to put some things on record with regard to this variation to the State agreement Act that will now pass through without disallowance. The Shark Bay World Heritage area was declared in 1991. When the arrangements for the boundaries of that World Heritage area were put in place, the existing solar salt industry was granted an excision from that World Heritage area. That industry is wholly contained within that World Heritage area, and it obviously abuts both the marine component of that World Heritage area -

Hon Mark Nevill: I thought the excision was from a pastoral lease.

Hon GIZ WATSON: It might well be an excision from a pastoral lease, but it was also an excision from the World Heritage area. The recognition that an excision was necessary was an indication that the operations of that industry were incompatible with the objectives of the conservation of a World Heritage area.

Hon N.F. Moore: That is rubbish!

Hon Mark Nevill: Is fishing incompatible?

Hon GIZ WATSON: It depends on what type of fishing it is. The company has continued to operate in that World Heritage area, although not without controversy. For example, the introduction of ballast water species into a World Heritage area is of ongoing concern to not only the conservation movement but also the Department of Conservation and Land Management, which has responsibility for managing the marine component, because Shark Bay is not only a World Heritage area but also a marine park. Two or three years ago, a vessel ran aground while approaching the loading facility at Useless Loop, and concerns were raised about what would have happened had that vessel been breached during that grounding. Fortunately it was not breached and any possible damage was averted, but there is an ongoing problem with having an industry wholly within a World Heritage area.

Having said that, the conservation movement has accepted that that was the deal done to allow the industry to operate. The current operators are requesting a further excision from the World Heritage area to allow it to extend its pond area. I understand that the company is requesting this excision not because it has run out of space - indeed, it has space within the existing lease to expand the pond area - but because there is a difference of 20 centimetres between the land it is seeking and the land it already has. It is an issue of costs, and to minimise those costs the company is requesting a further chunk from the World Heritage area rather than taking up the area already available to it.

Members will be aware that the objective of World Heritage listing is to protect, preserve and present the World Heritage values of a property. What concerns me, the conservation movement in general and specific groups such as the Conservation Council of Western Australia and the Australian Conservation Foundation is what the industry wants. The percentage of this State protected in national parks, marine parks or by World Heritage listing is very small. When does it stop? When do we say that an area has been deemed a World Heritage area and that we will not allow bits to be nibbled away until nothing is left? What precedent do we set? It is like the Kakadu situation, in which we find that mining is acceptable in a World Heritage area.

The further take up of the existing lease by the company in the past couple of years, enclosing a further section of Useless Loop, was very controversial in the local area. It caused much concern to the local professional fishing association, with which I had extensive communication at the time. I visited the area and flew over it. Its concerns regarding the impact of

impounding a further area of Useless Loop were borne out in fish losses. Indeed, a specific subspecies of snapper was in danger of being wiped out by the further enclosure of that part of Useless Loop.

I have also had correspondence with the Aboriginal traditional owners of that area and they are opposed to this extension of the salt industry into the World Heritage area. At this stage they have not been consulted. They are concerned that -

> . . . any further expansion of the Shark Bay salt industry will have an extremely negative impact on their local environment and their capacity to carry out their traditional cultural practices in the affected area.

Hon N.F. Moore: Can you give me the name of the person who gave you that information?

Hon GIZ WATSON: The letter is from the Yamatji Barna Baba Maaja Aboriginal Corporation and it is signed by the principal legal officer David Ritter. I would be happy to table the letter.

Comments were made yesterday about the values of various industries in the Shark Bay region. I know there was vigorous opposition to the World Heritage listing when it was first declared. People to whom I speak now say that they are very pleased that the area was declared and that it is a boon for the local community, economy and tourism.

Rural Health Services - Adjournment Debate

HON KIM CHANCE (Agricultural) [10.24 pm]: I thank my colleagues for being so brief in their contributions that I have this opportunity. I do not intend to keep the House much longer than my colleagues have.

Several members interjected.

Hon KIM CHANCE: I mean individually.

Hon B.K. Donaldson: The member tells us that every time he stands up.

Hon KIM CHANCE: There is a guarantee of that, at least in the adjournment debate.

The question of rural health services and the shortage of doctors in country areas, particularly inland country areas, is not new to this House. We have discussed this matter on a number of occasions. Perhaps the number of occasions on which we have discussed the matter is an indication of how serious and long term this problem is. I note - not just in passing - a report from a standing committee of the House of Representatives in the Commonwealth Parliament which was carried in yesterday's *The West Australian*. It was indicated in the report that we are in danger of becoming a two-tier society. If that is true in any respect, it is certainly true in the quality of health care which is made available to Western Australians, or any Australian for that matter, who live in inland Australia. Urgent action is needed to ensure that the constant erosion of basic health services being experienced by country people is reversed.

It must be noted that the resources which are devoted to the provision of rural health services in the country are rendered useless if no doctor is in the area to utilise the facilities. The first key resource for isolated area health services, or health services in any area, is a doctor to provide the initial medical contact. The matter is becoming so serious that even patients in Geraldton, an area which we would not normally expect to be hard to service, are experiencing an inability to see a doctor when they need to, particularly after hours. There have been cases for some years - this is not new - of doctors closing their books and not taking new patients. Essentially, it is impossible to find a doctor in Geraldton who will bulk bill, except at the Aboriginal Medical Service. Similarly, in Merredin, my home town, just three hours drive from Perth - hardly an isolated area - an appointment to see a doctor needs to be made three weeks ahead of the visit. One does not need to think about the matter for very long to realise that if a person must make an appointment three weeks ahead of the visit, that person will either be dead or better by the time the appointment arrives. Consequently, not many people have to see the doctor. One would think that that would tend to shorten the queue, but it does not seem to. We have this three-week time lag which seems to be impossible to address.

This situation is totally unacceptable, and I am sure that all members in this place, regardless of the side on which they are seated, would agree with that. It is unacceptable not only because it exists but also because these are not temporary problems; they are longstanding. They do not seem to be getting better. Indeed, they seem to be getting worse. In each case they represent a potentially life-threatening situation. I do not say that to overdramatise the position. I believe that is the case and that lives have already been lost as a result of the unavailability of medical attention. Because this can be a bilateral issue, I call on the Government and on the Parliament to address this growing threat to the health of country people and to try to ensure that the doctor-patient ratio in inland Western Australia does not fall any further, does not fall to the level of a third world nation and does not fall to the level of a two-tier system with services entirely concentrated in the city, as has been indicated by our federal colleagues.

There is no absolute shortage of doctors in Australia. There is no shortage of doctors who are prepared to come to Australia and we must recognise that the bulk of doctors now serving in inland Australia have not been trained in Western Australia; they are foreign-trained doctors. Although people may be happy to tell us that the ratio of Australian to foreign-trained doctors in rural Western Australia is roughly 50:50 now, when those figures for inland Western Australia are removed, it falls back to the old ratio of 80 foreign to 20 Australian-trained doctors. Foreign doctors are critically important to inland Western Australia and I believe it is in that area, in the short to intermediate term at least, that we must consider augmentation. Although we should welcome the efforts that have been made by the Australian Medical Association and by the Western Australian Centre for Remote and Rural Medicine, to improve the situation it is clear that far more must be done before we can say that our responsibility to country people has been met.

Gantheaume Point, Broome - Adjournment Debate

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.30 pm]: I want to respond to a couple of matters raised tonight by members. It is disappointing that two out of the four speeches from the other side of the House were about issues which are designed to try to prevent or curtail economic development in Western Australia.

Firstly, the Leader of the Opposition, like the proverbial seagull, came into the Parliament and made a slimy speech, attacking the Minister for Lands in respect of a resort in Broome. I have a long memory about these things. When Mr Dowding was either the Premier, or certainly a minister in the previous Labor Government, a great deal of time and energy was spent by that Government trying to persuade a developer to build a resort on Gantheaume Point in Broome. I could go back to some speeches that were made at great length on that matter as I was trying to get some land for another developer and the Government would not budge because its preferred site was Gantheaume Point. Now the Government is trying to produce a resort in Broome to provide economic growth and employment in that town, which it desperately needs, and all we get from the Leader of the Opposition is constant negativity. There is a significant element of hypocrisy in his position on Gantheaume Point. However, again, it is typical of him. He comes into this place and talks about economic development in the country. Yesterday he made a speech about Telstra and today he made a speech about not having a resort in Broome. He cannot have it both ways, Mr President, in my humble judgment.

Shark Bay Solar Salt Industry Agreement Act - Adjournment Debate

Hon N.F. MOORE: Hon Giz Watson, as is her wont, continues to try to prevent any economic development taking place anywhere in Western Australia and, secondly, continues to try to stop the economic development that is already there. She laments the fact that Shark Bay salt mining continues to exist in the middle of a World Heritage area. She should look at the history of that too. The people up there did not want World Heritage listing at the time but it was forced upon them by the then federal Labor Government with the assistance of Bob Pearce, the then Minister for the Environment in the state Labor Government. That is who gave the people of Shark Bay World Heritage listing against their better judgment. The reason for excising Shark Bay salt was to protect the jobs of people who already lived there. I have to say that Useless Loop is not the most attractive part of Western Australia. We are doing our very best to ensure that these sorts of jobs remain in Western Australia, particularly in regional Western Australia.

Again, the Greens (WA) would have us close down what already exists, as they are trying to do in the south west, at the same time preventing a company from the legitimate expansion of its activities to continue to provide for that operation. As I said last night, any expansion of the mining lease that that company currently holds can be utilised or mined only if it meets all the required environmental conditions. That is fundamental to our mining law. A company can be granted a mining lease but then it must go through the process of applying for environmental approval before developing that particular deposit. It is therefore important for us as a community to know what those resources are worth so that we can make informed judgments about the economic benefits of developing and exploiting a resource and the benefits of preserving it for environmental purposes, weighing up that against the environmental impact of any mining.

Rural Health Services - Adjournment Debate

Hon N.F. MOORE: Hon Kim Chance raised an issue that has been around for as long as I can remember. Regrettably, nobody has come up with a solution to the problem. If he has a solution, the Government will grab it tomorrow with open arms. It has been a problem since I was a child living in the bush, which is now longer ago than I care to remember. It is still a problem now. It is not a unique problem for this Government; it is a problem for Western Australian regional areas. The only way to solve this problem is to have a conscription system and say that doctors must go to the bush. Otherwise, they will not go there for the same reasons as many other professionals will not live in regional Western Australia. I do not understand those reasons as I have spent much of my life in the regions of the State. If Hon Kim Chance has a view about how to sort out this problem, the Government will be very interested to hear it. We would be delighted to implement his idea if it will solve the problem.

Search for Darryl Clancy - Adjournment Debate

Hon N.F. MOORE: Hon Mark Nevill raised a problem which I will take up urgently tomorrow. He suggested that the police had terminated a search because they had no money for fuel. That sounds outrageous to me. I cannot believe that police in Western Australia would do that, and I know the Minister for Police would not allow them to do so, if that is what they are doing. It is unacceptable to terminate a search if there is any likelihood that the person could be found alive. I can only surmise as I do not know the situation, but maybe the police decided it was an unachievable objective to find this person. The police are the people on the ground making the judgments. It just would not be acceptable to the Government if the police are not making a search because they have no money, and it would be totally unacceptable to the Minister for Police. I will refer the matter to him immediately so we can get to the truth of the matter. One can only hope and pray that the young person is still alive and we will make every effort we can to find him.

It is a pity, Mr President, that these adjournment debates become one stream of negativity after another when we live in a State which is the best part of the world.

Question put and passed.

House adjourned at 10.36 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT DEPARTMENTS AND AGENCIES, NATIONAL COMPETITION POLICY COMPLIANCE REVIEW

657. Hon HELEN HODGSON to the Attorney General representing the Minister for Planning:

(1) For all agencies/departments under the Minister for Planning's control can the Minister advise what policies and legislation are -

(a) under review; or
(b) have been completed,

to ensure compliance with the National Competition policy?

(2) In respect of each review currently under way can the Minister advise -

(a) the expected completion date of the review;

(b) what legislation may be required to be amended following the review;

(c) whether National Competition Payments are contingent on the completion of the review, and passing of any legislative requirements?

(3) In respect of each review that has been completed, can the Minister advise -

(a) if legislation is required to be amended;

(b) whether the amending legislation has been introduced to Parliament;

(c) if not, when it is expected that the legislation will be introduced;

(d) whether National Competition Payments are contingent on the passing of the legislation?

Hon PETER FOSS replied:

The following response was correct as at 22 February 2000:

Please refer to the answer given in response to question on notice 661 of 13 October 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, NATIONAL COMPETITION POLICY COMPLIANCE REVIEW

658. Hon HELEN HODGSON to the Attorney General representing the Minister for Heritage:

(1) For all agencies/departments under the Minister for Heritage's control can the Minister advise what policies and legislation are -

(a) under review; or
(b) have been completed,

to ensure compliance with the National Competition policy?

(2) In respect of each review currently under way can the Minister advise -

(a) the expected completion date of the review;

(b) what legislation may be required to be amended following the review;

(c) whether National Competition Payments are contingent on the completion of the review, and passing of any legislative requirements?

(3) In respect of each review that has been completed, can the Minister advise -

(a) if legislation is required to be amended;

(b) whether the amending legislation has been introduced to Parliament;

(c) if not, when it is expected that the legislation will be introduced;

(d) whether National Competition Payments are contingent on the passing of the legislation?

Hon PETER FOSS replied:

The following response was correct as at 22 February 2000:

Please refer to the answer given in response to question on notice 661 of 13 October 1999.

GOVERNMENT CONTRACTS, SCOTT FOUR COLOUR PRINT

1245. Hon KEN TRAVERS to the Attorney General representing the Minister for Planning:

(1) What Government contracts did Scott Four Colour Print receive in 1998/99?

(2) For each contract, what was -

(a) the original tender cost;
(b) the actual final cost;
(c) the award date; and
(d) the completion date?

(3) For each contract, how many companies tendered for the contract?

Hon PETER FOSS replied:

The following answer was correct as at 21 December 1999

Ministry for Planning
Please refer to attachment 1. [See paper No 770.]

Office of the Minister for Planning (Appeals)
(1) Nil.
(2)-(3) Not applicable.

East Perth Redevelopment Authority
(1) Nil.
(2)-(3) Not applicable.

Subiaco Redevelopment Authority
(1) Nil.
(2)-(3) Not applicable.

QUESTIONS WITHOUT NOTICE

BUSES, GAS, NUMBER ORDERED

790. Hon TOM STEPHENS to the Minister for Transport:

(1) Further to the minister's answer to the question about the DaimlerChrysler bus contract last night, can he specify how many gas buses have been ordered?

(2) When were they ordered?

(3) When are they contracted to be delivered?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) Five gas buses were ordered, as committed by the Government.

(2)-(3) After negotiations with the DaimlerChrysler and gas technology suppliers, an order was placed for five purpose-built gas buses in January 2000 for delivery in November 2000. However, to expand and accelerate the development, testing and trialling program, an additional three gas engines will arrive later this month.

WEST KIMBERLEY, GAS PROPONENTS

791. Hon TOM STEPHENS to the Leader of the House representing the Minister for Energy:

(1) Have the gas proponents for the supply of electricity for the west Kimberley come forward with their final offer?

(2) What payment is being sought by the gas proponents for meeting community service obligations?

(3) Has the Government agreed to the payment? If yes, when was the decision made and who made it?

(4) Is the same government contribution for CSOs available to Tidal Energy Australia?

(5) If not, why not? If yes, when does the Government intend to approach Tidal Energy Australia seeking its best offer for tidal generation for the west Kimberley?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Negotiations are progressing with the single preferred bidder and a final outcome is expected shortly.

(2) No payment is being sought by the single preferred bidder for meeting CSOs.

(3)-(4) Not applicable.

(5) The Government intends to invite Tidal Energy Australia shortly to submit its best offer for tidal power generation to supply Western Power in the west Kimberley.

GOODS AND SERVICES TAX, INSURANCE COMMISSION OF WA

792. Hon N.D. GRIFFITHS to the Attorney General representing the Minister assisting the Treasurer:

I refer to the answer to question without notice 773 yesterday and the effect of the goods and services tax with respect to the operations of the Insurance Commission of Western Australia.

(1) Is the commission now able to say what the estimated GST to be raised by it between 1 July 2000 and 30 June 2001 will be and what percentage increase that will have in respect of premiums?

(2) If so, what is the position? If not, when will it be able to supply that information?

(3) Has an actuarial review of the impact of the GST on claims estimated to be settled on or after 1 July 2000 been undertaken since the commission's last annual report? If so, what is the estimated allowance by way of direct insurance for long-tail outstanding claims? If not, when is the review anticipated to be completed?

(4) What is the estimated cost to the commission of the actuarial reviews to accommodate the effect of the GST?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No.

(2) No later than mid April 2000.

(3) This is currently in progress and will be finalised no later than mid April 2000.

(4) Approximately $40 000.

KWINANA MOTORPLEX

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

In regard to the Kwinana motorplex -

(1) Is the Minister for Planning aware that the Western Australian Planning Commission rejected an application to construct a speedway adjacent to the motorplex site because the speedway was incompatible with the purposes of an industrial buffer zone?

(2) Is he also aware that the Department of Environmental Protection and the Environmental Planning Authority told a speedway proponent in 1992 that they could not approve its application to build a speedway inside the buffer zone?

(3) Can the minister explain how the much larger motorplex project is now compatible with the buffer zone?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) No.

(3) The proposed motorplex complies with current planning criteria for its location.

KINGS PARK, ENTRY STATEMENT

794. Hon HELEN HODGSON to the minister representing the Minister for Works:

(1) Has the Government placed advertisements calling for tenders to construct a new entry statement or public entrance at Kings Park?

(2) If so, what is the proposed location of the new entry statement or public entrance?

(3) Has an amount been allocated for the construction of the new entry statement? If so -

(a) how much has been allocated; and

(b) were does the amount appear in the budget papers for the current year?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) An advertisement is in place for the appointment of a design consultant for the new entry statements for Kings Park. The tenders close today. Tenders have not been called for the construction.

(2) The proposed location of the major entry statement is at the junction of Kings Park Road and Fraser Avenue. It is proposed to place minor entry statements at two other park entry points.

(3) (a) An amount of $950 000 has been allocated to the whole project, including $350 000 allocated to the Fraser Avenue entry.

(b) The Botanic Gardens and Parks Authority has advised that the amount is included as part of its capital investment plan.

DRUGS, SYRINGES AND NEEDLES

795. Hon RAY HALLIGAN to the Attorney General representing the Minister for Police:

Given the high number of syringes and needles being found along the Swan and Canning Rivers and the associated health risk, what is the Government doing to help reduce the amount of drug paraphernalia?

Hon PETER FOSS replied:

I thank the member for some notice of this question. This is a periodic rather than a growing problem in Western Australia that is being addressed by a range of government and non-government agencies. It is most apparent at a few locations along the Swan and Canning Rivers as a result of the accumulation of needles and syringes in the stormwater system. The majority of needles and syringes are distributed through purchase at community pharmacies. These are provided in a disposable package - a Fitpack - that can be discarded with household refuse.

The Government also supports a number of needle exchange programs in inner city and metropolitan Perth. Needle exchange programs provide an opportunity to reach drug users and, as such, provide education regarding appropriate safe disposal, as well as prevention of blood-borne viruses and drug overdoses, and opportunities for treatment. The return rate of needles at these services generally exceeds 95 per cent. The combination of exchange services and safe disposal with household refuse has kept the number of needles and syringes disposed of inappropriately in this State to a relatively low level. It is nevertheless essential that all measures be taken to prevent inappropriate disposal in public places. The WA Drug Abuse Strategy Office chairs a permanent working party to promote safe disposal. Its members include representatives of the Health Department, the Police Service and local government bodies - the City of Perth, the Town of Vincent and the WA Municipal Association - together with the WA Substance Users Association.

MOSQUITO PLAGUE, MANDURAH

796. Hon J.A. COWDELL to the Attorney General representing the Minister for Health:

In view of the mosquito plague in Mandurah -

(1) How much is the Health Department contributing to the 1999-2000 Contiguous Local Authority Group's budget in Peel?

(2) What percentage of the total budget is this contribution?

(3) How much of the $1m appropriated for runnelling has been expended so far this financial year?

(4) What is the schedule for runnelling in the Peel region and why is this spread over a four-year period?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) This season the Health Department of Western Australia has contributed $95 500 to the Peel Region Contiguous Local Authority Group comprising $21 400 for the purchase of larvicides and approximately $74 100 for hire of a helicopter for aerial application. An additional $120 000 has been allocated this year to cover the remainder of the session; $88 000 for larvicides and $32 000 for helicopter hire. Other funding provided by the Health Department for the Peel region mosquito control program includes $74 000 for the mosquito and Ross River virus surveillance program, $18 650 for a new adult mosquito fogger and 30 per cent of the time of three Health Department officers. This brings the total contributed this year to $357 049.

(2) Approximately 60 per cent of the total Health Department budget for mosquito control this year will be spent in the Peel region.

(3) Tenders for implementing the runnelling program have now closed and are being assessed. The first stage of this program, development of an environmental management plan, as required by environmental agencies, is expected to commence before the end of April 2000.

(4) The actual installation of runnels in the Peel region is scheduled to commence next summer - 2000-01 - subject to appropriate environmental conditions. The program is spread over four years so that results of environmental monitoring at sites of relatively low conservation significance can be collected and assessed. This will ensure that

runnelling will not have any adverse impacts on the salt marshes before runnels are installed on sites of high conservation significance.

ADOPTION SERVICES

797. Hon CHERYL DAVENPORT to the minister representing the Minister for Family and Children's Services:

(1) Is the minister intending to increase the annual funding of Adoption Jigsaw WA and the Adoption Research and Counselling Service to ensure that those people currently seeking information through Family and Children's Services are able to access information, mediation and counselling if they so choose? If not, why not?

(2) Will the message box provision continue?

(3) Will the adoption services contact register be maintained?

(4) If yes, how long will the client be required to wait for knowledge of the sought for person?

(5) Is the person seeking such information required to pay for this information? If so, what is the cost?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) The demand for the services of Adoption Jigsaw WA and the Adoption Research and Counselling Service is being monitored through Family and Children's Services' regular processes and should an increased need be identified, it will be considered during these processes. People will continue to access information and outreach services via Adoption Services. The ongoing counselling and the contacts where there is preference for someone to mediate will be provided by the Adoption Jigsaw, ARCS and several other licensed mediation and contact agents.

(2)-(3) Yes.

(4) The search of court and adoption records for information and the provision of non-identifying information about a person currently averages 12 to 14 weeks with some cases taking up to 20 weeks.

(5) There is no charge for the service provided by Family and Children's Services. The Registrar General's Office charges $27 for each certificate. There is no charge for the court record.

NATIVE TITLE DETERMINATION

798. Hon TOM STEPHENS to the Leader of the House representing the Premier:

I refer to your seeking a determination from the Federal Attorney General Daryl Williams on the State's native title regime.

(1) Are you aware that Mr Williams says he will need to seek submissions from indigenous organisations in Western Australia before he can make a determination?

(2) When do you expect the Federal Attorney General to make a determination? What do you expect that determination to be?

(3) When do you expect the legislation to go before the Senate for its consideration?

Hon N.F. MOORE replied:

The way the question was asked implies that I am the Premier and that is not quite the case at the moment.

Hon Ljiljanna Ravlich: But you would like to be and everyone else in your party would like you to be.

Hon N.F. MOORE: At least my prospects are significantly greater than those of Hon Ljiljanna Ravlich. I would love members opposite to make Hon Ljiljanna Ravlich the leader of their party - that would be the greatest thing since sliced bread from our point of view. Also, they might actually change the photograph of her in the newspaper; that is false advertising if ever I saw it. It was taken 30 years ago and they are still using it.

Several members interjected.

Hon N.F. MOORE: Hon Ljiljanna Ravlich must tell us who she knows in *The West Australian*.

For the time being I am not the Premier but the question is addressed to me in my representative capacity and I will respond on behalf of the Premier.

I thank the member for some notice of this question.

Hon Tom Stephens interjected.

Hon N.F. MOORE: The Leader of the Opposition should learn to ask questions; he has been here a long time and still has not learned to ask questions properly.

(1) Section 43A(3) of the Native Title Act requires the Attorney General to notify all Aboriginal representative bodies

in Western Australia of the proposed determination, to invite submissions from those groups and to consider any submissions made.

(2) The Attorney General is required to make his determination after the consultation with representative bodies has been completed. The Government is confident that the Attorney General's determination will be that the State's alternative provisions comply with the requirements of the Native Title Act.

(3) It is not known when the Attorney General's determination will go before the Senate but it would be expected to be later this year.

NORTH WEST CAPE, RESORT DEVELOPMENT

799. Hon TOM HELM to the Minister for Tourism:

I refer to the proposal by Trade Centre Pty Ltd to develop a resort on the west coast of North West Cape - a proposal which the member for Bassendean in the other place has raised with the minister.

(1) Is it true that the minister gave Trade Centre Pty Ltd an undertaking or at least an understanding that the proposal would be considered by Cabinet?

(2) Has the proposal been considered by Cabinet? If not, why was it not referred to Cabinet and who made the decision not to refer it?

(3) Will the minister now provide a full and complete explanation of why he has previously failed to answer these questions?

Hon N.F. MOORE replied:

(1)-(3) This is a question without notice and it relates to an incident which happened three or four years ago - before the last election. Therefore, members must forgive me if my memory is not as precise as it might be. A group called Trade Centre sought to establish a resort on the west coast of North West Cape at Tantabiddy Creek. It also wanted a casino licence to go with it. My advice to Trade Centre was, first, that it could not have a casino licence as there was not one available; members would know that a monopoly for Burswood is contained in the Act put together by the last Government. However, I told Trade Centre that I had some enthusiasm for a development on the west coast of North West Cape provided it met all the environmental and other requirements of that part of the world; it is a very sensitive area, adjacent to Ningaloo Marine Park. I sought to assist the company to gain all the necessary approvals. My office worked with Trade Centre for quite a long time, several years as I remember. The nature of the site meant it was a very difficult issue to deal with. The Department of Conservation and Land Management had problems with it and the land was on two titles - one was a nature reserve and the other may have been national park, troglodytes were a problem as were underground creeks and caves.

Hon Tom Stephens: You shouldn't point to Hon Peter Foss and say troglodytes.

Hon Peter Foss: I was the one who had to put up the argument.

Hon N.F. MOORE: Quite right. All sorts of difficult issues needed to be resolved. When a decision was made by the Government to proceed with the development of the boat harbour on the east side of North West Cape at Exmouth - and this Government made the decision to do that even though the previous Government had made a number of promises but never quite got around to it - I told Trade Centre that as part of that development appeared to involve the construction of a tourist resort, hotel and other facilities which could be construed to be part of a resort, there was very little prospect of Trade Centre getting approval to go ahead on the west side. The boat harbour development was the Government's preferred development proposal for the North West Cape area. I advised the company that I did not think its prospect of succeeding was all that flash and Trade Centre has not proceeded with its proposal. It could have if it had wished and still can if it wishes.

If the member for Bassendean wants to continue to run with this story as if there is something improper attached to it, I suggest he says it outside the House and we can deal with it in a proper way instead of his making snide remarks. This issue has been sitting in the Assembly for the past couple of years. It was the subject of a motion moved by the member for Bassendean. I have spoken to the people from Trade Centre who do not know what he is on about either. If the member wants to make an issue about it, let us do it outside where we can have the necessary legal debate if anybody is suggesting any impropriety. I indicated that the prospects of getting that facility up on the west side of North West Cape at that time were not good. I may well have told Trade Centre that the political climate is not flash in respect of any development on the west coast because, as the member knows, that is a very sensitive area. A decision of government about a week before an election on a sensitive issue like that would be difficult to extract.

Hon Tom Helm: Did it go to Cabinet?

The PRESIDENT: Order! Hon Tom Helm has about three supplementary questions and is taking up three other members' spots. I ask the minister to wind up his answer.

Hon N.F. MOORE: I am doing my best to give the member a full answer, Mr President. I do not recall that it went to

Cabinet and it certainly did not go to Cabinet for a final decision. As I indicated, I suggested to Trade Centre that it was highly unlikely to get Cabinet approval at that time.

RADIOACTIVE WASTE, MANYINGEE

800. Hon GIZ WATSON to the Minister for Mines:

With reference to the disposal of radioactive waste material and section 16.32 of the Mines Safety and Inspection Regulations 1995 -

(1) Was the radioactive waste buried at the Manyingee mine recorded on a detailed plan?

(2) Was the location including the depth of the waste material, the top and bottom contour of the waste material and the total area covered by the waste material recorded?

(3) If yes to (1) and (2), will the minister table the documentation relating to the disposal of radioactive waste at Manyingee?

(4) If no to (1) and (2), will the minister prosecute the company under regulation 17.1 for having failed to provide this data to the state mining engineer?

(5) If no to (3), why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(2) Yes.

(3) I am advised that under the Commonwealth Nuclear Non-proliferation (Safeguards) Act 1987, the physical protection measures - security - details applied to a site and the products are classified as "safeguards-in-confidence". These details are not released to the public.

(4)-(5) The disposal of radioactive waste at Manyingee took place during 1987 at which time mining operations were regulated under the Mines Regulation Act 1946 and regulations. The Mines Safety and Inspection Regulations 1995, which came into operation on 9 December 1995, consequently do not apply.

CRIMINAL CODE, SECTION 35

801. Hon KIM CHANCE to the Attorney General:

No notice of this question has been provided.

The Attorney General has recently said that he will legislate to amend or repeal section 35 of the Criminal Code. Is he able to tell the House in more precise terms what he intends to do to alter this iniquitous law and also what timetable he proposes to follow in doing that?

Hon PETER FOSS replied:

Yes, the amendment will be a criminal law amendment Bill brought into the House in this session. It will repeal section 35 and will also make amendments to another related section, I think section 371. I believe the effect of section 35 has been significantly overstated. It should go but its impact has been overstated and incorrectly reported in the *Sunday Times*. The section has no impact at all on at least one of the cases cited and does not even apply to it. In the other cases, even without section 35, the possibility of a prosecution would be extremely remote. Section 35 has its use in clean-up, as far as the police are concerned, when they can see that there is no way to prosecute because of section 35; whereas if section 35 goes they will still say there is no way to prosecute because they will not be able to prove the necessary criminal elements. The section does not have the importance of the practical effect that has been attached to it but I agree it is a total anachronism, it should go and I hope it will go this session.

TAFE INTERNATIONAL STUDENTS

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

(1) How many students in TAFE colleges throughout the State are enrolled as TAFE international students?

(2) Has the Western Australian Department of Training sought a ruling from Treasury or the Australian Taxation Office on whether courses for TAFE international students will be GST exempt?

(3) If so, will the minister table the advice?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) TAFE international students number 1 485, which is the estimated figure for 1999.

(2) The Department of Training and Employment has sought a ruling from the ATO via Treasury. However, as yet a response has not been received.

(3) Not applicable.

BUNBURY HEALTH CAMPUS, INCIDENT

803. Hon BOB THOMAS to the Attorney General representing the Minister for Health:

(1) Was there an incident at the Bunbury Health Campus public wing in the middle of October 1999 in which three out of four patients in the women's post operative surgical ward had their wounds infected?

(2) What was the cause of the problem and what action has been taken to prevent its recurrence?

(3) Was a review of procedures carried out after the problem and what were the recommendations?

(4) Will the minister table a copy of the review?

Hon PETER FOSS replied:

I thank the member for some notice of this question and ask that it be placed on notice.

WELLINGTON DAM LAND PURCHASE

804. Hon KEN TRAVERS to the minister representing the Minister for Water Resources:

I refer to the Water Corporation's purchase of a large parcel of land from Worsley Timber near the Wellington Dam in May last year and ask -

(1) Does this land remain in the ownership of the Water Corporation?

(2) If not, who now owns the land and when was it transferred?

(3) Why were the details of this land purchase not contained in the 1998-99 annual report of the Water Corporation?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) Not applicable.

(3) The transaction was not material relative to the financial results of the Water Corporation and, as such, did not warrant inclusion in the annual report for 1998-99.

CYCLONE STEVE, FLOOD DAMAGE

805. Hon MARK NEVILL to the Attorney General representing the Treasurer:

(1) Is the Government seeking a natural disaster area declaration over parts of Western Australia severely damaged by flooding from cyclone Steve?

(2) What particular arrangements are being put in place to assist devastated plantation growers in Carnarvon?

(3) What other initiatives are generally being put in place in regional Western Australia to address the problems created by flooding?

Hon PETER FOSS replied:

I thank the member for some notice of this question. The Premier has declared a natural disaster for the areas from Kununurra to Esperance affected by cyclone Steve. The Government's priority is to have all the essential services restored as soon as possible and the different agencies are to be complimented on what is being achieved in very difficult circumstances.

The Premier has announced that the Government will continue providing immediate emergency relief assistance, such as temporary accommodation, food and water, to affected families around the State. After meeting residents, growers, local government representatives and people providing emergency assistance, the Premier also announced payments for households to replace or repair essential items on the basis of $1 000 per adult and $200 per child. Eligibility will be determined by a local recovery committee working with representatives from Family and Children's Services. Topsoil will be replaced in plantation and market gardens in Carnarvon and there will be funding to assist local authorities to restore local roads.

The Government has notified the Federal Government and will request funding assistance under the national disaster relief arrangements. The Premier said that already the repair bill was significant, including at least $10m in vital road repairs around the State and more than $5m needed to rebuild water pipeline systems. Work has also started on developing a flood plain management plan for Carnarvon to find a better way to drain away floodwaters in the future.

CONVENTION CENTRE, PROPOSED SOCCER STADIUM

806. Hon TOM STEPHENS to the Minister for Sport and Recreation:

I refer to the proposed convention centre and ask -

(1) Is it still proposed that a soccer stadium will be part of the convention centre?

(2) If yes, who is it proposed will be the owner of the soccer stadium?

(3) Will the minister make public the terms and conditions for the use of that stadium?

Hon N.F. MOORE replied:

(1)-(3) The Perth convention and exhibition centre project has been going for probably 18 months. We have now reached the stage where two preferred proponents' submissions are being considered, and a third proponent is being held in reserve.

Hon Tom Stephens: Are they all firm proposals?

Hon N.F. MOORE: If I may answer the question, the proponents have put forward proposals based on the mandatory provision of facilities, which are the Perth convention and exhibition centre and a stadium. Proponents have also put in submissions in respect of a number of ancillary facilities that they may wish to build in conjunction with the PCEC. The proposals are confidential at this time because it is not useful for the process we are going through for there to be a public debate about the contents of each of the proposals. It would make it very difficult for the task force to reach an unbiased decision at the end of the day. I do not propose to provide to the House at this time any details of the proposals as requested by the Leader of the Opposition. When the task force makes a recommendation to the Government and Cabinet then decides which proponent will be given the go ahead, all of the details of that particular proposal will obviously be made public. It is not helpful at the moment to debate the pros and cons of either proposal ahead of the decision being made. However, I can give the member an absolute assurance that the information he is seeking will be available to the public when a decision is made by the Government. A stadium is part of the mandatory requirement. I expect that it will be delivered as part of the process we are going through at the present time.

EDUCATION DEPARTMENT, RM AUSTRALASIA PTY LTD

807. Hon E.R.J. DERMER to the parliamentary secretary representing the Minister for Education:

(1) Has the Education Department of Western Australia completed a performance review of its contract with RM Australasia Pty Ltd?

(2) If this review has not been completed, why not, and when does the Minister for Education expect that the review will be completed?

(3) If this review has been completed, will the Government table the results of this review?

Hon BARRY HOUSE replied:

(1) The Education Department is using a two-stage pilot process to identify any refinements and enhancements needed to the software provided by RM Australasia Pty Ltd to better meet the needs of government schools. Pilot phase I started in 1999 with work on the software and associated business practices issues. This is continuing in 2000 and has been complemented by pilot phase II. Pilot phase II commenced in 2000 and focuses on school implementation and support issues such as work practices and impact assessment. While assessment of the performance of RM Australasia Pty Ltd is ongoing throughout this process, no formal review has yet been undertaken.

(2) The pilot process is expected to be completed by 30 June 2000. An overall review will then be undertaken. The performance of RM Australasia Pty Ltd will be assessed as part of that review.

(3) Not applicable.
