Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE COUNCIL

Thursday, 30 March 2000

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 11.00 am, and read prayers.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Rules of Harness Racing 1999, Forty-seventh Report

Hon Ray Halligan presented the forty-seventh report of the Joint Standing Committee on Delegated Legislation in relation to the Rules of Harness Racing 1999, and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 829.]

FINANCE BROKING INDUSTRY IN WESTERN AUSTRALIA, APPOINTMENT OF SELECT COMMITTEE

To be Motion No 1 for 5 April

HON KEN TRAVERS (North Metropolitan) [11.04 am]: I move -

That motion No 16 be made motion No 1 for 5 April 2000.

Point of Order

Hon N.F. MOORE: Mr President, we already have a motion which was passed yesterday which makes a motion on the tabling of documents in relation to the Dampier to Bunbury natural gas pipeline motion No 1. In the event that the pipeline motion has not been disposed of by 5 April, which motion would take precedence?

The PRESIDENT: If motion No 1 is not disposed of today and the motion moved by Hon Ken Travers is agreed to, the House is directing that motion No 16 on today's Notice Paper - that is, the Dampier to Bunbury natural gas pipeline, tabling of papers - will be motion No 1 for 5 April.

Debate Resumed

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance	Hon Helen Hodgson	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon J.A. Cowdell	Hon Norm Kelly	Hon Christine Sharp	Hon Giz Watson
Hon G.T. Giffard	Hon Mark Nevill	Hon Tom Stephens	Hon Bob Thomas *(Teller)*
Hon N.D. Griffiths			

Noes (12)

Hon M.J. Criddle	Hon Ray Halligan	Hon M.D. Nixon	Hon Greg Smith
Hon Dexter Davies	Hon Murray Montgomery	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon Max Evans	Hon N.F. Moore	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*

Pairs

Hon Cheryl Davenport	Hon B.K. Donaldson
Hon J.A. Scott	Hon W.N. Stretch
Hon Tom Helm	Hon Barry House
Hon E.R.J. Dermer	Hon Peter Foss

Question thus passed.

DAMPIER TO BUNBURY NATURAL GAS PIPELINE CONTRACT SALE

Tabling of Documents - Motion

HON N.D. GRIFFITHS (East Metropolitan) [11.08 am]: I move -

That this House directs the Leader of the House representing the Minister for Energy to table all documents related to -

(a) the contract for the sale of the Dampier to Bunbury natural gas pipeline to Epic Energy;

(b) any letters or other documents related or ancillary to that contract; and

(c) the tariffs to be charged on the Dampier to Bunbury natural gas pipeline following the sale of the gas pipelines to Epic Energy.

There are three broad reasons that the House should agree to this motion: The first concerns matters of accountability; the second is the relationship between the sale of the pipeline to Epic Energy and the AlintaGas privatisation; and the third is the State's reputation. The sale of the Dampier to Bunbury natural gas pipeline for more than $2.4b is a significant financial transaction. The sale involved a significant piece of the State's infrastructure and the importance of the sale to the State's finances and its economic development requires that key features of it be made public. The sale of a major public asset has occurred. The public's right to know overrides any consideration of so-called confidentiality. The relationship between the proposed AlintaGas privatisation is also significant. The DBNGP tariff levels significantly affect the value of AlintaGas. One bidder for AlintaGas says that the decision on these tariff levels could affect the value of AlintaGas by as much as $500m. I am concerned that Epic Energy is reported as saying that the Government and the gas access regulator should support the DBNGP sale process in setting the tariffs. Epic appears to be saying that the sale process gave it expectations about tariffs that should be fulfilled. I will refer briefly to recent reports on this issue, firstly, in *The Australian Financial Review* of 11 February 2000.

The PRESIDENT: Order! Before you do, I point out that this is not a debate on the merits of the sale of the pipeline. That occurred, obviously, during the passage of the Bill. Any speaker to this motion is required to confine himself or herself to the reasons why the documents should be tabled. I am saying that now so that you do not get too far into the matter.

Hon N.D. GRIFFITHS: I will not go too far into the matter, Mr President. I said at the outset that I would deal with three areas. I am dealing with them one by one; I am well into the second area and about to move into the third. Those are questions of accountability, the relationship between the DBNGP and the value of AlintaGas, and the reputation of the State. It is appropriate that I bring to the House's attention the publications in which this issue has been aired recently. I quote part of a report in *The Australian Financial Review* headed "Tariff dispute set to delay WA gas deal", which reads -

> It is understood WA Resources Development Minister Mr Colin Barnett claims the unreleased Epic submission -

That refers to the submission to the regulator. The article continues -

> contains conditions of the 1988 pipeline sale which remain subject to confidentiality orders.

I believe the article meant to say "1998". Again, in the same newspaper on 25 February reference was made to the Epic managing director claiming -

> the submission contained information which breached confidentiality deeds relating to Schedule 39 of the 1998 pipeline sale agreement.

That is a reference to a submission made by AlintaGas. The article continues -

> Epic lawyer Mr David Williams said Epic was also reviewing its legal options. He said Epic was disadvantaged because confidentiality provisions prevented it from releasing its submission supporting its transmission tariff request.

Again, the same newspaper on 14 March 2000 made the following observation -

> At the centre of the controversy is the undertakings the Government gave to Epic Energy in 1998, which supported Epic's $2.4 billion purchase price.
>
> A spokesman for Dr Michael confirmed yesterday the gas regulator was seeking legal advice from Mr Wayne Martin QC on whether he had to acknowledge those undertakings in determining the transmission tariffs.
>
> "As to whether he is or not is very clearly a matter for legal interpretation," the spokesman said.
>
> The energy giant might be expected to launch a legal claim if the 1998 pipeline sale undertakings were not honoured.

Again, a report in *The West Australian* of 15 March 2000 relating to this issue stated that Epic said one thing and the Minister for Resources Development said another.

Again, *The Australian Financial Review* of 16 March 2000 deals with the issue and makes reference to the quote I referred to earlier in these terms -

> . . . Epic managing director . . . said Epic had a strong case before Dr Michael to justify maintaining the $1 and $1.08 (south of Perth) gas transmission tariffs, adding Epic believed the Government "should support the sales process which they had set up for the Dampier-to-Bunbury pipeline".

Again the issue was raised in an article in *The Australian* of 18 March 2000 headed "Pipeline pressure fails to choke off gas sale".

It is a live issue in the major media organs published in Western Australia. In that context I note a number of observations that Epic paid too much for the DBNGP. Higher gas transmission tariffs will stifle the State's economic development; therefore this is a matter of crucial importance. The public interest in open and accountable government requires an answer to the questions posed by the media, in particular: Did the Government in some way inflate the value of the DBNGP by agreeing to a high tariff future? I hope that is not the case. Did the Government inflate the short-term returns to the budget at the long-term cost to gas consumers, the State's economy and the value of AlintaGas? Again, I hope that is not the case. However, it must be cleared up and it could be cleared up by the tabling of the documents.

The uncertainty that exists about this tariff issue may affect bids for AlintaGas. I am instructed that one bidder has described the dispute between Epic Energy and the Government as awkward. The apparent disagreement between Epic Energy and the State Government on the terms of the sale of the DBNGP has the capacity to damage investor confidence in this State. I am concerned about speculation on the possibility of legal action. I have referred briefly to a media report to that effect. The public interest clearly requires disclosure. The sale has occurred; that is a matter of history. Arguments of commercial confidentiality cannot be sustained.

Accountability, the effect on the prospect of the sale of AlintaGas and the price obtained, and the State's reputation require that the public interest must prevail in this case.

HON HELEN HODGSON (North Metropolitan) [11.19 am]: I have a strong interest in the matter being debated today. My interest stems from the original debate on the Bill which effected the sale of the Dampier to Bunbury natural gas pipeline. I recommend that anyone who is interested look at the *Hansard* of that debate in the Legislative Council, although the dates do not seem to be on the pages I have here, which are page 8812 for the committee stage and page 8614 for my contribution to the second reading stage.

Hon B.M. Scott: It was 24 November.

Hon HELEN HODGSON: I thank the member. I have vivid recollections of the day the committee stage was concluded because it was a very interesting day for me as a relatively new member of Parliament. The best thing I can do in going back over the history of this issue is restate some of the things I said in the second reading debate in 1997. I spoke about the need for the contract to be tabled in this Parliament and about the issue of commercial confidentiality. I stated -

> It is important that those issues be addressed openly and in the public arena. I accept that there must be an element of commercial confidentiality to make sure the tendering process runs smoothly. However, we must know the details of the tender documents so that people can find out what is being considered in the contract. Once the contract has been concluded, members of the public have the right to know what is included in that contract. The assets being disposed of are public assets and the public has the right to know the terms of any sale.

At that stage I foreshadowed my moving an amendment to seek the tabling of the contract as part of the legislation in this House. I have been through my files and dug out a copy of the amendment in question. In Supplementary Notice Paper No 29 dated Wednesday, 26 November 1997 I proposed a new clause which stated -

> The Minister must cause a copy of any agreement under this Part to be laid before each House of Parliament within 14 days after the agreement is entered into.

My recollection of that day is so vivid because I entered into an intense negotiation phase on that day. I recall meetings not only with the Minister for Energy but also with members of the Opposition, very senior members of the Australian Labor Party. I was enjoying a Christmas lunch with the committee staff when I was asked whether I could meet urgently with senior members of the ALP to discuss the approach to be taken to this amendment. The final outcome was that I could not persuade the ALP to support the full tabling of the contract in this House. I put that clearly on the record. I did not have the support of the ALP for the tabling of the contract in this House because the ALP felt that that would delay the prospects of finalising the legislation before Christmas, and the sale of the pipeline was sufficiently important to warrant ensuring that the legislation was completed by that time.

Hon Tom Stephens: With whom did you meet?

Hon HELEN HODGSON: The meeting was with Dr Geoff Gallop in his office. Hon Mark Nevill was present as were some of Dr Gallop's advisers. There were very senior members of the ALP at that meeting.

Hon Mark Nevill: What was my involvement in this?

Hon HELEN HODGSON: I just reported on a meeting I had on the day we held the committee stage of the Dampier to Bunbury Pipeline Bill.

Hon N.D. Griffiths: That was then; this is now.

Hon HELEN HODGSON: I will have that interjection on the record. The outcome of that day was that we put forward a proposal which all parties regarded as a compromise. In the comments I made which are recorded on page 8812 I stated -

> This amendment does not go as far as the original proposals on the Supplementary Notice Paper. That is because we appreciate the difficulties in the need for certainty in resolving this matter so we do not delay the pipeline tendering process.

Further down the page Hon Norman Moore is reported as congratulating me on my willingness to compromise. However, it was one of those compromises which, in the long run, has not served the best interests of the State. At that time, we inserted a clause requiring the Auditor General to review the sale terms and I was satisfied with the outcome of that review. However, the current issue is one of commercial in confidence and the way it is being used to cause difficulties to the very company it is intended to protect. The idea behind commercial-in-confidence clauses is that they are meant to protect the parties to the contract. I am not sure what the Government thinks it has to protect in this contract, which leads me to believe that the clause was intended to protect the tenderer, and Epic Energy was the successful tenderer. I have had the advantage of being able to discuss this matter with Epic Energy and I have an understanding of its perspective on this issue.

Epic Energy has made an application to set the tariff prices and wants to have some of the circumstances surrounding that issue, some of the contract and some of the correspondence put into the public arena so that information can be made available to the Independent Gas Pipelines Access Regulator. The problem is that the Government is now relying on the commercial-in-confidence clause to deny the regulator access to the contract, which means Epic is now facing a different problem - it cannot provide this document and it cannot have the issues raised fully and fairly before the gas pipeline regulator. What makes this even more confusing and concerning is that it is my understanding that the submission which the Government has put before the regulator is also being kept in confidence. Therefore, there is no way for the company to respond to the submission put forward by the Government. It is a classic case of the commercial-in-confidence concept - which we reject in most situations anyway - working against the best interests of not only the taxpayers but also the very company which one would expect to benefit from it.

As I said in the second reading stage of the Bill to sell the pipeline, I acknowledge that tenders are very sensitive and that we must have a way of ensuring that the tender process is fair. However, once that process has been concluded, what is so dangerous about letting the community see the contracts in question? What is so secret that the Government will not let the company involved disclose the information which it would like to have on the record? I leave those questions for the minister to answer.

HON MARK NEVILL (Mining and Pastoral) [11.28 am]: I have been probably one of the biggest critics of the Minister for Energy over the past three or four years because of his handling of energy matters and the Dampier to Bunbury gas pipeline sale. I have said on numerous occasions that the tender should have been let at 70¢, 75¢ and 80¢ or a selection of tariffs to see what bids we received. The pipeline should have been sold on that basis. There is a problem. I get letters and phone calls, and I read letters to the editor telling me that the Government is giving away assets at fire-sale prices. The Dampier to Bunbury pipeline should have been sold or leased for about $1b, not $2.4b. If that had been done, we would have locked in low gas prices and jobs in the south west. I have said continually in this House that selling the pipeline for $2.3b plus $100m stamp duty was grabbing the money and leaving the problems to be dealt with later.

I took an interest in this matter in January, when Epic Energy's access arrangement was posted on the Office of Gas Regulation's web site. I downloaded it and read it within a day or two of its being posted, and I promptly sat down and wrote a submission. I think it might have been the first submission lodged on the web site. I will table that submission, because it is lengthy and addresses all the fundamental issues that the many other submissions have subsequently addressed about how the tariffs on that pipeline should be calculated. The submission was dated 19 January and lodged on 24 January. I was keen to ignite public debate about the conditions under which the Independent Gas PipelinesAccess Regulator would make decisions about this issue. I had been involved in a number of stories in *The Australian Financial Review* in early February, but, unfortunately, I could not get *The West Australian* interested in the story. I can understand a more general newspaper coming to the view that articles about gas access arrangements do not sell large numbers of newspapers and increase circulation. I will not point the finger at journalists on this occasion because I believe the problem was with editors and subeditors. Some stories were filed but they were not run.

Hon Greg Smith: It is all on your "Talkback", I presume.

Hon MARK NEVILL: That is not a public web site yet. I appreciate the member's attempts to assist.

Hon Derrick Tomlinson: To publicise.

Hon MARK NEVILL: My submission on the Dampier to Bunbury gas pipeline tariffs contains calculations of a number of scenarios and what the tariffs should be. I clearly set out the issues involved for other people to follow. Subsequently, 10 or 20 submissions have been lodged on that site. My submission certainly had the effect of stimulating debate, which is important.

Some weeks ago Hon Tom Stephens asked me whether I would support this motion. I responded that I would not support it at this stage for reasons that I would outline later. Recently, Eric Ripper also asked me whether I would support the motion, and I again responded that I would not at this stage for reasons that I would outline later. Eric Ripper said that the Labor Party had had representations from a number of companies and had spoken to Epic Energy, and this course of action was being urged.

That is not the appropriate way to deal with this issue. At the moment the matter is before Dr Ken Michael, the gas access regulator. Anyone can make a submission to the gas access regulator to assist him in making his decision. The decision will be very difficult in this case. I am pleased to say that in reaching the decision he has handed down on the Parmelia pipeline, the regulator has followed all the national precedents. He has not gone off on a tangent; his decision is consistent with the decisions of other regulators. It is a very good sign that we are not going off on an odd tangent of our own in this State. Members will remember that I argued for the Australian Competition and Consumer Commission to be given that role. However, the Australian Democrats agreed with the Government that we should have a state access regime for transmission pipelines, and that is what we now have. I have every confidence in Dr Michael's capacity to handle this issue.

Hon Helen Hodgson said that Dr Michael would not have all the information he may need to make his decision.

Hon Helen Hodgson: I was making the point that Epic Energy is not able to disclose the contract to Dr Michael.

Hon MARK NEVILL: I strongly disagree with that view. Schedule 1, Part 7 of the Gas Pipelines Access (Western Australia) Act 1998 related to third party access to natural gas pipelines. Section 41 provides the power to obtain information and documents -

(1) If a relevant Regulator has reason to believe that a person has information or a document that may assist the Regulator in the performance of any of the Regulator's prescribed duties under this Law, the Regulator may require the person to give the Regulator the information or a copy of the document.

(2) A requirement must be made in a written notice that identifies the information or document and that specifies -

(a) when the requirement must be complied with; and

(b) in what form the information or copy of the document is to be given to the relevant Regulator.

(3) The notice must also state that the requirement is made under this section and must include a copy of this section.

(4) A person must not, without lawful excuse, fail to comply with any requirement made under this section in a notice given to the person.

Penalty: $10 000 or imprisonment for 12 months.

Hon Helen Hodgson: Does that bind a minister of the Parliament?

Hon MARK NEVILL: Yes it does. The minister is a person.

Hon Helen Hodgson: Under this legislation?

Hon MARK NEVILL: Yes. That provision gives the regulator the power to get any information or a document that can assist him with his prescribed duties. The regulator is not fettered in any way in getting information from Epic Energy or from the gas access regulator. I said to Hon Tom Stephens and Eric Ripper that before I would support such a motion I would need to talk to Epic Energy and the gas access regulator to see what effect such a motion would have on their deliberations. I have not had one company or person make representations to me to have this document made public. I have very good contacts with all the major gas companies and gas users in this State - all the players in this State. Not one of them has come to me seeking to make this document public. I do not deny that there is public interest in it and I would not rule out seeking the document at a later stage. I would seek it at this stage if the gas access regulator did not have access to it, but he does have access to it; or if Epic Energy wanted to release it and the Minister for Energy wanted to keep it undisclosed. That situation does not apply, but I said to Hon Tom Stephens and Eric Ripper that I might consider seeking the document at a later date in order to make it public. We now have an access arrangement properly before the gas access regulator for his decision. He has access to all the documents and all the submissions, of which there are many. I do not know what this motion will achieve at this stage other than to make the issue a political football and very difficult for the gas access regulator to deal with. His job is already difficult enough. The gas access regulator will have to make a decision before the AlintaGas sale or, to phrase it differently, I cannot see how the AlintaGas sale can proceed without a decision by the gas access regulator on the transmission tariffs for the Dampier to Bunbury natural gas pipeline because one would be flying blind unless one could draw up a contract that builds in an unknown tariff. I do not know how one deals with that issue. To underline that point, a decision will have to be made prior to the sale of AlintaGas.

The gas access regulator has many issues to consider before he makes a decision about what the tariff should be. He must look at all the submissions, the international competitive practice and the competition within this State. There are conflicting interests between the company's desire to maximise tariffs and the general public's desire to keep tariffs down. In all these decisions there must be a balance; that is, there must be something in it for the consumers and something in it for the people piping the gas. I have confidence in Dr Ken Michael's ability to resolve the issues. There is no doubt that some people are going to be disappointed - it might be Epic Energy or it might be other parties. It may be that not everyone will get what they want.

Hon Ljiljanna Ravlich: Why shouldn't the Parliament look at tariffs?

Hon MARK NEVILL: The Parliament can look at tariffs, but we have put an Act through this Parliament for a gas access regulator to deal with access arrangements and tariffs. The gas access regulator has the power to seek all the documents from the minister and the company before he makes his decision.

Hon Greg Smith: The decision should be made on commercial grounds, not political grounds.

Hon MARK NEVILL: I spoke to representatives of Epic Energy this morning and checked their views, and they said that they would prefer the matter to be dealt with by the gas access regulator and that making a political football out of it would not resolve the issue. As I have said, I have not had one person -

Hon Ljiljanna Ravlich interjected.

Hon MARK NEVILL: Wake up and grow up! The regulator was appointed six months ago.

Hon Ljiljanna Ravlich: You grow up!

The PRESIDENT: Order! Hon Ljiljanna Ravlich will come to order.

Hon MARK NEVILL: The member walked in the door only two minutes ago and is now mouthing off, not knowing what she is talking about.

The PRESIDENT: Hon Mark Nevill is to address his remarks to the Chair. I have called Hon Ljiljanna Ravlich to order.

Hon MARK NEVILL: I have spoken to the regulator and he assured me that he has the power to get any documents he wants. I agree with Hon Helen Hodgson that that material should have been made public at the time of the sale. The sale price of $2.4b left me breathless because the depreciated optimised replacement cost of the pipeline - that is, to build it now with the most efficient technology available - would probably be less than $1b.

The PRESIDENT: I understand the member's interest in that matter but the value of the pipeline does not relate directly to whether or not the documents should be tabled.

Hon MARK NEVILL: Thank you, Mr President. I was just trying to enlighten Hon Ljiljanna Ravlich.

Hon Ljiljanna Ravlich: The member should speak to the motion.

The PRESIDENT: Order, members. I am trying to listen to Hon Mark Nevill.

Hon MARK NEVILL: Hon Ljiljanna Ravlich is very testy today but she is going to get as good as she gives. A committee has operated for 10 years and at the second meeting she attended we suddenly found the committee's deliberations in the Press. I do not suggest that it would be Hon Ljiljanna Ravlich who is responsible for that.

Hon Ljiljanna Ravlich: What is the allegation?

Hon MARK NEVILL: I am just saying that there is an association. Whether the member is to blame or not is something that she can stand up and clear the air about in the House and deny utterly.

The PRESIDENT: Order, members. Let us get back to the motion before the House before time runs out.

Hon MARK NEVILL: The issue of the Dampier to Bunbury gas tariffs - the delivered gas prices - is the biggest commercial story in town and has been for the past three or four months. We have a process in place at the moment and I think that the best place for this issue to be worked through, despite my own views about it, is through the gas access regulator appointed by the Parliament to do the job. I have confidence in the regulator's capacity to understand the issues. I may not agree with his decisions, but his previous decision on the Parmelia pipeline is consistent with the decisions of other regulators around Australia. I think that making this a political football at this time will not help resolve the matter and it is best left to the gas access regulator to make the decision so that people's fears about other things being interfered with are not realised. If in future there is a need to make the contents of that agreement public, I may have a very different view.

Hon Ljiljanna Ravlich: Sure you will.

Hon MARK NEVILL: I have not heard one argument from Hon Ljiljanna Ravlich on issues like Westrail. All one gets is personal abuse.

Hon Ljiljanna Ravlich: I hardly think the words "sure you will" is personal abuse. The member is a bit touchy.

Hon MARK NEVILL: Hon Ljiljanna Ravlich spat the dummy yesterday, and that is why she is touchy today. If she keeps dishing it up, she will get it back. I certainly will not lose any sleep over it. I have made my position clear.

I seek leave to table the submissions on the two gas access arrangements, because some members may be interested in seeing the real issues that are at stake here. These submissions address the issues about the cost of delivered gas.

Leave granted. [See paper No 832.]

Hon MARK NEVILL: For the reasons I have given, I do not support this motion. The process should be left as it is and not muddied at this stage. If at some further stage down the track this information needs to be made public, I will be quite relaxed about making it public, but it certainly will not help the process now. It may serve some political purpose, but it will not further the interests of the State.

Adjournment of Debate

HON MURIEL PATTERSON (South West) [11.52 am]: I move -

That the debate be adjourned to the next sitting of the House.

The PRESIDENT: Order! The question is that the debate be adjourned to the next sitting of the House. Those of that opinion day aye, to the contrary no. I think the ayes have it.

Hon N.F. MOORE: Mr President, I think there was only one voice.

The PRESIDENT: I do not know. Was there only one voice?

Hon N.F. MOORE: I claim there was only one voice.

Hon HELEN HODGSON: I also called no.

The PRESIDENT: Order! I did not hear the member, but if there was more than one voice - and I certainly heard only one voice, but I accept that the member must have called no also - a division will be called.

Question put and a division taken with the following result -

Ayes (13)

Hon M.J. Criddle	Hon Murray Montgomery	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon Dexter Davies	Hon N.F. Moore	Hon B.M. Scott	Hon Muriel Patterson *(Teller)*
Hon Max Evans	Hon Mark Nevill	Hon Greg Smith	
Hon Ray Halligan	Hon M.D. Nixon		

Noes (12)

Hon Kim Chance	Hon N.D. Griffiths	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon J.A. Cowdell	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon G.T. Giffard	Hon Norm Kelly	Hon Tom Stephens	Hon Bob Thomas *(Teller)*

Pairs

Hon B.K. Donaldson	Hon Cheryl Davenport
Hon W.N. Stretch	Hon E.R.J. Dermer
Hon Barry House	Hon Tom Helm
Hon Peter Foss	Hon J.A. Scott

Question thus passed; debate thus adjourned.

TENDERING FOR LOCAL CONTRACTS - REVIEW OF GOVERNMENT POLICY

Motion

Resumed from 29 March on the following motion moved by Hon Tom Helm -

> That the Minister for Works and Services reviews state government policy of amalgamating small and medium sized contracts which ties local contracts to similar contracts statewide and prevents local contractors and suppliers tendering for local contracts.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [11.55 am]: Yesterday I was commenting on an announcement by the Minister for Works about the benefits that will be gained from the reform process that will be put in place, and I outlined a series of points that will assist in that regard; for example, the State Supply Commission Board will act as a new contracting policy advisory council to advise the minister on government policies. The minister also raised a number of other issues. I gave Hon Tom Helm a copy of that press release yesterday, which he was going away to study. I also pointed out that the premise behind the motion is flawed.

I was interested in the reflection made by some members on the opportunities that are available in country areas and the way that services are declining. My history of working in country areas does not reflect that view, and that relates from the time of the opening up of that country through to the present time. Services in my area have increased from the day when we had a single crystal with a 100-foot antenna to now when we have a local telecommunications system which gives us telephones, faxes and the opportunity to use the Internet. I am well aware that some people do not have facilities like the Internet, but a lot of work is being done to extend that operation into those areas.

In the early years we also did not have the power, roads and school buses that we have now. When we first lived in the bush, we had to take our kids to school; we now have buses to do that job. Whereas initially we did not have power, we now have a very good power network in our region. Therefore, to say that services have gone backwards does not reflect the history that I have experienced.

Hon Kim Chance: You are not denying that many services have declined, are you?

Hon M.J. CRIDDLE: To which services is the member referring?

Hon Kim Chance: Health and education.

Hon N.F. Moore: Rubbish!

Hon Kim Chance: There are no doctors left, and the high schools cannot take students through to the TEE.

Hon M.J. CRIDDLE: There are huge opportunities in the country. The kids in schools now seem to have most of the opportunities available to them, unless they are right out -

Hon Kim Chance: Not if they live between Kalamunda and Northam.

The PRESIDENT: Order! Hon Kim Chance will have his opportunity later if he wishes to contribute.

Hon M.J. CRIDDLE: Thank you, Mr President. I give Hon Kim Chance his due: He is one of the few members on the opposition benches who actually comes from the country -

Hon Bob Thomas: One of the few?

Hon M.J. CRIDDLE: Nominate one.

Hon Bob Thomas: Hon John Cowdell is from Mandurah.

Hon N.F. Moore: He is a city boy!

Hon Bob Thomas: Is Halls Head the city?

Hon M.J. CRIDDLE: I am reflecting upon my own experiences in that regard. My kids came from the country and went through the education system. They seem to have done reasonably well, based on an early country education. They are able to mix it with most people. That is reflected in many other people around our area.

I mentioned that this motion is based on a premise which is inherently flawed, because there is no government policy at present of amalgamating small and medium-size businesses. According to Hon Tom Helm, it is not the point at issue.

Debate adjourned, pursuant to standing orders.

COMMITTEE REPORTS - CONSIDERATION

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair.

Standing Committee on Constitutional Affairs - In Relation to a Petition Regarding Attention Deficit Hyperactivity Disorder

Resumed from 23 March on the following motion moved by Hon M.D. Nixon -

> That the report be noted.

Hon RAY HALLIGAN: As a member of the committee that brought the report to this Chamber, it gives me pleasure to contribute to the debate. We have heard over a number of days about the personal experiences of members. Whether those experiences involved them, their children, friends or children of friends, there appears to be quite an incidence of the condition called attention deficit disorder or attention deficit hyperactivity disorder in the community. All of the speakers appeared to be in favour of bringing this matter to the attention of the Chamber and of making it public, thereby bringing it to the attention of the community at large in the same manner, I hope, as has the report that has been placed before this Chamber.

Last week on a radio program an announcer mentioned some concern about the medication some children were receiving for ADHD. The way it came across to me was that the announcer was suggesting that these young children were not suffering from any condition but were just badly behaved. That may or may not have been what was intended. Nevertheless, a number of people in the community have that type of misunderstanding of this condition.

Over the past few weeks, a number of articles have been written on the subject of attention deficit hyperactivity disorder. I would like to have recorded in *Hansard* excerpts from those articles which appeared in various publications. The first one to which I refer comes from *The Australian* of 23 March this year, written by one Sarah Stock. It states -

> AT least 50,000 children in Australia were using powerful drugs to treat attention deficiency disorders, the Australian Democrats said yesterday.
>
> South Australia has experienced an almost 2000 per cent increase in psychostimulant use between 1991 and 1995, a spokesman said.
>
> The US Government acknowledged for the first time this week that powerful mind-altering psychiatric drugs were being overprescribed to millions of American children and announced initiatives to investigate attention deficit hyperactivity disorder (ADHD).

It continues -

> "First lady Hillary Clinton is concerned by a 150 per cent growth in psychostimulant use for ADHD between 1991 and 1995, but over that period it grew in SA by almost 2000 per cent . . .

I referred to that previously. In this article, mention is made of a mother who put her son on a powerful drug to treat ADHD when he was four years old. This mother's name was Cindy, who was from Sydney, and her son was Andrew. The article states -

> "People should be open-minded and not make judgments but give support. I think people and families who suffer from ADHD are one of the most misunderstood groups in society," she said.
>
> She said putting Andrew on medication at such an early age "was one of the most difficult decisions I have had to make . . . but while I struggled with the decision, Andrew's symptoms left me with little choice".
>
> Cindy said Andrew jumped out of his cot at nine months. He threw toy trucks and sand at guests, refused to dress or go to sleep and was so hyperactive she could not communicate with him.
>
> Concerned by his behaviour, she took him to specialists.
>
> Cindy said: "We tried behavioural therapy, physiotherapy and changes to diet for about six months. There was some improvement but not nearly enough.
>
> "Finally a specialist diagnosed him with ADHD. It was such an absolute relief. We had struggled to find out what was wrong with him for so long."

> The specialist put Andrew on Ritalin when he was four in 1993. His mother said: "It works well for him and he remains on an increased dose to this day.
>
> "Medication is not the only answer. There has to be a multi-faceted approach to treatment including various therapies. But families who use medication should not be condemned for their situation."

That is particularly important. Those who have not been close to ADHD would not know what parents with children who suffer from that condition must go through. As I said before, we hear from many people who have not had such contact that all the children require is a smack, to be locked in their rooms and told to behave, with no real understanding of what they are suffering from.

The report mentions that overactivity is characterised by restlessness, fidgety behaviour and hyperactivity. It also mentions that these are common symptoms of many conditions that may or may not be attributed to or be part of ADHD, such as hearing impairment, intellectual disability, specific learning disability, autism, brain injury, epilepsy, childhood depression and other emotional problems, family dysfunction, and, of course, normal, active preschooler behaviour. I am sure that those of us who have children have seen this behaviour in our own children as well as in our friends' children. One need only go to shopping centres, the Zoo or other places where large numbers of people congregate to see many children displaying that type of behaviour. I have on occasion asked myself why the parents have not brought some of those children into line. I was ignorant at that time of the conditions from which those children may have been suffering.

Other people within our society may also be suffering from ADHD. They are not children who display the types of symptoms I have just mentioned. They are the gifted students - sometimes termed the gifted disabled students. Dr John Philo Dixon, who was a pioneer in gifted research, has clinically observed that ADHD children tend to be of higher intelligence than the average child. These students constantly challenge the established order of proceedings. These students are interested in possibilities but quite often have difficulties in communicating with teachers who are interested only in what is right. These students are often interested in originality and invention, whereas the teachers, more often than not, desire conformity to established standards.

Hon CHRISTINE SHARP: I will complete the remarks that I was making two weeks ago in this place. It is interesting that the debate on this inquiry report has stimulated such interest that the debate is still continuing in the Chamber and I can continue my remarks. When I last spoke two weeks ago, I mentioned that I was pleased to see the change that had been brought about in the approach of the Education Department during the course of this inquiry. The report mentions that initially the Education Department was opposed to the notion of a professional advisory body. However, by the end of the inquiry process, and from the reaction to the report tabled by the parliamentary secretary in this place, we see that the education system is now supporting the proposal in this report for a professional advisory body and that those within the system wish to be represented on that body. That is a great step forward and is already an indication that this inquiry has made a difference in government policy. If this professional advisory body is now receiving considerable support around the place and is able to propose potential policies and guidelines to government to overcome apparent existing deficiencies in the diagnosis, management and treatment of people suffering from ADHD - that is, recommendation 3 of the report - the advisory body should note the high level of interest within the community and, indeed, within the Parliament on this matter. Although there should not be any requirement for members of that body to advise publicly, they may, in addition to advising government, consider putting out some publications for debate in the community on the best way for all of us to tackle this issue and to seek a way forward.

I note the acknowledgment of the activities of the Learning Attentional Disorders Society of WA - LADS as it is known - in the report. It has been performing a marvellous role of providing counselling support on the ground to distressed families who are in the middle of this predicament. I would like to see that go one step further and that there be an endorsement that this group receive some financial assistance from government to enable it to keep open its doors and to keep doing the good work it is already doing.

Members have raised many different matters in this debate, and there is a wide range of views on this topic. Indeed, there is some controversy within discussion on this topic because of the understandable concerns about the prescription of drugs to young children. Nevertheless, the degree of interest in this debate has demonstrated that everybody accepts that this is an important issue, and that it has received insufficient attention from government in the past. We all agree that we need more research and advice, better policies and some real innovations within our Education and Family and Children's Services systems in order to deal with this important matter effectively.

Hon RAY HALLIGAN: Carrying on where I left off about gifted children, these gifted students see work and play as the same thing, if it is interesting and challenging. However, quite often teachers make a definite distinction between work and play. One might ask what happens to these gifted learning disabled students in our education system. Unfortunately, at this point they do not receive the recognition, the support or the assistance they deserve. Some children are identified as having learning disabilities, but at this point it appears that they are not being assessed for their giftedness. Many gifted learning disabled girls are not picked up at all because they have no behaviour problems and just dream away the school day. The general view of most is that learning disabled children are normal individuals who do well in some areas of learning but poorly in others; then again, the view of most is that a gifted child excels in absolutely everything. We have a problem in identification and, unfortunately, those who are gifted and termed the gifted learning disabled are often invisible in our education system. That is most unfortunate because in a society which exalts conformity and sameness, what would have been the fate of a latter day Einstein, Churchill, Edison, Picasso or Virginia Woolf? Members can imagine what would have been their fate in our current education system. Something definitely must be done.

Certain parents within certain schools are recognising what is happening or, I suggest, what is not happening and are trying to do something about it. I received a newsletter from the Alinjarra Primary School which mentioned that a couple of weeks ago the Greenwood Parent Support Group for Children with Learning Attentional Disabilities presented a free lecture on a new way of thinking about attention and behaviour problems in children. That lecture was given by Stephen Houghton, who appeared before the committee as a witness. That is only one example of something being brought into the open of which I am aware concerning parents not only seeing a doctor to determine their child's condition but also identifying that something must be done within our education system to try to assist them. I will be looking further into what occurred at the West Greenwood Primary School.

Much has been written on this subject that probably should be recorded in *Hansard*; however, I will not subject the House to that now. We have received full responses to the report from appropriate ministers. In all instances, there has been acceptance in principle of its recommendations. Each of the government agencies - Health, Education, Aboriginal Affairs, and Family and Children's Services - has asked that it be allowed to be represented on a committee that will be established to examine this condition and consider what impact it will have in the future.

I have known the principal petitioner, Sandy Moran, for some years now and I am fully aware that she has tried her utmost to have authorities accept that not only does this condition exist but also something must be done to assist people who are suffering from it. Sandy is passionate about resolving this issue. She has approached many authorities and is intent on ensuring that something positive be done. From what has been said during the debate on this report, there is no doubt it is acknowledged, certainly among the majority of members in this Chamber, that it must be accepted and embraced and that the matter be researched and action taken to assist the many people - whether they be 1 per cent, 5 per cent or 15 per cent of the population - who suffer from this condition.

If it is found that a satisfactory diagnosis is available and appropriate treatment can be administered, society generally will be the winner. There is doubt that when that occurs we will have happier young people, families will be far more content, greater positive contributions will be made to society and less antisocial behaviour and probably far less incarceration of individuals will occur among both young and old. That is all the more reason for us to move forward as quickly as we can.

As a member of the Standing Committee on Constitutional Affairs, I thank our staff, Felicity Beattie and David Driscoll, for the time and effort they put into the report. They have done themselves proud, as well as the committee and this Chamber. I commend the report to the House.

Question put and passed.

Joint Standing Committee on Delegated Legislation - In Relation to By-laws of the Western Australian Trotting Association

On motion by Hon N.F. Moore (Leader of the House), resolved -

That the report be noted.

Joint Standing Committee on the Anti-Corruption Commission - In Relation to A Report on the Special Investigation Conducted by Mr Geoffrey Miller QC

Hon DERRICK TOMLINSON: I move -

That the report be noted.

It is appropriate that I open with a response to adverse public comments about the decision of the joint standing committee to publish this report. Through the Press and directly to the committee, the Police Union asked who authorised the publication of this report. I refer members to the terms of reference of the Joint Standing Committee on the Anti-Corruption Commission and Legislative Assembly Standing Orders Nos 284, 285 and 264, noting that it is the Legislative Assembly standing orders under which the joint standing committee operates. Standing Order No 285(1)(b) reads as follows -

> It is the function of the Committee -
>
> (b) to consider and report to Parliament on issues affecting the prevention and detection of "corrupt conduct", "criminal conduct", "criminal involvement" and "serious improper conduct" as defined in section 3 of the *Anti-Corruption Commission Act 1988*. Conduct of any of these kinds is referred to in this Standing Order as "official corruption".

For the record, the authority of the committee to publish this report derives from this Parliament. The nature of the report also deserves some explanation.

As members know, in June 1997 the then Mr Geoffrey Miller QC, now Mr Justice Miller, was appointed as a special investigator by the Anti-Corruption Commission to examine a problem that had arisen and that had had some Press airing. Mr Miller completed his investigation and presented the report on 5 December 1997. That report was evaluated. I stress that Mr Miller's report was a report to the Anti-Corruption Commission. The Act requires that when a special investigator is appointed, he must report to the ACC. The ACC must then consider the information and decide whether it should refer it to an appropriate authority for appropriate action. The report prepared by special investigator Mr Geoffrey Miller was presented to the ACC commissioners on 5 December 1997.

On 9 December the Anti-Corruption Commission announced it had completed its initial consideration of the Miller report and accepted the recommendations of Mr Miller. A brief was prepared and sent to the Director of Public Prosecutions. In addition, the ACC prepared a report, derived from the information presented to it by Mr Geoffrey Miller as a result of

his investigations, and forwarded that report to the appropriate authority, the Commissioner of Police, since the matter dealt with was an allegation against the conduct of police officers.

On 12 December 1997 the ACC delivered to six officers adversely named in the Miller report, letters setting out findings against them and inviting them to appear before it and make submissions in relation to the findings. That is a requirement of the Anti-Corruption Commission under the Act, if it determines that it will publish a report in which adverse findings, comments or information is directed against any individual and that individual is named. The police officers who received those invitations were given seven days in which to respond. They did not do so, and on 17 December made an application in the Supreme Court before Mr Justice Steytler for an order nisi in a writ of certiorari, and an interim injunction preventing the Commissioner of Police and the ACC from publishing the findings contained in the Miller report. There followed a series of Supreme Court hearings, the result of which was that the Supreme Court ruled that Mr Miller, in finding guilt on the part of the six officers, had acted outside jurisdiction; that a special investigator under the Anti-Corruption Commission Act is nothing more than an investigator who can accumulate evidence but not draw conclusions, and certainly not find guilt on the basis of that evidence. The ACC Act is clear that where criminal matters are concerned, a brief must be prepared for the DPP and, if prosecution follows, it is on the decision of the DPP. Because Mr Miller acted outside his jurisdiction, the report was found to be invalid and, because the Commissioner of Police, in suspending six police officers on the basis of that report, had acted on an invalid report, the court ruled that the actions of the Commissioner of Police were likewise invalid.

The report tabled by the Joint Standing Committee on the Anti-Corruption Commission details the Supreme Court's decisions, and the explanations and consequences of them. One of the important consequences was that the Miller report has never been published. The injunction against publication stands today; the Miller report cannot be published. The ACC prepared a second report to the Commissioner of Police. The commissioner acted on that report, but we must distinguish between the Miller report, which was the report of the special investigator Mr Geoffrey Miller to the ACC, and the report of the ACC to the Commissioner of Police. They are two quite different animals resulting from two quite different requirements and directions under the Act. Following the Supreme Court decision that the Miller report was invalid because it trespassed the jurisdiction, a second report by the ACC was prepared and sent to the Commissioner of Police. The report before the Committee deals with that report of the ACC to the Commissioner of Police.

Shortly after the Miller report was received by the ACC, the Joint Standing Committee on the Anti-Corruption Commission sought access to the report but, because of the injunction and the subsequent Supreme Court decision, it did not have access to, and has never received, the Miller report. The committee sought legal opinion from Crown Law as to whether the injunction applied to the joint standing committee, as a committee of the Parliament. I must confess the advice given was qualified advice, but it was that the committee should have access to the report. The committee took that advice to the ACC and asked it to act upon it. In turn, the ACC sought its own advice, and the advice of its counsel was contrary to the advice of Crown Law. For some time after that, the committee continued discussions with the ACC for permission to have access to the Miller report. The commission consistently denied it on the ground that it was bound by the Supreme Court decision.

At a point in those discussions, members of the Joint Standing Committee on the Anti-Corruption Commission received, unsolicited and individually, copies of the reports of the ACC to the Commissioner of Police relating to Senior Constable Parker, Detective Sergeant Coombs and Inspector Cull. There was no forewarning that the members were to receive them. They were received individually by the members of Parliament, not addressed to the committee or the committee clerk. They were delivered to individual members of Parliament in their offices in Parliament House. I wish to pay tribute to the integrity of the members of the committee because at any time any of those members, having received information in the Parliament in their positions as members of Parliament, could have used that information. They could have tabled those reports in Parliament and used them to score cheap political points. It is a great tribute to the integrity of those members, who represent all the major parties in this Parliament, with equal numbers of opposition and government members. Any one of them could have used that information to the detriment of the Government and to the considerable damage of the Police Service. None of them did so; they acted with integrity and dealt with it within the committee, according to the rules of the committee and the rules of the standing orders of the Legislative Assembly which impose particular requirements of confidentiality, as well as the protection of privilege available to all members of the House.

Accompanying those reports were the officers' critical commentary on details of the report from the ACC to the Commissioner of Police and legal opinions from QCs on various aspects of those reports. The committee's first action was to determine the nature of those reports. Were they bona fide reports from the ACC to the Commissioner of Police on those three police officers? Were they complete reports or complete copies of those reports? The only way the committee could determine that was to take them to the ACC and ask, which it did. The Deputy Chairman, Mr Bill Thomas - the member for Cockburn - and I, together with the committee research officer, met with the three commissioners in the ACC office. We asked: Are they bona fide reports as presented to the committee? Their initial response was yes, but they wanted time to verify that the detail was complete and accurate. That was confirmed.

Therefore, the committee had reports that, until that time, had been deemed to be confidential information and had been available only to the ACC, the Commissioner of Police and officers to whom he delegated them, the three officers named and members of the Police Union supporting the police officers in defending the actions taken against them under section 8 of the Police Act. That was a very restricted and confidential circulation.

By their action in releasing those reports, individually and unsolicited to the members of the committee as members of Parliament, the officers and the Police Union, as the agent of those officers, published those reports. They were at liberty to do so, and the ACC made that clear in a letter - a copy of which was given to the committee - when the reports were

provided. The commission had provided the reports to the officers as it was required to do to assist the officers in their defence against section 8 dismissal notices that had been served upon them by the Commissioner of Police. The reports were deemed to be published at the point at which the officers sent them to the members of the committee.

The commissioners advised me and the Deputy Chairman that, while the reports we had were accurate, bona fide reports, the information provided was incomplete. The ACC pointed out that when those reports were presented to the police officers for their defence of the dismissal action, all accompanying evidence substantiating what was in the reports was provided. The commissioners advised us that to understand the reports it was essential that they be read in conjunction with the other evidence. Without that other evidence, the reports were incomplete; they were in fact summaries. The complete information was the reports plus the accompanying evidence, and the committee sought that accompanying evidence. The ACC suggested that, because much of the evidence did not belong to the commission but to the Commissioner of Police, the committee seek it either from him or the three police officers who had presented the committee with copies of the commission's report.

The committee called upon the Commissioner of Police to attend the committee and asked him to provide the evidence that had accompanied those reports. He did so and met with the committee and the then Assistant Commissioner (Professional Standards), Jack Mackaay. The commissioner presented all the evidence relating to the so-called Miller investigation; that is, all the evidence accumulated by the ACC and the Commissioner of Police. That information was given to the committee in camera. Accordingly, under the standing orders of the Legislative Assembly, it cannot be released for 30 years. The committee was then able to evaluate that report in light of other information.

The committee was then confronted with a decision. It had information that it deemed to be of public importance; it also had information which substantiated the published information in the reports but which it could not use because of the standing orders. The committee sought other information and the committee research officer collected all the court records relating to cases that had arisen from the Miller investigation and analysed them. That information was then compiled, presented to the committee, and the committee was asked what it wanted to do with it. Should it be published? The committee's resolution was that it should be published. However, the material published was that which the committee was allowed to publish. It was deemed to be on the public record because the officers, in giving the ACC reports to the Commissioner of Police to members of the committee, had published that information. The court records were also public information. Other information that the committee sought from various sources to substantiate or clarify information on the public record was provided with permission to publish by the Commissioner of Police, the ACC and other persons involved.

The committee sought from the police officers themselves copies of their defence statements against the section 8 dismissal notices; in other words, their answers to the ACC report to the Commissioner of Police. The officers, with one exception, did not answer. Former Inspector Christopher Cull replied with an unqualified no; he would not produce copies of his defence for the committee.

The committee did not draw any conclusions about the allegations against six police officers. It made no adverse comments about those six police officers. It did not comment on the actions of the ACC, it did not comment on the actions of Mr Geoffrey Miller, it did not comment on the actions of the Commissioner of Police, and it did not comment on the actions and decisions of the Supreme Court. It simply presented the information as it had received it, without bias and interpretation. The committee did, however, look at the information and decide that it invited some comment on general police procedures for the prevention of corruption within the Police Service, and we presented commentary on standard operating procedures, police discretion, informant management within the Police Service, immunities and indemnities from prosecution, and the commissioner's powers under section 8 of the Police Act. We reported that the standard operating procedures and informant management policy of the Police Service had been reviewed since the Miller report was presented. That was the only commentary offered in the report. The committee invites all members of Parliament and all members of the public to read those comments because we believe they are very important to the prevention of corruption within the Western Australia Police Service.

In presenting its report, the committee came in for considerable public censure from the Police Union and from the lawyer representing the Police Union, Mr John Quigley. We have not answered any of that. Whether we as individuals wish to comment on that censure is irrelevant, because the committee has made the decision that it will not comment on it publicly. The report of the committee presents the information that is available to us and that is on the public record. We have put that information together in a package that is as comprehensive and concise as possible. It is an important package of information about the prevention of corruption within the Police Service. It is a report that deserves the Council's consideration, and I commend it to the House.

Question put and passed.

Standing Committee on Constitutional Affairs - In Relation to a Petition Requesting that Community Based Midwifery be Included in State Health Services

Hon M.D. NIXON: I move -

That the report be noted.

This report arose from a petition that was presented to the Legislative Council on 12 November 1996, so it has taken quite some time for the committee to report on it. However, that was not because the committee was tardy but because, as is often the case, there were ongoing inquiries and we were waiting for reports and those sorts of things. The basis of the petition

was to request the Legislative Council to ensure that state health services include community-based midwifery as part of maternity services and make recommendations for appropriate coverage under Medicare. The petition expressed concern that women do not have sufficient choices with regard to the process of childbirth, such as where and with which professionals they will give birth. The petitioners submitted that recognition is not given to the fact that continuity of midwifery care throughout pregnancy, childbirth and the postnatal period makes a vital contribution to the future health of the family and the community.

The main group which submitted evidence to the committee was Community Midwifery WA Inc, which is referred to in the report as Midwifery Inc. Midwifery Inc currently administers the Fremantle community-based midwifery program, which has been operating for some time on a pilot basis and which commenced operation in January 1996, at which time it was allocated $200 000 per year for two years under phase 2 of the Commonwealth's alternative birthing services program. Initially the midwifery program was managed jointly by the South Metropolitan Health Authority of the Health Department of Western Australia and the Multicultural Women's Health Centre. Since July 1997 the midwifery program has been administered by Midwifery Inc and is housed in rooms at Woodside Maternity Hospital.

On 24 September 1998 Midwifery Inc informed the committee that it had been advised by the Health Department of Western Australia that a further two years' funding had been approved for the service. The current funding is $200 000 per annum. This means that the midwifery program will have secure funding until June 2001. The committee has been advised that the Health Department is looking at extending the funding after that period, and hopefully that will be included in the budget that is about to be brought down.

The many services provided by the midwifery program include antenatal education for women with special needs, and alternative birthing services providing about 70 community-based midwife-managed home births or domino births per year. A domino birth is one which starts off with the best intentions as a home birth but for various reasons then becomes a hospital birth. The program also provides information on pregnancy and birth options, particularly for women from non-English speaking backgrounds. It is interesting that the main people who have participated in this program are mainstream Australians rather than people who do not have English as their first language or are Aboriginal.

The committee was advised that the current program covers the salary of not only practising midwives but also of one non-accredited midwife per annum to gain experience in community midwifery services. There was also a small administrative component in the funding. The committee was informed that prior to 30 June 1999, midwives were contracted to the program on an annual salary basis, but from 1 July 1999 they have been paid on a fee-per-client basis. That fee is about $1 800 and is itemised into various fees structures for antenatal care, attendance at labour and birth, and postnatal care.

It is interesting that this program does not qualify for Medicare cover, despite the fact that presumably most of the participants in the scheme are paying the Medicare levy. The only private health fund that covered this service at the time the report was published was the Hospital Benefit Fund of WA Inc, which refunds almost all of the cost of home births. For people with HBF private hospital cover, home birthing is not only a practical but also a low cost option.

Debate adjourned, pursuant to standing orders.

Sitting suspended from 1.00 to 2.00 pm

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Meeting of the Working Group of Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees, Forty-eighth Report

Hon Ray Halligan presented the forty-eighth report of the Joint Standing Committee on Delegated Legislation in relation to the meeting of the working group of chairs and deputy chairs of Australian scrutiny of primary and delegated legislation committees held in Darwin on 14 and 15 February 2000, and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 833.]

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Transport Co-ordination Amendment Bill 1998 - Extension of Time

Hon Mark Nevill reported that the Standing Committee on Estimates and Financial Operations had resolved that the time it has to report on the Transport Co-ordination Amendment Bill 1998 be extended from 4 April to 11 May 2000, and on his motion it was resolved -

That the report do lie upon the Table and be adopted and agreed to.

[See paper No 834.]

GAMING COMMISSION (CONTINUING LOTTERIES LEVY) BILL 1999

ACTS AMENDMENT (CONTINUING LOTTERIES) BILL 1999

Cognate Debate

On motion by Hon N.F. Moore (Leader of the House), resolved -

That leave be granted for the Bills to be debated cognately.

Second Reading

Resumed from 16 March.

HON N.D. GRIFFITHS (East Metropolitan) [2.04 pm]: The Gaming Commission (Continuing Lotteries Levy) and the Acts Amendment (Continuing Lotteries) Bills have the support of the Australian Labor Party. I will deal first with the Acts Amendment (Continuing Lotteries) Bill 1999.

Continuing lotteries are currently defined in section 101 of the Gaming Commission Act 1987 and regulated under the Gaming Commission Act and the Stamp Act. Continuing lotteries are not Lotteries Commission products as they are sold over the counter and are commonly known as beer or bingo tickets. The provisions of the Stamp Act concerning continuing lotteries are to be repealed and substantially inserted into the Gaming Commission Act; consequently, the Office of Racing, Gaming and Liquor will deal with continuing lotteries, and revenue will be raised from them by that office rather than by the State Revenue Department.

Currently, the Stamp Act provides for the licensing of suppliers, but this power will be passed to the Gaming Commission Act under this Bill. Permits for continuing lotteries issued under the Stamp Act cannot be issued currently under the Gaming Commission Act. This amendment will have the effect of regulating continuing lotteries under the Gaming Commission Act, which is a worthwhile change which simplifies operations. The new regulatory regime essentially, although not entirely, remains the same. For example, the Bill provides for a reduction in penalties. Effectively, the penalties are to be reduced from a maximum of $10 000 to $5 000. Can the minister explain that change? If that cannot be done today, he could let me know as I do not want any delay in the answer to impede the passage of the Bill.

Under the Stamp Act an appeal can be made to a local court when the commissioner refuses the application for a licence or cancels a licence. Under this Bill, that appeal is to be made to the minister. The reason for that change is to bring it in line with other areas of operation of the Gaming Commission. That is sensible. At the same time, I note a trend in appeals away from ministers to other bodies and, interestingly, the change in this legislation is against that trend. Consistency is important. No-one seems to criticise the operation of the Gaming Commission, which appears a very professional body from my observations. The matter can rest there.

The duty paid under the Stamp Act is equal to 5 per cent of the total face value of the tickets supplied. It is proposed that the rate of duty will change. I will refer to the levy Bill shortly. The rate of stamp duty of 5 per cent will be increased to 6 per cent, but that rate will apply until 1 July 2000, when a rate of 3.25 per cent will apply to deal with the effect of the goods and services tax. This is part of the process of the price of the gaming product not increasing as a result of the imposition of the GST. The intergovernmental agreement which was the subject of legislation which passed through this House late last year seeks to provide mechanisms to make up for the gambling revenue to be lost. That is another issue.

The regulation of gaming machines will be tightened. The prohibition applies to gaming machines used at a public place to which the public has, or is permitted to have, access for the purpose of playing a game. An opinion is held that the Gaming Commission could not achieve a successful prosecution for the possession of a gaming machine in a club to which the public has no access. This Bill seeks to tighten that perceived loophole.

The Bill also deals with trade promotion lotteries. A strict application of the current law would require all trade promotion lotteries to have a permit; however, that does not occur in practice. Currently the Gaming Commission of Western Australia operates as though it has the power to exempt on the basis of minimal criteria. My reading of the Act suggests that the commission does not have that power. However, the Bill seeks to give the commission that power, so that issue will be remedied.

The Bill changes the definition of "trade promotion lottery" with a view to permitting the commission to better regulate these activities. The purpose of a trade promotion lottery is not to include the notion that people make money out of those who participate in the lottery by virtue of that participation. The change proposed will enable the commission to set a maximum cost per entry in the permit of a trade promotion lottery rather than rely on an examination of what it costs to participate.

The Gaming Commission (Continuing Lotteries Levy) Bill provides for the imposition of a levy by way of regulation. The power to set the levy is wide. It refers to the levy being calculated by reference to any factor or factors. This Bill is no Robinson Crusoe in that regard; there are a number of precedents to that effect. It gives the administration of this portfolio a great degree of flexibility. I have made reference to what is proposed to occur with the rates going from 5 per cent to 6 per cent and down to 3.25 per cent. That will be a matter for the Government, subject to the legislation being passed. It may be of the view that to have three rates operating over the course of a few months does not lend itself to good administration, but that is a matter for the Government. Changing the rates from 5 per cent to 6 per cent and then to 3.25 per cent may cause some difficulties, but no doubt that is something which is being assessed by the commission. I look forward to seeing in due course the decision the minister makes in that regard.

HON NORM KELLY (East Metropolitan) [2.12 pm]: The Australian Democrats support both of these Bills. In the almost three years that I have been a member of the Legislative Council, a number of gambling Bills have been introduced by the Government. These Bills are similar to those which have been introduced before and are regarded as quite minor Bills, which deal mainly with administrative or minor structural changes to our current gaming laws. Although the Australian Democrats accept that necessary changes are contained in this Bill, it is important that we consider the incremental effects that all of these Bills have on our gaming laws. That is why the Australian Democrats take a keen interest in each Bill of

this type, to gauge not only the solitary impact of the Bill but also its cumulative effect, especially when we consider that Western Australia is unique within Australia in not having poker machines. This State has a different gambling environment or gaming ethos and that is something we must protect.

The Bills before us will bring about a more streamlined administrative process by removing from the State Revenue Department its role of licensing continuing lotteries suppliers. It will place that role in the Gaming Commission's existing functions, where it is far better suited. The functions of the Gaming Commission already include the licensing of bingo and standard lottery games. It makes sense that we incorporate these new functions into the commission's jurisdiction.

The break-open continuing lotteries generate approximately $13m a year in turnover, with the video versions generating about $12m. This equates to roughly $1m being fed back into the communities by way of charities and sporting clubs. On my calculation - I do not have the exact figures from the annual report - the revenue generated for the Government equates to roughly $1m or $1.5m a year from these forms of gambling. To facilitate this change and to ensure that state revenue is not adversely affected, the Gaming Commission (Continuing Lotteries Levy) Bill allows for a levy to be imposed, with the rate of that levy to be prescribed by regulation. The imposition of a levy by regulation is of concern, especially when consideration of that imposition is possible by Parliament only after the imposition of the levy. We also must consider the implications of disallowing a change in the levy if it has already been in place for a period.

The existing rate that goes to the State Revenue Department is 5 per cent. It is proposed that the new rate will be 6 per cent, although this apparent increase is a restructure incorporating the existing 5 per cent rate, with the additional proposed 1 per cent being a replacement for the current regulation fee structure, which, depending on the size of the prize pool, varies by approximately 0.25 per cent to 1.5 per cent to cover those regulation fees. The rate of 6 per cent will change, rather than reduce, to 3.25 per cent from 1 July this year. I say "change" rather than "reduce" because it is simply a change to incorporate the application of the goods and services tax from 1 July. This change in rate will ensure that an additional tax will not be imposed from 1 July, which is consistent with the agreement that was reached between the Federal and State Governments.

The distribution of the levy is outlined in proposed section 104G of the Acts Amendment (Continuing Lotteries) Bill and allows for the Gaming Commission to receive 1 per cent of the levy both before and after 1 July. The remaining 5 per cent up to 30 June and 2.25 per cent from 1 July will be paid into the consolidated fund. An anomaly, or at least poor drafting, becomes apparent when proposed section 104G, which details the distribution method of the levy, is compared with clause 3 of the Gaming Commission (Continuing Lotteries Levy) Bill, which allows for the application of the levy by regulation. The Government has also stated the intention that the Gaming Commission receive a 1 per cent levy for the administration costs of these forms of gaming. Proposed subsection 104G(1) of the Acts Amendment (Continuing Lotteries) Bill outlines the revenue split up to 1 July and proposed subsection (2) outlines the revenue split from 1 July onwards. The figures contained in this clause are based on the expected levy rates which the Government is proposing, and that is okay if the levy rate from 1 July remains at 6 per cent.

However, although any future change to the levy rate could be changed easily through regulation, to maintain the same revenue flow or percentage to the Gaming Commission will require an amendment to the Act. That is an anomaly which will be messy to administer. It would be better to have all these matters either incorporated in the Bill or in the regulations. In this case, it is inappropriate to have half in the Bill and half in regulations. We are not talking about gold mines but, rather, about $1.5m of state revenue. However, it is better to be consistent and professional in the allocation of this revenue stream.

Clause 11 of the Acts Amendment (Continuing Lotteries) Bill tightens up the possible use of gaming machines throughout the State. A number of other minor amendments are contained in the Bills, particularly the continuing lotteries Bill, which we fully support. Apart from that one concern about the way this Bill has been drafted, the Australian Democrats support these Bills.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [2.21 pm]: I thank the two members who have spoken in support of the Bill. Hon Nick Griffiths has succinctly and very clearly explained the purposes of the Bill so I will not go through it again by having a third shot at it. He clearly understands the intent of the Bill, which is to streamline the way in which continuing lotteries are managed in Western Australia. Hon Nick Griffiths raised the issue of the reduction of penalties. I do not know the reason for that reduction; however, I will find out and let him know.

We believe that the appeal to the minister is an easier way of managing the types of appeals that may apply under this legislation rather than the courts having to hear appeals. I am pleased that members support that provision in the Bill.

Hon Nick Griffiths is right that the duty will go from 5 per cent to 6 per cent and then to 3.25 per cent. As has been explained by Hon Norm Kelly, that is not a reduction but, rather, compensation for the goods and services tax. I will take up the point about having three figures in a short period. It may be that we will not bring in the 6 per cent figure but maintain it at 5 per cent until such time as the GST comes into effect. I will discuss that with the Office of Racing, Gaming and Liquor to see how we might handle it in respect of the timing. By the time the Bill is proclaimed and goes through the process of drafting regulations, it may well be 1 July before we reach that decision.

Hon Norm Kelly talked about the regulation of gaming machines. He is right that a suggestion has been made that gaming machines in premises which are not considered to be public premises may be legitimate. This Bill is designed to fix up that anomaly and to ensure that we can control gaming machines.

Hon Norm Kelly raised a question about gambling in general. We share his view that we must be mindful of any increase in gambling opportunities in Western Australia. The Government has a very strong view on that and I am pleased that it has bipartisan support.

Hon Norm Kelly: Multipartisan support!

Hon N.F. MOORE: Them and us, whichever way the member wishes to put it. I am pleased that it has multiparty support, although I am not sure about the members behind Hon Norm Kelly; I have not discussed the Bill with them. They may have a different view from everybody else about this Bill.

Hon N.D. Griffiths: They have not taken a punt on this one.

Hon N.F. MOORE: Quite right. An alleged anomaly was referred to by Hon Norm Kelly. Proposed section 104G will be part of the Act which will determine how the levy is to be divided up, regardless of the amount of the levy. It will determine the percentages that go to the different organisations that collect the money. The regulation allows the percentage of the levy to be set and it is our intention to retain it at 6 per cent, or 3.25 per cent after the GST is introduced. There is no intention to change that percentage. However, it could be changed in future by way of regulation and be disallowable in this Parliament. Proposed section 104G will determine the way in which that levy is distributed between the consolidated fund and the Gaming Commission account. I do not understand the member's problem on that matter.

Hon Norm Kelly: It is just the way the percentages are calculated. Proposed section 104G makes it clear that it is based on a 6 per cent levy.

Hon N.F. MOORE: I looked through the figures that were made available to me to show me how the figure of 3.25 per cent was reached. I must confess that I failed maths in fourth year high school, as it was in those days. I managed to recover by fifth year and got just 51 per cent. I am therefore having significant trouble in understanding these figures. I propose to table the document so that members can see how that 3.25 per cent figure is calculated.

Hon N.D. Griffiths: I was going to save it for question time.

Hon N.F. MOORE: Fortunately, I will not be present for question time so I cannot help the member there. However, I will take on board the comments raised by members to see if there is a better way of looking after that matter. I thank members for their support of the Bills. I seek leave to table the document.

[See paper No 835.]

Question put and passed.

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

CRIMINAL CODE AMENDMENT BILL 2000

Introduction and First Reading

Bill introduced, on motion by Hon Helen Hodgson, and read a first time.

Second Reading

HON HELEN HODGSON (North Metropolitan) [2.28 pm]: I move -

That the Bill be now read a second time.

I introduce this Bill today to repeal the mandatory sentencing laws known in this State as the three strikes law as they have been applied to the offence of home burglary in this State. It is an undeniable fact that there are sectors of the community in WA which have a real concern, and in some cases fear, of becoming a victim of home burglaries. I do not underestimate the seriousness of this offence. The seriousness is demonstrated by the maximum sentence prescribed in the Criminal Code - 18 years when the burglary is not aggravated, that is, accompanied by violence or threats of violence; and 20 years for aggravated burglary. It is sobering to consider that the maximum penalty for non-aggravated sexual assault is 14 years and for manslaughter 20 years. However, as leaders and legislators, it is our role to act in a way that will best serve the public and prevent in the long term more offences, more offenders and more victims. This is the only effective way to address community concerns. Victims of home burglaries are not helped by our current policies and by our mandatory sentencing laws. This is clearly evidenced by the fact that since these laws have been introduced, we continue to experience one of the highest crime rates in the nation for home burglaries.

It would be far more constructive to put resources towards developing proper rehabilitation and treatment programs which would prevent offending and stop people becoming victims in the future. It is not easy to answer the call from sections of the public for a visible response to crime but mandatory sentencing is a simplistic and non-effective answer. While we continue to rely on this easy out, we are neglecting our real duty to start on the road to finding answers, treating addictions, providing education, finding employment and teaching parenting and life skills. We cannot in good conscience stand by and put this problem in the too-hard basket - those we serve in the community deserve better. This issue does not have one simple, quick, easy solution; it will take dedication and hard work to develop initiatives which will work. However, we must rise to that challenge rather than sit back and let the number of victims continue to rise while not presenting offenders with any way out of the cycle of crime. Locking up offenders may have the short-term effect of protecting the community from that offender but what about when the offender is released? We need to seek long-term solutions. If a Government is serious about wanting to rid the community of crime, rehabilitation must be part of its agenda. There is strong evidence that

detention is ineffective in promoting rehabilitation. The Human Rights and Equal Opportunity Commission said, "With mandatory detention, the overriding aim is incapacitation and not rehabilitation."

Although the policy of "three strikes and you're in" enjoys popular support, that does not make it good policy. The Government often does not follow the will of the majority and when it does not, it is, we would hope, because it believes it is doing what is best, just and right. That is where I stand in the mandatory sentencing debate. Ideas or policies are not acceptable just because they prove popular. There is an onus upon those in public life to stand up against injustice and to do what is right. This Bill provides us with the opportunity to do just that. Politics is not just about polls. Justice John Dowd stated -

> It is easy to appeal to the prejudice of the community against drugs and crime.
>
> Getting tough on crime using mandatory sentencing and "three strikes and you're in" legislation is usually electorally popular. It is not so easy, however, to make the community aware of the individual humanity of particular cases.

The mandatory sentence of 12 months applies to any home burglary on the third conviction. This makes it inherently unfair as it applies to offences ranging from the theft of food from an unopened and unsecured home through to home invasions where the residents are at home and are terrorised.

The Attorney General has spoken in this place of morals and how he would defend the views of those holding a moral position. A moral position has been taken on this issue by a very large number of religious and human rights organisations. The National Council of Churches opposes the laws. Its members include the Anglican Church of Australia, the Antiochian Orthodox Church, the Armenian Apostolic Church, the Assyrian Church of the East, the Churches of Christ of Australia, the Lutheran Church of Australia, the Roman Catholic Church, the Salvation Army and the Uniting Church of Australia.

The council's statement against mandatory sentencing laws in part states that mandatory sentencing as a legislative policy is a fundamentally flawed, unjust and inflexible approach to dealing with crime in our society; it is inimical to the principle that the punishment should fit the crime; it impersonally prescribes a punishment and therefore removes the principle of judicial independence. Further, mandatory sentencing automatically cuts off alternative and more creative ways of dealing with offenders. The statement says that, in practice, mandatory sentencing impacts disproportionately on the Aboriginal population, underage youth, homeless and other disadvantaged people in the community and those for whom imprisonment may be the least appropriate way of dealing with their underlying problems.

Mandatory sentencing has provoked unprecedented judicial criticism and distress, expressed in comments such as those of Chief Justice David Malcolm which were documented in the media. The policy behind these laws is a response to the fear that undoubtedly exists in sections of the community coupled with a perception that the judiciary is not appropriately sentencing offenders. This second perception is exacerbated by media reports but the facts show that in adult courts, burglaries and thefts make up 19 per cent of offences before the court but are the offences most likely to receive a prison sentence. The most recent figures from the Crime Research Centre show that 70 per cent of burglary/theft offenders received a custodial sentence with the average sentence being 20 months. This figure has increased continuously over the past three years. In the Children's Court burglary/theft constitutes 41.6 per cent of all offences with more than one-third of these receiving a custodial punishment. It seems to me that the judiciary is performing its task adequately.

Traditionally Western Australia has a juvenile detention rate well above the national average. That figure currently sits at 1.7 times higher than the national average. The juvenile detention rate among Aborigines in Western Australia is 32 times the rate of non-Aboriginal juveniles. The proportion of young people dealt with by the Children's Court who were placed in custody rose from 4.1 per cent in 1991 to 12.8 per cent in 1998. This was in spite of the introduction of the Young Offenders Act which states that imprisonment should be a last resort when punishing juvenile offenders.

The legislation prevents judges and magistrates taking the individual circumstances of each case into consideration when sentencing and denies those convicted the right to appeal against the term of their sentence. Mandatory sentencing laws have evolved from feelings of fear in sections of the community. There is a clash between serious, unresolved social problems and our desire to protect ourselves from the results of these problems by placing our faith in the clumsy and inadequate application of criminal law. We have judges so they can make reasonable decisions based on reasonable consideration of all the circumstances. It is not the job of politicians to tell judges what must be done in each case that comes before the court. The extremely limited ability of judges to use community supervision orders does nothing to address the many different concerns raised about mandatory sentencing and means judges lack the ability to use methods to best treat each offender in the circumstances. The judiciary needs some discretion when dealing with such difficult cases and with offenders who commit vastly different crimes for very different reasons. The judiciary needs the option of directing punishment to help prevent reoffending. This will also reduce the number of future victims.

I am not saying that repeat offenders should not be imprisoned. Some of them should be and would be without these laws. Under the home burglary laws, sentences of up to 20 years' imprisonment can be imposed, which is the equivalent of the sentence for manslaughter. I am saying that it is not our place, as political individuals, to cross into the realm of the powers of the judiciary and predetermine a sentence. That amounts to political interference in the proper process and functioning of the courts.

A Western Australian study conducted in 1993 found that mandatory sentencing does not reduce reoffending. The report concluded that after the introduction of the laws, there was no fall in reported crime rates. The debate which has raged

nationally about mandatory sentencing laws has led to a great deal of analysis about the effectiveness of the laws, and the Senate inquiry heard a great deal of evidence on this issue. As far as I am aware, of the many studies which have been undertaken into the laws since their inception, none contains evidence that the laws achieve their stated aim of reducing property crime. In addition to the lack of success in reducing property crime in Western Australia, evidence was produced to the Senate committee that mandatory sentencing leads to emotional ill-health, self harm and increased suicide risk. It entrenches the alienation of young people, particularly young people from indigenous backgrounds. It has also done nothing to make members of the community feel less vulnerable, as evidenced by their continued disquiet about justice issues. We need a new approach. That will mean hard work and innovation rather than sitting back and resting on the ineffective three strikes law which has not produced results up to now.

The Senate committee found that mandatory sentencing does not work and there is no credible evidence to show that it does. Although the committee received dozens of submissions from expert legal and community bodies, only two, those from the Western Australian and Northern Territory Governments, supported mandatory sentencing. Evidence given to the inquiry also indicated that the reoffending rate for those subject to mandatory sentencing is high. Despite claims that mandatory sentencing assists the victims of crime, the reality is that victims are more likely to be exposed to high recidivism rates from offenders who, having been subject to jail terms in environments often described as "universities of crime", are frequently destined to a life of more crime and possibly more severe crime. We also learnt from the inquiry that detention of an offender is incredibly expensive; that is, almost $60 000 a year. At the same time, we know that the causes of crime - homelessness; alienation; alcohol and drug abuse; broken, violent families; unemployment; and lack of education - still need substantial funding and resources in order to be properly addressed.

Mandatory sentencing does not stop people who are living in despair and disadvantage from committing crimes, some of which constitute petty crime. These laws are an arbitrary response that flies in the face of natural justice and will not cure people from continuing to commit such acts. Of course, we are not saying that individuals who commit crimes should be let off; of course they should face court and be punished, but to impose disproportionate punishments on these people will simply alienate them and entrench them even further into the criminal justice system. I fully support the comments of Chief Justice David Malcolm as reported in *The West Australian* on Monday March 13, 2000 when he said -

> Unless our community can settle on an alternative method of addressing crime and the rehabilitation of offenders, Western Australia will continue to see an increase in the number of alcohol and other drug dependent offenders.
>
> Yet as a community we persist with such illusory solutions as mandatory sentencing, which is only a short-term, quick-fix solution to impress constituents from one election to the next.

Despite the introduction of these laws, Western Australia still has the highest offender rates for property crime. Therefore, the laws cannot be deterring crimes and are not stopping more victims. We must reassess what action has been taken and utilise alternative methods to stop the offending. A 1992 document from Richard W. Harding states -

> . . . data and experience elsewhere, strongly suggest we have achieved no social benefits whatsoever - by way of reduced crime rates, lower recidivism, less community concern about crime, or in any other way - from our high rates of imprisonment.

The laws are also not effective in terms of providing any new level of understanding for the community about the justice system or how sentencing operates. Mandatory sentencing is less transparent, as the circumstances of the crime are not reflected in the sentence. Although the public cries out that it cannot understand the judicial system, we are not aiding them by this regime. Three strikes laws are also inconsistent with the principles of restorative justice as they provide nothing to the victim in terms of reparation or having their sense of loss and violation made more real to the offender. The victim has no assurance that this offender may not re-offend.

At issue is the depth of our commitment, not only to our international treaty obligations but, more importantly, the protection of human rights. Our adherence to these legal obligations is not a mere legal nicety. Australia does not commit itself lightly to international treaties, but these conventions have near-universal support. The protection of children and young people is an issue of shared international concern. The continued existence of mandatory sentencing laws greatly undermines our commitment to the same. The process under which Australia commits to an international treaty includes consultation with the States. The law that I seek to repeal was introduced after this State committed itself to comply with the relevant international treaties. Western Australia committed itself to comply with the Convention on the Rights of the Child, ratified in 1990. Article 37(b) of that convention states -

> No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

Article 40(2)(b)(v) states -

> If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

Article 40(4) states -

> A variety of dispositions . . . shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 9 of the International Covenant on Civil and Political Rights ratified in 1980, states -

> No one shall be subjected to arbitrary arrest or detention.

Article 14(5) states -

> Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

In its submission to the Senate committee, the Human Rights and Equal Opportunity Commission made the point that a State's action must be consistent with the promotion of the child's sense of dignity and worth and must take into account the child's age and also the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

Considering the requirement that detention must not be arbitrary, it is generally considered to be so if it is incompatible with the principles of justice or with the dignity of the human person. The lack of individually tailored sentences, which would consider such matters as proportionality between the sentence and the offence, leads to the conclusion that mandatory detention does not constitute just sentencing. Article 40.4 of the International Covenant on Civil and Political Rights cannot be adhered to without individual tailoring of sentencing. We know that property offences are related to economic status. With mandatory sentencing we cannot ascertain the offender's motive for committing the crime. We also cannot be sure that the punishment is not guided by ulterior motives totally disconnected from the individual circumstances, such as politics. It must surely be a political winner for a Government to instigate a "get tough on crime" attitude.

There is no right of appeal or review of the term of the sentence as required under the conventions. The United Nations Commissioner for Human Rights has recently reiterated the concerns expressed by the United Nations in its 1997 "Progress of Nations" report that the level of incarceration of indigenous children is too high, and it reminds the Government of its international obligations under the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination.

Under the application of the three strikes laws in this State, a young person spends more time behind bars than an adult who has committed the same offence. This was the effect of the availability of remission for adult prisoners. The situation will not be resolved under new laws that abolish remission, as the amending legislation also provided that an offender sentenced under the new regime should be sentenced so as not to be in jail for longer than the offender would serve under the former laws.

Eighty-eight young people have been dealt with under the mandatory sentencing laws since they were introduced; 80 per cent of these have been Aboriginal. Although not discriminatory on its face, in effect these laws do discriminate against Aboriginal youth. Their impact is to incarcerate more indigenous youth than any other group in society. Both the United Nations International Children's Emergency Fund in 1997 and the Australian Institute of Criminology this year have found that indigenous children are at least 18 times more likely than non-indigenous children to be incarcerated despite comprising less than 3 per cent of the national youth. It is absurd for the Government to claim that mandatory sentencing laws are not directed at Aboriginal people when the overwhelming number of people who are caught in the net of these laws are Aboriginal. It is evident that these laws grossly disadvantage youth, and Aboriginal youth in particular, while at the same time not applying to the middle-class practice of white collar crime.

Constructive discrimination is as abhorrent as direct discrimination. The southern States in America complained in the 1950s and early 1960s that their laws dictating that no individual could be enrolled to vote unless their grandfather had been enrolled in no way discriminated against blacks. In effect, very few black individuals could say that their grandfather was enrolled, as they were mostly slaves and forbidden to vote.

I would like to use an example provided at a Youth Legal Service forum about the impact that these laws have on young indigenous people. An 11-year-old boy from the remote Aboriginal community of Bidyadanga, in the Kimberley region, has an alcoholic mother and has never known his father. He has broken into homes in search of food or money to buy food, and was sentenced under these laws to serve a 12-month sentence at Banksia Hill Detention Centre in Perth. The environment, including the English language, is foreign to him. He has absolutely no understanding of the court processes that he is going through and no comprehension of the English language. This child has no real home, no legitimate source of income and no meaningful activity to pass his days and is vulnerable to falling into substance abuse. This all leads to a high possibility of falling into crime. This child needs support, not incarceration.

The result of mandatory sentencing laws is to equate homelessness, poverty, drug problems and educational difficulties with criminality. There is an overwhelming problem in that indigenous people are over-represented in prison populations. There is no evidence that the intention of this law is to discriminate against indigenous Australians, but it is certainly the outcome. The nature of the crimes included in mandatory sentencing and the extreme poverty and other social problems endured by this group result in an over-representation of Aboriginal people coming before the courts for mandatory sentencing.

Although the intention may not be to discriminate, and the discrimination might be indirect, the end result is discrimination. The targeting of certain crimes to be included in the mandatory sentencing regime, coupled with a failure to provide adequate education and translating services, as well as the lack of improvement in poverty and health, results in discrimination. As a result, Australia has come under further international condemnation at a recent UN examination of race relations in Australia. Among the other issues, mandatory sentencing was identified as a major slur in our dealings with indigenous Australians.

It is morally wrong to arbitrarily lock up children, on some occasions hundreds of kilometres from their families and communities. In allowing this to occur, we are repeating the mistakes of our past when young indigenous children were forced to endure similar separation and incarceration. Transferring these children so far from their communities also breaches recommendation 168 of the Royal Commission into Aboriginal Deaths in Custody.

Mandatory sentencing is about retribution; it is about trying to placate a public incredibly anxious about crime without really giving it a solution to stop crime, to stop victimisation. It entrenches alienation in the name of populist politics.

The removal of the mandatory sentencing regime is not a complex procedure. The Bill I have introduced today moves to repeal two subsections of section 400 of the Criminal Code and three subsections of section 401. Section 400 deals with interpretation and subsections (3) and (4) provide the definition of "repeat offender", which is an offender who commits a burglary offence involving a place ordinarily used for human habitation.

Section 401 generally creates the offence of burglary. This Bill seeks to repeal the subsections of this section that remove judicial discretion in sentencing those who are found guilty of the offence of burglary and are defined as "repeat offenders". The relevant subsections are (4), (5) and (6). The effect of these amendments would be to restore the discretion of the sentencing judicial officer when sentencing offenders found guilty of the offence of burglary. In passing sentence the judge can take into consideration the actual offence committed, the circumstances surrounding the offence, the victim impact statement and the individual circumstances of the offender.

In order to ensure there is no doubt about the repeal of mandatory sentencing laws, the Bill also seeks to repeal section 4(3) and section 6 of the Criminal Code Amendment Act (No 2) 1996, the Act which introduced the current mandatory sentencing regime.

Our job is not to find a quick solution by locking young people away but to find alternatives that will give a future and hope - to the wider community, the victims of crime and the offenders. As the evidence against mandatory sentencing continues to mount, it is evident that the community as a whole needs to take a close look at what mandatory sentencing really provides: A State with the highest burglary rate in the nation, high recidivism rates, a lack of transparency in sentencing, no preventative measures to stop crime and no added justice for victims. In summary, we need to look at the simple fact that mandatory sentencing does not work.

We now have a choice; we can take the easy way out and continue with the current policies that provide no results for anyone, or we can tackle a very complex problem with multiple causes. We can attempt to address the causes of burglary offences to prevent future victimisation, while still recognising the need to proportionately punish offenders for their crimes. Evident in this emotive debate is the immense gulf between the reality of crime and law and order and its perception. This is where we find the clash between judges and academics on the one hand and a genuinely concerned electorate on the other, which is why it is so important that people with real expertise and experience in these areas continue to speak out on the issue. Just because this law is not the worst in Australia does not make it acceptable. A bad law is a bad law. Just because the judiciary has found ways to mitigate the laws in a handful of eight cases, that does not override the principle of mandatory sentencing that Parliament has enacted. If the Parliament agrees that the principle underlying the laws is being overridden in practice, the Parliament should remove those laws.

On 13 March 2000 - the fifth anniversary of the proclamation of the Young Offenders Act - there were 86 young people were detained at Banksia Hill Juvenile Detention Centre. A further 40 were on remand at Rangeview Remand Centre. Fourteen per cent of overall offending in 1998 was attributed to juveniles. There are approximately 230 000 juveniles in the State, around 230 of whom have had ongoing contact with the law; that is, 0.01 per cent. The conclusion is that there are few serious juvenile offenders out there. Most young people do not have any contact with the law, and of those who do it is estimated that 80 per cent never re-offend.

A justice system that focuses on vengeance and punishment is of little use to the 80 per cent of young offenders who are capable of reform. We should be working for diversionary sentencing options which educate and reform, and have a restorative component that enables young offenders to re-enter society in a beneficial way, without the baggage of bitterness and anger that a disproportionate custodial sentence is likely to instil.

Mandatory sentencing is unquestionably unjust; it unquestionably does not work as a deterrent; it is not the most efficient use of taxpayers' money for crime prevention, and it must go.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Muriel Patterson.

MISUSE OF DRUGS AMENDMENT (CANNABIS CAUTIONING NOTICES) BILL 1999

Second Reading

Resumed from 29 March.

HON NORM KELLY (East Metropolitan) [2.56 pm]: Unfortunately, Hon Jim Scott is away on other parliamentary duties and will not be able to continue his speech from last night.

The Australian Democrats fully support this Bill, which is consistent with the Australian Democrats' approach to illicit drugs, an approach which is based on harm minimisation. Ideally we would like to have seen this Bill go a lot further,

although we do appreciate that Hon Christine Sharp has drafted a Bill which is to a large degree consistent with the Government's existing policies on cannabis cautioning. As I will demonstrate later, the Bill requires only a few minor changes to bring it totally into line with the Government's current policies.

I will refer to a few of the Australian Democrats' policy points to explain the direction that we take on illicit drugs. As I say, it is largely based on harm minimisation. Some of the points include the following: The importing and trading in trafficable quantities of drugs will be retained as criminal offences; the use and possession of cannabis products will be fully legalised, as is done for tobacco and alcoholic beverages; and the cultivation of tobacco and cannabis will be strictly regulated and enforced. During the debate last night the Attorney General and Hon Simon O'Brien expressed concern about the difficulty of allowing a certain number of cannabis plants to be grown by individual members of the public. Rather than stick our heads in the sand, as some members of the Government appear to do, we need to look at alternatives. Alternatives are working quite easily in Tasmania, for instance, with the regulated growing of opium poppies. That does not cause a problem. I am glad to see that my Democrat colleagues in South Australia are working towards legislation that would provide for a licensing system of cannabis cultivation in that State. It is a commonsense, practical way of removing some of the illegality connected with cannabis growing at the moment. I agree with the Attorney General that the two-plant limit makes it difficult, but it is a difficulty that could be overcome through the will of members.

The ongoing illegality of cannabis use in the State is harmful in a number of ways, one of which is that it brings about a certain reluctance in people to seek help if they find they have a problem with their drug use. The WA drug strategy has gone some of the way to alleviating some of this problem by making help more readily accessible for users or relatives and friends of users. However, I was disappointed when the WA Drug Abuse Strategy Office started advertising this assistance. To see what sort of information it was providing, I asked for some of the information. Instead of it being delivered in a plain envelope, as was stated in its advertisement, it was delivered in an envelope which was marked "Health Department - Drug Abuse Unit", which does not help terribly well a parent or individual seeking help. Since I raised that complaint with the Drug Abuse Strategy Office, I am glad to see that it has taken quick action to overcome that problem.

Another problem with the ongoing illegality of cannabis is the fact that people bear a criminal record as a result of being caught with it. The Australian Democrats believe that such a criminal record has an impact on the lives of offenders which is far in excess of the seriousness of the offence. I want to refer to some studies. A recent report from the National Drug Research Institute compares the effects of such a record on minor cannabis offenders, both in Western Australia and South Australia, which have two quite different systems. South Australia has a civil enforcement notice system, which is an infringement notice-type system for cannabis offences, compared with Western Australia's system, in which offences require a criminal conviction. The study showed that there was no significant difference between the groups in the impact of the infringement notice or the conviction on the offender's drug use. For the benefit of those who see criminalising these offenders as a way of changing their drug use, this study states that that has very little impact. Also, 32 per cent of the Western Australian group reported at least one negative employment consequence as a result of the cannabis conviction, with only 2 per cent of the South Australian group so reporting; 20 per cent of the Western Australian group, and only 5 per cent of the South Australian group, experienced relationship problems, including family dispute and separation; and 16 per cent of the Western Australian group had to move house or lost work accommodation, as opposed to none in the South Australian group, as a result of their convictions.

Hon Greg Smith: What sort of conviction is that - a binding conviction or all types?

Hon NORM KELLY: The figures refer to minor convictions; that is, not serious offences of dealing or trafficking. Also, 32 per cent of the Western Australian group identified at least one subsequent involvement with the criminal justice system related to their cannabis conviction, as opposed to none in the South Australian infringement group. Cannabis is a gateway drug, but not in the context the Government would have us believe. I will speak more about that aspect when discussing health impacts.

Another impact of the illegality of cannabis relates to the illegal drug network. There is a likelihood that somebody who is dealing or pushing cannabis wants to offer more dangerous drugs which may net the dealer a higher return. That induces drug users to take far more serious drugs. This is the gateway effect to which I refer. When considering the correlation between the cannabis user and the users of more serious drugs, we need to go far beyond the physiological and psychological effects of cannabis use encouraging other drug use to the connection in the criminal cycle of cannabis use which leads to further drug use. To smoke or enjoy cannabis one needs to be involved with people who are breaking the law. That involvement often leads to a rise in other criminal activities, whether it be using other serious drugs or other criminal ways. I referred before to the far higher involvement in the criminal system of people with criminal convictions based on a simple cannabis offence.

Another impact is police involvement in policing cannabis use. This has been shown to lead to the corruption of police, which is due largely to the combination of the high profit and risks associated with that network of dealing with cannabis.

Hon Greg Smith: Decriminalisation will solve all the problems of the world!

Hon NORM KELLY: It will solve a few anyway. Another impact of the illegality is the cost of policing, prosecuting and jailing offenders.

Hon Bob Thomas: And the time police spend in court waiting for cases to come up.

Hon NORM KELLY: Exactly. It represents a huge drain on police resources. One must question the benefits gained for

the community from this police work and the allocation of police resources, especially when one sees far fewer resources available for other aspects of police work. Unfortunately, the house of one of my staff was broken into earlier this week. She comes from South Africa originally, and she compared the South African response rate to her experience the other evening. The police arrived in five minutes in South Africa, and this week she had to wait more than five hours for the police to attend. Of course, they were not interested in taking fingerprints. They wrote up a report and said, "There's not much chance of getting your gear back", and left it at that. One must question whether the huge drain on police resources for cannabis offences is worthwhile.

In 1993, the police laid 9 272 cannabis-related charges, which compromised 11.7 per cent of all charges laid by police and over 85 per cent of all drug charges. Cannabis is by far the largest component of the drug problem in relation to criminal offences and charges. I am yet to hear from opponents of the Bill any argument supporting the view that cannabis use in this State is bad. They have not come up with any cogent argument which shows any widespread damage or severe injury to individuals or society as a whole through the current widespread use of cannabis. At the same time, it is important that we do not trivialise or underestimate the negative health impacts that can be associated with cannabis, yet we must compare this to those associated with other drugs condoned and supported by the State and Federal Governments.

Hon Simon O'Brien: Do you have any kids?

Hon NORM KELLY: I certainly do.

Hon Simon O'Brien: What would you feel about them using cannabis?

Hon NORM KELLY: I am happy for my daughter to use cannabis.

In 1994, there were over 26 000 drug-related deaths in Australia, of which 71 per cent were tobacco-related, 26 per cent were alcohol-related, 2 per cent were opiate-related and none was directly related to cannabis. I am sure the occasional misadventure may have resulted in fatalities when cannabis was used. However, those figures indicate the dangerous drugs in our society. When considering the figures and how the Government is encouraging the use of legal drugs, when compared to what it is doing with cannabis, it is little wonder that the youth of today look at legislators and see us as a bunch of old hypocrites when we treat these drugs in such different ways.

This Bill builds on the Government's initiatives so far. This Government has made some good initiatives in dealing with the drug problem, such as the trials with cannabis cautioning in the past year and its expansion into a statewide policy. This Bill is very similar to that program in its treatment of the cannabis issue. Of course, it goes further, but as I pointed out to government members earlier, it would take very little to amend this Bill to bring it totally into line with government policy.

I will refer to a few concerns about the Government's cannabis cautioning system. The "Evaluation of the Cannabis Cautioning and Mandatory Education System", which was released in December 1999, was based on the trial in the Mirrabooka and Bunbury police districts. Item 3.1.4 of that report refers to the eligibility criteria for cannabis cautioning. The first point is that the person must be in possession of equal to or less than 50 grams of cannabis. When the cautioning system was developed statewide, the Government chose to reduce that level to 25 grams. However, according to the report, less than 4 per cent of those people involved in the cautioning trial had more than 25 grams on their person when they were picked up by police. The 100 grams which is proposed in this Bill is far more realistic and appropriate for such a cautioning system. It is still a long way from the amount of cannabis required before a person can be charged with dealing, let alone trafficking, in cannabis.

Hon Greg Smith: How much is 100 grams?

Hon NORM KELLY: Four ounces or two pouches. The 100 grams which Hon Christine Sharp has put into her Bill is an appropriate amount. I note that an amendment now appearing on the Notice Paper requires that to be reduced to 50 grams. I will be interested to hear the arguments to back up that suggestion. Another criterion is that it must be a first offence.

Hon Simon O'Brien: How would a policeman on the beat know whether it was 100, 50 or 101 grams? Does he have little scales with him?

Hon NORM KELLY: The way the trial works is that the officer can take the particulars of the offender, either charge or process that offender and then weigh the amount of drugs at the station. The drugs must also be tested to determine what types they are.

Hon Simon O'Brien: Will this save police resources in time and effort? That was one of the arguments coming from your side of the House last night.

Hon NORM KELLY: That is right.

Hon Simon O'Brien: The evidence mounts.

Hon NORM KELLY: I am sure the police in this State have seen enough cannabis to make a good estimation of its weight. If there is any uncertainty, it can easily be tested to determine the actual weight.

Hon Simon O'Brien: Smart lawyers will argue that it is 99 grams and that they cannot go to court.

Hon NORM KELLY: I suggest that Hon Simon O'Brien talk to a few police officers so he realises what goes on in the real world, because it is obvious that he is out of touch with what happens.

Hon Simon O'Brien: There is no need to be disparaging.

Hon NORM KELLY: I return to the eligibility criteria. The report states that the possession of cannabis plants and cannabis derivatives such as hashish or cannabis oil are not included; the person must agree to attend an educational session; there must be no other offences involved, detected or under investigation; and the notice can be issued only to adult offenders. There are concerns that some people are not being diverted into the cautioning system because of the level of aggression shown to police when they are picked up. The media release put out by the Minister for Police and the former Minister for Family and Children's Services in December last year stated -

> The main reason for not issuing a caution to some was based on specific circumstances, with offenders being investigated for other offences or because of their aggressive behaviour.

Nothing in the criteria refers to purely aggressive behaviour as a reason that these people should not be put through the cautioning system. Page 19 of the report by the Matrix Consulting Group in December last year contains a chart of those persons who met the criteria as against those who were cautioned. In Mirrabooka, 111 people met the criteria and 87 were given cautions; and in Bunbury, 14 people met the criteria and eight were given cautions.

Hon Bob Thomas: How many were stopped?

Hon NORM KELLY: There were 111 in Mirrabooka and 14 in Bunbury. The next page contains the reasons that those people were not given cautions. Interestingly, six were not given cautions because the officer was not trained - hopefully that can be corrected - five were not detailed and 14 circumstances did not warrant cautions. There are some concerns about the circumstances which did not warrant cautions, and perhaps it was because the people did not meet the criteria which had been specified. Hon Christine Sharp has provided specifications which make the position far clearer for police in carrying out their work and deciding who is eligible for a caution.

Hon Simon O'Brien: How do the police know whether someone has been cautioned once or twice? Do they have computers or databases on them, or is this more work which they must do in running around the office the next day deciding whether they will nick someone?

Hon NORM KELLY: I would appreciate more gaps in my speech, because the more Hon Simon O'Brien interjects, the more he makes a fool of himself in his lack of knowledge of how these police matters work.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Neither Hon Simon O'Brien nor Hon Bob Thomas has the call, although we would not know that from the proceedings of the past two minutes.

Hon NORM KELLY: In the debate last night it was also pointed out that if these sorts of measures were to become law, it would encourage a greater use of cannabis. People in the Netherlands have more enlightened views about drug use, and the use of cannabis has been liberalised so that cannabis can be sold in coffee shops. It is regulated and closely monitored in that country but it is far more readily available legally than it is in this State. In 1981 in that country, about 14.5 per cent of problematic drug users were under the age of 22. By 1995 this had dropped to 1.6 per cent. Over the same period the average age of problematic users had increased from 26.8 years to 36.2 years. This shows that the laws of that country are effective. It is reducing the incidence of problematic drug use in youth, which is a positive idea that I am sure we would all support. It shows that, with the ageing population of drug users, the problematic drug use in its society is gradually removed.

Clause 7 of the Bill is also an important consideration because it repeals the reference to implements in section 5 of the Misuse of Drugs Act. According to the police statistics, approximately 30 per cent of all cannabis-related offences relate to possession of implements rather than possession of the drug. All that is required for a conviction to be recorded is the detection of a trace of cannabis on the implement. Once again, the penalty of a criminal record for the offence far outweighs the impact such behaviour has on our society. The Government has failed to come up with arguments abut the negative impact such use has in our society. I urge those who do not support the legalisation or decriminalisation of cannabis to look at alternatives to the current criminal implications marijuana use has in this State. In South Australia, a system of infringement notices with penalties has been introduced, similar to that used in Western Australia for traffic offences. In that situation, the penalty would be commensurate with the impact of the offence, but it would not have the long-term, negative impact of a criminal conviction. Repeat offences could be dealt with in a manner similar to the demerit point system for driving offences. I am sure Hon Simon O'Brien would be happy to know how quick it is for a police officer to write out an infringement notice. It would be a smaller drain on police resources than is currently the case. I am sure the member would support that more efficient use of police resources.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): The member should not incite Hon Simon O'Brien.

Hon NORM KELLY: I would not even try. Last night, when stating the position of the Australian Labor Party, Hon Tom Stephens said this Bill was going nowhere. I assure him that in all likelihood it will go to the other place, where it will be up to the Australian Labor Party to show how committed it is to drug law reform. The Australian Labor Party cannot be all things to all people, as much as Hon Tom Stephens tried last night.

Hon N.D. Griffiths: This is a Greens (WA) Bill, which the Labor Party is supporting.

Hon NORM KELLY: It is time for the Australian Labor Party to clearly show the public - through actions rather than words - its commitment to this Bill and to proper drug law reform. If the Labor Party is putting itself forward as an alternative Government next year, it is important people can see where it really stands on this issue.

Hon Peter Foss: Does Hon Norm Kelly know how many deaths occurred as a result of driving under the influence of cannabis?

Hon NORM KELLY: I do not have those figures with me.

Hon Greg Smith: It should be illegal to drive under the influence.

Hon Christine Sharp: Most of those deaths are associated with mixed-drug use.

Hon Peter Foss: Eleven point seven per cent of deaths are associated with the use of cannabis.

Hon NORM KELLY: I am sure that is nothing like the 6 000 deaths that are associated with alcohol use. The opponents of the current form of the Bill, and there seem to be a couple in this House, should look at introducing amendments which would bring the legislation in line with government policy.

Hon Christine Sharp: Hear, hear!

Hon NORM KELLY: I am happy to consider supporting amendments that would reduce the number of cautions allowed from two to one; to reduce to 25 grams the number of grams allowed; to reduce the number of plants allowed; and to remove clause 7, which refers to the section of the Misuse of Drugs Act that deals with implements. The references to the cultivation of plants could also be removed to get away from the problems associated with those outlined by the Attorney General last night. If those four points were amended, it would result in government policy in the form of a Bill. If the Government is serious about firmly entrenching what it believes is good policy, and I believe this is a vast improvement on what is occurring, it should put forward such amendments.

I thank Hon Christine Sharp for preparing the legislation and introducing it in this place. It is consistent with Australian Democrats policy. We would like it to go further but, in consideration of the conservative Government and Opposition, it is a commonsense approach which is closer to current government policy. It should be fully supported.

HON GREG SMITH (Mining and Pastoral) [3.25 pm]: The perspective I bring to this debate is that of someone who has been involved with regular drug users. I was in the shearing industry for 17 years from the age of 18 or 19. I grew up in that industry and associated with people such as shedhands, rouseabouts and even shearers who regularly used marijuana. Fifteen years ago, I would have been inclined to agree with the Bill put forward by the Greens (WA). However, views changes as one gets older, becomes a bit wiser and becomes a parent.

Hon N.D. Griffiths: Did the member inhale?

Hon GREG SMITH: I do not know.

The DEPUTY PRESIDENT: Order!

Hon GREG SMITH: In the industry in which I was involved, a lot of young rouseabouts would regularly use marijuana, although they always had to wait until they had enough money to get it. Quite often they would buy some and run out by Wednesday. By Thursday or Friday they would turn up at work straight and work reasonably well. I will briefly play devil's advocate. I was always of the opinion that if marijuana were decriminalised, it would break the cycle of a dealer involved with the trafficking of softer drugs moving up to becoming the first point of contact for stronger drugs. If marijuana were decriminalised, there might not be a network whereby the next time someone came to the dealer, he would say he did not have any dope, but would instead offer speed. In that situation, the person would think, "I have $100 which I was going to spend on marijuana. Why not try some speed?" Gradually, the person would move on to stronger drugs. I thought that nexus could be broken through the decriminalisation of marijuana. If everyone could have a few plants in their backyard, if they wanted to smoke marijuana they could cut off a few buds or head, roll them up and get stoned. The cycle would be broken. However, as I saw the culture, I realised that most of the people who deal in marijuana are not involved with the other side of the equation. In many cases, they are just marijuana sellers. The Mr Bigs are involved with all types of drugs, but it is almost segregated on the ground. The bikies deal in amphetamines, others deal in heroin and the marijuana culture is a different group of people altogether.

When I became a father, I was faced with having children, and having next-door neighbours with children. I saw the effects of my next-door neighbour's 13-year-old kids coming home stoned. It was a worry that my kids could be playing with the children next door and be offered marijuana. I thought that I would have to learn to live with it and accept that it might happen one day. However, I then thought about what would happen if marijuana were decriminalised and everyone could have a couple of plants in their backyard.

Hon Christine Sharp: Exactly the same thing that is happening now.

Hon GREG SMITH: It will happen not only when these children get marijuana because they have come into some money somewhere and been able to get hold of it; they will also be able to go to the house of any of their friends, be given marijuana and become stoned completely beyond my control.

Dope, which is a name given to marijuana by people, is a very good name for it because that is what it does to people, turns them into dopes. I do not want my children to become dopes like many of the shedhands whom I have seen. Anyone who knows long-term, heavy marijuana users will know that they are lethargic, dopey and lacking in motivation. Their attitude is to get on the dole, smoke a heap of dope and just forget about life. Marijuana is a mind-altering drug. Alcohol and

tobacco are drugs which cause the most damage to the health of this community - coincidentally two legal drugs. As Hon Peter Foss pointed out, we could make another drug legal and add it to those two drugs.

I will tell members about what happened in the shearing industry with all the young kids, rouseabouts and those types of people I knew who used marijuana. They did not get up in the morning and have half a dozen cans of beer or a few large nips of scotch; however, they did have a bong. The first thing we could smell in the morning was the bloody stink of marijuana coming out of the room down at the end of the shearers' quarters. We would then enter the kitchen, where they were all giggling and carrying on. We then had to get to work and try to get some work out of these people. However, the fact that marijuana was illegal limited its use. If it had been decriminalised and they had had easy access to it, I can assure members that these people would have been stoned non-stop seven days a week.

Hon Bob Thomas: Is that what happens in Holland?

Hon Christine Sharp: No, not at all.

Hon Bob Thomas: You know it doesn't happen in Holland then?

Hon GREG SMITH: From what I have heard, the Government in Holland is trying to taper back the legislation as fast as it can. People are flocking to Holland.

Hon Ljiljanna Ravlich: You have just made that up.

Hon GREG SMITH: No. Hon Ljiljanna Ravlich probably does not object to the decriminalisation of marijuana as she does not have children to deal with.

Hon Ljiljanna Ravlich: Hang on, I can have children, you know.

The DEPUTY PRESIDENT: Order!

Hon GREG SMITH: I have children who are just coming up to a crucial age. There are hundreds of thousands of other parents in Western Australia. The Government's opposition to the decriminalisation of marijuana is not because it believes marijuana is the most evil drug in the world; it is because it wants to give parents the protection of the law to prevent their children from being exposed to drugs as much as possible. We know that it is not possible to completely protect them.

This Bill says that it is acceptable for one person to have two plants and perhaps two people to have four plants in their backyard. One hundred grams of marijuana is worth about $200 on the open market. One plant would yield probably a kilo of dope; therefore two kilos would be worth between $4 000 and $5 000. That is the legal amount of marijuana envisaged by this Bill which, from two plants, is a considerable quantity. If my kids grow up to be the sort who decide they want to smoke marijuana and have two plants in the backyard, what will happen if the police turn up on my doorstep and ask, "Whose plants are those in the backyard?" This Bill will make it illegal for children under the age of 18 years to have those two plants. This a very vexing question for a parent. Does a parent incriminate his children by saying, "I am not sure which one owns them but it is one of theirs. They are not mine. I don't know anything about them"? Or does one say, "They are actually mine"?

Hon N.D. Griffiths: Why don't you exercise your right to remain silent?

Hon GREG SMITH: I will call my lawyer before I say anything!

I would say, "They are my two plants in the backyard" in order to protect my children from being charged, because the provisions of this Bill ensure that, if they are under 18, they will be charged with a criminal offence for having two plants in their possession. The next thing that will happen is people will say that Greg Smith is a marijuana grower and smoker. However, I guarantee if a caution were issued by the police to a member, it would become public knowledge if someone wanted to try to inflict political damage on that member. The same thing could occur now to someone who owns two plants, but they are not being jailed. I know people who have been busted with one, two or four plants, given a suspended sentence and fined $100. However, the police in country towns know the drug dealers, know who is selling marijuana to school kids and want to bust them. I use country towns as an example as the police in country towns know the community better than do the police in the city. When the police visit those drug dealers, they may find only 50 grams or 100 grams but they bring the full weight of the law down on them. As legislators we must always bear in mind that the way in which we intend laws to be administered and the way they are administered are often two different things. The police use laws many times in terrible ways against motorists committing minor traffic offences. There was an incident last year when someone was charged with a traffic infringement relating to the water in his car's windscreen washer.

One of the reasons that we must maintain marijuana's illegality is because the last thing we want to do is send a message to our children that we believe it is all right and there is nothing wrong with using it. Parents do not want to live in fear that their community is full of marijuana and their children will have access to it anywhere they go, just because everybody can have a couple of plants in the backyard. As I said, even 100 grams of marijuana is a considerable quantity and there is nothing in the Bill to say whether it will allow 100 grams of leaf or 100 grams of hydroponically grown head. People could be accused of being drug dealers if they possessed 100 grams of hydroponically grown buds or heads in foils or money bags.

Hon Norm Kelly: That is consistent with the Misuse of Drugs Act which does not specify heads or foils.

Hon GREG SMITH: Yes. As I said, the jails are not full of people who possessed two plants or a small amount of marijuana.

Hon Christine Sharp: Hon Norm Kelly is saying they are using the same defence.

Hon GREG SMITH: I believe the last thing we want to do is give drug dealers in this community any more ability to defend their actions than is absolutely necessary. Al Capone was eventually convicted for tax evasion, I think, and many big drug dealers have been convicted for possession of a small amount of drugs.

Hon Bob Thomas: How did he get his start? Through prohibition.

Hon Peter Foss: It is well known that the people who take advantage of legal loopholes have a great deal of money.

Hon GREG SMITH: The argument that decriminalising marijuana will reduce its usage is an absolute nonsense. I cannot believe that members can come into this place and say that decriminalising it, condoning its use or making it more readily available will lead to a decrease in its usage.

Hon Bob Thomas: Are you telling us that prohibition is working?

The DEPUTY PRESIDENT: Order! Hon Greg Smith is trying to tell us something, if members would listen.

Hon GREG SMITH: Prohibition is currently limiting its ability to be accessed. It is children that worry me.

Hon Bob Thomas: From where did those rouseabouts get it if it is limited by prohibition?

Hon GREG SMITH: They had to have $100 or $150 to access it. If they could go into town and pick up a bagful when they were rouseabouting, they would have been back at the shearing sheds and stoned all day, every day.

An area of marijuana and alcohol usage which we have not brought into the equation but need to look at is the very prescriptive laws about how much one can drink before one drives.

Hon Derrick Tomlinson: Including mandatory jailing after the third offence for drunk driving.

Hon GREG SMITH: We have no readily available method of randomly testing a driver to see how stoned he is and we have not even touched on the industrial accidents caused by people suffering the effects of marijuana when they go to work. We have heard of the random drug testing of children at Geelong Grammar and other schools and I do not see the parents up in arms about it. However, if we pass a Bill and say it is all right to have a bit, a bit is okay, but the schools randomly test the children, all of a sudden it will be a violation of their human rights because we would be testing them for something they were allowed to have.

Hon Norm Kelly: What we are saying is it is a different penalty if you have possession; it is a lesser penalty than exists at the moment.

Hon GREG SMITH: If people were being jailed, locked up and having the full force of the law thrown at them for having a small quantity of marijuana or two plants in their backyards, we would agree, but that is not happening - the jails are not full of people who had two plants. Most people who are caught with that quantity get a $100 fine and a suspended sentence and that is it.

Hon Norm Kelly interjected.

Hon GREG SMITH: The Attorney General may be able to help me. Does a suspended sentence get converted to a criminal offence?

Hon Peter Foss: A suspended sentence is a conviction but they do not go to jail provided they then behave. The other thing is they can be given a spent conviction.

Hon GREG SMITH: If someone has a criminal record for breaking the law, so be it. That is what the law is about. We cannot say that just because someone gets a criminal record -

Hon Bob Thomas: We make the laws. Let's make them more realistic.

Hon GREG SMITH: More realistic? I challenge the Australian Labor Party to tell the mums and dads in Western Australia that it thinks their children should have easier and more ready access to marijuana. That is what we are doing. It is exactly what we are saying and what we are doing. The coalition is opposed to this Bill because as far as we are concerned that is the message we are sending out; that is what we are doing. If we do anything to make marijuana more readily available or easier for children to get hold of, the chances of someone in our community who has children, or their children, coming home stoned or doing something stupid while under the influence of cannabis are greater.

Hon Peter Foss: The interesting thing is I bet you will not find one member in this Chamber who has never had a speeding fine. The next thing we will have is Hon Christine Sharp with a Bill to remove speeding as an offence because nobody is observing it.

Hon Norm Kelly: That is rubbish. Come on, Attorney General, that is ridiculous.

Hon Peter Foss: That is the argument.

The DEPUTY PRESIDENT (Hon John Cowdell): Order! Hon Greg Smith has the call, not the Attorney General.

Hon GREG SMITH: I thank the Attorney General for his interjection. The Democrats are hypocritical in supporting this Bill because I brought a motion into this House 18 months ago to increase the speed limit to 130 kilometres an hour. I said thousands of people were being booked for doing 125 or 130 kilometres an hour in remote parts of Western Australia where there is no traffic on the roads. The very people who stand up here now and want to decriminalise marijuana because some people are being booked for being in possession of it, came in here and said that if we made the speed limit 130 kilometres an hour, everyone would do 150 kilometres an hour. The argument does not add up. They said if we did it for that law, everyone would do more of it, but if we do it for the issue we are debating now, they will do less of it. It is illogical.

Hon Norm Kelly: It is illogical to compare those two arguments.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon GREG SMITH: During the afternoon tea break, I have taken time to read Hon Tom Stephens' speech again. I will quote a part of his speech which is relevant to this debate from yesterday's uncorrected *Hansard*. He said -

> One of the challenges for the Labor Opposition is to recognise that it has the task of responding to issues such as this, and not simply be a party that endeavours to represent tiny minority viewpoints within the community. It must also recognise that it has the task of responding to the entire community and of preparing that community for the realities with which it is faced across this State.

I lay down the challenge to the Leader of the Opposition to put on record that when the Opposition becomes the Government it will decriminalise marijuana by bringing in this law. The Government is responding to what I believe is the majority viewpoint of this State; that is, the viewpoint of the mothers and fathers of this State who do not want their children to have easy access to marijuana. Will the Opposition put on record that it will introduce these laws when it is in government?

Hon Tom Stephens: Wasn't it Iona station that was growing vast quantities of marijuana? Don't you talk to me about this. You tell me about what your station was growing.

Hon GREG SMITH: For the record, if it makes the Leader of the Opposition happy, prior to my purchasing my station -

Hon Tom Stephens interjected.

The PRESIDENT: Order! The Leader of the Opposition has interjected on Hon Greg Smith. Apparently Hon Greg Smith wants to respond. I ask the Leader of the Opposition not to interject and to let the response be heard. I am interested in the response.

Hon GREG SMITH: I have reconsidered my position and I may answer the question of the Leader of the Opposition when he chooses to answer the question I put to him.

Hon Tom Stephens: You answer first and then I'll see what I can do.

Hon GREG SMITH: Will the Labor Opposition, when it becomes the Government in about another nine to 10 years, introduce these laws? Will it decriminalise the cultivation and possession of marijuana?

Hon Tom Stephens: How many acres of marijuana was your station growing?

Hon GREG SMITH: If the Leader of the Opposition answers my question, I will answer his. I see that the Leader of the Opposition has failed to answer my question and is unwilling to answer it. There is a marijuana party that runs in state elections. The majority of people in Western Australia do not vote for that party. Therefore I cannot say that the majority of Western Australians in the community are pursuing this type of legislation. However, the mothers and fathers in our community who have children have said to me, "We do not want our children to have easier access to marijuana." The Australian Labor Party should respond to the broad interests of the community - it believes the broad interests of the community mean that everyone wants marijuana decriminalised, our children can attend school with friends who have pockets full of marijuana and can visit their next door neighbours who will have plants growing in their backyard - and should put on the record that it intends to decriminalise marijuana when it becomes the Government. It will not do it. The Opposition is pandering to a minority group in this place because it knows the Government will reject this Bill in the other House; the Opposition is confident of that. It is irresponsible of the Opposition to sit in this Chamber and support a Bill in which, in principle, it does not have its heart. No member of the Opposition will put that on record.

Hon Kim Chance: What are you talking about? We have a policy which is in the public domain.

Hon Ken Travers: Have you smoked marijuana?

Hon GREG SMITH: Yes, and I have even inhaled.

Hon Ken Travers: So we have a criminal in the place, do we?

The PRESIDENT: Order!

Hon GREG SMITH: The other part of this Bill which makes it almost irrelevant -

Hon Ken Travers: You are saying you are a criminal?

Withdrawal of Remark

The PRESIDENT: Order! If I heard Hon Ken Travers correctly and he was calling another member of the House a criminal, he will have to withdraw that without any question at all.

Hon Ken Travers: I withdraw, Mr President.

Debate resumed

Hon GREG SMITH: Thank you, Mr President. I did not take much notice of him as nobody else does. In clause 5 of the Bill, proposed part IIA(8A)(4) states -

> This Part does not apply where it is alleged that in addition to, and at the same time as, the commission of the simple cannabis offence, the alleged offender committed one or more other drug offences.

The police could choose to say that anybody in possession of 100 grams was intending to sell the drug, as 100 grams is a considerable quantity. As Hon Norm Kelly of the Australian Democrats said, we could amend this Bill to include the possession of 25 grams; we could amend it so that it relates to only one offence; and we could amend it so that it excludes cultivation; then we would have what the Government is already doing in Mirrabooka and Bunbury.

Hon Christine Sharp: Doing everywhere in this State.

Hon GREG SMITH: However, that is being done without introducing legislation on an external basis through policy changes.

Hon Tom Stephens: Mr Smith, for the record, when did you last smoke marijuana?

Hon Ray Halligan: When did you last use your brains?

Hon Derrick Tomlinson: When did you stop beating your wife?

Hon Tom Stephens: There is no answer from the member.

Hon GREG SMITH: When did the Leader of the Opposition last stop smoking?

Hon Tom Stephens: A good long time ago.

Hon GREG SMITH: Did you draw it back?

Hon Tom Stephens: Yes, I did. Now I have answered your questions candidly, what is your answer?

Hon GREG SMITH: Probably 12 years ago.

Hon Derrick Tomlinson: You didn't smoke it when you were 12?

Hon GREG SMITH: No. One of the things we as a Government must do, instead of producing legislation which says that marijuana is not too bad and is acceptable to some extent, is to conduct an education campaign to educate our children to not partake in smoking marijuana. People portray marijuana as a harmless drug but Graylands is full of people who have gone into psychosis from the excessive use of marijuana. I refer to a debate in this place about attention deficit disorder and self-medication. An enormous number of people are in Graylands through self-medication - using marijuana - that has brought on a form of psychosis.

Hon Christine Sharp interjected.

Hon GREG SMITH: I do not have the figures on hand. Dr George O'Neil provided those figures.

The PRESIDENT: Order! I cannot hear the interjection and if I cannot hear it, the Hansard reporter cannot hear it, and that makes it difficult. I am not encouraging the interjection but it makes it difficult for it to be recorded.

Hon GREG SMITH: I reiterate that I am opposed to anything that will make access to drugs easier for children.

Hon Kim Chance: So the member is pro good and anti bad.

Hon GREG SMITH: I believe that the more easily we make something accessible the more likely it is to be used. One of the things that is keeping marijuana usage at its current level is the fact that it is against the law to use it. It is a criminal offence to grow it and it is illegal to be in possession of it. If we do change the law and make it less of an offence - because the Bill will not decriminalise it completely - to cultivate marijuana or to be in possession of it, children will have easier access to it.

HON RAY HALLIGAN (North Metropolitan) [4.40 pm]: I certainly do not support the motion.

Hon Tom Stephens: That is a shock for the books!

Hon RAY HALLIGAN: It shocks me to hear that members opposite want to support it. I will speak later about Hon Tom Stephens' party and certain members of the party and the stance they are taking on this motion, because they appear to be all over the place - a little like their stance on mandatory sentencing. I will leave that for another time.

Hon Ken Travers: We have a very clear position on that. We support it in WA.

Hon RAY HALLIGAN: At the federal and state levels?

Hon Ken Travers: All the member needs to know is that we support it.

Hon RAY HALLIGAN: Is that right? That is most interesting. Members opposite should let John Halden know.

Decriminalising cannabis is something that we know the Greens (WA) have wanted to bring before the House for some considerable time. Now that it is before us I think it important that we have a full debate on the issue. To help people ingest anything of this nature seems to fly totally in the face of what we have been trying to do for at least the past 25 years, and that is to discourage people from smoking. I think there is acceptance in the House that tobacco is most definitely a drug.

Hon J.A. Scott: Smoking it is not illegal.

Hon RAY HALLIGAN: That is not the issue. It is a health issue, so let us talk about that, or does the member think it is all right for anyone to ingest anything at all? Does the member want to legalise everything or decriminalise everything? Is that what the member is suggesting?

Hon J.A. Scott: I am not suggesting that.

The PRESIDENT: Order! Hon Ray Halligan is meant to be addressing the Chair.

Hon RAY HALLIGAN: The point is that we have spent enormous amounts of money trying to encourage people not to smoke cigarettes or cigars, yet we now have before us -

Hon Ken Travers: We have been relatively successful. We have halved the number of people who smoke.

Hon RAY HALLIGAN: The member is probably right, but it is my understanding that there are a lot more young people taking up the habit, which is most unfortunate.

Hon Ken Travers: We have to keep on the education campaign, as it has brought the numbers down significantly.

Hon RAY HALLIGAN: I accept that point, but my concern is that we have worked very hard encouraging people not to smoke tobacco, and we have been somewhat successful. On the other hand, members opposite are encouraging people to take up the inhalation of another substance, a drug.

Hon Ken Travers: Even under the prohibition the increase in the use of illicit drugs has been climbing steadily over the past few years.

Hon RAY HALLIGAN: The point here is that we have been somewhat successful in discouraging people from taking up the smoking of tobacco -

Hon Ken Travers: Through an education campaign.

Hon RAY HALLIGAN: Does the member not see it as somewhat hypocritical that his side is now supporting something that would encourage people to smoke?

Hon Ken Travers: No, because I do not accept that it encourages it. The figures show there has been an increase in the use of illicit drugs under prohibition, but by the use of education there has been a decrease in the use of licit drugs.

Hon RAY HALLIGAN: So the argument is that by decriminalising it consumption will be reduced?

Hon Ken Travers: Yes, if one is sure not to encourage it. There is a big difference.

Hon RAY HALLIGAN: That is a most interesting argument. It is one that needs to be tested but, unfortunately, we do not have another 25 years to do that. We are required to make some decisions -

Hon Ken Travers interjected.

The PRESIDENT: Hon Ray Halligan has the call and is entitled to be heard.

Hon RAY HALLIGAN: I cannot accept that what has been done to date has failed entirely. While we have been trying to discourage people from smoking tobacco, we have not stopped them entirely. We sit in this House and make legislation, making all manner of things illegal -

Hon Ljiljanna Ravlich: You sit in this House and do nothing - we make legislation.

Hon RAY HALLIGAN: If only the member sat in the House with her ears open and her mouth closed things might be better in this place. We make laws discouraging people from doing all manner of things. Are members opposite suggesting that because that takes place no laws are broken?

Hon J.A. Scott: Can you explain why the Liberal Party has let a cigarette company sponsor its national conference?

Hon RAY HALLIGAN: The member will have to explain that a little more. Next time the member speaks he should explain that so we can all understand. I think the member is in dreamland yet again.

Hon J.A. Scott: John Howard was asked about that on radio here.

Hon RAY HALLIGAN: Well then, the member should ask John Howard.

Hon Ken Travers: He is your leader.

Hon RAY HALLIGAN: He is unlikely ever to be yours.

In her second reading speech Hon Christine Sharp says -

> Secondly, smoking marijuana is primarily a youth issue - most cannabis smokers are young or very young.

She goes on to state that 40 per cent of WA school students have used cannabis. She then talks about 75.5 per cent of adults having been charged with cannabis offences. That requires some explanation if this is only a youth issue. How can 75.5 per cent of adults be charged with cannabis offences during 1994-96?

Hon Greg Smith: The percentage of adults charged with cannabis offences who were under the age of 30 is 75.5 per cent - not 75.5 per cent of all adults.

Hon RAY HALLIGAN: There is a statement made here - and there may be a good reason for it, but no explanation has been given - that a report released earlier this year by the National Centre for Research into the Prevention of Drug Abuse titled "The Social Impact of a Minor Cannabis Offence Under Strict Prohibition - The Case of Western Australia" found that -

> Together these results suggest that for the vast majority of these offenders their arrest, and conviction had little impact on their use of cannabis.

That argument is continually being put forward. I do not see that as an argument in itself. Has the question been asked as to why? We have heard argument that cannabis is a mind-altering drug. Might it not be that it had little impact because the offenders were having a little difficulty thinking straight? It might well be, given the views of some members opposite. The point is that members opposite are putting forward an argument that is not an argument in itself.

Mention is made of cannabis being a gateway drug. Professor David Pennington has pointed out, as recorded in this second reading speech -

> . . . it is we who have made cannabis into a gateway drug simply because of its illegality.

I am afraid that requires a little more explanation. It may well be that those people who smoke cannabis can understand this a lot better than me. I do not smoke it.

Hon Ljiljanna Ravlich: You do not need to smoke it to know what a gateway drug is. You do not even have to be half smart to know what a gateway drug is.

Hon RAY HALLIGAN: But just a little smarter than Hon Ljiljanna Ravlich. We are talking about the illegality, not the gateway. Why is it suddenly a gateway drug because of its illegality? An argument has been put forward that the smoking of cannabis does not lead to a movement to hard drugs but this is a suggestion that it can.

Hon J.A. Scott interjected.

Hon RAY HALLIGAN: Much of the argument we have heard suggests that that is not the case - it should not be illegal because people who smoke cannabis will not necessarily go on to heroin and cocaine. Now members opposite are suggesting that there is a connection. Members need to make up their minds. If cannabis is so readily available out there, whether it is legal or not, why should people move to hard drugs?

Hon Norm Kelly: They lace the cannabis with heroin and other addictive drugs to get them addicted.

Hon RAY HALLIGAN: Why should that not change? Whether it be legal or illegal, why should that circumstance change?

Hon Norm Kelly: They won't have to deal with the criminal element to get the cannabis.

Hon RAY HALLIGAN: Yet we have heard that many people grow cannabis for their own use. Many people hand it around to one another, a friend of a friend of a friend, not necessarily through a criminal element.

Hon Ken Travers: But they are breaking the law; if they were caught, they would be charged as criminals.

Hon RAY HALLIGAN: We are talking about the hallucinatory drug at this point, not the way it is distributed and the costs involved. I believe it is a gateway drug and decriminalising it will only make the situation worse.

Hon J.A. Scott: How?

Hon RAY HALLIGAN: I will move on to that later. The point is I think the members' argument is wrong. We know it is out there and just as other people are breaking the law at the present time, we cannot say nobody will do it just because it is illegal - people are doing it. There is movement of cannabis from one person to another and not necessarily through the drug dealers. However, the argument being put forward at the moment is that unless we decriminalise it, the criminals will take over the distribution in total. It happens now. There is an element in the community which cannot help itself. These people will go anywhere at any time and accept anything which is given to them. We hear repeatedly about young people who go to rave parties.

Hon Ljiljanna Ravlich: Who have you been listening to? Howard Sattler?

Hon RAY HALLIGAN: I do not listen to Sydney radio. Many of the people who go to rave parties and nightclubs and the like are accepting drugs. Many of them are paying for drugs, but why I know not.

Hon Norm Kelly: Because they can't get a job sometimes.

Hon RAY HALLIGAN: They get the money.

Hon Norm Kelly: We need to look at the underlying reasons people are taking drugs.

Hon RAY HALLIGAN: That is another point and it may well be a legitimate point. However, I do not think it has anything to do with decriminalising cannabis.

Hon Norm Kelly: It does.

Hon RAY HALLIGAN: Hon Norm Kelly is suggesting we decriminalise cannabis, keep the criminal element out of it and reduce the price so the people who are unemployed and have no money can be stoned for as long as they like while they are unemployed and on the dole. Is that what Hon Norm Kelly is saying because that is what it sounds like to me?

Hon Norm Kelly: If you had listened, you would have heard me explain the statistics which show that if people don't get a criminal conviction, the impact on their future job opportunities is lessened to a far greater extent compared with the South Australian infringement system.

Hon RAY HALLIGAN: Everybody has the opportunity to decide where he or she goes in this life. Hon Norm Kelly is saying that we should do this because of a conviction, because a person has digressed, because someone has done the wrong thing - which was entirely up to him, by the way; it was of his doing; no-one probably forced him to. There will always be an element, there will always be an exception to the rule, but I suggest that the greater majority of those people did whatever they did willingly - whether there was peer pressure or not, they did it willingly.

Hon Norm Kelly: In 20 years they will be penalised. They can lose a job because they have a record from 20 years ago. They have not transgressed for 20 years -

Hon RAY HALLIGAN: No.

Hon Norm Kelly: That happens. You talk to the drug people, they will give you the instances.

Hon RAY HALLIGAN: I would like to see the evidence but to date none has been presented and I have some very grave doubts about whether it exists.

Hon Christine Sharp: Here is the evidence.

Hon RAY HALLIGAN: What is that? Curtin University?

Hon Ljiljanna Ravlich: What's wrong with Curtin University?

Hon Derrick Tomlinson: Do you really want me to tell you?

Hon Ljiljanna Ravlich: I went to Curtin.

Hon Derrick Tomlinson: That is living proof. My case is proven.

Hon RAY HALLIGAN: It is interesting in the second reading speech there is also mention of the Netherlands, Sweden and Norway - the enlightened countries of this world. Obviously that is the way Western Australia should be going.

Hon Ken Travers: I get the impression you don't like these countries.

Hon RAY HALLIGAN: Well, I do not like what they are doing. Some of these countries have decided themselves that they have made mistakes, that they went down the wrong path - exactly the same path which is being suggested to us now.

Hon J.A. Scott: You can reduce crime.

Hon RAY HALLIGAN: Of course we can reduce crime; just as the Attorney General said, tear up the Criminal Code so there is nothing which is a crime and then we will reduce the numbers in the jails.

Hon J.A. Scott interjected.

Hon RAY HALLIGAN: No, it is not. That is exactly what members opposite are suggesting. They are saying decriminalise.

Hon Ken Travers: We are saying it is still illegal but you only get an infringement notice or a caution the first time you are caught doing it.

Hon RAY HALLIGAN: We are trying to stop the actions of many people being considered criminal, admittedly so there is no conviction. That is what members opposite are suggesting. That is how they reduce the crime.

There is talk also about "However, except for the harm associated with smoking". That came from the Institute of Medicine, 1999.

Hon J.A. Scott: They would be a pack of ratbags.

Hon RAY HALLIGAN: It is in Hon Jim Scott's colleague's second reading speech. Why did she put it there if they are a pack of idiots? "Except for the harm associated with smoking", that is something which appears to have been ignored. It is interesting the quote continues "the adverse effects of marijuana use are within the range tolerated for other medications." I wonder what those other medications are. Do members agree that there are adverse effects?

Hon Ljiljanna Ravlich: Speak to Mr President; everybody else does. Don't try to entertain us; you are not very good at it.

Hon RAY HALLIGAN: There is an acceptance that there is harm in smoking, that has been acknowledged. It has also been acknowledged that there are adverse effects of marijuana use, whether they be in the range tolerated or not.

Hon Ken Travers: There can be adverse effects from taking too much Panadol.

Hon RAY HALLIGAN: That is very true and that is why I asked the question. What are those "other medications"? What are we comparing marijuana with? That is all I am asking. If members opposite want to put up an argument that all that is being said on this side of the House is incorrect, they need to put forward something which is acceptable.

Unfortunately, Hon Kim Chance is on urgent parliamentary business elsewhere but he needs to be admired for his approach to this sort of thing. I have always found the member to be very clinical, deliberate and concise in his approach to these issues.

Debate adjourned, pursuant to standing orders.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL 2000

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon M.J. Criddle (Minister for Transport), read a first time.

Second Reading

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [5.01 pm]: I move -

That the Bill be now read a second time.

The purpose of this legislation is to ensure that injured workers are not precluded from making an election where a question regarding the degree of disability, properly referred, has not been agreed or determined before the termination day. The purpose of the changes is to remove an unintended anomaly which may arise due to the current time frames for the processing of a question regarding the degree of disability referred to the director by the worker pursuant to section 93D(6), read in conjunction with section 93E(6). These time frames mean that, despite the worker's best efforts, his ability to elect may be jeopardised due to the fact that a question regarding the degree of disability, properly referred, has not been agreed or determined until after the termination day.

The changes provide that even if there is a delay in the processing of a question referred under section 93D(6), the worker will always have seven days, after the question is agreed or determined, in which to make an election. This will occur even though the resolution of the question may occur after the termination day. In this context "determined" includes both a dispute arising under section 93D(8) or the determination of such a dispute. "Agreed" includes instances where the question of the degree of disability has been agreed by the employer or a deemed agreement under section 93D(12). I commend the Bill to the House.

Debate adjourned, on motion by Hon G.T. Giffard.

RAIL FREIGHT SYSTEM BILL 1999

Assembly's Message

Message from the Assembly received and read acquainting the Council that the requested amendments to the Bill had been ruled out of order as the request was contrary to section 46 of the Constitution Acts Amendment Act 1899.

ADJOURNMENT OF THE HOUSE

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [5.04 pm]: I move -

That the House do now adjourn.

Flood Relief - Adjournment Debate

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [5.05 pm]: The people of the Gascoyne are suffering as a result of the floodwaters that have been raging through that region. I refer in particular to the people of Carnarvon who live outside the levee bank. I have previously pointed out in this place that many of the property owners in the flood-prone areas are operating plantations and businesses and have their homes on those properties. These properties have suffered extensive damage, including major soil loss. Many families have been in contact with the Opposition describing the circumstances in which they now find themselves.

One family's property is still without electricity and sewerage. They have been forced to move out of their home and rent privately. They cannot live in their own house, on which mortgage commitments must be honoured. Nor can they work on the land that has been stripped and denuded of topsoil. The road to their property is out, and the only access is through a Main Roads depot in a four-wheel drive vehicle. The family has contacted the council and government representatives

about the need for sewerage and power to be restored, only to be told that no work is likely to take place because the property has been designated as one that may be bought out by the Government. The local member of Parliament for that area, Mr Rod Sweetman, the member for Ningaloo, has told this family the Government has set aside $2m to purchase approximately eight properties now deemed to be in flood prone areas. Other growers have told of Mr Sweetman asking them if they would consider selling their properties. While I was in Carnarvon a number of people told me of telephone calls made to them on this matter. They have been told by Mr Sweetman that up to 15 properties are likely to be affected by a property acquisition program. Despite the opportunity for the Government to provide some information on its proposals for that community, no details have been forthcoming. It has not indicated whether it intends to establish a property acquisition program, what funds it will have, or what properties will be in the designated acquisition area.

Members will well and truly understand that these people want to get their lives back together and if the Government intends to buy them out, they want to know now. Otherwise, they will need to fix their current problems, replant and try to make their properties viable again. Regrettably, government members have gone to Carnarvon, made a number of promises, and continue to make promises to the local community through the local member of Parliament, who apparently is a member of the recovery committee and the topsoil committee, is directly involved in the aid programs available to that community on behalf of the Government and apparently is involved in the day-to-day decision making. However, nothing has been forthcoming in the House from a minister of the Crown indicating whether funds will be available for the purchase of these properties. We know the Premier visited the area soon after the flooding occurred and said on camera that these people would be given topsoil. Of course, we also know that the soil has not yet been forthcoming for the reasons explained to the House. Growers on North River Road have only one truck available to assist with their efforts, and at that rate it will take many months to do the work required. These people urgently need to plant crops and to know they can meet their financial commitments.

The Government has been quick off the mark with media management, but it has not put anything substantive in place to meet the needs of this community. It has not provided the promised soil; people have no idea whether they will be bought out; people do not know whether they meet the guidelines to qualify for the meagre assistance available; and they have no indication of whether the $15 000 made available previously to towns such as Onslow, Exmouth and Moora, will be available to them. The rains kept coming and the river kept rising. It reached another flood level at midday yesterday, although not as high as previously. There is a need for the Government to give the plantation growers in Carnarvon, who have already lost hundreds of thousands of dollars worth of crops and soil, some clear indication of what will be done to respond to their needs. That is not to mention the business people and the residents who have no claim on government assistance.

One specific case was brought to my attention which is an alarming situation. It relates to a property immediately behind the property of Mr Sweetman, the local member of Parliament. The property is in Boor Street and the owner has a registered business producing mangoes. According to the owner, Mr Sweetman came to the property and started to use soil from it to build a levee around Mr Sweetman's property on the night of the flood, and constructed a levee effectively around Mr Sweetman's property.

Hon Greg Smith: As part of the whole levee construction.

Hon TOM STEPHENS: Yes. He came onto the adjacent property and picked up soil from it, and he then put it around that little kink in the levee bank to get it around Mr Sweetman's block -

Hon Greg Smith: It followed the contours of the ground.

Hon TOM STEPHENS: It was a most unusual contour that did a dogleg at that point to get around Mr Sweetman's block and then conveniently went back and followed the boundary road alignment.

Mr Askevold apparently said that he could have one load, and he thought that would be done by using one machine, but instead two machines were used, more soil was put onto the levee, and the levee was made much bigger. The damage that was done to Mr Askevold's property was noticeable as the levee increased in size, and the bigger the levee got, the more water came into his home. He has no sewerage and no power, and he has been told they will not recommend that those services be restored because they may buy his property back. We can understand the alarm. Picture the situation that this member of the community is in: The local member of Parliament is on the recovery committee and is involved in handing out the funds to those people affected.

Hon M.J. Criddle: You had better be very careful in what you say.

Hon TOM STEPHENS: I have received representation. We all know that Mr Sweetman is on the recovery committee and has been involved in the topsoil recovery program. Mr Sweetman is the person who is ringing people and talking about property acquisition programs.

Hon Simon O'Brien: It is because he is an involved local member.

Hon TOM STEPHENS: He is not a government minister. He is an affected property owner who on the night that the levee was under threat was involved in constructing a levee around his property that appears to have had an adverse and damaging impact on his neighbour.

Hon M.J. Criddle: You should make that accusation outside the House.

Hon TOM STEPHENS: In those circumstances, it is entirely inappropriate for the Government to then give that member

of Parliament, whose property was saved by those actions, the responsibility for allocating taxpayers' funds and taxpayers' efforts to restore, selectively, the properties of others.

Hon M.J. Criddle: Will you make those claims out there in public?

Hon TOM STEPHENS: We have an aggrieved neighbour who quite rightly comes to the Parliament and says that the situation is ridiculous, because he has been adversely affected by the actions of the local member of Parliament, and the local member of Parliament has told him that he cannot get any work done on his property because it may be acquired, yet no action is forthcoming as to whether his property will or will not be acquired. It is wrong for Mr Sweetman as a member of Parliament to be put in a position by this Government where he chairs the topsoil committee and is involved in the recovery committee, and to then place his neighbour, who has been adversely affected by his actions, in the hands of Mr Sweetman, who will decide whether he will be able to access those funds.

I say to the Government, as I was trying to say to it before: It has politicised this process by the way it has gone about it. It has left people with grief, and it has not left people in a situation where they can get access to those resources that they need to get on with their lives after this disaster.

Tactical Response Group - Adjournment Debate

HON LJILJANNA RAVLICH (East Metropolitan) [5.13 pm]: I wish to bring to the attention of the House my concern about an inquiry that took place a few weeks ago into the attack on journalists by members of the tactical response group. This case goes back to 25 February, when the Prime Minister opened the new Chamber of Commerce and Industry of Western Australia building in Perth and there was a quiet demonstration by members of the Construction, Forestry, Mining and Energy Union. The police were deployed, and there is some argument about exactly what happened, but clearly the media were the victims of the tactical response group attack. I do not want to go into the details of what happened, but I want to raise a serious issue; namely, the secrecy that surrounds these events when they occur.

On 29 February of this year *The Australian* reported that the Western Australia Police Force had announced it had appointed a senior police officer to investigate a regrettable attack on journalists by riot police during the visit of the Prime Minister; that Superintendent Dick Lane from the professional standards portfolio would complete an investigation by that Friday and release a report; and that the recommendations would be made available the following week.

A very good friend of mine, Kevin Reynolds, phoned the other day. As members will know, he is the Secretary of the Construction, Forestry, Mining and Energy Union. He asked whatever had happened to the report as a result of the investigation that was carried out by Superintendent Dick Lane and did I know the outcome. I was pretty interested to find out whether a report had been tabled, as was indicated to the public, and indeed the outcomes of the recommendations of that report. I was very surprised. I should not have been, because I have had enough dealings with the secrecy of this Government. I should not have wasted my time being surprised but simply worked on the assumption that in no way known would the tactical response group or the Commissioner of Police make any part of that report public. Instead of releasing a comprehensive public report, a press release was issued to all Western Australians, as an excuse for what had happened on that day. A media release on the key findings and supposed recommendations of the report, which was supposed to be released but never saw the light of day, reads -

> The Commissioner said he did not intend to outline exact details of deployment during the police response, for operational reasons. But he said the TRG, who were on stand-by, were called upon because of an assessment that missiles were to be deployed against the Prime Minister and protester numbers had swollen to more than 300.

He is then quoted as saying -

> Clearly one of the key things that went wrong was that when the TRG arrived at the entrance of the building they were not aware that all union protesters had been moved across the road and proceeded to move forward, moving aside all in their path, including members of the media . . .

This presupposes that had union supporters not moved, it would have been okay to employ exactly the same tactics on the union members and their supporters as were used on the members of the Press. For the public record, it would have been just as unacceptable for the TRG to work on the assumption that the union members and their supporters were fair game.

I will leave that aside because I want to touch on the recommendations made by this pathetic report. I cannot believe that a superintendent could not come out with a report with more substance. The first recommendation was that there should be an apology made to aggrieved media representatives. It was not necessary to have a special inquiry for that result; that should have occurred as a matter of course. The second recommendation was that a debrief of the incident should be conducted to examine all aspects of the police response. Once again, it should not be necessary to have such an investigation; surely that too would occur as a matter of course. The third recommendation was that formal advice procedures between specialist and general operations police units concerning notification and management should be reviewed. The fourth recommendation was that standard operational procedures in relation to crowd control and civil disorder incidents should be examined. The fifth recommendation was that protocols for planning and command of major incidents should be revisited. This is a very poor response from the tactical response group for what occurred on that day.

We have been advised that we cannot access the report by making an inquiry to the commissioner, because the commissioner's office will not make the report public. We will not even be able to access the report through the freedom of information laws of this State. According to the Police Commissioner, this report deals with operational matters and,

as a result, cannot be accessed. That is pretty weak. It is stated that the whole report should not be made public because some parts of it may deal with operational matters. This Government for way too long has hidden behind such arguments with matters involving the Police Force, while commercial arrangements involving government agencies generally are hidden behind arguments of commercial confidentiality.

Hon Simon O'Brien: This is not commercial confidentiality.

Hon LJILJANNA RAVLICH: No, it is operational. The police do not disclose publicly material dealing with operational matters. It seems a convenient thing for police to hide behind. The commissioner should make the whole report accessible to the public. Many people still want to know the detail of what went wrong that day. We want to now how many police officers were deployed in the exercise and which unit they were from.

Hon Simon O'Brien: Why do members of the public need to know that?

Hon LJILJANNA RAVLICH: Why should they not know? It was a small gathering of 200 or 300 people, and the police sent out a ratio of about one tactical response group officer for two people at a time when people cannot have crimes against persons or property investigated. That is why this sort of information is very important. We also need to know why some police officers deployed on that day did not display their names or numbers. Confusion arose about who was a member of the tactical response group, who was a member of the media and who was a member of the public. It should be a requirement that all police officers display either their name or number at public rallies or protests.

Finally, mention is made in the report that the one thing which should change is the standard operational procedure for crowd control and civil disorder incidents. Have the events of that day been examined? If so, what were the results of that examination? The Opposition wants to know whether protocols for planning and command of major incidents have been revisited. If they have, what has been the result? The message is that for far too long the Government has hidden behind the statement that these are operational matters. It is fair enough that Western Australians, who are part of the inquiry and directly affected by the nature of the attack on that day, want and deserve better. This episode was an absolute joke. The response is a waste of taxpayers money and a stalling tactic.

Flood Relief - Adjournment Debate

HON GREG SMITH (Mining and Pastoral) [5.23 pm]: Following the speech of Hon Tom Stephens, I speak in defence of the local member, Rod Sweetman, given the criticism levelled at him for being appointed as a member of the topsoil replacement unit. Rod Sweetman's involvement in Carnarvon has been over a long time. He knows the town well. Prior to becoming a member of Parliament, he was an earthmoving contractor in the area.

Hon Tom Stephens: Does he still have an earthmoving business? Do you think he still has an involvement?

Hon GREG SMITH: I am not sure; I think he still has connections. Mr Sweetman was appointed because of his expertise and local knowledge. I have talked to him since the comments on this issue were made by the Leader of the Opposition, and the first matter we discussed was extracts from a letter the Leader of the Opposition quoted in Parliament last week. I asked Rod Sweetman, the member for Ningaloo, whether he was aware who the people were and what was going on. He said to me, "Yes, I know exactly what that letter is about. They are the Dicks. I looked at their property. They received $2 800, and now they want topsoil replacement as well. They are trying to double-dip the system. As far as priorities go, we haven't got time to put topsoil on their place. The $2 800 was to be used for putting on topsoil."

In Carnarvon at the moment the water is still lapping the bridge over the Gascoyne River. It is too wet even to get a truck into a paddock to get topsoil.

Hon Derrick Tomlinson: I believe the water flowed over the Gascoyne River bridge yesterday.

Hon GREG SMITH: Yes, it did. As recently as yesterday, the water was flowing over the Gascoyne River bridge. Any person who knows anything about trucks and carting soil knows that it is logistically impossible to take a truck and equipment to get topsoil and then cart it in while the ground is still wet. That is a fact of life. We would love to be carting in replacement topsoil in that area. However, until the water subsides and the area dries out, it is physically impossible to get topsoil.

The local emergency management group in that area must come up with priorities, and it must look at every case individually. When allocating money or deciding how it will be allocated, one cannot just go in with a big, broad brush and say, "We will provide assistance to people who have had water damage to their houses," because that will allow someone who may not even have been outside the levee bank and who left on the tap and flooded the bathroom to apply for funds. That is why people must be careful when drawing up criteria, because they must be structured in such a way that the people who genuinely deserve assistance receive it, and so that people cannot say, "Hang on a minute. Why didn't I get some?" After cyclone Vance hit Exmouth and Onslow, I found that when money is being given away, one never hears from the people who are happy; one hears from the people who think they did not get enough or from the people who think that someone else got more than they should have or who got more than them. It is a difficult situation for Governments.

The Leader of the Opposition's display last week, following on so closely after a disaster, was appalling. As I said previously, we must be very careful when we are allocating this money. If decisions are made quickly, and we just go whoosh, whoosh, and say we will do this and that, bad decisions will be made. Bad decisions are made in the heat of the moment when emotions are running high and people are devastated.

Properties will be purchased; there will be an acquisition program.

Hon Tom Stephens: Has the Government announced that?

Hon GREG SMITH: I believe it has made it clear that properties will be acquired.

Hon Tom Stephens: It has not made it clear, and that is the problem.

Hon GREG SMITH: I will look into that almost straightaway - in about another five minutes.

Hon Tom Stephens: It is time it was announced.

Hon Simon O'Brien: Hon Greg Smith wants to fix the problem rather than to politicise it.

Hon Tom Stephens: Rubbish. He has politicised it from day one. You have made an art form out of using people's misery.

Hon GREG SMITH: We have not politicised the problem. The Leader of the Opposition is trying to politicise it because we have put someone on the committee who has a big vested interest in doing a good job. No-one has a bigger interest in ensuring that as many people as possible in the community will be happy with the way the recovery takes place than the local member. He has expertise in earthmoving. He knows the area better than the Leader of the Opposition will ever know it. He will deliver assistance on a priority basis to the people who need it most, not to one of the Leader of the Opposition's friends who has missed out on a second bite of the cherry.

Hon Tom Stephens: With his businesses?

Hon GREG SMITH: The Leader of the Opposition said that there is one truck to do this work. Trucks from all over the place will go to Carnarvon when they can get there. When suitable topsoil can be located, a topsoil recovery program will be put in place. However, the people to receive priority will be those who derive their income from their properties. They will probably get the topsoil first so that they can get back into business and start making money again.

It is unfair that Hon Tom Stephens should say that the same sort of assistance provided after cyclone Vance should be provided in Carnarvon. When cyclone Vance went through Exmouth, it flattened buildings and destroyed homes. It completely destroyed the town. The Leader of the Opposition would have seen the town, as I did, not long after the cyclone struck. The whole economic base of the town ground to a halt. The assistance that was provided to Exmouth at that time was aimed at getting the town's economy moving again, because it did not matter whether a person owned the local supermarket or worked in a petrol station, no-one had money. No-one could pay anyone for anything, so the town's economy stopped. That situation has not occurred in Carnarvon. Because of the levee banks, the majority of the properties were saved. Yet the Leader of the Opposition criticises the member for Ningaloo for stopping the water from running over the levee banks by taking some soil from someone's property. That person will get his soil back, and if a property is to be acquired -

Hon Tom Stephens: At whose expense?

Hon GREG SMITH: At taxpayers' expense. What about the taxpayers' expense if the member had not fixed the levee banks and the water had flooded another 50 properties? Would the Leader of the Opposition criticise that member for not taking any action and idly standing by while he watched the floodwaters run over the levee bank near his property and flood the rest of the town? The Leader of the Opposition must be fair. I do not know whether he is desperately grasping at this issue because he has been unable to find anyone who lives in the electorate who wants to run for Ningaloo. When one must go to Wanneroo to find someone to run in Ningaloo, the local member cannot be viewed that badly. If the local member does not do a good job on this, he will pay the ultimate price because the people in his electorate will say that they are not happy with the job he is doing, they will not vote for him and he will be back contracting.

I am disappointed that the Leader of the Opposition can come in here without researching the facts, as happened with his comments about the Dicks family. He received a letter, assumed the information in it was right and that they were justly aggrieved, and then brought it in here and presented it as fact. When we scratch behind the surface - as we must with everything that members of the Opposition do - we find that these people have already received some money but want more.

Hon Tom Stephens: You did not listen to what I said.

Hon GREG SMITH: If the Leader of the Opposition must come into this place every time he gets a letter from someone in Carnarvon who thinks he did not get something, I ask that he research the matter before he acts on it. He could speak with those involved and find out whether the people were to be assisted or whether they had been assisted sufficiently.

Hon Tom Stephens: They needed help.

Hon GREG SMITH: They got financial help to employ someone to fix their property. Before the Leader of the Opposition raises matters that are happening as a result of a disaster while the water is still lapping at the base of the Gascoyne River bridge, and criticises a topsoil replacement program when no-one can get even a wheelbarrow load of topsoil, he should research his facts to see whether what he has been told is correct. Then he can bring the matter in here. If he has genuine problems, government members will deal with them.

Question put and passed.

House adjourned at 5.33 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

728. Hon E.R.J. DERMER to the Attorney General representing the Minister for Planning:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Planning has Ministerial responsibility -

(1) Which agencies have their mission critical systems Year 2000 computer problem compliant?

(2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?

(3) Which agencies have completed inventories of systems and equipment?

(4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?

(5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?

(6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?

(7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?

(8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon PETER FOSS replied:

Please refer to the answer given to question on notice 732 of 14 October 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

729. Hon E.R.J. DERMER to the Attorney General representing the Minister for Heritage:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Heritage has Ministerial responsibility -

(1) Which agencies have their mission critical systems Year 2000 computer problem compliant?

(2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?

(3) Which agencies have completed inventories of systems and equipment?

(4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?

(5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?

(6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?

(7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?

(8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon PETER FOSS replied:

Please refer to the answer given to question on notice 732 of 14 October 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

749. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Housing:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Housing has Ministerial responsibility -

(1) Which agencies have their mission critical systems Year 2000 computer problem compliant?

(2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?

(3) Which agencies have completed inventories of systems and equipment?

(4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?

(5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?

(6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?

(7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?

(8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14 October 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

750. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Water Resources:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Water Resources has Ministerial responsibility -

(1) Which agencies have their mission critical systems Year 2000 computer problem compliant?

(2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?

(3) Which agencies have completed inventories of systems and equipment?

(4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?

(5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?

(6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?

(7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?

(8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14 October 1999.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

760. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Aboriginal Affairs:

I refer to the Auditor General's December 1998 report on Audit Results 1997/98 as that report relates to the preparedness of Government agencies to address the Year 2000 computer problem. Of the Government agencies for which the Minister for Aboriginal Affairs has Ministerial responsibility -

(1) Which agencies have their mission critical systems Year 2000 computer problem compliant?

(2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?

(3) Which agencies have completed inventories of systems and equipment?

(4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?

(5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?

(6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?

(7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?

(8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14 October 1999.

DE GOIS, MR CHRISTOPHER ANDREW, DEATH IN CUSTODY

1302. Hon MARK NEVILL to the Attorney General:

In respect of the death in custody of Christopher Andrew De Gois on November 25 1997 -

(1) When was the notice of appearance to attend Armadale Court received at Casuarina Prison?

(2) When was Christopher De Gois informed of the notice of appearance?

(3) Why did prison authorities withhold the notice of appearance of Christopher De Gois to attend the Armadale Court of November 25 1997?

(4) What time was available to Mr De Gois to contact his solicitor and family to get his evidence and prepare his case?

Hon PETER FOSS replied:

(1) 20 November 1997.

(2) 24 November 1997.

(3) At the time of Mr De Gois' death it was standard practice to notify prisoners on the night before, and morning of, a court attendance of that attendance.

(4) Mr De Gois was attending court relating to his own application to vary a Restraining Order on him. Therefore Mr De Gois would have been aware that he would be attending court on this matter at some future date. Mr De Gois had the opportunity to contact his legal representative or family members as soon as he was notified on the evening of 24 November 1997 or on the morning of 25 November 1997.

DE GOIS, MR CHRISTOPHER ANDREW, DEATH IN CUSTODY

1304. Hon MARK NEVILL to the Attorney General:

In respect of the death in custody of Christopher Andrew De Gois on November 25 1997 -

(1) Did Magistrate McIntyre follow the proper judicial procedure in dealing with Mr Christopher De Gois and Ms Brolly?

(2) Why did Magistrate McIntyre proceed with the cases when both parties were not aware of the case and were not served proper notice?

(3) Has there been any other breaches of judicial process in the Armadale Court since Magistrate McIntyre took up that position?

(4) If so, what are the breaches of judicial process?

Hon PETER FOSS replied:

(1)-(4) Magistrates have an independent discretion to deal with matters as they see fit. Their decisions are not subject to supervision by Government. Parties to actions are at liberty to appeal to a higher court if they are not satisfied with decisions made by magistrates.

WATER CORPORATION, PROPERTY SALES

1317. Hon CHRISTINE SHARP to the Minister for Transport representing the Minister for Water Resources:

In May 1998, the Water Corporation held a Property Disposal Auction of 35 freehold properties. The Auctioneer was Jeff Braddock and the real estate company was Colliers Jardine.

(1) Were all the blocks sold?

(2) When were the freehold titles of these residential blocks issued?

(3) What was their status prior to freehold title?

(4) How much land has the Water Corporation sold since 1993?

(5) Did this sale of lands include catchment land, pristine bushland, public open space etc?

(6) How much land has been identified by the Water Corporation as surplus to their requirements and will be sold as part of their Property Disposal Program?

Hon M.J. CRIDDLE replied:

The Minister for Water Resources has provided the following response:

(1) No.

(2) Lot 1008 Flanagan Rd, Applecross – 6/11/58.
Lot 255 Tijuana Rd, Armadale – 4/1/84.
Lots 39 & 41 Fourth Ave, Bassendean – 13/4/22.
Lot 44 Third Ave, Bassendean – 13/4/22.
Lot 1 Third Ave, Bassendean – 12/6/73.
Lot 2 Fourth Ave, Bassendean – 26/7/74.
Lot 101 Coolgardie St, Bentley – 3/8/49.
Lot 377 Bishopsgate St, Carlisle – 12/3/58.
Lot 378 Bishopsgate St, Carlisle – 26/9/57.
Lot 175 Raleigh St, Carlisle – 9/5/97.
Lot 125 Gerard St, East Cannington – 9/7/48.
Lot 82 Clarke St, East Cannington – 1898.
Lot 10 Allen Rd, Forrestdale – 4/5/78.
Pt lot 78 Armadale Rd, Forrestdale – 15/11/62.
Lot 543 Tillia Court, Forrestfield – 22/11/96.
Lots 45 & 46 Meadow St, Guildford – 13/5/51.
Lot 4 Clarke St, Hilton – 1/8/56.
Pt lot 23 Nangana Way, Kalamunda – 9/7/96.
Lot 121 Shelshaw St, Melville – 13/12/54.
Lot 181 Toulon Gdns, Port Kennedy – 2/9/92.
Pt lot 262 & Pt lot 263 Central Ave, Redcliffe – 22/5/69.
Pt lot 32 Brookton Hwy, Roleystone – 20/1/94 & 9/10/22.
Lot 3 Croyden Rd, Roleystone – 16/5/72.
Lot 7 The Esplanade, Scarborough – 26/4/35.
Lot 4186 Wright Ave, Swanbourne – 26/11/65.
Lot 148 Kentia Close, Warnbro – 6/2/91.
Lot 501 Kewdale/Welshpool Rds, Welshpool – 10/5/89.
Lot 233 Hooson Way, Wilson – 9/11/82.
Lot 130 Shakespeare Ave, Yokine – 23/12/64.
Lot 10 Wordsworth Ave, Yokine – 12/5/31.
Lot 11 Wordsworth Ave, Yokine – 12/5/31.
Lot 81 Virgil Ave, Yokine – 31/5/56.

(3) Crown land.

(4) Approximately 99 hectares.

(5) No.

(6) As part of the Water Corporation's normal business it continually identifies properties surplus to the requirements and progressively disposes of them.

GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

1394. Hon LJILJANNA RAVLICH to the Minister for Justice:

In an effort to reduce leave liability, Circular to Ministers No 5/98 required all agencies to reduce their leave liability by 10 percent by no later than June 30 1999.

(1) Can the Minister advise whether each department and agency within his portfolio responsibilities has been able to meet this reduction in leave liability?

(2) If not, why not?

Hon PETER FOSS replied:

(1) No.

(2) The Ministry of Justice has implemented a number of strategies and new policies to reduce leave liability. This has seen a reduction in the amount of leave time owing over the past year.

TITELIUS, MR RICHARD, LEGAL COSTS

1399. Hon N.D. GRIFFITHS to the Minister for Justice:

(1) What sum was paid to the solicitors for Mr Richard Titelius by the State towards Mr Titelius's cost in the proceedings Titelius v Public Service Appeal Board and Others (1999) WASCA19?

(2) What were the costs of or the value of the legal work undertaken on behalf of State agencies with respect to this case?

(3) What has Mr Titelius been paid with respect to his period of suspension and any other period off work as a result of the actions of the Ministry with respect to Mr Titelius, for example, stress leave?

(4) Is it the case that the Ministry of Justice's action towards Mr Titelius are being investigated by the Commissioner for Public Sector Standards?

Hon PETER FOSS replied:

(1) $14,000.

(2) $17,862.

(3) Mr Titelius was paid his normal rate of pay of $1118.45 per fortnight during his suspension. Absences from work not related to his suspension were taken as approved sick leave and Workers' Compensation - Rehabilitation payments at his normal rate of pay.

(4) Yes.

WITTENOOM BORE FIELD, RELOCATION

1400. Hon TOM HELM to the Minister for Transport representing the Minister for Water Resources:

(1) Can the Minister for Water Resources advise why he had the Wittenoom bore field moved to the town area, given that the Corporation does not believe that Wittenoom is a safe place to work?

(2) Is the Minister sure that the new location will give continuity of supply?

(3) Will the Minister supply evidence that negotiations have been carried out for over two years with the residents of Wittenoom, and will he explain when the outstanding issues at Wittenoom will be resolved?

(4) Will the Minister explain where Wittenoom Residents Limited will find the funds from, and how that proposal fits into the State Government policy in regard to Wittenoom?

(5) When will the Minister respond to the concerns raised to the Shire of Ashburton and others?

(6) In the absence of a contract transferring responsibility for operations and maintenance of the scheme, or documentation of transfer/acceptance of Wittenoom Town Water Supply Scheme Utilities, with whom does legal responsibility for the Town Water Scheme lie?

(7) Can legal transfer result from discussion only, between representatives of Water Corporation and Wittenoom Residents Limited?

(8) In the absence of a contract to that effect, are Wittenoom Residents Limited custodians of the Scheme?

(9) Have they any legal rights/obligation to operate/maintain, or for management of the Wittenoom Town Water Supply Scheme?

(10) With regards to Wittenoom Town Water Supply Service, where does responsibility lie for administration of the *Health Act 1911*?

(11) Has the Water Corporation or Wittenoom Residents Limited been granted exemption of compliance with the *Health Act 1911*, in relation to the service?

(12) Is the Minister aware that there is no residual indication (residue levels) that water treatment is being carried out, and no water sampling/analysis has been done by Wittenoom Residents Limited over the past eight months?

(13) Is the Scheme set up in such a way that water quality samples cannot be taken as required, from each bore?

Hon M.J. CRIDDLE replied:

The Minister for Water Resources has provided the following response:

(1) The old borefield was remote from the town, over capacity for current demands, and the connecting main and power line were a maintenance liability. Finding adequate water supplies adjacent to the town simplified operations, particularly as the intention was for the scheme to be operated and maintained by residents.

(2) The bores were drilled and test pumped to Water Corporation standards. The test pumping indicated that each bore has more than adequate capacity to meet the needs of the existing residents.

(3) The evidence of negotiations with the residents of Wittenoom is on file with the Water Corporation. If the Member advises what he considers are the outstanding issues that need to be resolved, the Minister for Water Resources will endeavour to provide him with an answer.

(4) Funding is a matter for Wittenoom Residents Limited (WRL). However, the Corporation is prepared to make a once off payment to establish an operating fund, and has an expectation that WRL would charge members for the service that they still receive in much the same way as the Corporation had previously charged for the service. This is in accordance with the State Government policy on Wittenoom.

(5) Has been done.

(6) There is no Town Water Scheme relevant to Wittenoom. There are certain installations in Wittenoom that the residents can utilise if they wish. The Water Corporation does not operate these installations. If the residents wish to ensure their legal title in the installations, the Water Corporation has consistently indicated that it is prepared to enter into a formal transfer of the installations for a nominal sum, together with a lease of the land on which the installations are situated.

(7) If the residents do not wish to use the installations, the Water Corporation will remove the installations if requested.

(10) The Health Department and the local government.

(11) The Water Corporation is not the water services provider in Wittenoom and therefore requires no such exemption. WRL has not applied for such an exemption.

(12) WRL have a chlorine residual testing kit and the Corporation understands that the kit is being used. The Corporation is aware that microbiological sampling has not been performed.

(13) No. The microbiological sampling points are set up as they were when the Water Corporation was the water service provider.

WESFARMERS, BASSENDEAN, CHEMICAL SPILL

1512. Hon J.A. SCOTT to the Minister for Transport representing the Minister for Water Resources:

I refer the Minister for Water Resources to the chemical spill that occurred at the Wesfarmers depot in Bassendean on or around June 8 1999 -

(1) How much pesticide entered the Swan River and what impact did it have on the ecology of the river?

(2) What monitoring has taken place to identify any possible ecological damage to the river ecosystem?

Hon M.J. CRIDDLE replied:

(1) Water samples taken from the Swan River did not indicate that Trifluralin spilt at the Wesfarmers depot, had reached the river.

(2) In view of the sampling results, no subsequent monitoring of the river was necessary.

HOUSING, YEAR 2000 CALENDARS

1522. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Housing:

(1) How many Ministry of Housing Year 2000 calendars were printed?

(2) Who received the calendars?

(3) What was the total cost of producing the calendars?

(4) How were the calendars distributed?

(5) What was the total cost of distributing the calendars?

(6) What was the purpose of the calendars?

(7) Have similar calendars been produced in previous years?

Hon M.J. CRIDDLE replied:

(1) 36,000.

(2) Tenants and applicants of Homeswest and customers of Country Housing Authority.

(3) $42,027.00.

(4) By staff of the Ministry of Housing.

(5) Nil.

(6) To provide useful information to customers and improve customer service.

(7) Yes, in 1999.

WATER CORPORATION, WHEATBELT PROJECTS

1543. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Water Resources:

(1) Did the following Water Corporation projects commence in the Wheatbelt in 1998/99 -

(a) the infill sewerage program at Toodyay;
(b) the infill sewerage program at Quairading;
(c) the new chlorination facility at Cunderdin;
(d) the Northam Wastewater Treatment Plant; and
(e) pipeline extension from Lake Grace to Newdegate?

(2) If yes -

(a) when did work commence on this project;
(b) what is the estimated cost of the project;
(c) who is carrying out the work on behalf of the Water Corporation;
(d) when is the estimated date of completion; and
(e) if the project is completed, when was it finished and what was the actual final cost?

(3) If no to (1) above-

(a) when will this work commence?
(b) when is the estimated date of completion; and
(c) what is the estimated cost of the project?

Hon M.J. CRIDDLE replied:

The Minister for Water Resources has provided the following response:

(1) (a)-(d) Yes.
(e) No.

(2) (1a) Toodyay Infill Sewerage Stage 1A
(a) 1999.
(b) $5.81 million.
(c) G & B Drainage.
(d) June 2000.
(e) Not applicable.

(2) (1b) Quairading Infill Sewerage Stage 1A & 1B
(a) Feb 1999.
(b) $3.07 million.
(c) Correct Line Drainage.
(d) Completed.
(e) October 1999 $2.25 million.

(2) (1c) New Chlorination facility at Cunderdin.
(a) May 1999.
(b) $1.13 million.
(c) Central Workshops Water Corporation (Main Contractor).
(d) Completed.
(e) February 2000 $1.30 million.

(2) (1d) Northam Wastewater Treatment Plant.
(a) April 2000.
(b) $0.17 million.
(c) Lyons & Pierce Perth (Main Contractor).
(d) June 2000.
(e) Not applicable.

(2) (1e) Not applicable.

(3) (1e) Pipeline extension from Lake Grace to Newdegate.
(a) Commenced - December 1997.
(b) Completed - December 1998.
(c) Cost - $3.1 million.

WATER AND RIVERS COMMISSION, PEEL REGION PROJECTS

1547. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Water Resources:

(1) Did the following Water and Rivers Commission projects commence in the Peel region in 1998/99 -

(a) commencement of a catchment audit for nutrient loads;

(b) estuary weed harvesting; and

(c) an environmental assessment of ecosystem health and water management at Lake Clifton?

(2) If yes -

(a) when did work commence on this project;

(b) what is the estimated cost of the project;

(c) who is carrying out the work on behalf of the Water and Rivers Commission;

(d) when is the estimated date of completion; and

(e) if the project is completed, when was it finished and what was the actual final cost?

(3) If no to (1) above -

(a) when will this work commence;

(b) when is the estimated date of completion; and

(c) what is the estimated cost of the project?

Hon M.J. CRIDDLE replied:

(1) (a)-(c) No.

(2) Not applicable.

(3) For the catchment audit for nutrient loads project:
(a) Project commenced before 1998/99 by the Environmental Protection Authority.
(b) Project is ongoing.
(c) Estimated cost in 1998/99 was $30,000.00.

For the estuary weed harvesting project:
(a) Project commenced in 1982 by the Waterways Commission.
(b) Project is ongoing.
(c) Estimated cost in 1998/99 was $102,700.00.

For the environmental assessment of the ecosystem health and water management at Lake Clifton: There is no current proposal to carry out an environmental assessment of ecosystem health and water management at Lake Clifton because of higher priorities for allocation of resources. This situation will be reviewed annually.

WATER AND RIVERS COMMISSION, KIMBERLEY PROJECTS

1548. Hon KEN TRAVERS to the Minister for Transport representing the Minister for Water Resources:

(1) Did the following Water and Rivers Commission projects commence in the Kimberley region in 1998/99 -

(a) development of a regional water allocation plan;

(b) definition of the environmental water requirements for the Ord River; and

(c) upgrade of the Fitzroy River flood forecasting network to minimise potential flood damage?

(2) If yes -

(a) when did work commence on this project;

(b) what is the estimated cost of the project;

(c) who is carrying out the work on behalf of the Water and Rivers Commission;

(d) when is the estimated date of completion; and

(e) if the project is completed, when was it finished and what was the actual final cost?

(3) If no to (1) above -

(a) when will this work commence;

(b) when is the estimated date of completion; and

(c) what is the estimated cost of the project?

Hon M.J. CRIDDLE replied:

(1) (a)-(b) Yes.
(c) No.

(2) Relating to (1)(a)
(a) November 1998.
(b) $200,000.00.
(c) Water and Rivers Commission and Dr Joanne Beckwith as a specialist public consultant contractor.
(d)-(e) December 2001.

Relating to (1)(b)
(a) Preliminary work commenced in July 1998.
(b) $460,000.00 including contributions from the Commonwealth.
(c) Water and Rivers Commission and specialist consultants, primarily Dr Peter Davies, Andrew Storey and Dr Ray Froend.
(d)-(e) June 2002.

(3) Relating to (1)(c)
(a) Work commenced in 1995.
(b) Work completed in 1998.
(c) $270,000.00 ($115,000.00 Water and Rivers Commission, $115,000.00 National Heritage Trust and $40,000.00 Bureau of Meteorology).

QUESTIONS WITHOUT NOTICE

DRABBLE, MR ROSS, EMPLOYMENT

922. Hon TOM STEPHENS to the Minister for Transport:

(1) Is Ross Drabble still employed by the Government?

(2) If so, in what capacity is he currently employed, and is he still on the same salary package as he had as Commissioner of Main Roads?

(3) If not, will the minister advise us of the approximate payout Mr Drabble received?

Hon M.J. CRIDDLE replied:

(1)-(3) The member will find that Ross Drabble is employed by the Ministry of the Premier and Cabinet and not the Department of Transport, so I have no knowledge of the exact figures.

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Will Hon Ljiljanna Ravlich stop interjecting so that we can get on with question time.

SHIRE OF CARNARVON, FLOOD DAMAGE ASSISTANCE

923. Hon TOM STEPHENS to the Minister for Transport:

Following the flood damage to roads in the Gascoyne region in the aftermath of the flooding from cyclone Steve and subsequent flooding -

(1) What assistance will the State Government be providing to the Shire of Carnarvon to assist with the much-needed, urgent repairs to the roads and floodways specifically?

(2) In addition to that assistance, is the bridge crossing the Gascoyne River north of Carnarvon now fully serviceable and open for all traffic loads?

(3) If not, why not, and will any required work be completed to return it to full operation immediately?

Hon M.J. CRIDDLE replied:

(1)-(3) I was told yesterday that the bridge at Carnarvon was closed again. I am not aware of the situation a this moment. Floodwaters are rising and falling in that area. I am well aware of that because my property just south of there has received substantial rain in the past 10 days. The rise and fall of floodwaters cannot be anticipated. To accurately answer the question on floodwater would therefore be difficult to do. The structure of the bridge is being monitored all the time. With so much water around it, to give an accurate assessment of the structure of the bridge is also difficult. Trucks were certainly being monitored as they were going over the bridge. That will still be done. As I say, to get a complete understanding of the structure of the bridge is very difficult with so much floodwater. That is the case right across the State. The condition of the roads in the Gascoyne area is similar to that in a lot of areas. The State Government gives 100 per cent of the opening-up costs of roads. There is a 2:1 arrangement for the overall costs of repairing local roads. The Government looks after the main roads and highways with funding through Main Roads. However, if a natural disaster is declared, and I understand that is the case here, 75 per cent of the funding is covered through the Fire and Emergency Services Department. Initially that funding is through Main Roads. We must then find out the exact figure before we get the 75 per cent funding arrangement.

PROSTITUTION BILL 1999, CONSULTATIONS

924. Hon N.D. GRIFFITHS to the Attorney General:

(1) Was the Attorney General involved in the development of the Prostitution Bill 1999?

(2) What consultation did he engage in with the Law Society, the Bar Association and the Criminal Law Association in respect of the effect of the Bill?

Hon PETER FOSS replied:

Although involved and consulted, I was not the minister in charge of the Bill. Therefore, if the member wants to know what consultation took place, he needs to address the question to the minister who was in charge of the Bill.

COMPRESSED NATURAL GAS STATIONS, FUNDING

925. Hon J.A. SCOTT to the Minister for Transport:

(1) Has Jim Fitzgerald or any other officer of the Department of Transport met with any officers from the Australian Greenhouse Office to discuss federal funding for compressed natural gas stations in Perth?

(2) Did the department refuse funding for the establishment of compressed natural gas refuelling stations?

(3) If so -

(a) why;

(b) does the minister support this decision; and

(c) was the Department of Environmental Protection consulted on this matter?

Hon M.J. CRIDDLE replied:

(1) Officers of the Department of Transport have been in contact with the Australian Greenhouse Office with a view to obtaining federal funding for additional gas buses. We are also looking at it for other sorts of buses. One of the disappointing features about some of the legislation that was passed was that it was specific to gas buses. It would have been better to look at all forms of fuelling of buses and their advantage to the environment. I expressed that opinion at the last ministerial conference of transport ministers.

(2) No.

(3) Not applicable.

MOTOR VEHICLES, POWERS TO SEARCH

926. Hon NORM KELLY to the Attorney General representing the Minister for Police:

Further to the minister's response to question without notice No 878 asked on 23 March in which he confirmed the Police Force's intention to use the powers contained in section 66 of the Road Traffic Act to police street prostitution -

(1) Does the minister consider the use of drink driving legislation to police street prostitution as an abuse of police powers?

(2) If not, what guarantees can be given that police powers contained in the Prostitution Bill 1999, if enacted, would not be used for purposes beyond those specified in the legislation?

Hon PETER FOSS replied:

I suggest the member go back and read the answer I gave, because I believe the question he has directed misrepresents what I said. I was very clear in saying for what the powers were to be used. I do not believe I used the word "prostitution".

ALBANY HIGHWAY, PASSING LANES

927. Hon MURRAY MONTGOMERY to the Minister for Transport:

How many more passing lanes will be constructed on Albany Highway between Williams and Albany?

Hon M.J. CRIDDLE replied:

There are currently a total of seven passing lanes on Albany Highway between Williams and Albany. It is proposed that the number will be increased to 16. The means by which we will do that is two passing lanes which are under construction south of Kojonup and a further two just north of Albany at Millbrook. All four are expected to be completed by May 2000 at a cost of $2.4m. Four more passing lanes, two north of Kojonup and two north of Mt Barker, are programmed for construction in 2003-04 at a cost of $2.1m. An additional passing lane at Yerriminup Road to the south of Mt Barker is also being considered. It is proposed to construct one passing lane south of Williams in 2000-01 subject to funding availability. Consideration is also being given to the need for a further two passing lanes on the section of highway between Williams and Beaufort River. If members travel on the Albany Highway, they will be aware of the enormous amount of work that is being undertaken there and they will also be aware of the need for those passing lanes on that highway.

GRAHAM FARMER FREEWAY, LAND COSTS

928. Hon KIM CHANCE to the Minister for Transport:

(1) How much has been spent in purchasing land for the Graham Farmer Freeway since 1963?

(2) Is Main Roads WA able to cost these purchases in current dollar values and, if so, will the minister table these costs; and, if not, why not?

(3) How much land has been purchased?

(4) How much land is proposed to be sold?

(5) What is the expected return to the Government from the land sales?

Hon M.J. CRIDDLE replied:

(1)-(2) Land for the Graham Farmer Freeway obtained since 1963 was purchased jointly by the Western Australian Planning Commission and Main Roads. The total amount since that date is not readily available. Main Roads has spent approximately $60m since 1995 on compensation to landowners and the cost of negotiations.

(3) Information on the area of land is not readily available. However, all land required for the Graham Farmer Freeway located between Great Eastern Highway and the Hamilton interchange has been obtained.

(4)-(5) Main Roads' practice is to dispose of all surplus land. This includes land located above the tunnel. The exact amount is yet to be determined. The sale of land in Northbridge is being undertaken by the East Perth Redevelopment Authority as part of the Northbridge urban renewal. Main Roads will be reimbursed in accordance with the valuations undertaken by the Valuer General.

SCHOOLS, STUDENT POPULATIONS

929. Hon J.A. COWDELL to the Parliamentary Secretary to the Minister for Education:

Will the parliamentary secretary table the student populations and number of teachers employed at each of the following schools for the years 1999 and 2000 - Clarkson Community High School; Clarkson, Kinross, Marangaroo, Landsdale, Merriwa, Mindarie, Neerabup, Quinns Rock, and Wanneroo Primary Schools; Wanneroo Junior Primary School; and Clarkson, Wanneroo, and Yanchep High Schools?

Hon BARRY HOUSE replied:

I thank the member for the question. I am pleased, and seek leave, to table the figures.

Leave granted. [See paper No 836.]

WOMEN AND CHILDREN REMANDED IN CUSTODY, BUNBURY

930. Hon BOB THOMAS to the Minister for Justice:

Some notice of this question has been given.

(1) Will the minister table the number of women and juveniles remanded in custody by the Bunbury Magistrate's Court, and as a result transferred to detention centres in Perth in the years 1996-97, 1997-98 and 1998-99?

(2) Will the minister table the number of staff, the number of staff hours, and the costs, including staff costs and other costs involved in administration of the transfers; and if not, why not?

Hon PETER FOSS replied:

(1) 1996-97, six juveniles and six women; 1997-98, six juveniles and five women; and 1998-99, six juveniles and four women.

(2) All escorts for unsentenced persons from Bunbury to Perth are undertaken by the Western Australia Police Service. Therefore, the honourable member should seek the information from the Minister for Police.

FEDERAL AWARDS, ENTITLEMENTS AND PROTECTION AGREEMENT

931. Hon G.T. GIFFARD to the Attorney General representing the Minister for Labour Relations:

I refer to the agreement between the Department of Productivity and Labour Relations and the federal Department of Employment, Workplace Relations and Small Business, which includes the entitlements and protections of workers covered by federal awards.

(1) Does the agreement oblige DOPLAR to investigate all alleged breaches of federal awards?

(2) Does the agreement oblige DOPLAR to pursue rectification of all award breaches it investigates in line with the federal processes?

(3) Does the agreement give preference to pursuing award breaches through small claims procedures as opposed to Industrial Magistrate's Court procedures?

(4) Will the minister table the agreement?

Hon PETER FOSS replied:

(1) Yes. It applies to all alleged breaches occurring in Western Australia.

(2) Yes.

(3) No. The small claims process adopted by the federal Department of Employment, Workplace Relations and Small Business is conducted through the Industrial Magistrate's Court in accordance with court procedures.

(4) The minister has been advised by the federal department that the agreement not be tabled as it is a commercial-in-confidence document -

Hon Ljiljanna Ravlich: You would have to be kidding!

The PRESIDENT: Order! If members do not want to hear the answer, just sit down and do not bother to answer it.

POKER MACHINES, GOVERNMENT'S POSITION

932. Hon MURIEL PATTERSON to the minister representing the Minister for Racing and Gaming:

(1) Is the minister aware that under the New South Wales Labor Government the number of poker machines in that State has risen 76 per cent to 110 000 machines, or 10 per cent of the world's total, since that Government was elected in 1995?

(2) Is the minister aware of the high social cost on the community from these machines?

(3) What is the Government's position on the introduction of poker machines in Western Australia?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(3) The minister's reply is as follows: I am aware that the Productivity Commission's inquiry on Australia's gambling industry has reported that New South Wales has approximately 100 000 gambling machines. However, the New South Wales Labor Government's policy of expanding gaming machines into hotels and allowing privatised TABs to own and supply gaming machines into hotels has meant that the number of gaming machines in New South Wales could increase to 110 000 machines. The Minister for Racing and Gaming is acutely aware of the high social cost of gaming machines in the community.

FUEL SUPPLIES, CYCLONE STEVE

933. Hon TOM STEPHENS to the minister representing the Minister for Energy:

I refer to the statement by Western Power last week that due to flooding after cyclone Steve, it is having to explore other ways of getting fuel to Marble Bar power station, and today the Shire of East Pilbara has loaned it supplies.

(1) What has been the increased cost, if any, of obtaining the supplies from the shire over the usual supply by fuel truck?

(2) Is Western Power considering other sources of supply if the road remains closed; and, if so, what?

(3) How many gas carrying trucks will be required to travel from the Pilbara to the proposed gas-fired power stations in Broome, Derby and Fitzroy Crossing, both a week and in total, in 2005, 2010 and 2015?

(4) What allowances in terms of -

(i) the alternative forms of supply are being considered;

(ii) and increased costs of such alternative supply;

have been made by the preferred tenderer for the gas-fired power station to supply gas to the power stations in the event of the access roads being flooded?

Hon M.J. CRIDDLE replied:

(1) There has been no increased cost.

(2) This morning 34 000 litres of fuel were delivered to Marble Bar, and further deliveries are anticipated in the next few days.

(3) It is expected that three trucks a week will be required. The number of vehicles in 2010 and 2015 will depend on the load growth in the region.

(4) As part of the request for proposal, there is an obligation on the tenderer to implement contingency fuel

arrangements to ensure continuity of supply in accord with specific requirement set for supply to Western Power in the area. These arrangements form part of the tender proposal which represents commercially sensitive information for the tenderer and therefore cannot be disclosed.

TRANSPORT INDUSTRY, FATIGUE MANAGEMENT CODE OF PRACTICE

934. Hon KEN TRAVERS to the Attorney General representing the Minister for Labour Relations:

(1) How many prohibition notices have been issued in the transport industry since the introduction of the Fatigue Management Code of Practice?

(2) How many prosecutions have been launched against transport operators for -

(a) failing to produce a fatigue management program; and

(b) breaching the code of practice?

Hon PETER FOSS replied:

I thank the member for his question.

(1) Eleven prohibition notices have been issued on fatigue management.

(2) No prosecutions have been launched against transport operators.

(a)-(b) Not applicable.

ACACIA PRISON, WOOROLOO

935. Hon LJILJANNA RAVLICH to the Minister for Justice:

Mr President -

Hon Barry House: We should interrupt you!

Hon LJILJANNA RAVLICH: Interrupt - I don't care.

Hon Greg Smith: It will be a dumb question anyway.

The PRESIDENT: Order! This is where question time breaks down. Every member is entitled to ask a question so long as it is within standing orders. Whether some members think questions are dumb, not interesting or irrelevant is no more than the opinion of that member. I am interested in hearing Hon Ljiljanna Ravlich.

Hon LJILJANNA RAVLICH: This is certainly not a dumb question. I refer to the new Acacia prison at Wooroloo which was approximately six weeks behind schedule as at December 1999.

(1) How far behind schedule is it now?

(2) How much has been paid in penalties to the contractor Corrections Corporation of Australia/Transfield Pty Ltd to date?

(3) What is the total amount paid in cost variations to date on project?

Hon PETER FOSS replied:

A small problem arises here as notice of the question was given on 14 March, and this answer obviously was hurriedly prepared at that time and may no longer be appropriate. I provide it nonetheless.

(1) Matters relating to the construction schedule for Acacia Prison are not as clear cut as the question appears to assume. The timetable of a project of this size and complexity is inevitably affected by a range of factors, and allowance for this is a standard provision of construction contracts. The nominated completion date is not intended to be a fixed point but can be changed under procedures specified in the contract. In line with normal procedure, the Acacia contract allows for extensions of time to be granted for agreed reasons, such as the effects of bad weather and industry-wide industrial action. The nominated completion date for Acacia, which, as noted, has never been a fixed date, was 20 September 2000. To date, extensions totalling five days have been approved. As at 13 March 2000, 67 working days had been lost. Five of those days have been approved as extensions of time to the nominated completion date. A number of further claims have not yet been finalised. As at December 1999, 47 days had been lost on construction. Among the grounds cited by the contractor for seeking an extension to the timetable originally nominated are the time taken to obtain statutory approvals, inclement weather and consequential effects, and industrial action. The contractor has introduced a number of new procedures and is continuing to review the construction program in an effort to make up lost time.

(2) Nil. The Ministry of Justice has not incurred any additional costs to date due to the delays.

(3) Nil. Variation costs are paid progressively as the work is completed.

COMPRESSED NATURAL GAS REFUELLING STATIONS

936. Hon J.A. SCOTT to the Minister for Transport:

(1) Is there a reason the Government does not want to install compressed natural gas refuelling stations in Perth?

(2) Is it because the uptake of CNG by motorists may impact on government revenues?

(3) If not, can the minister explain the reasons the Department of Transport might not want CNG refuelling stations installed in Perth?

Hon M.J. CRIDDLE replied:

(1)-(3) I am not aware that the Department of Transport does or does not want CNG refuelling stations across Perth. I would have thought that that would be driven by economic imperatives. If the opportunity arises, obviously those stations will develop throughout Perth.

Hon J.A. Scott: Has the Australian Greenhouse Office offered to fund their installation?

Hon M.J. CRIDDLE: Obviously there would need to be a requirement across Perth for that to occur.

LEAD REPLACEMENT FUEL

937. Hon RAY HALLIGAN to the Attorney General representing the Minister for the Environment:

(1) Can the Government provide any data on the effect of the introduction of lead replacement fuel on both motorists and the environment?

(2) Are there any plans for long-term monitoring of exhaust emissions in the metropolitan area?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Over 90 per cent of lead in the air comes from the exhaust of vehicles using leaded petrol. As lead replacement petrol contains no lead, the amount of lead in the air will decline to virtually zero. Since lead adversely affects the intellectual development of babies and young children, its removal from the air will prevent those adverse effects occurring. As far as motorists are concerned, there is no discernible difference between lead replacement petrol and leaded petrol in the performance of their vehicles.

(2) With regard to the monitoring of the exhaust emissions in the metropolitan area, the Department of Environmental Protection monitors air quality across the region on a continuous basis. In addition, an inventory of common air pollutants has been recently compiled. This inventory includes a component focussed on vehicle emissions.

BUNBURY AND AUSTRALIND POLICE STATION STAFF, TRANSFER OF REMAND PRISONERS

938. Hon BOB THOMAS to the Attorney General representing the Minister for Police:

(1) Will the minister table the number of occasions on which staff from the Bunbury or Australind Police Stations were required to transfer remanded women or juvenile prisoners to Perth because of a lack of facilities in Bunbury in 1996-97, 1997-98 and 1998-99?

(2) Will the minister table -

(a) the number of staff;

(b) the number of staff hours;

(c) the costs, including staff and other costs

involved in administering the transfers; and, if not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question. The information required is not readily available and due to the resources and time required to provide a response to the member's question, the minister is unwilling to commit the resources required. If the member can provide a more specific request allowing more time, a further response may be provided.

ELECTRICITY SUPPLY TO REMOTE COMMUNITIES

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

I refer to the Office of Energy's discussion paper setting out the policy for connecting remote communities to Western Power's regional electricity supply systems and, in particular, the policy's aims of providing equitable electricity services in the bush.

(1) Given that the Government's preferred tenderer consortium will not be building any substantial transmission lines, will the Leader of the House table how the preferred tenderer will meet these aims?

(2) Is it the case that, given Tidal Energy Australia is planning to build 500 kilometres of power transmissions lines, the tidal power proposal will, by definition, meet these aims to a substantially greater degree than the gas-fired proposal; and, if not, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(2) The availability of liquefied natural gas as a new fuel source in the region is expected to present opportunities for a more economical generation of power in remote locations. This will include larger Aboriginal communities in the region. The discussion paper outlines a proposed connection policy which deals with the connection to Western Power's regional distribution systems and not direct to generation plants or high voltage transmission. Due to the high voltage used in transmission systems, it has been found to be prohibitively expensive to connect them to small, low voltage loads being considered for connection to Western Power's distribution system.

ROAD RULES, CYCLING

940. Hon TOM STEPHENS to the Minister for Transport:

Last week the minister was urging Western Australians to cycle to work. Why has he committed to introducing Australian road rules which the cycling lobby says will undermine the safety of cyclists? Why will he not follow the precedent he set by ignoring those Australian road rules which ban mobile telephones and delete those anti-cycling rules from the proposed Western Australian regulations?

Hon M.J. CRIDDLE replied:

This Government has done more to give people the opportunity to use other modes of transport than has any previous Government. We have a very good multi-path system throughout Western Australia and people can be seen using those paths regularly right across Perth. The issue of the Australian road rules and people who cycle for recreation and to work is interesting. I am not sure that they all have the same message when they approach me. I have asked them to put forward their suggestions. I met them at the cycling function in which people rode from Parliament House to Matilda Bay, and they gave me their proposals. As members would expect with any proposal, there is also an alternative view. I will give those proposals due consideration. The interesting point is that some people believe that young people should be able to cycle on pathways and other people believe that they should be among the traffic. I think that is very dangerous. Some people have suggested how they should cycle into roundabouts and mingle with traffic. There are alternative points of view on that, and it is a matter of making a final decision.

BIKE PATH IN PREMIER'S ELECTORATE

941. Hon TOM STEPHENS to the Minister for Transport:

Last week the Premier opened the completed $1m new dual-use bike path in his electorate of Nedlands. However, the Government is yet to commit to stages 2 and 3 of the bike plan to give to other Western Australians the same level of access to cycling as that which is enjoyed by electors in the Premier's electorate.

(1) Why was the bike path completed in the Premier's electorate prior to the Government even committing to stages 2 and 3 of the bike plan?

(2) When will the Government fund and complete stages 2 and 3 of the bike plan?

Hon M.J. CRIDDLE replied:

(1)-(2) If we do not start something, we will never get moving, and this is why we have committed to stage 1. It is a comprehensive program which we will build until the completion of that stage in July 2001. As things unfold, the Government will move into the other stages.

NORTHERN SUBURBS RAILWAY LINE, MASTER PLAN

942. Hon KEN TRAVERS to the Minister for Transport:

(1) Has the Government completed the master plan for the extension to the northern suburbs railway line.

(2) If so, has the Government set a date for the release of this plan; and, if so, what is that date?

Hon M.J. CRIDDLE replied:

(1)-(2) The planning stages of the northern railway line have been completed. We are working through arrangements to make an announcement in the next month or so about the progression of that line.

ROYAL PERTH HOSPITAL, CAR PARK SECURITY

943. Hon LJILJANNA RAVLICH to the Attorney General representing the Minister for Health:

(1) Can the Minister for Health advise how many cars are broken into on average each week at the secure car park at Royal Perth Hospital?

(2) How many hours per week does secure car park staff patrol the Royal Perth Hospital car park?

(3) How does this compare with the previous contract?

(4) Are these security patrols carried out by qualified and licensed security guards?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No. The land on which the car park is located was once owned by the Royal Perth Hospital but was transferred to the Department of Land Administration. RPH has never had management control of the car park. RPH leases 1100 parking bays via managing agents Jones Lang LaSalle who do have management responsibility for the car park.

(2)-(4) Not known.
