



# **Parliamentary Debates**

**(HANSARD)**

THIRTY-FIFTH PARLIAMENT  
THIRD SESSION  
2000

LEGISLATIVE COUNCIL

Wednesday, 5 April 2000

# Legislative Council

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

## **FIRST HOME OWNER GRANT BILL 2000, TABLED PAPER**

*Referral to Standing Committee on Constitutional Affairs*

**HON PETER FOSS** (East Metropolitan - Attorney General) [4.03 pm]: I move -

That tabled paper 853, First Home Owner Grant Bill 2000, be referred to the Standing Committee on Constitutional Affairs for consideration and report.

The paper is the Bill I have just tabled and is part of the national scheme for first home owners. The Commonwealth has indicated that it would like the Bill passed by 30 June. Consequently that does not give a great deal of time for this House to consider the Bill. It may well be that by the time we get it back from the committee I may have to ask for the suspension of standing orders. I feel that I should give Hon Murray Nixon's committee the maximum time in which to consider the Bill. I would not like the committee to be unable to report and I should like to have the report as it would be extremely important and useful to the House. I would like the House to agree to the motion because it is a better way to deal with the matter than merely suspending standing orders.

Question put and passed.

## **JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION**

*City of Kalgoorlie-Boulder Sewerage and Drainage Local Law, Report*

Hon Tom Helm presented the fiftieth report of the Joint Standing Committee on Delegated Legislation in relation to the City of Kalgoorlie-Boulder Sewerage and Drainage Local Law, and on his motion it was resolved -

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

[See paper No 854.]

## **PRISONS AMENDMENT REGULATIONS 1999, REGULATIONS 1, 2, 3, 4, 6, 7, 8 AND 9 - DISALLOWANCE**

*Order Discharged*

On motion by Hon Ray Halligan, resolved -

That Order of the Day No 2, Regulations 1, 2, 3, 4, 6, 7, 8 and 9 of the Prisons Amendment Regulations 1999, be discharged from the Notice Paper.

## **RADIOACTIVE MATERIAL - PROHIBITION OF DEVELOPMENT AND/OR CONSTRUCTION OF WASTE FACILITY**

*Motion Discharged*

On motion by Hon Giz Watson, resolved -

That motion No 9 standing in my name on today's Notice Paper be discharged.

## **FINANCE BROKING INDUSTRY IN WESTERN AUSTRALIA - APPOINTMENT OF SELECT COMMITTEE**

*Motion*

**HON KEN TRAVERS** (North Metropolitan) [4.08 pm]: I move -

That -

- (1) A select committee of three members shall be appointed.
- (2) The committee be appointed to inquire into and report on reasons for losses associated with the finance broking industry in Western Australia, including but not limited to -
  - (a) the statutory responsibilities relating to the finance broking industry;
  - (b) avenues for legal redress for investors;
  - (c) consideration of the adequacy of existing legislation to prevent a recurrence of the events which led to the loss by investors who relied on finance brokers.
- (3) The committee have power to send for persons, papers and records and to move from place to place.

- (4) The committee report to the House not later than 31 October 2000, and if the House do then stand adjourned the committee do deliver its report to the President who shall cause the same to be printed by authority of this order.

The finance brokers saga that has been seen in Western Australia for some two years is a sad and sorry tale. We have seen for some time the problems created by the lack of a government response. I do not think it is necessary to outline the problems that have occurred over the past two years; I am sure that all members are well aware of them if they have been following media reports.

We have reached the stage where an inquiry is needed to get to the bottom of what caused the problem, who was responsible and why there was no response forthcoming from the Minister for Fair Trading and appropriate agencies, and to provide a way of finding how we can stop it reoccurring, what we can learn from the events of the past couple of years and how we can change our legislation. We need to look at what options are available for investors who have lost money and how there problems can be redressed under the current legislation.

A number of choices are available: The first is a full judicial inquiry; the second is a select committee; the third is a standing committee of this House; and the fourth is the Gunning inquiry that has been called by the Government to investigate this matter. I make it clear that the Australian Labor Party has a clear preference for a full and open judicial inquiry into the financial brokers saga.

Several members interjected.

The PRESIDENT: Order!

Hon Greg Smith interjected.

The PRESIDENT: Order! Hon Greg Smith will come to order.

Hon KEN TRAVERS: The ALP firmly believes the Government should proceed to a full and open judicial inquiry with broad terms of reference. Unfortunately they have indicated clearly they have no appetite or will. They steadfastly refuse to go down that path. If they had acted, this motion would not be necessary. We are left with three choices: We could look at using one of the standing committees of this House. Before moving this motion I made inquiries of the chairmen of the two committees that I thought most appropriate - the Public Administration Committee and the Estimates and Financial Operations Committee. It became clear to me that neither of the two committees had terms of reference sufficiently broad to conduct a full and proper inquiry, nor did they have the time to do this sort of inquiry justice. I was then left with either going to a select committee or supporting the Gunning inquiry.

Members will be aware from the standing orders of the powers and roles select committees can and should perform. They have many powers of a nature similar to those of a judicial inquiry. If a select committee were run properly, and not like a kangaroo court, such as occurred in the past with the Pike committee which investigated Western Women Financial Services Pty Ltd, it could uncover the truth and provide some of the answers as to what went wrong for the people who have lost money. A select committee could go a lot further than the Gunning inquiry. It could look at relevant matters, unravel the mess and provide solutions for the future which the Gunning inquiry cannot do. I will return to these specific issues later. The only constraint on a select committee is in relation to the minister which, as I will explain later, is not an insurmountable problem.

I would like to take some time explaining why a select committee is required and why the Gunning inquiry - which the Government say is the answer - is not sufficient to deal with the problems in the finance brokers industry. What is wrong with the Gunning inquiry? There are two things wrong with it: First, its terms of reference provide only a limited scope to examine all the issues that a select committee could examine; and, second, there is clearly a lack of public trust and confidence in that committee. I will look at the scope of the terms of reference. The Gunning inquiry was set up by appointment of the Premier and the Minister for Public Sector Management under section 11(1) of the Public Sector Management Act 1994 which reads as follows -

The Minister may, in writing, direct a suitably qualified person or suitably qualified persons to hold a special inquiry into a matter relating to the Public Sector, and the person or persons shall comply with that direction.

I repeat the key provision of that section -

... to hold a special inquiry into matters relating to the Public Sector, . . .

The public sector is also defined in the Act and it includes agencies, ministerial officers and non-State Emergency Services organisations. Certainly the Ministry of Fair Trading, the minister's office and the board would come within the definition, but not the minister's actions.

The minister has indicated he is happy to appear before the Gunning inquiry and answer its questions. That is all very well and good, but at the end of the day, the members of that inquiry cannot, and will not, be able to make any recommendations if they find that part of the problem has been a lack of action by the minister himself. The biggest problem is that the inquiry must relate to the public sector. Everything it does must be able to be related back to the public sector. This is a very restrictive requirement on the committee. If, for example, the committee wants to look at the deal arranged for the Bubbling Billy case - which is one of the cases which has gained great notoriety - how does it do it? How does it relate it to the public sector? If a complaint has not been lodged and has not been acted upon, there is no connection. In the

Bubbling Billy case a land valuation of \$760 000 was given, compared to a purchase price of \$203 000. How does that relate to the public sector? Many areas fall outside the scope of this inquiry and I am sure that will become obvious as the Gunning inquiry takes its course.

I have not been able to attend the first few days of hearings of the Gunning inquiry, but I have taken the opportunity to speak to people and read the media reports. It is my view that the inquiry and counsel assisting it are genuine in their desire to interpret their terms of reference in as wide a manner as possible. They do wish to try to apply the broadest definition possible under the terms of reference; but what happens when the inquiry reaches the situation where it is required to call somebody who does not want to answer questions or disclose something to the inquiry? They can and will be challenged in other courts about the terms of the inquiry and they will be required to prove that it relates back to the public sector. That is when the terms of reference will be found wanting - when the people who have caused some of these dodgy deals to occur try to cover them up. People might say that is one scenario, but it is a reasonable scenario, and what the Gunning inquiry is doing in trying to broaden its interpretation of the terms of reference is also just a scenario. The most telling point on which we need to focus is what happened at the inquiry yesterday. The first witness was Mrs Penny Searle and she gave a concluding statement, of which I have received a copy. In that statement she put it quite clearly to the Gunning inquiry that it was her view that what was required was a full judicial inquiry. If members would like to see a copy of her statement I am more than happy to make it available. An article in today's *The Australian* summarises her concluding statement rather well. It reads as follows -

"The primary problem is the use of inappropriate and deceptive practices by finance brokers," she said.

"(That) has been hidden and allowed to become prevalent... due to the secondary problem, which relates to the authorities responsible for the industry. The primary and most important problem... is not able to be addressed by the Gunning inquiry."

Mr Gunning told her: "I'm not sure your concerns about the primary problems can't be addressed - we will see..."

At yesterday's hearing of the Gunning inquiry the chairman was unable to give to the first witness a definitive answer that his terms of reference allowed him to go far enough - allowed him to go as far as a select committee such as that which I am proposing in this motion would be able to go.

The people who have been stung by the finance brokers scandal have been waiting two years for action. We cannot allow them to wait for another four months only to find that the terms of reference of the Gunning inquiry are not able to address the matters that concern them. We need a select committee. We cannot allow the inquiry to sit for four months before someone challenges the inquiry's terms of reference and it is proved to be a toothless tiger, restricted in its terms of reference and unable to get the bottom of the issues.

If the inquirer himself, Mr Gunning, is unable to give that commitment, I do not believe anyone in this place will be able to allay the concerns of the broader public on this matter. I will also briefly look at what the committee can and cannot do.

Hon Peter Foss: Did somebody suggest to him that it could not? The answer seems to give that implication.

Hon KEN TRAVERS: If the Attorney General had been listening, he would know that I have just read from an article in today's *The Australian*.

Hon Peter Foss: I said, did somebody suggest to Mr Gunning that he could not, because the answer seems to suggest that he was responding to such a suggestion.

Hon KEN TRAVERS: That is right. In her concluding statement the first witness yesterday, Penny Searle, called for a full judicial inquiry and made it clear that she did not believe the Gunning inquiry had the capacity to look at the primary problem.

Hon Peter Foss: And he disagreed with her.

Hon KEN TRAVERS: No, he said, "We will have to wait and see."

Hon Peter Foss: He said, "I am not sure that it can't." That is a bit different to saying, "I am sure that it can."

Hon KEN TRAVERS: That is also very different from saying, "Yes, we can."

Hon Peter Foss: These things require deliberation. When a person makes a statement, you do not expect a person, especially a judge, to say instantly, "Yes, we can."

Hon KEN TRAVERS: I would expect Mr Gunning to have a fairly good idea of what his terms of reference do and do not allow him to do.

Hon Peter Foss: He knows what his terms of reference allow, but she has made the submission.

Hon KEN TRAVERS: This has been one of the fundamental complaints about the Gunning inquiry from day one.

Hon Greg Smith: If a broker were requested to come in, he would be very foolish not to come, because Gunning might make a finding against him.

Hon KEN TRAVERS: Gunning cannot make any findings against that broker. That is the problem, Hon Greg Smith.

Hon Greg Smith: It will be passed on to the relevant authorities. A royal commission does not charge people. Carmen Lawrence had to go through a judicial process. A royal commission makes a finding; it does not administer the punishment or the law.

Hon KEN TRAVERS: That is right, but we want an inquiry into these matters to get to the bottom of them and to make some findings at the end of the day.

Hon N.F. Moore: Is the select committee going to charge people?

Hon KEN TRAVERS: We are not talking about people being charged.

Hon Greg Smith: Will you get their money back for them? That is what we want to know.

Hon KEN TRAVERS: Hon Greg Smith might notice that one of the terms of reference concerns avenues for obtaining legal redress for investors.

It might help people like Hon Greg Smith if I draw to the attention of the House the powers of the Gunning inquiry; they are, in the main, contained in schedule 3 of the Public Sector Management Act. An important provision in that schedule is that which gives authority to obtain documents and to require the production of books. Clause 4 of schedule 3 is headed "Penalties for non-attendance, non-production of documents, etc.", but the maximum penalty is a fine of only \$1 000. Clause 4(2) states -

It is a defence to a prosecution for an offence under subclause (1) for, without reasonable excuse, not producing any books, documents or writings if the defendant proves that the books, documents or writings were not relevant to the special inquiry.

It is clear that people will be able to drive a bus through these terms of reference if they do not want to give evidence to the inquiry. Section 11(1) of the Public Sector Management Act states that the inquiry must relate to the public sector. That is a very narrow definition.

An article in *The Australian* on 4 April reports a statement by the counsel assisting the inquiry -

However, Mr Chaney said that although the terms of reference precluded full examination of brokers' activities, the inquiry had "extensive powers to gather information and evidence".

My view is that the terms of reference are not that wide. If the terms of reference do not allow a full examination of brokers' activities, the inquiry does not have extensive powers to gather information and evidence. One only need look at section 11(1) and schedule 3 of the Public Sector Management Act to know that that is the case.

Hon Greg Smith has been interjecting and asking about the areas which the select committee can look at but which the Gunning inquiry cannot. An example is the avenues for legal redress for investors. Is there a commonwealth or state government responsibility in this matter? Do these Governments have any fiduciary responsibilities?

Hon Greg Smith interjected.

Hon KEN TRAVERS: One only has to look at events long before the Opposition started to raise these claims to realise that the properties had been overvalued. I do not know how Hon Greg Smith can suggest that something like the Bubbling Billy, which was bought for \$203 000 but valued at \$760 000 and not able to be sold for anything like that, is the Opposition's fault.

Hon Greg Smith: One place was valued at \$2.3m, but after you blokes got started it was sold for \$1.2m - you destroyed the value. The fire sale destroyed the value.

Hon KEN TRAVERS: We are not looking at fire sales. Hon Greg Smith is giving a clear indication of why the Government is going down its present path. I get the impression that he is suggesting that there is nothing wrong in the finance broking industry and that this is all a beat-up on the part of the Opposition. However, when the Peppermint Park chalets in the south west were purchased for \$1.52m and valued at \$3.3m in the advice to the poor unfortunate people who were involved through the finance brokers; when the Wattle Grove property which was valued at \$3.6m sold for \$1.85m -

Hon Greg Smith: Which finance brokers were they?

Hon KEN TRAVERS: As far as I am aware, they were all MFA Finance deals. Those losses occurred not because of anything the Opposition had done but because the properties were well and truly overvalued in the first place.

I want to know whether a lack of action by either the Commonwealth or State Governments has led to any of these problems. When people can clearly identify that they have been trying to get a response from the appropriate government agencies for two years but have been unsuccessful, we need to look at what role the Commonwealth Government has played through the Australian Securities and Investments Commission and its responsibility for pooled mortgages and see how that relates to the issue of the finances brokers saga. That is an issue which the Gunning inquiry cannot look at but the select committee could. This committee would have the ability to look at whether the minister was correct. I am aware that a select committee of this House could not force the Minister for Fair Trading -

Hon Greg Smith: A select inquiry cannot get the federal evidence.

Hon KEN TRAVERS: It could look at the linkages, whereas Gunning cannot. It could look at whether the Commonwealth is responsible under its Act. If the Federal Government has been inactive in this area, I would have thought the State Government would want people to know that. If this scandal is not just due to the lack of action by the State Government, if there is some problem with the actions of the Commonwealth Government, I would have thought members of the Government would be the first people trying to prove that. It makes me wonder why members on the other side are so keen on not having this matter fully and properly scrutinised by a select committee.

I was pointing out the role of the minister in this issue. We have the opportunity through the representative minister in this place to get some of the answers. The select committee would have the opportunity of sending a request through the House for the Minister for Fair Trading to appear before the committee and defend his actions. We would certainly have the opportunity to make some findings in this area which the Gunning inquiry does not.

The select committee will have the power to seek documents and, as I mentioned earlier, the Gunning inquiry is very limited in that regard. Interestingly, the finance brokers regulations indicate that an officer of the finance brokers board has the power to enter buildings, yet the inquiry into the actions of brokers has power only to enter public sector offices. The select committee will have the power to request documents. The Gunning inquiry is constrained in the documents it can request, and will need to know the documents it is looking for before it requests them. It does not have the broad powers of a select committee.

Hon Simon O'Brien: Who will chair this select committee?

Hon KEN TRAVERS: As Hon Simon O'Brien knows, that is a decision for the House to make. I am happy for the membership of the committee to be negotiated among members, although I understand that past procedure has been for the mover of the motion to be the chairman.

Hon Greg Smith: Hon Max Evans would make an excellent chairman!

Hon KEN TRAVERS: I am sure the Government will want to have one of its members chair the committee; I suppose it wants a majority as well.

Hon Peter Foss: Hon Max Evans is a very good suggestion. He is not on any standing committees.

Hon KEN TRAVERS: If Hon Max Evans thought the select committee was necessary, and he wanted to chair it, he could have risen to his feet before now. We have been waiting for a long time to see what action the Government would take.

Hon Peter Foss: You said you did not want one that was a kangaroo court.

Hon KEN TRAVERS: Is the Attorney General suggesting that it will be a kangaroo court if I chair it? I take offence at that!

Hon Peter Foss: Good! Take offence.

Several members interjected.

The PRESIDENT: Order! Hon Ken Travers has the call.

Hon KEN TRAVERS: I hope that the interjections from the other side indicate that the Government is coming around to accepting a select committee.

Hon Greg Smith: Is your support based on the number of supporters on your side of the Chamber at the moment? Why are no other members on your side? We could call for a quorum.

Hon KEN TRAVERS: Feel free. If members opposite do not want a select committee with me as chairman, I give them a simple solution: Get their Government to call a judicial inquiry, which is required. I said that the select committee is the second-best option after a judicial inquiry. We do not have the power to call that inquiry, but we can create a select committee. I put the challenge to members opposite: Get the Government to call a proper and full judicial inquiry, as should have occurred long ago.

Issues were raised by the member for Mandurah late last week about moneys being moved by some finance brokers. The select committee could investigate that matter, although not as a major part of its inquiry, and see whether any immediate action was needed to stop that action occurring. The Gunning inquiry cannot do that. Issues arise concerning lawyers. I urge members opposite to call a judicial inquiry if they do not want a select committee. We must address the lack of public confidence in the Gunning inquiry. From the day it was called, we have had a problem with conflicts of interest. Whether they are real, implied or otherwise, it comes down to perceptions. There is no doubt that in the broader community there is a perception of conflict of interest. Considering the number of people involved in this sad and sorry saga, I understand that until recently only 40 or 45 submissions had been made to the Gunning inquiry. Therefore, it is clear that a number of the groups very concerned about the financial broking area have boycotted this inquiry and not put forward submissions.

Hon N.F. Moore: Do you have any evidence to prove that? It is an outrageous statement.

Hon Greg Smith: You use coward's castle. Like someone from the other place, you will not make those comments outside the Chamber.

Hon KEN TRAVERS: No. If members had listened, instead of just sniping, they would have known I chose the words

very carefully. I said that whether they were real or implied, it came down to perceptions. I was careful. I am not trying to get into that game. I made the point that there is no doubt that in the broader community there is a problem with a perception of a conflict of interest. Members should talk to Denise Brailey, who represents many of these people - I have not spoken to her, by the way; however, I have read reports saying that people have no confidence in the inquiry.

A lack of public faith in the Gunning inquiry to properly deal with finance brokers arises because this inquiry deals with not only the finance broking industry, but also a range of other areas. It deals with the building industry, which I have followed in some detail. I find it interesting that a number of groups who had concerns about the building industry were not formally notified of the inquiry. They were not aware of it until I told them about it.

In a range of areas, including the Finance Brokers Supervisory Board, reports from previous government inquiries with similar powers to those of the Gunning inquiry, or reviews of Acts, have not been acted upon by the Government. Page 35 of the 1998-99 annual report of the Ministry of Fair Trading reads -

Cabinet endorsed the recommendations contained in the report, together with a number of other interim recommendations.

This was following a review of the Finance Brokers Control Act 1975. It continues -

Those recommendations which require legislative change include:

The establishment of a mandatory code of practice under the *Fair Trading Act 1987* and the repeal of the *Finance Brokers Control Act 1975* when the code of practice is established.

Two previous inquiries were held into the building industry, and the Government has still not made any recommended changes from those inquiries; this is contrary to an answer I received suggesting that legislation was already in Parliament. Even if the Gunning inquiry makes recommendations, there is a lack of confidence that the Government will act upon them. I accept that the Government can ignore a select committee as well.

Hon N.F. Moore: Do you think a select committee dominated by the Opposition will be regarded as fair and balanced? Do you think it will engender confidence in the community? Come off it! Especially if you're in charge of it.

Hon KEN TRAVERS: I find that comment interesting coming from a member of the House who, when in opposition, was happy to have committees of the Parliament investigate what the Labor Party did in government. I make it clear that I have sought support from other parties, and I have told their representatives that I would be happy for them to be involved in the committee.

Hon Greg Smith: You would have an ALP member, a Greens member and a Democrat member!

Hon KEN TRAVERS: As I said earlier, if members opposite do not want a select committee with a non-government majority, they have a simple answer: Call a judicial inquiry, because the select committee would then no longer be necessary.

Hon Derrick Tomlinson: Will you accept a select committee of four with equal representation from both sides of the House?

Hon KEN TRAVERS: That is one of the options I have put to people.

Hon Derrick Tomlinson: You'll accept that?

Hon KEN TRAVERS: I am prepared to discuss any such option.

Hon N.F. Moore: He has to work out the numbers first. He states that two and two are not quite right.

Hon KEN TRAVERS: No. I want to talk about whether we will have two Labor members, a Democrat and one government member. The Government has failed to act on this issue for over two years and it now wants to control a committee we wish to establish to investigate it. I understand why members opposite want a majority or the ability to make sure the committee does not do anything; namely, they want to stifle any inquiry into what went wrong. The question must be asked when they go down that path: What do they have to hide, and why?

Hon Derrick Tomlinson: Why do you want a majority? I thought you said it was not going to be a kangaroo court. Do you not want impartiality and balance?

Hon KEN TRAVERS: I take it that the member is implying that if the committee comprised Hon Norm Kelly and me, for instance, it would be a kangaroo court.

Hon Derrick Tomlinson: If you want impartiality and balance, go for four members - two from each side of the House.

Hon KEN TRAVERS: If members of the Government want to discuss those matters behind the Chair, I am more than happy to entertain that if it results in a select committee that will do the job properly, investigate this matter and get to the bottom of it. I have made it clear to people all the way along that I am more than happy to discuss the terms of reference, the composition of the committee and so on, but we must establish the select committee and get a commitment from the Government. I hope the indication from members opposite is that they support the select committee, but they want to amend the first clause. Members who are familiar with the standing orders will know that if the number of members of a

select committee is not specified, it automatically has three members. I included that in my motion to make it easier for someone to move an amendment.

Hon Derrick Tomlinson: You think on your feet quickly.

Hon KEN TRAVERS: No, that is the reason I did it. Members can ask Hon Norm Kelly if they do not believe me. That is one of the reasons I specified the number of members. I am not so up to date on the standing orders that I can think on my feet about them, but I appreciate the compliment from Hon Derrick Tomlinson. This matter comes down to whether this Parliament will hold the executive arm of government responsible to the Parliament. If members believe they should hold the Government accountable, they must support this motion. If members are in this place to keep the executive arm of government accountable, they must make the Minister for Fair Trading, the Ministry of Fair Trading, appropriate boards, finance brokers and anyone else involved or compliant in this sorry saga accountable to not only this Parliament, but also the investors who lost their money. I urge members to support the motion.

*As to Adjournment*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [4.43 pm]: I move -

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

Question put and a division taken with the following result -

*Ayes (15)*

Hon M.J. Criddle  
Hon Dexter Davies  
Hon B.K. Donaldson  
Hon Max Evans

Hon Peter Foss  
Hon Ray Halligan  
Hon Barry House  
Hon Murray Montgomery

Hon N.F. Moore  
Hon M.D. Nixon  
Hon Simon O'Brien  
Hon Greg Smith

Hon W.N. Stretch  
Hon Derrick Tomlinson  
Hon Muriel Patterson (*Teller*)

*Noes (16)*

Hon Kim Chance  
Hon J.A. Cowdell  
Hon Cheryl Davenport  
Hon E.R.J. Dermer

Hon G.T. Giffard  
Hon N.D. Griffiths  
Hon Helen Hodgson  
Hon Norm Kelly

Hon Mark Nevill  
Hon Ljiljanna Ravlich  
Hon J.A. Scott  
Hon Christine Sharp

Hon Tom Stephens  
Hon Ken Travers  
Hon Giz Watson  
Hon Bob Thomas (*Teller*)

*Pair*

Hon B.M. Scott

Hon Tom Helm

Question thus negatived.

*Debate (on motion) Resumed*

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [4.47 pm]: The other day a motion was moved in this House about the tabling of papers. At the end of the first speech by the member moving the motion, I waited for other members opposite to continue the argument so that I would know that at least more than one member on the other side had a point of view. On that occasion I asked the Government Whip to move that debate be adjourned until the next sitting of the House, essentially because I was not prepared to respond to the motion as we had not heard the arguments until the member made the speech.

Hon Tom Stephens: Don't talk nonsense; we do not believe that.

The PRESIDENT: Order!

Hon N.F. MOORE: The Leader of the Opposition has just come into the House for the first time since the sitting started this afternoon.

The PRESIDENT: Order! The Leader of the House will resume his seat. If members wish to have this interaction, I am more than happy to sit back and let them carry on for as long as they want to and we will see what the result is. However, if members want me to manage the House in the manner that is appropriate, they will listen to what I say. I called the Leader of the Opposition and the Leader of the House to order.

Hon N.F. MOORE: On that occasion the House agreed to adjourn the debate. I must admit I was surprised that it happened. That gives me time to respond if we decide the matter will come back on the Notice Paper. It is the same situation today whereby one member of the Labor Party made a speech in this House and he was the only member of that party in the Chamber. So much for the importance of this motion, when the member was standing by himself making a speech about an issue that the Labor Party says is the biggest crisis in Western Australia's history. The member had no support at all from his colleagues, and he is the only person who had made a speech on this matter. I thought the Labor Party would have a number of speakers telling us why we need this select committee, and that members opposite would be bursting at the seams to tell the House about the "crisis" afflicting Western Australia. Instead, only one member of the Labor Party was in this House making a speech, and he had no support from his colleagues. I thought they would be lined up behind him, giving him all the support they could muster. But no, one member made a speech and members opposite



waited for somebody from this side of the House to speak. I thought they would be absolutely bursting at the seams to make a speech on this issue.

Hon N.D. Griffiths: We do not need to. Hon Ken Travers was very convincing.

The PRESIDENT: Order!

Hon Greg Smith: You did not listen to his speech.

Hon Peter Foss interjected.

Hon N.F. MOORE: I am a bit worried about the member.

Hon Ljiljanna Ravlich: You are next.

Hon N.F. MOORE: Hansard cannot record that Hon Mark Nevill has a white patch over his eye. However, it can record the interjection of Hon Ljiljanna Ravlich, and I take exception to her comments. Imagine being punched by her. Good grief; what a terrible thing to say!

The PRESIDENT: Order! Let us get back to the motion.

Hon N.F. MOORE: The Labor Party has moved a motion in this House, which one member supports, to establish a select committee into what the Labor Party regards as being the worst thing that has happened in the history of Western Australia.

Hon Tom Stephens: And you will filibuster so no-one else can speak.

Hon N.F. MOORE: I will talk until I am finished because I have a lot to say about this matter. I have no doubt that many other members also have a lot to say about it. As I have said about 17 times before, surely more than one member of the Opposition wants to promote the argument that we need a select committee. I also thought we might have heard from the Democrats or the Greens, who voted to continue this debate. At least one of those members might have said they supported or did not support the motion. However, they were not here either. We are told today that we are dealing with the most important issue on the political agenda of Western Australia and they are not even here. It is pathetic.

The PRESIDENT: Order! I have let things go a fair bit, but we have a convention that when a member is not in the House it is assumed he is outside on parliamentary business. I do not know where members get to when they are not in this House; I make that assumption and I believe every other member should do so.

Hon N.F. MOORE: I would not refer to an individual in that context because that is the convention. I am referring to the collective which represents the other side of the House.

Hon Tom Stephens: It is the same convention.

Hon N.F. MOORE: It is not the same convention at all. However, let us continue with the debate on the so-called select committee. Hon Ken Travers tells us that a select committee would have wonderful credibility, but that the Gunning inquiry, headed by a retired judge, has no credibility. Because the power brokers' role model, McGinty, the member for Fremantle, cast aspersions on the character of Judge Gunning, members opposite say that the community has doubts about his credibility. That is how they operate.

Their colleague from Fremantle gets up in the Assembly and takes the debate into the gutter by pouring buckets over everybody he can find from one end of the State to the other, but he could not care less about the veracity of his remarks. After pouring a bucket over the judge he says everybody in the community believes him. They do not. If we weigh up the credibility of Mr McGinty with that of a retired judge, I can tell members opposite who will come way out in front every time.

It is politicians like Jim McGinty who bring us all into disrepute. Members opposite know as well as I do that a select committee will have no credibility because it will be politically dominated and motivated. People like McGinty destroy our credibility. He cannot stop telling the world, through Parliament, all the untruths he can find. He uses parliamentary privilege day after day to impugn the reputations of Western Australians and he does not care who they are. The media then reports it, as it always does, and then his mate here, the member for North Metropolitan Region, says that because Mr McGinty said something and it is reported in the media, there is widespread concern about the credibility of the judge. That is pathetic and Hon Ken Travers knows it as well as I do. He uses parliamentary privilege to plant these disgusting rumours and innuendos and then builds on them and tries to use them as justification for saying the Gunning inquiry has no credibility, but that somehow a committee headed by a Labor power broker will have credibility. Good grief!

Hon Ken Travers was asked by way of interjection if he was happy for the select committee to be a government-dominated committee. Of course he was not; he could not have that. He was asked if he would accept two members from each party. Of course he would not. He thought it might be a good idea to have two Labor Party members, one Australian Democrats member, and one Liberal Party member. He thinks that somehow that represents the balance of this House and the views of the electors who put us here.

Hon Tom Stephens: That's a bit like what you did in 1992.

Hon N.F. MOORE: We had the numbers in the House in those days in our own right, as Hon Tom Stephens knows.

Hon Tom Stephens: You spent a lifetime defending -

The PRESIDENT: Order, Leader of the Opposition; I can hear the interjection, but he is yelling.

The Leader of the House does not have to speak with such a raised voice.

Hon N.F. MOORE: I am a bit angry about this, Mr President.

Several members interjected.

Hon N.F. MOORE: I am frightened out of my wits about that!

Hon Ljiljanna Ravlich has frightened me to death; I am very worried about that! That is not what made me angry. I am angry about the imputation by Hon Ken Travers, following the remarks of his disgusting colleague, the member for Fremantle, using parliamentary privilege to cast aspersions on the credibility of Judge Gunning. That assertion makes me angry.

If members opposite do not get what they want they try to undermine the process. First, they do not like the judge. Secondly, they do not like the terms of reference.

Hon Ken Travers: No; first, I don't like the terms of reference and, secondly, I don't like the perceived conflict of interest.

Hon N.F. MOORE: It does not matter which order the dislikes of Hon Ken Travers are in; if members opposite do not get exactly what they want they try to undermine the process and the individuals. They could not care less about their reputations, as long as they try to score a political point. They are about trying to destroy reputations for political purposes. I do not care what I say about Mr McGinty, in here. He deserves every bit of criticism he gets. He could not care less what he says about people, as long as he satisfies gross political purposes.

An argument has been put forward by Hon Ken Travers that we need a select committee of Parliament to replace the Gunning inquiry because a select committee would be far more balanced.

Hon Peter Foss: And impartial.

Hon N.F. MOORE: Yes; whereas Judge Gunning, a public servant and a well respected accountant, if that is what she is, are not impartial!

Hon Kim Chance: Do you not perceive that different terms of reference are involved, and that is the critical issue?

Hon Peter Foss: He criticised the impartiality of Judge Gunning.

Hon N.F. MOORE: That is exactly right. Some members did not hear what Hon Ken Travers said about Judge Gunning. As did Jim McGinty he suggested that somehow Judge Gunning has a conflict of interest and is not impartial and that the Gunning inquiry is not impartial; therefore we should have a select committee, which would be impartial.

Hon Ken Travers: You are misrepresenting what I said.

Hon N.F. MOORE: I am not misrepresenting Hon Ken Travers. He is hoist with his own petard. His innuendos and snide remarks will come home to roost. He deliberately creates perceptions that people regard as truth. They will come back to bite him. When he gets caught out, he says that he did not mean it like that. He was not saying Judge Gunning was not impartial; he was trying to imply that Judge Gunning was not impartial. Hon Ken Travers should not try to wriggle off the hook. His party does it all the time. Hon Ken Travers is no better than Mr McGinty on this matter.

Hon Ken Travers complained that we were not having a judicial inquiry. We are not having a royal commission, but we are having a judicial inquiry headed by Judge Gunning conducted under the Public Sector Management Act. The intention is to find out whether the public sector that controls finance brokers is doing its job properly. The terms of reference are to find out whether the Finance Brokers Supervisory Board is doing its job effectively and efficiently by carrying out its functions, powers, structure, procedures, including operational procedures, resourcing and operational costs.

The minister said yesterday he was happy to give any evidence anyone wanted in front of the Gunning inquiry. A select committee could not call a minister from the other House to appear before it so Hon Ken Travers should not go on about what it might be able to do. He suggested somehow that the Gunning inquiry cannot inquire into the Commonwealth's involvement. He should also bear in mind that it cannot call the minister before it. I think back to the days when we were on different sides of the House and there were various committees looking at the skulduggery and the corruption of the previous Government. How many Labor ministers from the other House turned up before a select committee in the Legislative Council?

Debate adjourned, pursuant to standing orders.

**[Questions without notice taken.]**

**MISUSE OF DRUGS AMENDMENT (CANNABIS CAUTIONING NOTICES) BILL 1999**

*Committee*

Resumed from 4 April. The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Christine Sharp in charge of the Bill.

**Clause 5: New Part IIA -**

Progress was reported after Hon Christine Sharp had moved the following amendment -

Page 3, lines 16 to 20 - To delete the lines and substitute the following -

- (b) the cultivation of not more than the number of cannabis plants and their location to be prescribed by regulation.

Hon B.K. DONALDSON: I oppose the amendment. I have heard some dopey amendments moved in this Chamber, but this is a classic. Any other Bill which was an open-ended cheque book for a minister or a Government would have the Opposition hanging from the rafters screaming, "Accountability!". The amendment provides that the "cultivation of not more than the number of cannabis plants" is to be determined by regulation. A future minister might like growing cannabis plants and might promulgate a regulation that says 10 or 15 plants are allowed.

The most interesting part of the amendment is that the location of the plants will also be prescribed by regulation. Will it be mandatory for us to grow them in the lounge room, the kitchen or in the backyard near the tomato bushes? I thought about this overnight and realised we had sprung the Greens (WA) and those on the other side! It is not about old-growth forests at all; they want to lock the forests off so they can grow cannabis plants and let all their friends grow two, five or 20 plants. They will all get their own little plots. They could even extend that good luck and fortune to their friends masquerading as forest huggers; those people suffering identity crises - I think they are called Liberals for Forests.

Hon Simon O'Brien: They are not Liberals.

Hon B.K. DONALDSON: They are certainly not Liberals. I had given Hon Christine Sharp more credit for commonsense. Obviously, she was given very poor advice. This amendment was drafted on the run. We have proved time and again in this place that amendments made on the run are a disaster. When Hon Christine Sharp moved the amendment she said -

With reference to my so-called paranoia about the Central Intelligence Agency and its international propaganda, it is very difficult for multinational companies to make much money out of marijuana because it is easy to grow live plants.

She then went on to make one of the most insensitive and disrespectful remarks I have ever heard in this Chamber -

Old ladies can grow it on their windowsills, but we do not want them to be turned into criminals.

I have a lot of respect for the senior citizens in our community because they are the ones with the commonsense and the brains. They are the ones telling their sons, daughters and grandchildren not to move into the drug scene. We need only talk to the grandmas and granddads in the wider community to know that this matter concerns them, because they did not have to live through it.

Hon Bob Thomas: I think the member will find there is a high proportion who have tried it.

Hon B.K. DONALDSON: If Hon Bob Thomas wants to say something, he can say it later. It must be paranoia to think the CIA is spreading these terrible myths about how bad it is to smoke marijuana.

Deep in reflection last night, I wondered who was spreading the rumour about marijuana being good for people. It is MI5! It is running a covert intelligence operation here, led by the Prime Minister of Great Britain, Tony Blair. MI5 has slipped in here, so now it is a war between MI5 and the Central Intelligence Agency on this vexed and complex question.

Hon Greg Smith interjected.

Hon B.K. DONALDSON: We do not have reds under the bed yet.

Several members interjected.

The CHAIRMAN: Order! We have room for only one conspiracy theory at a time.

Hon B.K. DONALDSON: I am sticking closely to what this amendment talks about, because it is spelt out loud and clear. I will deal with the location, which is to be prescribed by regulation. Let us say, for example, big brother Johnny lives next door.

Hon N.D. Griffiths: Johnny Howard?

Hon B.K. DONALDSON: No.

Hon N.D. Griffiths: No, he is little Johnny Howard.

Hon B.K. DONALDSON: It could be lawful, under the regulations, for Dr Geoff Gallop to grow two cannabis plants in his backyard. He has neighbours with a couple of teenage schoolchildren. He also has a teenage schoolchild. What do the kids do? They come home from school at four o'clock and they roll a few joints to last them for some time. There would be many more cannabis plants around the metropolitan area of Perth and around the State. We would have to rely on our police resources to continually go around to find out whether Joe Bloggs is growing two plants or 20 - whatever is allowed by regulation - and, lo and behold, the police would have to check the location. I can see where the Opposition is coming from; it wants to set up another bureaucracy to license all these plantations. It will probably also want to create

another ministry. I am making light of this, but it is a serious subject. This amendment is just a nonsense, and it is an affront to Western Australians that this drivel should be debated in this Chamber.

Hon Norm Kelly: Why don't you come back to the amendment?

Hon B.K. DONALDSON: I am dealing with the amendment. I am talking about the whole issue of the number of cannabis plants and their location being prescribed by regulation. Obviously, there is some confusion on the other side. The Labor Party is in Disneyland or fairyland. It does not know what its policy is. It changes policy almost like its members change their underwear every day. It does not know whether Geoff or John Halden or whoever has got it right. It has no policy. That is the starting point. I am looking forward to the next state election. A vote for Labor, a vote for the Greens (WA) and a vote for the Australian Democrats - I will not leave out Hon Norm Kelly - is a vote for drugs.

I vehemently oppose this amendment. Some members on the other side are squirming. I know they do not want to vote for this, and they know damn well - I would almost bet on this if I were a betting man - that in the other place this measure will be treated with the contempt it deserves and dumped. This legislation is an affront to the Parliament and to the people of Western Australia. I think the most insensitive remark that has ever been made about senior citizens in Western Australia was made last night by Hon Christine Sharp. I deplore that remark. I thought that we in this Chamber were made of better stuff. I was keen to get to my feet last night because I was angry. However, I have cooled down. Nevertheless, I wanted to make sure that a bit of commonsense was injected into the debate in this place.

Hon PETER FOSS: We started off with two plants in the Bill. We are now talking about a prescribed number of plants. Does the sponsor of the Bill contemplate that we will now have more; that is, is she contemplating a prescribed number of plants which is greater than two? If she is not, why are we prescribing when there are only two possible numbers; that is, two and one?

Hon N.D. Griffiths: What about zero?

Hon PETER FOSS: I am not sure that zero is a number, but that is certainly possible. If one were to prescribe none, one would not bother to prescribe anything. If one did not prescribe anything, there would be no numbers.

Hon N.D. Griffiths: What happens if there are no regulations?

Hon PETER FOSS: Then I think none is allowed.

Hon N.D. Griffiths: That is right, and you are the Government, so what is your problem?

Hon PETER FOSS: For how many years will this legislation be around?

Hon Mark Nevill: Five years, if you support my amendment.

Hon PETER FOSS: We have not got to that yet.

Hon N.D. Griffiths: Will your Government support it in the Assembly?

Hon PETER FOSS: I very much doubt it.

Hon N.D. Griffiths: You have the numbers in the Assembly, so what is your point?

Hon PETER FOSS: The Opposition is talking about this legislation. If it thinks it is a waste of time talking about it, it should say so and not bother to comment on it further. If this legislation is being put forward seriously, its sponsor should be able to justify it. I assume Hon Christine Sharp is serious in moving this amendment and in bringing forward this legislation. Does she propose that there will be a number greater than two? Is the purpose of this amendment to allow more plants than she originally proposed? If it is not, what is the point of it if the number allowed is only two, which was the previous number, or one?

Hon N.D. Griffiths: Or none.

Hon PETER FOSS: None is a possibility. I will concede that to the member. It is a good thing that if this legislation is passed while we are in government, the number will be none. However, it seems that the amendment allows an unlimited number to be prescribed in the future. It certainly will not happen while we are in government. Is the member proposing that there could be 100 or 200 plants? Is it proposed that her amendment will allow for more than two plants? She originally provided for two plants in her Bill. Is she now saying that there should be room for the number to be three, four, five, nine or 100? Is she trying to limit what was previously in the Bill or expand it?

Hon CHRISTINE SHARP: This amendment mentions location because there are different ways to determine that. It could be a household, a place or a person. Obviously, that will be determined by the regulation. Secondly, according to my understanding, this Government has full control over what is contained in the regulations.

Hon Peter Foss: Or any future Government.

Hon CHRISTINE SHARP: Yes. Thirdly, I had hoped that this amendment gave expression and some comfort to the concerns about problems of conspiracy raised by the Attorney General during the second reading debate. Fourthly, when I made the remark last night about elderly women, I had in mind a telephone call I received after I moved to introduce a Bill in conjunction with this one last year. That was a Bill to amend the Poisons Act to enable cannabis to be prescribed

by general practitioners for certain recognised medical conditions. An old lady telephoned me concerning that matter. Lastly, the Attorney General asked whether I had a number in mind. No, I do not have a number in mind, and the wording of the amendment is that the number will be determined by the regulations.

Amendment put and a division taken with the following result -

Ayes (14)

Hon Kim Chance  
Hon J.A. Cowdell  
Hon Cheryl Davenport  
Hon G.T. Giffard

Hon N.D. Griffiths  
Hon Helen Hodgson  
Hon Norm Kelly  
Hon Mark Nevill

Hon Ljiljanna Ravlich  
Hon J.A. Scott  
Hon Christine Sharp

Hon Tom Stephens  
Hon Giz Watson  
Hon Bob Thomas (*Teller*)

Noes (13)

Hon M.J. Criddle  
Hon B.K. Donaldson  
Hon Max Evans  
Hon Peter Foss

Hon Ray Halligan  
Hon Barry House  
Hon N.F. Moore

Hon M.D. Nixon  
Hon Simon O'Brien  
Hon Greg Smith

Hon W.N. Stretch  
Hon Derrick Tomlinson  
Hon Muriel Patterson (*Teller*)

Pairs

Hon Tom Helm  
Hon Ken Travers  
Hon E.R.J. Dermer

Hon Dexter Davies  
Hon B.M. Scott  
Hon Murray Montgomery

**Amendment thus passed.**

Hon PETER FOSS: I have some concerns with this clause. First, it appears to abolish the current cautioning system, which obliges a person who has been cautioned to attend counselling, and substitutes handing over to people papers which tell them about cannabis and where they can seek counselling. That is far less effective than counselling. I note that compulsory counselling has not been included in the legislation for obvious reasons; it would be highly complex and almost impossible to legislate. One of the reasons it is better not being in the legislation is that a regime can be enforced in which people are required to be counselled. What is substituted is far less effective. It does not deal with the situation of young people. I accept that it is appropriate to have a different regime for young people, but it does not deal with that. I would be interested to know whether the member intends to bring another Bill before the House to deal with how we handle young people. It has some absurd inconsistencies in it.

Hon CHRISTINE SHARP: I draw the Attorney General's attention to proposed section 8B(3)(a) which requires that a cautioning notice must include legal, medical and any other information prescribed by regulation which relates to cannabis. Therefore, those regulations could prescribe exactly the kind of counselling to which the Attorney General is referring.

Hon PETER FOSS: That is a fascinating answer because it shows that the member obviously has no idea what she is proposing. The proposed subsection states -

(3) A cautioning notice must include -

- (a) legal, medical and any other information prescribed by regulation relating to the possession, use or cultivation of cannabis; and
- (b) the names of, and contact information for, relevant counselling agencies . . .

It does not say that a person must go to the counselling. The big flaw is that the member is substituting a system which is not legislated and which requires a person to have counselling - we all agree that is what a person should do - for information which says "Here you are." I can tell the member what will happen to that: It will go straight in the bin. It might even be used to wrap around the cannabis. I can understand why the member has not put it in the legislation. It is extremely difficult to write legislation which requires that counselling, because it must then include punishment and all the other things. The fact is that the member has not done that, and it is quite interesting that she thinks she has. In fact, one of the vital flaws in this is that she is substituting effective compulsory counselling with a system which just hands people paper which I can guarantee they will not read.

Hon CHRISTINE SHARP: I am pleased to hear the Attorney General at last describe the effective system which the Government has put in place. He has changed his position since the second reading debate. As I told him in summation of the second reading debate, if he considers that this is inadequate, I invite him to amend this to more fully reflect the Government's policy. It is up to him.

Hon PETER FOSS: What an absurd notion! She comes along and puts up an inadequate -

Hon N.D. Griffiths: That is the most impolite method of addressing a member.

The CHAIRMAN: I am sure the Attorney General will refer properly to the proponent of the Bill.

Hon Tom Stephens: The honourable Dr Christine Sharp.

Hon PETER FOSS: The Leader of the Opposition is always behaving in his inimitable way of giving more by interjection than he does by useful contribution to the debate. His own arrogance is clear.

Hon N.D. Griffiths: I think you try to lead people astray sometimes.

Hon PETER FOSS: I have never heard a more absurd proposition. Hon Christine Sharp comes into this Chamber with a piece of legislation which destroys a system which is working and says to me that I cannot get it right and that I should amend it to make it right. I do not accept any part of her legislation. I do not think it is necessary. It is misleading and she wants me to fix her incompetence in this legislation. If she accepts that what we are doing currently is effective, why is she seeking to get rid of it? Why is she putting in place a proposition which does not work and saying to me that I should legislate for it? Why should we legislate for something which does not need legislating?

*Point of Order*

Hon N.D. GRIFFITHS: I wonder whether the Attorney General could be advised that members of this Chamber are not deaf.

The CHAIRMAN: There is no point of order.

*Debate Resumed*

Hon PETER FOSS: We do not accept that we need this legislation. Apart from allowing people to grow hundreds of cannabis plants, which I oppose, and having a misleading preamble, the Bill is of no benefit to Western Australia. I have been told that I must work out some amendments to make it workable. What a load of garbage! We believe that the current system is appropriate and sensible. This is full of thorns, messes and total garbage. It does not work. It takes us backwards, and I am supposed to come up with some legislation to get us to where we are currently. What an absurd proposition! A person would have to be half-baked to come up with that stupid idea. The member has taken away compulsory counselling from an effective system, and she has added the ability to grow hundreds of cannabis plants in a place specified by the Government and a preamble which says that cannabis is safe.

*Sitting suspended from 6.00 to 7.30 pm*

**Clause, as amended, put and passed.**

**Clause 6 put and passed.**

**Clause 7: Repeal -**

Hon PETER FOSS: I wish to point out a rather curious effect of this amendment. Consider a person who owns a house which he shares with a number of other people. He does not smoke cannabis but is aware that one of the other people in the house does. When the police attend and find that the other person has in his possession a quantity of cannabis, the police will be required to give a caution notice to that person with the cannabis. However, the owner of the house who has permitted the person to have the cannabis has no such right to a caution notice and will be charged. That is a rather bizarre effect of the legislation.

Hon CHRISTINE SHARP: I did deal extensively with the purpose of this clause in my second reading summation speech, so I will rest my case.

**Clause put and passed.**

**New clause 8 -**

Hon MARK NEVILL: I move -

Page 6, after line 3 - To insert the following new clause -

**8. Expiration of this Act**

This Act expires 5 years from the day on which it receives Royal Assent unless sooner continued in its operation by resolution of both Houses of Parliament.

The reason I have moved this amendment is that it is very clear that members on the Government benches are nervous about this Bill, even though their policy of cautioning is heading in this direction and could be accommodated by amending this Bill. Other than a couple of hawks on the other side, it is clear that most government members are too nervous to state their views, probably for fear of their preselection prospects. I thought that by putting a sunset clause in this Bill, in five years a few members opposite might find some fortitude. It is simply to ease the public anguish of members opposite that I have moved this amendment. We know what quite a few of them think privately.

Hon CHRISTINE SHARP: I am sure that all members realise the predicament I am in with regard to this clause and the importance of the support of the Independent members of this Chamber in all matters which pass before us. Therefore, I will certainly be supporting this amendment. I am confident that when the time comes for this legislation to expire, the increased harm minimisation that would be brought about by such an approach would certainly be further supported and new and perhaps more extensive legislation would be forthcoming. Perhaps, then, this amendment will provide a very useful opportunity.

Hon NORM KELLY: The Democrats will not be opposing this new clause. We do not necessarily believe that it is necessary, because this Bill represents better legislation to deal with cannabis use. As members can see by my proposed amendment on the Supplementary Notice Paper which I foreshadow I will move subsequent to this new clause being passed, as long as there are the checks and balances prior to such a repeal, it will help to make good legislation. In December 1999 I included a sunset clause in the prostitution Bill we were debating, as I think sunset clauses in new laws is beneficial as they allow the effectiveness of the laws to be determined and Parliament has the opportunity to reassess those laws before allowing them to continue for an even longer period.

**New clause put and passed.**

**New clause 8 -**

Hon NORM KELLY: I move -

Page 6, after line 3 - To insert the following new clause -

**8. Review of this Act**

The Minister is to cause a review of this Act to be undertaken after it has been in operation for 3 years and cause to be tabled in both Houses of Parliament a report setting out the methodology adopted in carrying out that review and any findings or recommendations resulting from it before this Act has been in operation for more than 4 years.

Given that the proposed Act would expire after five years, in order for this Parliament to better determine whether such a repeal should occur I am proposing that a review of the Act be carried out after it has been operating for three years so that we can gauge its effectiveness, and that a report be tabled in this Parliament within four years of the Act coming into being so that Parliament can duly decide whether to allow the repeal which is now contained in the Bill.

**New clause put and passed.**

**Title put and passed.**

**Bill reported, with amendments.**

**RAIL FREIGHT SYSTEM BILL 1999**

*Committee*

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon M.J. Criddle (Minister for Transport) in charge of the Bill.

**Clause 1: Short title -**

Hon NORM KELLY: I will try to elicit some information from the minister about the agreement between the Government and Hon Mark Nevill, particularly those parts of the agreement which are not contained in the Bill or the proposed amendments. Hon Mark Nevill wrote to the minister last December, outlining his demands in exchange for support of the sale. One of those is -

there must be recognition, by way of financial compensation, of negative impacts on Westrail employees consequent upon a change of employer and likely changing work practices.

Four months later, in March this year, the minister and Hon Mark Nevill announced that agreement had been reached.

Hon Mark Nevill: Hon Norm Kelly was the first to see the amendments.

Hon NORM KELLY: I appreciate that. That is why I am concentrating on matters about employees, rather than rail standards. The minister's media statement, dated 22 March states -

an important element of the sale process is that Westrail's employees will be treated fairly and not lose their jobs.

Hon Mark Nevill's press release states -

In respect of Westrail staff, there will be no involuntary Westrail employee transfers to a new owner and no staff member will be without a job as a result of the sale.

During my discussions with Westrail employees, a number of them described outrage - rather than disappointment - with the agreement. They felt there had been an understanding that prior to this Bill being passed, an agreement would be reached between the unions and the Westrail management about the future of the employees. I ask the minister: What are the minimum conditions or assurances given to employees and where are they stated? Has any correspondence taken place or assurances been given to the unions or the employees about what the minimum conditions will be? Have any guarantees been made about the period of time the employees will keep their jobs for? All we have heard or seen from the minister is two lines stating that employees will not be without a job. How long will these guarantees stay in place? If employees choose not to transfer to the new owner, what types of jobs will they be provided with and would those jobs be commensurate with their current salary or wages? Will workers retain the same level of conditions? This is particularly important in areas such as assisted accommodation, as the majority of employees are stationed in regional areas. It is

important to find out some details about these assurances before we begin the debate. The employees are screaming out for this. I was disappointed that during the second reading debate last year, employees were largely left in the dark about what would happen and what assurances they would receive once the sale was finalised. It is imperative for this House, prior to passing this Bill - if it is passed - to find out what the future holds for these employees so that they are given some degree of certainty. Members also need some assurances before they vote on the matter.

Hon M.J. CRIDDLE: The rail sale task force has held meetings with the Australian Services Union, the Association of Professional Engineers, Scientists and Managers Australia and non-union employees. The feedback has been positive. The task force has also held meetings with what was the Public Transport Union, and it is still negotiating with those people. We are talking to them, but we cannot negotiate a package until the sale process has been completed. The employers also need to talk to these people. Hon Norm Kelly spoke about the anger, but the people I have spoken to do not seem to have the same anger. What they really want is an assurance that they will have their jobs in the future. The sale process is about setting up their future and giving them an opportunity. There will be no future if Westrail diminishes. I have not heard anybody else come up with an alternative to assure these people of a job in the future. The opportunities for these people will be limited if someone goes out and cherry picks one or two of these contracts. They will not be required. The sale is a way of assuring them of a future and of assuring Western Australia of a future for its rail system. The operator cannot carry out negotiations with these people unless it has been confirmed it has a purchase. The Government will certainly look after employees, as we have regularly indicated.

Hon NORM KELLY: Has the Government told prospective bidders the types of minimum conditions and guarantees it expects them to put in place for the employees? Is the Government openly canvassing the possibility that employees will be guaranteed at least two years' work in a government position if they do not transfer to the new operator? I am considering the deal made with the bus drivers. Is a comparable arrangement proposed for Westrail employees or does the minister think it is too premature to talk about those details?

Hon M.J. CRIDDLE: It is premature to talk about those issues, but we are talking about a transfer package rather than a redundancy package. They are quite separate.

Hon KIM CHANCE: It is appropriate that the debate on the short title begins with a consideration of the future role of Westrail employees. The Standing Committee on Public Administration addressed the effect on employees in chapter 8 of its report. On page 47 of that report, the committee discussed, in some detail, the Transfer of Undertakings (Protection of Employment) Regulations of the European Parliament, which are better known as TUPE. While the committee did not feel there was a necessity for laws of this kind in Australia, it indicated the Government should at least look at the effect of the laws and, during negotiations with potential buyers, try to make the spirit of the TUPE laws part of the agreement.

Where I disagree somewhat with the minister is in the matter of timing. The minister has said that it is premature to try to deal with this matter now and until such time as we have approval for a sale. I concede that that is one way of looking at it. However, we have proposed that the time to look at these issues is now because unless they are decided now and made part of the legislation, one is unable to go to potential buyers with a firm undertaking. A couple of days ago the Australian Labor Party attempted to introduce a raft of amendments to this Bill. That might sound strange because we had always said that we would not introduce amendments to the Bill. However, we proposed a set of amendments which unfortunately, because of the standing orders of this Chamber, have been deemed to fall outside the policy of the Bill. We accept that advice. However, it is a shame that the House cannot consider the proposed amendments which were provided to us by one of the principal unions, the Australian Rail, Tram and Bus Industry Union. Had we been able to introduce our amendments, clause 103 of proposed new part 6 would have begun by saying -

This part shall provide certainty of employment and employment conditions -

*Point of Order*

Hon M.J. CRIDDLE: I have necessarily allowed the debate to go on but as a point of order I wonder if this is relevant to the Bill.

The CHAIRMAN: I presume the member will relate it to an overview of clauses before the Chamber.

*Debate Resumed*

Hon KIM CHANCE: Precisely. The point I was making is that while I understand why the standing orders of this place prevent such a set of amendments being moved, we need to understand the benefit which could have come from such a set of amendments. If you, Mr Chairman, want me to relate these comments to the short title, the relationship is I believe the short title should not be passed until the legislation contains provisions such as these.

*Point of Order*

Hon M.J. CRIDDLE: Mr Chairman, you have ruled this issue of the amendments out of order and I ask you again whether the comments of Hon Kim Chance are relevant.

The CHAIRMAN: I will pay particular attention to those comments.

*Debate Resumed*

Hon KIM CHANCE: Despite the fact that you have not ruled on the matter, Mr Chairman, I was saying that I believe this is relevant to the debate on the short title because the short title should not be passed until such time as the Government



includes conditions of this nature in the legislation. The Opposition has attempted through the processes of the House, such as are available to it, to introduce these issues by way of a set of amendments but that was out of order because the amendments exceed the policy of the Bill. However, that is not the only way to incorporate amendments of this nature in the Bill. The Government may include them in the Bill. The Opposition may not do so by way of amendment but the Government may by introducing a new Bill. I have spent more time explaining the procedural point than I intended to spend explaining the benefit of the proposed amendments but the point I am trying to make is why I believe these amendments or, more accurately, changes would make for a better Bill than the one we are currently considering.

To again relate my comments to the first clause, I do not believe the first clause should be passed unless something of this nature is included in the legislation. Even though the Opposition may not do that, I do not think that prevents us from talking about how the Bill might be improved. Simply, we believe the Bill should provide some certainty of employment and that relates to what the -

Hon M.J. Criddle: What employment certainty have they got if Westrail falls over and loses a couple of contracts?

Hon KIM CHANCE: We are dealing with the certainty.

Hon M.J. Criddle: No, you are not.

Hon KIM CHANCE: We are dealing with a certainty on the assumption that the sale goes ahead. In proposing what would be a certainty - that is, a change of employer - I am simply arguing that the Government should consider issues other than those it has included in the Bill. Among those other issues is the matter which has been raised by Hon Norm Kelly and the security of employment of the current Westrail employees. I cannot see why the Government wants to resist this point being made. The fact is, the Opposition cannot and will not move amendments of this nature. I was going to pass this sheet of paper over to the minister within five minutes of beginning this discourse. We are asking that these matters be considered. Our proposed section 103 states -

This part shall provide certainty of employment and employment conditions from the date of transfer from Westrail to the new owner, successor, assignee, transmittee or transferee however described.

Proposed section 104 shows how that could be done. It states -

The minister shall ensure that the tender documentation and the contracts or other arrangements made for the purpose of the new employer(s) performing functions and/or activities of Westrail, clearly specify the obligation of the employers to fully meet the terms of this Part.

All that is extended from there is the new employers shall apply, under enterprise bargaining arrangements, the range of award conditions which are currently specified. The amendment then lists the relevant awards. Proposed section 106 states -

The Enterprise Bargaining Agreement shall operate to the exclusion of Australian Workplace Agreements.

That is a reasonable proposition. The only place in which these proposed amendments mention a guarantee of employment - which is the Transfer of Undertakings (Protection of Employment) Regulations system - is in proposed section 107 which states -

Subject to a termination of employment based on a valid reason relating to an employee's capacity or conduct, each employee is guaranteed in his or her current occupation from the date of the completion of the sale of Westrail for a period of three years as determined by the employee's election of the time of accepting employment with the new employer(s).

I do not believe that that imposes a great burden. I would very much appreciate it if the minister accepted this single piece of paper from me. It is a proposition of the Australia Rail, Tram and Bus Industry Union and I ask that the minister consider it.

Hon M.J. CRIDDLE: My understanding is that the package we are talking about is more generous than the TUPE system and gives an employee an opportunity to choose. The thing about the package we are talking about is it is negotiable with the employees and is a condition of the sale. It is not appropriate to have it in the legislation because we will need to negotiate those issues. The other point is, to function, this operation will need the employees it has. It will need the drivers and the like. There is a real need for these employees to go over with the transfer so the company can go on.

Hon LJILJANNA RAVLICH: Can the minister give the House assurances that there will be no job losses? He referred earlier to a number of outstanding issues regarding the transfer of employees. Will he advise us what specifically those outstanding issues are? One of my concerns is that when we have dealt with similar legislation in this place with operations such as MetroBus - I am sure AlintaGas will go through a similar difficulty - the issue of employment assurances being fairly short term has been a factor, whereby employees are transferred from the public sector to the private sector operator, and beyond a two-year period many of them find themselves without any secure employment. In most cases I guess that is a breach of the confidence that some of those employees might have had in the new operator. I am interested to hear what assurances about their long-term prospects the minister can give these employees who might be transferred across.

Another issue that concerns me is the employees' superannuation. Many of the current employees of Westrail freight are members of the Government's superannuation scheme. I refer to the inquiry of the Standing Committee on Public

Administration into the Government's proposals for the sale and lease of rail freight operations. The committee heard that there was a reluctance by some employees to leave government employment because they were in a defined benefits superannuation scheme. In the event that those people are transferred across, they will want assurances that they will not be any worse off financially as a result of transferring from the Government's scheme to possibly any other scheme. I wonder whether that was addressed as a part of the employee matters which are still outstanding and to which the minister has alluded. Will the minister address those four issues?

Hon M.J. CRIDDLE: All this is based on the thought process that there is some bad influence and that people will not try to do the right thing. I have said all along that these workers will not lose their jobs. If there is a possibility that they will lose their jobs, they will not transfer; it is as simple as that. They have permanent jobs at present. If they do not transfer, they will still have their jobs. However, they will be transferring on the basis that they have a reasonable assurance; otherwise they would not do it. I certainly would not.

Hon LJILJANNA RAVLICH: Therefore, do I understand that at no point down the line will there be any forced transfers under any conditions?

Hon M.J. Criddle: No, there will not be.

Hon NORM KELLY: Employees get nervous when they hear the Government talking about negotiating a new deal for them. That is not necessarily a bad thing. As the minister said, that is something which should be done further down the line. However, it would assist members in this place if the Government were willing to give an assurance that following any transfer of employees, those employees would not suffer a reduction in wages or conditions.

Hon M.J. Criddle: They would not transfer if that were to happen.

Hon NORM KELLY: The minister said they will not transfer if there is a reduction in wages or conditions. However, if we are talking about a skilled work force, and there is nobody else in this State for whom these people can drive the trains, they will not have much option about whom they work for, particularly in the initial stages when there is not the degree of third party competition that the Government is hoping to get later under the new rail regime. We are looking to the Government to reassure some of the employees who are nervous. Some employees are looking forward to a new owner coming in so that they can progress further. However, others are very nervous about losing conditions and wages, because the transfer to a new owner provides a perfect opportunity to screw down those conditions to help make the new operation more profitable at the expense of the workers. Therefore, the least the Government should do is to give an assurance to those employees that it will not in the future, prior to the sale, negotiate a deal that will have a negative impact on them. It would be very tempting for the Government to say that for a return of X dollars in increased sale price, it will allow these workers' conditions to be reduced. The Government is saying it will work out that equation later, but I am saying that we need to have a better assurance about some minimum standards.

Hon Kim Chance: That is the only way we can guarantee that what happened to MetroBus employees will not happen to Westrail employees.

Hon NORM KELLY: Yes.

Hon MARK NEVILL: From discussions I have had with many Westrail employees, I have no doubt that they are caught between a rock and a hard place. Their future in Westrail is uncertain, particularly with the accelerating debt rate, the condition of the track and the threat of third party competition under national competition policy. Many of them are nervous, and the perception is that if these matters continue, there will be a gradual shedding of labour unless there is massive investment in the system.

The potential purchasers of Westrail freight will be quite different employers. Some people have had bad experiences when working for one of the potential bidders in particular. I think that company may not be able to repeat the circumstances in that case. There was an excess of locomotive drivers at that time, but now locomotive drivers are scarce. It is a different set of circumstances. I do not think one can say that that system will be replicated by that company. Other companies are much better employers and have given employees bonuses. I do not know how we can get assurances. In the past, it has not been the practice to put industrial relations clauses into Bills and agreement Acts. The flexibility within them does not lend itself to that sort of practice.

Two different issues were caught up in the industrial relations part of this matter. I understand that the enterprise negotiations were largely settled shortly before my agreement with the Government. It is impossible for me to dot every i and cross every t, but I must satisfy myself that the major parameters have been put in place. The productivity side of this matter was largely agreed to. There is no doubt that there will be a great deal of haggling over the smaller issues. I think basically two transfer packages were being offered; that is, one which gave more security and less money and another which gave more money and less security. The attractiveness of the package will depend upon the age of the person and how close he or she is to retirement. Some of the older members of Westrail who are close to retirement may elect to stay with government because of superannuation conditions. That will be an option available if it represents the best course of action for the individual. Undoubtedly, a future buyer of Westrail will want virtually all Westrail staff. Some in head office in East Perth may not be needed, but I am speculating here. The country has a shortage of locomotive drivers, and the rail industry, like the fishing and mining industry, is a way of life to people working within it. It is a lifestyle to them. I do not know whether one can tie down those aspects to the nth degree. Nevertheless, I was satisfied that people will be able to negotiate a good deal. The strength the employees have is the scarcity of skilled people in this area.

If anyone is unhappy with whoever takes over Westrail freight, he or she will have the option in six months of working for other third party competitors. Employees are in a fairly strong position. There was no future for them under the status quo. Most people I have met realised the difficulty of the position. They could either continue in a system that is marking time or going backwards - few people suggest that Westrail has been bounding ahead in the last year or two - or work for a variety of employers, some of whom we do not know at this stage. I would be surprised if the minister knew all the potential bidders at this stage.

Hon M.J. Criddle: We do not.

Hon MARK NEVILL: Therefore, employees are in a fairly strong position.

It has not been the practice to put a provision defining this matter in such Bills. I toyed with different clauses in which to include it, but eventually I did not think it was a good idea. I also toyed with other clauses, to the minister's chagrin.

Hon LJILJANNA RAVLICH: The Government is not in a position to guarantee anything. I have received telephone calls in my office in the past couple of weeks from people working in the engineering industry indicating that it is not uncommon when multinationals pick up contracts in Australia for them to bring over their own labour. Therefore, we cannot accept as a given that all workers who want to transfer across will be picked up by the new operator.

Hon Mark Nevill: Did you say engineering as part of Westrail?

Hon LJILJANNA RAVLICH: It was engineering generally - not as part of Westrail. I spoke to a fellow on Saturday night who was a geologist from the mining sector who said a problem in this State is that local geologists must compete with geologists from offshore brought over by these companies. The minister is in no position to guarantee anything. The minister says that everyone who wants to transfer across will be okay as it is expected they will be taken on board because their expertise is required. Nevertheless, that is not a given. The Government could have included in the legislation that any bidder interested in purchasing Westrail freight is under an obligation to provide an opportunity for all employees to transfer across if they wish to be. That would have been a gesture of goodwill. Rather, the minister says in this place that he is really confident that anyone who wants a job will be able to transfer across. The minister cannot give those assurances. He has no idea whether that will be the case.

The other concern is the plight of workers who choose not to transfer. Will they remain as employees of Westrail, or will they be subject to the same treatment as that which MetroBus drivers received? MetroBus drivers were promised by this Government that they would participate in the most innovative relocation program - they were to be up-skilled, given new employment and training opportunities and be found permanent jobs within the public sector - but that was a pack of lies for most redeployees. These people were treated in an appalling manner by this Government. They were not retrained and were pushed from pillar to post, and most were squeezed out of the public sector as they could not take the treatment any longer. Many of them were sent to jobs like washing graffiti off walls. The reality did not live up to the rhetoric of the Government when the legislation was debated in this place. I have some grave reservations. I have no confidence in the assurances that the Minister gives. He cannot give an assurance that these people will be transferred if they wish to be. That is not a given. The minister has not explained to us fully how the Government intends to deal with the people who do not want to transfer across. The minister should be a little more up-front and provide us with some answers about the plight of both of these groups of workers. The minister has not satisfied me, certainly, and I doubt whether he has satisfied the Committee on those matters.

Hon KIM CHANCE: I raise one or two issues which similarly relate to the situation employees will face presuming that this Bill becomes law. I refer the Committee to the recommendations of the Standing Committee on Public Administration on the proposed Westrail freight sale at pages 48 and 49 of its report. In a sense, recommendation 8.6.3 states what Hon Mark Nevill and, to some extent, the minister have argued. Recommendation 8.6.3 reads -

The Committee notes the Union's concerns about job losses following privatisation. The Committee further notes evidence that Westrail has already undergone an extensive process of restructuring and considers that large scale retrenchments are an unlikely consequence of privatisation.

The minister and Hon Mark Nevill have made that point, which is largely correct and I stand by the committee's finding in that regard. Nevertheless, that does not get us over the issues raised in particular by Hon Ljiljanna Ravlich. I use the MetroBus driver example as a fair parallel. MetroBus drivers are now on a lower hourly rate than they were years ago when the system was privatised because of the adoption of a different award.

When the private transport providers came into Westrail, rather than picking up the MetroBus award, they picked up an old award of the Transport Workers Union of Australia which had been lying around for years unused and unreconstructed. It has taken the Transport Workers Union some time to bring that award up to scratch. In the meantime, the owners of the new transport system have had a bonanza at the workers' expense. The minister expressed confidence - it even sounded like certainty - about the future of the current Westrail employees. I do not believe he has a right to that certainty. The minister can be hopeful about their future and I am sure he shares our view that he wants them to carry on successfully; however, I do not believe the minister can be any more than hopeful and perhaps optimistic about that.

Hon M.J. Criddle: If Westrail were to remain as it is, I would not be half as confident. If somebody were to cherry pick it, what has happened with Westrail may continue for some time.

Hon KIM CHANCE: That is irrelevant, even if it is true. I concede its relevance to the minister's argument that the

Australian Labor Party should cooperate with the sale. However, it is irrelevant to the outcome for these employees if the Bill becomes law, and there is every chance of its becoming law. The only way in which the minister can feel confident about our Westrail employees' conditions not going down the drain in the event of a private takeover, in the same way as MetroBus employees' conditions and the company that was taken over by the Australian Southern Railroad went down the drain, is if there is a provision in the legislation.

Hon M.J. Criddle: What about the contract?

Hon KIM CHANCE: It can be provided for in the contract, but the legislation does not bind the Government to insert that provision in the contract. The difference between the minister's approach and the approach that I would like him to adopt, and which was contained in our amendments, is that the legislation would have required the contracts to contain some safeguards. If the legislation's only requirement is that the contracts should contain a guarantee of the continuation of the same award structure, which is basically what is in the Australian Rail, Tram and Bus Industry Union proposals -

Hon M.J. Criddle: Inserting that in the legislation will take away flexibility for both parties.

Hon KIM CHANCE: Yes, just as Path Transit and Swan Transit Pty Ltd had additional flexibility with their employees. They had the flexibility to pick up a 10-year old TWU award and disband the MetroBus award. They had the freedom to put themselves in a position where their drivers are on a lower hourly rate than they were two and a half to three years ago. That is what freedom and flexibility means when one is at the wrong end of the stick.

Hon M.J. Criddle: That may not be the case if you are a train driver and you are required.

Hon KIM CHANCE: And if train drivers are in short supply. I sincerely hope the outcome predicted by the minister comes true.

Hon M.J. Criddle: So do I.

Hon KIM CHANCE: However, I do not believe the minister can predict that with confidence; he can only be hopeful about it. It is a legitimate role of the Parliament to suggest that the Government should reconsider the way in which it made these provisions.

I do not intend to go on all night about this, Mr Chairman, and I appreciate your patience. These are important issues which must be discussed. Other members may want to carry these issues further. However, I want to raise a couple of other issues relating to employment which deal specifically with the committee's findings in this matter. One of those issues is raised in 8.6.1 of the committee's report. The committee believes that a situation should be avoided whereby the employer and the employees are faced with instant industrial negotiations should the privatisation of Westrail's freight business eventuate.

Hon M.J. Criddle: That is covered in this clause. I will speak to that.

Hon KIM CHANCE: That is important because the committee raised the point and it again goes back to the ASR example.

Hon M.J. Criddle: I will cover many of these issues, which will take me about two seconds.

Hon KIM CHANCE: I will not go any further. We are concerned about the difficulties that would be posed for both sides if they were to change industrial arrangements. However, if the minister intends to respond to that issue, there is no need for me to go any further.

The other matter which is very serious - the minister may have the same answer - is in relation to 8.6.2. The committee notes the concerns raised about the difficulties in transferring superannuation under a government scheme to a private scheme and the effect of an employee's decision to opt for government redeployment over transfer to the private sector. This matter was brought to the committee's attention by Roger Jowett of the Australian Rail, Tram and Bus Industry Union. He told us that the privatisation of MetroBus led to difficulties with the redeployment process. When Mr Jowett told us that, I began to understand what had gone wrong with MetroBus and with earlier Westrail staff reductions. I wondered how 50 people could sit in a lunchroom, as they did at Welshpool, around a fire bucket and do nothing. I thought that they would surely have more pride than to do that; nobody ever explained to me why they did it. There is a very good reason for that and that reason is partly explained at 8.3.1 on page 46 of the committee's report. One such difficulty was that some employees were reluctant to leave government employment because they were in the defined benefits superannuation scheme. A reference appears in that report to the written submission. Another difficulty that the union anticipates lies in obtaining redeployment for locomotive drivers who have been employed in a specific position for a number of years. We did not say any more about that; however, it would be beneficial for the minister to study Mr Jowett's evidence on that point.

Perhaps other members understand this matter better than I; however, there seems to be a problem with redeployees who are currently members of government superannuation schemes. When transferring their employment, they must also transfer to private superannuation schemes and that means they cannot afford to leave. That is why these poor people had to sit in a lunchroom around a fire bucket playing cards until they got bored out of their minds; they could not afford to leave. Mr Jowett did this Parliament a great service. One of the reasons that the Standing Committee on Public Administration did not go any further into this matter is that it believed that it was slightly outside the terms of reference, which were quite narrow. I believe we recommended further study of that issue but I cannot find the reference to it in the report. If that is the case, we have found one of the principal causes for one of the most painful failures of the redeployment system. Redeployment is a good idea and if we are to make changes we should do so under the principle of the three Rs - redeployment, retraining and relocation. However, one R which has always failed is the redeployment system when people

choose not to relocate to a new employer, whether that new employer be in the private or public sector - obviously in this case we would be looking to the private sector - because they cannot afford to go. Nobody has ever tried to translate their superannuation entitlement into a private superannuation scheme. I concede this is not a matter for the Minister for Transport; it is a whole of government matter. However, it is a matter that the Government needs to address if it wants the redeployment system to work well and it may do a great deal to ease the political cost of making these changes.

Hon M.J. CRIDDLE: I understand the concern of the members. It is a natural concern, and I have spoken to these people so I understand the issues. However, they can choose the package that suits them. With regard to superannuation, they will be recompensed for any discount, so they will be no worse off than they are at present. They will be given financial advice. We will not go through a hurried process. They can choose the package upon their transfer, and through the due diligence mechanism of this process, the bidders will know the number of employees who will be transferring and they must bid on that basis. The bidder will know what is in the package and the number of employees. They will bid on that basis and we will choose them following that process.

Hon Ljiljanna Ravlich: It is about as clear as mud to me.

Hon M.J. CRIDDLE: I am sorry if it is not clear to Hon Ljiljanna Ravlich, because I thought I made it very clear as I took members slowly through this.

Hon Kim Chance: Did the minister say that he had found a way around instant negotiations?

Hon M.J. CRIDDLE: They will be done in advance of that situation.

Hon KIM CHANCE: Is the minister saying there will be no negotiations between the new employer and the employees? Do they have to negotiate new industrial arrangements at the point of takeover? What arrangements are now being made or have been made which can allow the new employer to overcome the difficulty of having to negotiate new industrial arrangements with their employees at the instant of takeover at a time when they are trying to do everything else.

Hon M.J. Criddle: The employment arrangement will be part of the package.

Hon KIM CHANCE: Does the minister mean the employment arrangements between the new employer and the employee? I am trying to get clear, from what the minister has said, that the Government will be involved in the arrangements between the new employer and the employee at or prior to the time of the takeover of the business?

Hon M.J. CRIDDLE: Yes. We will negotiate a package. The package will be in place and when the bidders come along, they will have knowledge of that package, and they will bid on that basis.

Hon KIM CHANCE: That is an enlightening answer and I am delighted to hear that from the minister. That is not something we have heard before.

Hon M.J. Criddle: We have not made it public.

Hon KIM CHANCE: That indicates the value of this process. This question occurred immediately in Hon G.T. Giffard's mind, and he has put it before me: If the Government is to be involved, will the Government be insisting upon a no-disadvantage test in the new employment arrangements relative to the current employment arrangements; that is, a similar no-disadvantage test to that which is currently applicable to these employees, remembering that they are mostly employed under federal arrangements under the Workplace Relations Act 1996, under which they are entitled to a no-disadvantage clause in respect of any new industrial arrangements they may enter into?

Hon M.J. CRIDDLE: We cannot negotiate anything now until we know that we will sell the operation, because that would be totally unfair to the employees and to the Government. When we get this process concluded, we will enter into negotiations with the unions, the finalisation of those negotiations will be put on the table, the bidders will know the arrangements and the process will go on.

Hon Norm Kelly: Is the minister saying that the Government and the unions will negotiate that package prior to allowing the sale to go ahead?

Hon M.J. CRIDDLE: I have said that four times.

Hon Ljiljanna Ravlich: It is not very clear.

Hon M.J. CRIDDLE: Surely it is clear.

Hon Ljiljanna Ravlich: We do not understand it.

Hon M.J. CRIDDLE: The member may not understand it but I understand it. When this legislation is law - we can do nothing until then - we will enter the negotiation phase with the work force. We will complete that and they will know the situation. The bidders will know what the situation is with the employees. Then the bid will be put in front of them. We will make a decision following that process.

Hon G.T. GIFFARD: I understand that the minister is now saying the Government will enter negotiations with the unions. Is the Government now advising us that a prospect of the consequence of those negotiations with the unions is that the workers will be worse off or is there a guarantee from the Government that they will not be worse off than under their present conditions? Is the minister saying they will be as well off or better off, or is he saying that previous industrial

relations arrangements are out of the window, that the Government will negotiate a new package and that the workers will be worse off?

Hon M.J. CRIDDLE: For a start, they are on a certain set of circumstances at present. I do not think any people in their right mind would transfer to something under these arrangements that would make them worse off.

Hon G.T. Giffard: What if it was that or no job?

Hon Kim Chance: That is what happened at Australian Southern Railroad. The workers were told to not even climb into the unit on Monday morning until they had signed the workplace agreement.

Hon M.J. CRIDDLE: The member is now going back to what I said previously. We are still talking about negotiation. The member is talking about something totally different, which is not relevant to this discussion.

Hon Kim Chance: I appreciate that.

Hon G.T. GIFFARD: Is that the answer? I do not understand the answer.

Hon Ljiljanna Ravlich: It was a non-answer.

Hon M.J. Criddle: It was not a non-answer at all.

Hon G.T. GIFFARD: The answer to the question was that a person would have to be mad to accept wages and conditions that are inferior. What does that mean?

Hon M.J. Criddle: It means that in the negotiation period, they will be looking for a better set of circumstances. If they go from where they are at present, they certainly will not be transferring to something that is far worse.

Hon G.T. GIFFARD: They will not be worse off?

Hon M.J. Criddle: No.

Hon G.T. GIFFARD: All I am asking for is a commitment that they will not be worse off.

Hon M.J. Criddle: I assume that any person who thought he or she would be going to a worse package -

Hon G.T. GIFFARD: The minister cannot rule it out?

Hon M.J. Criddle: I do not expect they would be anything like worse off. We are looking at a far better package.

Hon G.T. GIFFARD: Then say it - guarantee it.

Hon M.J. Criddle: I just did.

Hon LJILJANNA RAVLICH: If we are looking at a better package, why did the minister not ensure that the no-disadvantage test was calculated into that package, which would guarantee that no worker would be worse off? If the minister was that intent on looking after these men and women and making sure that no worker would be worse off, why did he not make the no-disadvantage test an integral part of the package?

Hon NORM KELLY: It seems that we are going around in circles, because about an hour ago I asked a question about the base starting point for the Government's negotiations with the unions. Rather than go into negotiations with the unions and say that the workers can negotiate a package where the conditions are the same or better than they are currently, the employees are looking for a guarantee from the Government that their conditions will be no worse than they are at the moment as government employees. That is all we are talking about. We are not talking about whether the conditions will be better. We are just looking for conditions that are at least as good as the conditions that apply now. The minister has given a lot of answers, but we cannot say from any of those answers that the minister has given an assurance. That is what we want, and until the minister does give that assurance, I will keep asking what the minister is guaranteeing, because it has been nothing up until now.

Hon M.J. CRIDDLE: The situation is that the workers are on the award or a workplace agreement at present. Is that a given?

Hon Norm Kelly: Yes.

Hon M.J. CRIDDLE: A transfer package will be added to that, after negotiation, so obviously they will have the opportunity to do quite well out of it.

Hon Norm Kelly: The transfer package will be on top of the award?

Hon M.J. Criddle: A transfer package will be negotiated.

Hon Ljiljanna Ravlich: Will it be over and above the award?

Hon M.J. CRIDDLE: Yes.

Hon Ljiljanna Ravlich: What will be in the transfer package?

Hon M.J. CRIDDLE: That is what we will find out when we go into the negotiations. There is no sense in our putting a

package into the blue sky if we do not have the passage of this Bill. When we have the passage of this Bill, then we can negotiate. We have an arrangement that I think is quite reasonable.

Hon LJILJANNA RAVLICH: Will the minister ensure that a no-disadvantage test is part of the package? That is a reasonable question. If the minister wants to do the right thing by these workers, he will give that commitment to this Chamber, because, as a representative of workers, I am sick and tired of seeing worker after worker being duped by the Government in this place. We listened to the rhetoric on MetroBus, and we listened to the rhetoric about goodwill on the Government's behalf in relation to the AlintaGas workers, many of whom are still unsatisfied. I want some assurances from the minister. If the minister is a man of his word and if he wants to do the right thing by Western Australian workers, he will ensure that a no-disadvantage test is incorporated into this package. If the minister does any less, it will indicate to me that the minister is being less than honest.

Hon J.A. SCOTT: One of the critical issues is that in having no certain package for the workers within this process, the Government is given a stronger bargaining point to get more money for Westrail. In the long term that will not be of great benefit to this State because we will see any operating profit that comes out of a low-wage package go overseas to the shareholders. There is no doubt that if the Government gives some certainty in whatever deal is done with the wage package, it will limit the Government's ability to get a higher price. At the end of the day one must balance that higher price against the needs of the workers. As other members have pointed out, what happened with MetroBus workers was not fair, in that workers who were on awards that were a decade old lost out somewhat. That was not to the workers' advantage; it was certainly to the advantage of the private company and of some advantage to the Government, because it could claim that it was keeping costs down. It is all at the expense of one particular group. Although giving certainty does limit the Government, it should go ahead and do that. Then at least we will know the basis on which the negotiations start in regard to workers' packages.

Hon KIM CHANCE: I am sorry that the minister is getting a bit frustrated.

Hon M.J. CRIDDLE: I am not getting frustrated; I am listening.

Hon KIM CHANCE: I seek his opinion on two grounds. As much as I am pleased to hear it, in terms of the pre-negotiation of employees' conditions, we are having some difficulty coming to terms with it. Secondly, people need to be very much aware of the fact that our people have been badly burnt by changes of this nature as a result of employers picking up old awards and finding ways to apply their so-called flexibility arrangements - "flexibility" in employer talk simply means driving wages down for their new workforce. I can understand that the minister does not want to do this and I can understand and appreciate the pre-negotiation package that the minister is putting to us. I want to explain the complexity of what the minister is taking on and I want to understand whether what the minister is going to do in that pre-negotiation process is a matter of government or ministerial policy. We need certain assurances.

Listed on the sheet that I have handed the minister from the rail, tram and bus industry union is a proposition that an enterprise bargaining agreement be formed and registered in accordance with the commonwealth Workplace Relations Act 1996, in which the terms and conditions of a number of enumerated awards and agreements will be adhered to. Seven awards are listed, three of which are federal awards and four are state awards. We all know and understand the effect of the commonwealth law in this matter; that is, the Workplace Relations Act 1996 requires the application of a no-disadvantage test. Whether that requires the application of a no-disadvantage test in respect of those four state awards is highly unlikely. I do not think the Commonwealth could apply a meaning of that kind. The no-disadvantage test will only apply to three of those seven awards even if the Bill before us is adhered to. Even if the rail, tram and bus industry union's proposed amendments were adopted in full, we would still have a difficulty if the policy of the Government does not embrace the principle of no disadvantage; in other words, if the minister cannot give us an assurance that a principle of no disadvantage will be applied in these circumstances.

Hon M.J. CRIDDLE: Workers will be no worse off. The terms and conditions will be largely the same but they will change to reflect private ownership. There will also be the benefits of the transfer package on top of that.

Hon G.T. GIFFARD: I do not mean to be difficult, but I am concerned about a sleight of hand. I am concerned about people's general and ongoing employment relationships and a transfer package being talked about as if they were the same thing. My concern is that workers may be confronted with changed employment arrangements. The workers may not be in a position to assess whether or not they will be worse off as a consequence of the changes to those employment arrangements. They do not know until the end of the year how many overtime hours they have worked or how much they would have received in penalty rates. It is very difficult to know how much they were paid by annualising as a one-off payment. Usually it is based on the patterns of work of the people in those jobs.

There is a problem in changing the arrangements for workers to reflect private ownership. It is difficult for workers to make an assessment of whether on the face of it they will be better off or worse off. I am sure that many of the Westrail workers would rely on their union for advice and support in that matter. That is an important thing for them to do. I am concerned that if the workers end up being worse off, the Government will claim they have received a transfer package and that is compensation for any loss they may have suffered. I am interested in separating the transfer package, which is yet to be discussed and negotiated, from people's wages and conditions. Apples have to be compared with apples. We must compare present wage rates and conditions with the wage rates and conditions under a private company. We must not consider throwing the transfer package in as an extra deal.

I want the Government to give me a simple commitment. We are getting close to a clear commitment from the minister

but I am still concerned about the nuances in the explanations we have heard to date. I want the Government to simply say - and I will not use the expression "no worker will be worse off" because that has turned out to be one of the great political lies of this country - that it will give a commitment that its negotiating position will be that there will be no overall diminishing of the wages and conditions that the workers currently enjoy and that will essentially underpin of any negotiations that it has with the union.

It is not enough to say that one would have to be crazy to accept a job with lower wages. It was put to me that these people may well be better off. That is another matter and I will not argue with the minister about it. It should not be hard for the Government to give a commitment if workers transferring across will be better off and will not be deemed crazy. The Opposition is asking for a clear commitment so that people whose livelihoods depend on what the Government does and who are watching the debate and the commitments given by the Government will be able to take some comfort. Hon Kim Chance said the Opposition wants to see the principle of ensuring that people are not disadvantaged upheld, and I echo those sentiments. Can the minister be as plain as possible in stating the sort of commitment he is prepared to give?

Hon M.J. CRIDDLE: As a general principle, there will be no reduction in the employees' existing terms and conditions. I hope that satisfies the member.

Hon G.T. Giffard: What does the minister mean by "general"?

Hon M.J. CRIDDLE: The principles of the negotiations.

Hon LJILJANNA RAVLICH: I assume some ongoing consultation has taken place with Westrail freight employees. Does the minister have any idea about how many employees might transfer to the new operator? I note the shake of the head. I am also interested in a question I do not think he has answered; that is, the plight of those employees who choose not to transfer to the private operator. With the shrinkage in the public sector and the loss of employment opportunities across the board, I am concerned many of these individuals will have a bleak future. We on this side of the House want some assurances that the no-disadvantage test will apply to these individuals. We do not want them put on the redeployment merry-go-round or the employment scrap heap. We want an assurance that those who choose to remain with the organisation will stay with the organisation. These employees have specialised skills which are not easily transferable and it is important their future is secure. I do not think the minister has addressed that issue. Members on this side of the House do not want a repeat of what has happened in the past. Other employees in similar situations were probably impacted on in a less direct manner because they did not transfer to a private operator; however, they were impacted on in a damaging way in the longer term because promises were not delivered. Many of them suffered substantial disadvantage. The question is important because these people need to make some judgments. We know so little about what is going on. We must prise any information we can out of the Government because it is not offered freely.

It is important that the workers concerned have a good understanding of their real options - not fairyland stuff - so they can make decisions. Will they have long-term career prospects in other parts of Westrail? If they will not, what is likely to happen to them? Will fantastic, whiz-bang, you-beaut retraining packages be offered? Will they be real or just a part of the ongoing rhetoric of government? These are very important issues. It is very important that the Westrail workers who need to make hard choices, because it is likely this legislation will go through this place, are well-informed of the Government's long-term intention for their futures. I do not think the minister has addressed that at all well. I wonder whether he can give me some answers to the questions I posed on behalf of the workers affected most by this legislation.

Hon M.J. CRIDDLE: Members would be well aware that I have said on a number of occasions that the package is not out there. The talks have not yet begun to work towards finalisation so we do not know the number of workers who will transfer; that was the first question. Clearly we have not reached that stage of the negotiations and we do not know the numbers. I do not think members would expect me to know the numbers because the legislation must be passed before we get serious about the negotiations.

Hon Ljiljanna Ravlich: Will people who choose to stay in Westrail -

Hon M.J. CRIDDLE: I have not got to that yet. I am trying to clarify the issues as we go through them. The member asked me for a definitive answer and I am trying to give her one.

Hon Ljiljanna Ravlich: It will be the first time.

Hon M.J. CRIDDLE: I gave the member a very clear answer a while ago.

Hon Ljiljanna Ravlich: It only took an hour.

Hon M.J. CRIDDLE: Hon Ljiljanna Ravlich just did not listen for an hour.

The people employed by Westrail now are on the award and their conditions are clearly known. Therefore, those conditions will remain. If they wish to go through an extensive education and communication phase, they will have the opportunity to be fully briefed on all their alternatives. They will understand the situation which lies in front of them whether they transfer or remain; that will be clarified. We need to understand that there is a Westrail passenger service which will provide some opportunity for people who do not transfer. There will be opportunities in that regard, and we are working with the Department of Productivity and Labour Relations to deal with some of the other issues. There are some alternatives but people will have a knowledge of what their future might be. They will make that decision. People are quite capable of making decisions on that basis if there is some clarity for them. Like any other business, if one works one's way through the alternatives, one has a better chance of making the correct decision for one's future.



There will be an extensive education and communication process as much as people want to get involved in it. They may not want to get involved and may choose to go over straightaway. We need to be aware that these people are employed on an award or under work conditions at present and they will remain that way if they do not transfer.

Hon NORM KELLY: I do not want to prolong the debate but given what the minister said earlier, I would like a few aspects of the pre-negotiation with the unions clarified. If I understood correctly what the minister said, there will be negotiations between Westrail or the Government and the unions to work out the negotiated package which comes on top of the existing conditions. I am happy for the minister to correct me if I am wrong.

Hon M.J. Criddle: They have their conditions now and they will transfer them under a transfer package. I have said they will not be worse off and I think everyone understands that but where it goes from there is a matter for negotiation.

Hon NORM KELLY: That is fine. I appreciate that. At least the minister has now established that the bottom line is that workers will not be worse off. However, when the minister was talking about the negotiated package with the unions, he mentioned that those negotiations would take place before the bidding process. What sort of time line are we talking about in coming to some agreement with the unions to negotiate that package, given that one union may be opposed to the sale and will want to prolong the negotiations, whereas the Government's imperative is to sell Westrail? I want to get some flesh on the bones about the time line, of which the minister was speaking, for this sale process to go ahead. What will the Government do to prevent the process being stalled by matters such as negotiating the transfer package?

Hon M.J. CRIDDLE: The first issue concerned what would happen when the legislation is passed. When that is finalised, the Government will go into negotiations with the union and non-union people. We are not just talking about the unions.

Hon Kim Chance: Also the employees.

Hon M.J. CRIDDLE: There will be two or three sides. There will be the unions - I do not know how many unions there are - and the employees, as Hon Kim Chance said. We will then go into a communication and education phase, so that people clearly understand the situation. They will then choose to transfer across or to stay where they are. Then the due diligence stage starts when the negotiations with the companies commence. Therefore, we will have the final package, and then the due diligence stage will start. Is that clear?

Hon NORM KELLY: That has helped my understanding of the process. However, during the time that the Government is carrying out the negotiations with the unions and the like, will the bidding process have already started, so that the Government will have narrowed down with whom it is carrying out negotiations? I am just trying to establish the overall time line. The minister has clarified a number of matters, but I need further explanation of the due diligence stage.

Hon M.J. CRIDDLE: That would be completed prior to the short listing of the purchasers. Therefore, it will be well in advance of the finalisation of the sale process. It may well take a couple of months.

Hon NORM KELLY: The Government will have negotiated agreements with the various employees and unions and it will have short-listed the bidders?

Hon M.J. Criddle: It will be before the short listing.

Hon NORM KELLY: I am sorry. After the negotiated package, the Government will short-list the bidders. Will there be scope for the different bidders to renegotiate that package?

Hon M.J. Criddle: No.

Hon NORM KELLY: One bidder may want to offer a better package for workers as part of its overall bid. The difficulty is that we are talking about many variables of the package. For example, three final bidders may decide to structure their offers in different ways.

Hon M.J. Criddle: No, that is bidding the work force.

Hon NORM KELLY: Okay.

Hon J.A. SCOTT: I have been waiting patiently until this clause was passed because I did not want to interrupt. I have a few concerns and queries which relate partly to the existing structure of the Bill as well as to some of the changes that have been brought about by amendment. Members will recall that initially the model proposed was a very solidly based, single owner, vertically integrated but ring fenced, above and below ground rail operation. Media releases by Hon Mark Nevill, and possibly these amendments, indicate some chance, if not probability, that the Australian Rail Track Corporation may take over a section of rail from Kalgoorlie to Perth in the main gauge. Certain treatments will possibly be given to sections of the line from Kalgoorlie to Esperance. Some of these matters concern me. If any opportunity arises to have separate sections of rail ownership or operations - obviously with separate freight services on them with open access - I am worried that eventually it will result in a break up of the system. I refer to the standard gauge and non-standard gauge wheat system which serves people well.

Will the proposal to set certain criteria for the quality of the Kalgoorlie-Esperance line, with speed and weight ratios, impact on the quality of the rest of the line? I realise that all sections do not necessarily need to be of the same standard. If one will operate these services properly and safely, they not need be of the same standard. Will something be in the agreement with the owner and operator of the track to ensure that the rail network will have set standards in places where a service is required? For instance, will the agreement lay down some specifications required to be kept for the lighter gauge wheat

system? This will be similar to those laid down for the Kalgoorlie-Esperance line. The other worry about such sale Bills is that one does not receive an indication of the bottom line the Government is looking for in the sale price.

*Point of Order*

Hon M.J. CRIDDLE: We are close to a second reading debate. We will debate many of the amendments as we go along.

The CHAIRMAN: I will pay attention to the member's comments.

*Debate Resumed*

Hon J.A. SCOTT: This part will not be debated at any other stage as we will not debate the price for the rail line. That has been negotiated. We know that the Government may be making some deal which will provide an improvement of the track or more services as a trade-off against a price. However, at the end of the day there must be some value to it. I am concerned that when these Bills go through Parliament - this is not a reflection on the minister - we may have a totally dumb minister who is taken for a ride and who will give away the assets of our State. These are the State's assets and we have been put in this place to protect them.

Hon M.J. Criddle: I am very well aware of that, otherwise we would not have had the debate that we had.

Hon J.A. SCOTT: I want to put on record that I am concerned that members in this place cannot be provided with an indication of these types of deals. Before this deal is signed we will not see anything that shows the value to be had from it.

Hon M.J. Criddle: We don't know the value.

Hon J.A. SCOTT: That is not good enough. These are not my assets and they are not the Government's assets; they are the assets of the State. The minister could have found a way of at least indicating a value of this deal; it is not impossible to do that. For instance, if we were to assume a base point figure to be realised, without demanding major improvements to be made to the system, we could name the price we want for it. We could then trade off some of its higher value for improved services or whatever. There are ways in which it could be done and it is a shame that we always come into this place like three blind mice waiting to get our tails cut off. I understand the difficulties involved with these issues; however, we should strive as a Parliament to implement processes that gain real value for the community and to provide a level of certainty in establishing those processes.

Hon KIM CHANCE: I have a similar point to the one raised by Hon Jim Scott. I also want to speak about price but will do so later in the debate on this clause.

We have before us a rather difficult situation. This Bill, as a result of the debate and the vote on the second reading, is almost certain to become law. There is now an air of inevitability about this proposition. However, the proposition - I believe other members agree with me - is fundamentally different from the proposition which we debated at the second reading stage. The process is not difficult to follow. It began with Hon Mark Nevill saying he could not support the Bill in its current form. We then debated the Bill in that form. After the minister's response, at a stage during a parliamentary recess before the second reading vote had been taken Hon Mark Nevill was convinced to vote for the second reading of the Bill by alterations which were made in cooperation with the Government.

Hon M.J. Criddle: They will not be made until such time as the Bill is passed.

Hon KIM CHANCE: What the minister said is technically and classically correct. However, in acknowledging that, we all know that the agreement is based on the adoption of the amendments.

Hon M.J. Criddle: Yes; however, I clearly enunciated that at my only opportunity.

Hon KIM CHANCE: Yes, and I am not being critical of the way in which the minister handled the matter. I am pointing out to the Committee the unusual situation in which we find ourselves. That is why I keep appealing to the Chairman for some latitude in this matter.

The CHAIRMAN: I am sure the member will not revisit the speech he gave on the discharge of this item or referral to a standing committee, because now we are debating the details that are before us and whether they have been there for any length of time is immaterial.

Hon KIM CHANCE: That is the purpose of my arguing that point. We have an unusual situation. We are required to deal with that detail in the absence of a referral to a standing committee of this House to consider the detail. We have been invited on a number of occasions by the Minister for Transport and by other members of the Government, perhaps entirely legitimately, to deal with this matter in the Committee of the Whole House rather than in a standing committee, and that was the decision of the House. Being a decision of the House, I wholeheartedly support that decision. However, we are now at that point at which we must deal with the difficulties we are presented with having before us in the stage of the Committee of the Whole House a Bill which is different from the Bill which we debated in the second reading speech, and a Bill which is different from the Bill which was inquired into by the Public Administration Committee. It is not different at the margin; it is different at the core. Members will remember the debate about the core of this Bill being the difference between the Government's argument for vertical integration and the Opposition's argument for vertical separation. Yet we now have a Bill that combines the two.

Hon J.A. Scott interjected.

Hon KIM CHANCE: I said in the past in relation to that that these amendments may be an improvement.

Hon M.J. Criddle: The Bill has not specified integration or separation. This is enabling legislation.

Hon KIM CHANCE: It is true the Bill does not do that, and that was the Government's argument. However, I can quote reams of evidence to the contrary.

Hon M.J. Criddle: That is not what I am saying; this is enabling legislation.

Hon KIM CHANCE: The Government's argument on what was enabled by the Bill was fundamental: A model of a single, owner operator - a model of vertical integration. We took reams of evidence on that matter. The Opposition argued for at least a partial separation and in part that is what the Government has delivered, but it is not the issue we debated. Let us consider just one of the changes that are before us. I will take this matter up when we get to clause 12, which is the appropriate clause, but I will refer to the effect of clause 12. This is an extensive alteration to what was proposed to the way in which standard gauge lines will be disposed of.

The CHAIRMAN: If the member is going to speak to clause 12, it can only be so far as it interrelates to other clauses.

Hon KIM CHANCE: That is true and my principal purpose in raising this matter is not to address the content of clause 12, but rather to address an issue which arose from a comment I made about the effect of that clause. That points to the degree of confusion which exists among members on the outcome of the Bill. That degree of confusion I argue is a result of this Bill not being submitted or referred to a committee to inquire into the nature of the changes.

Hon M.J. Criddle: There is no change.

Hon KIM CHANCE: There are changes.

Hon M.J. Criddle: Not yet.

Hon KIM CHANCE: It was proposed by the Government that the sale would be to a single track controller and now we have at least two different controllers raised as a possibility. However, there seems to be some confusion even regarding that. I refer to *Hansard* of 23 March in which I said -

I remind members again - only for the sake of reference - of the effect this will have on the grain industry. The argument was put very strongly that the grain industry had to be kept as a unit. The changes to this Bill make it feasible that the grain industry will need to be handled as two separate units. A contractor who enters the rail-grain transport market will now have to deal with two different owners.

Hon Mark Nevill, who I imagine understands his own amendments very clearly, said by way of interjection, "That is not correct." I thought that maybe I was wrong; indeed, I said, "If that is not correct, I ask members to look at what the Bill provides. It provides that the standard gauge system -" I was then cut off by an interjection, so members will never know the wisdom of my words. However, if Hon Mark Nevill thought that was not correct, what does he think and what is the situation?

Hon M.J. CRIDDLE: I think we really are debating amendments and the basis of clause 12.

The CHAIRMAN: The member may proceed for the moment.

Hon KIM CHANCE: I take the minister's point. Perhaps I am getting too close to an issue, which I want to debate in any case when we get to clause 12. I merely want to point to the fact that there is confusion on the matter. I want to point to the reason that I believe confusion exists. I had to illustrate to some extent why I believe that to be the case. I am still confused. In fact I will sit down and hope that the minister may be able to respond to that matter: Was Hon Mark Nevill correct in saying that I was incorrect or was I right? Is it possible that a contractor who enters the rail grain transport market will now have to deal with two owners?

Hon M.J. CRIDDLE: It is subject to an access regime, so there may well be two owners regardless of what happens.

Hon Kim Chance: I meant owners in the terminology of track control.

Hon M.J. CRIDDLE: I am being asked what Hon Mark Nevill understands are his amendments. I would prefer that he explain his amendments.

Hon J.A. Scott: Give us a picture of how the system will work.

Hon M.J. CRIDDLE: My understanding is that Hon Mark Nevill was talking about a single purchaser and two separate companies, one operating the network and one operating the freight business. He does not want the network operator to be the freight operator on the standard gauge.

Hon J.A. Scott interjected.

Hon M.J. CRIDDLE: Mr Chairman, we are getting to the stage of debating clause 12. We will get to clause 12, and it will be clearly explained. I have outlined the basis of it. I do not think I need to get into the detail.

There was talk before about the value of the operation. I learnt a very hard lesson last week when I started to talk about

the amount of money involved. I became the subject of a privilege motion very quickly. Having learnt that lesson, I will not nominate a price.

Hon Norm Kelly: We would not do that to you!

Hon M.J. CRIDDLE: I am sure the member would not. However, I noticed that when we voted on the motion for a privilege committee, Hon Jim Scott voted with the Opposition, so he does not win a prize for being on my best-liked list at the present time.

The arrangements for the lease include a five-yearly audit of the rail network, so that whoever takes possession of the rail network must maintain it to a standard which satisfies that audit. There are a number of other conditions with regard to the track that will need to be undertaken by the lessor of the track.

Hon J.A. SCOTT: There is clearly a difference between auditing the standard of the track and deciding what is the proper standard for a certain section, as Hon Mark Nevill has laid down for the Kalgoorlie-Esperance line, where he wants an upgraded and better system.

Hon M.J. CRIDDLE: Once again, we will get to that when we get to clause 12. That is probably the most appropriate thing to do.

Hon J.A. Scott: Does that apply to the remainder of the track?

Hon M.J. CRIDDLE: The automatic train control standard will be maintained on the east-west track, so there is a standard. As I say, an audit will be done of the track, and the standards will need to be maintained throughout the network.

Hon J.A. Scott: Will that be part of the agreement?

Hon M.J. CRIDDLE: That is part of the lease agreement, yes.

Hon KIM CHANCE: I agree with the minister that we were getting a little close to the issue which relates to clause 12. I had a particular purpose in raising the issue, and, for the minister's guidance, the interchange to which I was referring can be found at page 5435 of *Hansard* for 23 March 2000. It is an issue that I would like to discuss when we get to clause 12.

The matter of the regulator is not now before the Chamber, because the two amendments which related to the Rail Freight System Bill and which went by way of message to the other place have left this Chamber and we are now uncertain about their status. We know that the requested amendments which went to the other place were rejected by Mr Speaker. However, opposition members, and possibly also government members, are confused and in a state of uncertainty about who will be the regulator. Does the Government now intend to draft an amendment Bill to the Government Railways (Access) Act 1998 to put in place an independent regulator, or will we be stuck with that Act as it stands currently, with the regulator's role resting with the Director General of Transport, which we all understand is an arrangement that has not been approved by the National Competition Council?

Hon M.J. CRIDDLE: I am happy to tell the member that we have a Bill, which we have now had printed for introduction in the other place, for an independent rail access regulator. That will progress as quickly as possible.

Hon Kim Chance: Is that an amendment to the rail access Act?

Hon M.J. CRIDDLE: Yes, and I hope we will get the Opposition's immediate support for it so that it can be put in place.

Hon Kim Chance: We would be hard pressed to knock that back.

Hon M.J. CRIDDLE: I am sure that under the circumstances, members opposite having crowed from the rooftops about the necessity for an independent regulator, that Bill will fly through the lower House and go through this place at an even quicker pace.

Hon Kim Chance: I am sure it will, unless something goes dreadfully wrong.

Hon NORM KELLY: One of our difficulties in deciding our arguments and position on this Bill is that for almost the past 12 years, the Government has argued that if it could get this enabling legislation through the Parliament, it would have the freedom to arrange a sale of the network on a basis that would be in the best interests of the people of Western Australia. Even though they have said more recently that the vertically-integrated model is the preferred model, I know that in my discussions I was always told that it was just enabling legislation and if a separated model turned out to be better we could still have that but we needed the legislation in place before we could even consider that. What we now have in this Bill and on the Supplementary Notice Paper is a pre-determined structure of sale without which the sale cannot go ahead. The Government is changing its position and is willing to limit its options in order to just get a sale through. I am concerned that simply getting the sale through could have a negative impact for Western Australians, and that it would be best if we were informed of the costs of this restricted type of sale which we are now being confronted with. To determine, rather than simply to allow - not that we would have supported a Bill that gave the Government complete freedom to determine between vertically-integrated or vertically-separated models - that the Government should have that freedom has now resulted in the Government imposing upon itself a restriction as to the model of sale it can use. My question - and it would be difficult, if not impossible, for the minister to answer it now - is: What is the expected economic impact of accepting the model that is being proposed by the Government and Hon Mark Nevill? How much will it cost Western Australians to adopt this method or structure of sale? That has not been answered and I think Hon Kim Chance said earlier on that it

is preferable or good that this Bill go to a committee so that the potential economic effects and benefits to the State could be further examined.

The CHAIRMAN: The member cannot revisit a debate that we have already had with respect to referral to a committee. The member was in order talking about the two models and how the adoption of a set of amendments would lead us to a different model, but straying into an argument about the need to refer the Bill to a committee is out of order.

Hon NORM KELLY: I forgot about some of the motions we have had in the past few weeks about discharges, referrals and the like. In properly assessing what we have before us it is imperative for all members to be aware of what we will have traded off for the people of Western Australia if this Bill goes through.

Hon M.J. CRIDDLE: I understand Hon Norm Kelly's point, but the advice we have from the financial advisers is that it will make little, if any, difference to the price.

Hon NORM KELLY: I am amazed at that comment because we have been involved in this debate for a year or two and all along we have been told that the totally vertically-integrated model is by far the best model for the sale of Westrail and to accept anything less would be detrimental to the return for Western Australians, yet it appears now that we have been told a porky either before or now. I am concerned that, without seeing the economic modelling of the different options, these statements are being made as a matter of convenience rather than as real statements of fact.

Hon J.A. SCOTT: I recall exactly that proposition being put and it was certainly something that persuaded me to a particular model. I think Hon Norm Kelly is quite right that it is certainly a legitimate expectation of the community that members here look at these propositions and try to find out what the value difference will be by the change in structure of this Bill on this occasion. We must consider not only the changes in the structure of the ownership above and below rail, but also the changes in terms of this Rolls-Royce model for the Kalgoorlie-Esperance line. That must have an impact because the State will not be paying; the cost will be put upon a prospective buyer. Given how the Bill as a whole comes together - and like Hon Kim Chance I think it comes together very differently from anything we have seen in the past - it certainly will impose extra costs. I would like the minister to explain how once upon a time the totally vertically-integrated model was going to be more profitable and now suddenly it is exactly the same. Has he changed economists?

Hon M.J. CRIDDLE: I am not an expert on values and we have had some information that the value will be very similar. Certainly there will be some changes imposed by a lot of the conditions that are being put on the sale, and there have been some conditions put on the sale. We still have a vertically-integrated model.

Hon J.A. Scott: We could have a model where a company will pay a lot more money for it.

Hon M.J. CRIDDLE: They still can.

Hon J.A. Scott: They can, but there is no certainty about that, and that is a real change.

Hon M.J. CRIDDLE: They can. I cannot quite understand what the member is saying. There is still one purchaser. The situation has not changed from that point of view.

Hon LJILJANNA RAVLICH: I am amazed at what we are hearing tonight. I do not think the minister is on top of this issue. I do not think that the determination to privatise Westrail freight has been made on a sound economic basis.

The CHAIRMAN: Order! We are not revisiting the second reading debate. The debate must relate to clauses and it may relate to particular models and sets of amending clauses, but we are not revisiting the issue of privatising Westrail per se.

Hon LJILJANNA RAVLICH: I support the views of my colleagues. I have sat in this place and have heard it said that of the two models which were proposed - the vertically integrated model versus the vertically separated model - the vertically integrated model is more cost effective. The determination to go down this path would have been made six or 12 months ago; perhaps the minister can tell us when the decision was made. Given that the minister has now only recently got the financial analysis to indicate that there is no difference between the two -

Hon M.J. Criddle: I said there may well be very little change, or there may well be no change.

Hon LJILJANNA RAVLICH: We are choosing this vertically integrated model because, based on whatever information the minister had, he made the determination that this was the more cost-effective option. That was certainly what the minister led this House to believe. Now the minister is saying that, given recent financial information which has been conveyed to him from financial experts, that is no longer the case. That brings into question whether the minister has made the right decision and whether we should be going down the path of privatisation in any event. I do not think we should because I do not support the whole privatisation process. It is pretty poor to make a decision, without having available at that time the financial analysis which indicated the most cost effective model for the State. I do not know how the minister can expect this place, or the members on this side, to support the minister in his endeavours, given that the information which is being given is inconsistent and given that there is no evidence that this is going to be a cost-effective model.

Given that, why are we going down this path? How do we know we should not be supporting a vertically-separated model? How does the minister know? This area of financial analysis is a weakness of the Government. I am concerned because it is yet another example whereby the Government has made a decision based purely on ideology rather than good economic and financial information.

Hon M.J. CRIDDLE: We have been through the debate about the financial requirements of this decision. The requirements

were clearly enunciated through the whole network in meetings throughout the State and the Government came up with this arrangement. We are revisiting the argument again.

The CHAIRMAN: Order! The member will not revisit the second reading debate.

Hon LJILJANNA RAVLICH: It is fair enough to ask the minister whether a cost-benefit analysis has been carried out on each of these two options, what the result of that analysis was and whether he will table the analysis supporting the Government's decision to adopt a vertically-integrated model. They are fundamental and reasonable questions and I would be abrogating my responsibility by not asking them.

Hon M.J. CRIDDLE: We still have a vertically-integrated model. This change has some strong ring-fencing requirements. Two companies will clearly be running the network and the freight business, but the vertically-integrated model will be at the top. The advice we have received is that the penalty will be little, if any.

Hon LJILJANNA RAVLICH: I do not think the minister has answered my fundamental question. I asked a simple question about whether the Government has carried out a cost-benefit analysis of the two proposed options and, if it has, what does it show and will the minister give an undertaking to table it.

Hon M.J. Criddle: That is not the question you asked.

Hon LJILJANNA RAVLICH: It is very simple.

Hon KIM CHANCE: Hon Ljiljanna Ravlich has essentially raised two issues, one of which will probably be better handled in the debate on clause 12. The other relates to the question of finance and is something I would like to deal with later in the debate on this clause. I do not agree with the minister that this matter was thoroughly canvassed in the second reading debate. The difference between the debate on this issue at this stage - I do not refer to the committee stage but to this stage in time as we get closer to the point of sale and, in particular, as a result of the passage of the second reading - and the previous debate in this place is there has been a greater emphasis on the matter of finance. I do not believe we have dealt with the issue of the finances in any great depth. Previously we were concentrating more on the principle of the sale than the finances of it. I give notice that at a later stage of the debate on this clause I will be raising some fundamental questions about price. I prefer not to do that now, but it is reasonable for us to advise the minister that we will be asking some pointed questions about price. The Committee would be derelict in its duty if we did not do so.

Hon Mark Nevill: Ask questions rather than talk about asking them.

Hon KIM CHANCE: This is not an appropriate time to do it. There are clauses in this Bill which indicate the bizarre consequences of the marriage of convenience which has allowed the Bill to reach this stage. While I will be taking the matter up again at the appropriate time, I note that the Bill or the proposition - which is a more accurate term than "Bill" - we have before us goes into the fine detail of train lengths, axle loads, maximum speeds and average speeds. That is completely out of step with modern legislative drafting. I have not seen legislation of this nature in the seven-odd years I have been in this place. I have seen legislation of this kind, but it dates back to the 1920s and 1930s. The modern legislative technique is to leave detail of that nature to regulations.

Hon Derrick Tomlinson: I am just being amused by your amendments to the School Education Bill.

Hon KIM CHANCE: That is a different issue. In the School Education Bill the Government had an Opposition which, in the main, was trying to do its best to make better legislation.

Hon Ray Halligan: What are you doing on this Bill?

Several members interjected.

The CHAIRMAN: Order! Hon Kim Chance should not incite other members of the Chamber.

Hon KIM CHANCE: I am clearly on the record - indeed I began my contribution to the second reading debate by saying this - as saying that we would not help the Government make it better, that we would oppose the Bill at every stage and that we would not amend the legislation. It is a very different approach. We are here just saying no.

Hon M.J. Criddle: But that is what you always do. You have been doing it for years. You don't agree with anything.

Hon KIM CHANCE: No.

Several members interjected.

Hon KIM CHANCE: I think members opposite are trying to create an impression for the readers of *Hansard*.

**Progress reported and leave granted to sit again, pursuant to standing orders.**

## **CITY OF KALGOORLIE-BOULDER - SEWERAGE AND DRAINAGE LOCAL LAWS**

### *Motion for Disallowance*

Pursuant to Standing Order No 152(b), the following motion by Hon Simon O'Brien was moved pro forma on 16 December 1999 -

That the City of Kalgoorlie-Boulder - Sewerage and Drainage Local laws, published in the *Gazette* on 27 October

1999, and tabled in the Legislative Council on 9 November 1999 under the Local Government Act 1995, be and are hereby disallowed.

Question put and passed.

## **HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) BILL 1999**

### *Assembly's Message*

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

## **ADJOURNMENT OF THE HOUSE**

**HON M.J. CRIDDLE** (Agricultural - Minister for Transport) [9.57 pm]: I move -

That the House do now adjourn.

### *Australian Securities and Investments Commission - Adjournment Debate*

**HON MARK NEVILL** (Mining and Pastoral) [9.57 pm]: I draw the attention of the House to a problem which was raised with me some months ago and which concerns my general frustration with the Australian Securities and Investments Commission. In recent times, I have been frustrated by its failure to investigate a person who managed a company with four Aboriginal directors. There were a number of serious breaches of Corporations Law, on which I spent two years collecting evidence. Unfortunately, it did not fit into the secret criteria that ASIC use in deciding which case in 1 000 it will investigate and prosecute.

I draw the attention of the House to a case in which ASIC cost about 1 000 farmers \$5m and caused the loss of a great opportunity. How this investigation fits its criteria bewilders me. This group of 1 000 farmers, who were trying to get into wool processing by buying a wool processing plant in Poland, using their own wool, incurred the wrath of ASIC, even though none of the 1 000 farmers had laid complaints. Any rudimentary examination would have shown the scheme was bona fide.

In the early 1980s, Max Inverarity, a farmer of Kellerberrin, did extensive research in the area of wool processing in the United Kingdom and eastern Europe. He returned to Australia in the early to mid 1980s with a plan to get farmers to take equity in a weaving mill at Bielsko in southern Poland. Until that time, farmers were still sending wool overseas in bales, as they had done since white settlement.

A research and development company called Merryn R & D was established by farmer and businessman Max Inverarity. Both the Commonwealth and State funded some \$100 000 of research through Merryn R & D, and Curtin University of Technology's textile division played a large part in that research. Merryn R & D at one stage had three researchers employed to investigate the potential to value add to wool both here and overseas. With the demise of the wool reserve price scheme in the early 1990s, the opportunity arose to use that research. A cash-box prospectus was drawn up and issued to growers, with 54 meetings held over two months. In December of that year the prospectus was registered raising \$2m from 1 000 growers. The company was called Wool Industries Ltd. The aim of the prospectus was to work out the best way for growers to become involved in value adding, to seek out strategic alliances, to source joint venture partners and, ultimately, to start a textile industry in Western Australia. A further \$600 000 was raised in 1995 by using wool as currency. Each farmer was asked to contribute 2.7 bales of wool to be used to purchase a weaving mill in the south of Poland in a textile area called Bielsko-Biata, which is known for its quality wool and wool-blend fabrics.

In October of 1996, the Australian Securities and Investments Commission received a complaint regarding the collection of wool from growers by WIL. The books of WIL were frozen for eight months while the investigation took place, which cost the company \$154 000; the company was lucky to survive. The directors were charged with 10 counts of contravening Corporations Law. Seven charges were dismissed and three charges were pursued involving the illegal raising of wool as payment for the share of the Polish mill. The Australian Securities and Investments Commission wanted the wool sent back to growers. The directors had spent \$4.5m on the project and \$280 000 worth of wool had been sent to the weaving mill company called Finex to start the purchase plan. ASIC instructed the directors to write to growers to ask them whether they wanted to continue the project or their money back. The response was that 100 per cent of the growers wanted the project to continue. The growers' response inspired enthusiasm in all, and the directors went out to woolgrowers to inspect the wool to allow them to inform the Polish mill of the type of wool it would receive.

Again, ASIC stepped in and said that if directors approached growers and made any move to communicate or intimidate them, the commission would strip the directors of their personal assets. This was all because they had a registered prospectus in place. At that point Mr Inverarity had to inform the Polish Government and the weaving mill, Finex, that Wool Industries Ltd was not able to supply the wool. The Polish Government then put the company into receivership, resulting in the loss of in excess of \$5m and the opportunity for woolgrowers to move forward out of an obsolete system to create business partnerships overseas to value-add their wool and, ultimately, to create employment in regional areas.

The potential benefits of this deal were numerous. It presented the opportunity for growers to move into an international textile business; Poland later became a member of the European Union opening up many other doors. The scheme gave growers an opportunity to purchase 26 per cent of the Finex company with the first tranche of wool, and another 25 per cent purchase with a second tranche of wool to take the level to 51 per cent. A marketing arm was established with the assistance of a reputable German company owned by Mrs Ursula Gordon, who has established businesses in Frankfurt,

Hamburg and the United States of America. Feedback was also received from the mill regarding the performance of the processing.

A couple of things need to be done to fix this problem. We need to amend sections 1078 to 1082 of Corporations Law, as these provisions do not enable growers to raise necessary capital to control their industry and promote themselves. The law as it stands effectively stops primary producers raising capital to value add. Mr Inverarity asked ASIC for an exemption, as Corporations Law allows.

The Perth office of the Australian Securities and Investments Commission declined the application as it had never previously given an exemption. Mr Inverarity reapplied through a law firm at a cost of \$12 000. The western regional manager of ASIC wrote to Mr Inverarity saying how comfortable he was with the decision. However, members can imagine how the growers felt. Mr Inverarity spent 15 years and \$2m of his family's money. It is not too late to fire up this project again but is there any willpower to do anything in politics, particularly federal politics, except to close down projects, to make them too hard to operate and to not make sensible laws?

The performance of ASIC in this instance has been destructive and vindictive. Mr President, we all know that many of these regulatory bodies are hopelessly underfunded. However, it seems that ASIC has resources to pursue a matter such as this which has the support of a thousand farmers; yet, when it is asked to pursue what appears to be open and shut cases, it is just not interested. ASIC has been responsible for overseeing those funds since 1992 but has done absolutely nothing about the recent problems with pooled mortgage funds. It decides which problems it will investigate, refuses to provide the criteria by which it investigates matters and invariably does not undertake the challenges that are offered to it.

I discovered that an Aboriginal company I spent two years investigating had a deficiency of \$800 000 and had been trading insolvent for four years. The company had no financial statements or minutes of meetings, yet ASIC refused to take any action against the company for those breaches of company law. The company had sold a plane to someone in Queensland with a \$170 000 Commonwealth Bank charge against it. It is an offence to sell something to someone else with a charge against it without informing that person and getting the bank's permission. Both ASIC and the Commonwealth Bank refused to take any action against the company; yet, ASIC pursues complaints with which the community has no real objection or problem. It is time that ASIC put some sense into the matters it prosecutes.

Question put and passed.

*House adjourned at 10.07 pm*

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**QUESTIONS ON NOTICE**

Questions and answers are as supplied to Hansard.
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**GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT**

727. Hon E.R.J. DERMER to the Attorney General representing the Minister for Labour Relations:

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 Labour Relations 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 14/10/99.

**GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT**

743. Hon E.R.J. DERMER to the Attorney General representing the Minister for the Environment:

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 the Environment 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 14/10/99.

OPTIMUM RESOURCES, TAILINGS DAM

838. Hon TOM HELM to the Minister for Mines:

I refer to question on notice 419 of September 7 1999 -

- (1) Can the Minister for Mines state why "it is not considered appropriate to do so at this time" in relation to providing answers to parts (1) - (4) of the question given that the information I am seeking for parts (1) - (4), the Minister, has previously stated "I can given him the numbers and even tell him ....", certainly indicated to me that he could provide this information to me?
- (2) If not, why not?

Hon N.F. MOORE replied:

- (1)-(2) My previous statement was made on the basis of this information being disclosed at a time that I consider appropriate and necessary to do so. I see no need to do so at this time.

GOLDCORP AUSTRALIA, BATTERY SITE IN NORTHAMPTON

1013. Hon KIM CHANCE to the Minister for Mines:

What action has the Department of Minerals and Energy (DME) taken in response to the discovery that residential areas in the Shire of Northampton have been contaminated by lead following the use of tailings from the GoldCorp battery site, and in particular -

- (1) Have DME inspectors reported on the condition of the former battery site?
- (2) Does the condition of the site comply with DME regulations?
- (3) If not, what action to decontaminate the site will be ordered by DME and/or the Minister?
- (4) What discussions have the DME so far conducted with the Department of Environmental Protection (DEP) in relation to this site?
- (5) What has been the outcome of these discussions?

Hon N.F. MOORE replied:

- (1) Department of Minerals and Energy (DME) inspectors were part of an inter-agency group which visited the former battery site on 13 December 1999 to assess the condition of the battery site. The site was also assessed by DME on behalf of Gold Corp as part of a systematic review of all State battery sites under Gold Corp's control to determine appropriate management strategies and a draft report is currently being prepared.
- (2) In 1986 Gold Corp assumed control of the former Northampton State battery reserve from the Department of Minerals and Energy. As the site is no longer regarded as a mine site, compliance with DME Regulations is not required.
- (3) The responsibility for dealing with the contaminated sites in Western Australia rests with the Department of Environmental Protection (DEP). It is understood that the DEP has recommended to Gold Corp that drums of lead concentrates found on the site be removed and that protective fencing and warning signs be erected. This has been attended to. It is also understood that Gold Corp is investigating the issue of dealing with the State battery site.
- (4) DME was represented at the inter-agency meeting held at the DEP on 15 November 1999 to discuss the Northampton lead issue. Historical information held by DME relating to the battery site and mines in the area was provided to the DEP.

DME was part of the inter-agency team which visited the Northampton battery site, inspected residential areas and attended a public meeting in Northampton on 13 December 1999. DME officers also provided technical assistance to the DEP, including presentations to the Shire Council and at the public meeting.

- (5) The DEP is currently addressing the health risks associated with lead tailings at residential premises in Northampton. It is understood that the DEP has provided advice to Gold Corp with respect to Gold Corp's investigations into the battery site.

CALM, COMPENSATION FOR DAMAGE CAUSED BY BURNS

1311. Hon NORM KELLY to the Attorney General representing the Minister for the Environment:

- (1) In the past five financial years, has any money been paid to any person or company as compensation for loss and/or damage caused by burns or escapes from burns conducted by the Department of Conservation and Land Management (CALM)?
- (2) If yes,
  - (a) to what persons or companies;
  - (b) what was the loss and/or damage for which compensation was paid;

- (c) on what date(s) did the loss and/or damage occur;
- (d) on what date(s) was the compensation paid;
- (e) in each case what was the amount of compensation; and
- (f) in each case who paid the compensation?

Hon PETER FOSS replied:

I refer the member to the answer to question 1301.

#### TAB AGENCIES, CLOSURE

1384. Hon N.D. GRIFFITHS to the Minister for Racing and Gaming:

- (1) In each financial year since July 1 1994 what TAB agencies have been closed?
- (2) In this current financial year what TAB agencies have been closed to date?
- (3) What TAB agencies are currently under consideration for closure?

Hon N.F. MOORE replied:

Full time agencies (excluding PubTABs)

- (1)
 

1994/95	Tom Price, Dampier
1995/96	Ascot
1996/97	Rivervale, Swanbourne, North Beach
1997/98	Nil
1998/99	Nil.
- (2)
 

1999/2000	Hamilton Hill
	Moora
	Mandurah
	Beaconsfield
	Newman
	Guildford
	North Fremantle
	Narrogin
- (3)
 

Mt Barker
Wagin
Cloverdale

#### SMALL BUSINESS DEVELOPMENT CORPORATION GST CENTRE, FUNDING

1386. Hon N.D. GRIFFITHS to the Leader of the House representing the Minister for Commerce and Trade:

- (1) What funds have been allocated to the Small Business Development Corporation GST Centre for this financial year?
- (2) What funds have been allocated for the next financial year?

Hon N.F. MOORE replied:

- (1) \$358,000 has been budgeted from within the Small Business Development Corporation's existing budget allocation for the GST Transition Centre for this financial year.
- (2) \$180,000 has been budgeted for the next financial year.

#### SMALL BUSINESS DEVELOPMENT CORPORATION GST INFORMATION PACK

1388. Hon N.D. GRIFFITHS to the Leader of the House representing the Minister for Commerce and Trade:

I refer to the "Building Your Future" Small Business Development Corporation GST information pack -

- (1) Who printed the information pack?
- (2) What was the total cost?
- (3) What was the cost of the distribution of the information pack?
- (4) To whom was the pack distributed?

Hon N.F. MOORE replied:

- (1) PILPEL Print printed the covers of the information pack. The contents of the pack are a combination of material supplied by the Australian Taxation Office and promotional material associated with the GST Transition Centre.
- (2) The total cost of printing the covers of the pack was \$4280.30.
- (3) There was no broad based distribution other than to Western Australian members of Parliament. These packs were delivered to Parliament House at no direct cost.

- (4) Packs were distributed to all Western Australian members of Parliament when the GST Transition Centre was launched. Further packs have been and are being distributed to industry associations and clients of the GST Transition Centre on an as required basis.

#### GOVERNMENT DEPARTMENTS AND AGENCIES, LEAVE LIABILITY

1393. Hon LJILJANNA RAVLICH to the Minister for Mines:

If 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 N.F. MOORE replied:

- (1) The Department of Minerals and Energy complied with Circular to Ministers No 5/98 –its leave liability was reduced by 10%.
- (2) Not applicable.

#### INFORMATION MANAGEMENT, STRATEGIC STANDARDS AND GUIDELINES

1402. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Commerce and Trade:

- (1) Has the implementation of the “Strategic Standards and Guidelines for effective Information Management” been completed?
- (2) If not, when does the Minister for Commerce and Trade expect the implementation to be completed?

Hon N.F. MOORE replied:

- (1) No. The final draft will be considered by Cabinet in the near future.
- (2) Following endorsement by Cabinet these Strategic Standards and Guidelines will be issued to all public sector agencies.

#### DEPARTMENT OF TRAINING, CONSULTANT TO REVIEW STAFF GRIEVANCES

1414. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:

- (1) Did the Western Australian Department of Training and Employment engage a consultant in 1999 to review the grievances of two senior employees over their request for a reclassification and other matters?
- (2) Who was the consultant?
- (3) What was the cost of the consultancy?
- (4) What were the findings and recommendations of the consultant in respect of the employees concerns?
- (5) What actions have been undertaken to resolve the employees concerns?

Hon N.F. MOORE replied:

- (1) Yes, an independent reviewer was appointed in 1999 to undertake a comprehensive review of the grievances to assure the officers concerned, and the Department, of the integrity and equity of the review process.
- (2) Ernst & Young
- (3) \$5,000
- (4) The Public Sector Standards in Human Resource Management stipulate that appropriate confidentiality must be maintained with regards to grievance processes, with information divulged only to those with a need to know. It would therefore be inappropriate to provide details of the findings and recommendations in respect to this situation.
- (5) The recommendations of the consultants’ report have or are being implemented.

#### COLLEGES OF TAFE, INTERNATIONAL STUDENTS

1415. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Employment and Training:

- (1) How many international students enrolled in Western Australian TAFE Colleges through TAFE International in -
- (a) semester two 1999; and
- (b) semester one 2000?

- (2) At which TAFE Colleges are these students enrolled?
- (3) How many international students are enrolled at each college and in which courses?

Hon N.F. MOORE replied:

(1)	(a)	Award Courses - Semester 2 1999	770
		ELICOS* - Term 3 1999	188
		ELICOS - Term 4 1999	244
	(b)	Award Courses - Semester 1 2000	802
		ELICOS - Summer School 2000	127
		ELICOS - Term 1 2000	194

- (2) Central Metropolitan College of TAFE  
West Coast College of TAFE  
South East Metropolitan College of TAFE  
South Metropolitan College of TAFE  
Midland College of TAFE  
South West Regional College  
Hedland College  
Karratha College  
C Y O'Connor College of TAFE  
Kalgoorlie College

\*ELICOS: English Language for International Courses for Overseas Students

- (3) The following tables present a summary of the number of students enrolled at each College in Semester 2 1999 and Semester 1 2000.

Semester 2 1999

	Award Courses	ELICOS Term 3	ELICOS Term 4
Central Metropolitan College of TAFE	428	88	103
West Coast College of TAFE	29	36	48
South East Metropolitan College of TAFE	218	40	48
South Metropolitan College of TAFE	83	24	45
Midland College of TAFE	5	0	0
South West Regional College	4	0	0
Hedland College	1	0	0
Karratha College	0	0	0
C Y O'Connor College of TAFE	1	0	0
Kalgoorlie College	1	0	0

Semester 1 2000

	Award Courses	ELICOS Summer School	ELICOS Term 1
Central Metropolitan College of TAFE	409	51	94
West Coast College of TAFE	35	30	25
South East Metropolitan College of TAFE	254	17	32
South Metropolitan College of TAFE	90	29	43
Midland College of TAFE	6	0	0
South West Regional College	4	0	0
Hedland College	2	0	0
Karratha College	1	0	0
C Y O'Connor College of TAFE	0	0	0
Kalgoorlie College	1	0	0

It is existing policy that overseas full fee paying, international students are integrated into mainstream classes across the TAFE sector. Please find a breakdown of the individual courses undertaken by international students at each College. [See paper No 856.]

#### BUNBURY BACK BEACH PROJECT

1510. Hon BOB THOMAS to the Leader of the House representing the Minister for Regional Development:

In relation to the Bunbury Back Beach Project -

- (1) Has this project received approval from the Environmental Protection Authority?
- (2) If yes, what conditions, if any, have been placed on the project?

Hon N.F. MOORE replied:

- (1) Yes.
- (2) Environmental Management and Maintenance Program was requested. This has been adopted by the Steering Committee.

#### BUNBURY BACK BEACH PROJECT

1511. Hon BOB THOMAS to the Leader of the House representing the Minister for Regional Development:

In relation to the Bunbury Back Beach Project -

- (1) Were the public consulted on the announced project?
- (2) If yes, when was the consultation on this particular project carried out?
- (3) Who was consulted?

Hon N.F. MOORE replied:

- (1) Yes.
- (2)
  - (a) Project information briefings were held with stakeholder groups commencing on the day of the launch, 21 February 2000.
  - (b) Detailed project information features of both one and two page liftouts were included in two local newspapers.
  - (c) The South West Development Commission launched the Bunbury Coastal Enhancement Project website on 21 February 2000 which invites public comment by email.
  - (d) From 21 February 2000, project information display boards were set up at the City of Bunbury offices, Ian Osborne MLA's office, City of Bunbury Library and the Bunbury Chamber of Commerce Trade Display.
  - (e) A video with a detailed outline of the project has been produced and is available for public viewing.
- (3)
  - (a) General public through print and television media, public displays and also the South West Development Commission website (21 February 2000 onwards);
  - (b) South West Environment Centre (21 February 2000);
  - (c) Bunbury Leschenault Rotary Club (23 February 2000);
  - (d) Bunbury Chamber of Commerce (28 February 2000);
  - (e) Bunbury Surf Life Saving Club (29 February 2000).

The detailed design phase of the project prior to its public announcement, included consultation with Local, State and Federal Government authorities and project consultants, incorporating a review of public input.

Government authorities consulted:

- (a) Ministry for Planning;
- (b) Department of Land Administration;
- (c) City of Bunbury;
- (d) Department of Transport;
- (e) LandCorp.

Project Consultants:

- (a) Gutteridge Haskins Davey;
- (b) SMEC Australia;
- (c) BSD Consultants;
- (d) Worley Limited;
- (e) Tract Environment and Landscape Architects;
- (f) SPACE Consultants – Urban and Landscape Design;
- (g) McGarry & Associates;
- (h) Gordon Geological Consultants;
- (i) Des Lord & Associates;
- (j) Sinclair Knight Merz;
- (k) Bassett Consulting Engineers;
- (l) Thompson McRobert Edgeloe;
- (m) Busselton Survey Office.

Also in consultation with:

- (a) Nicci Tsernjavski – Regional Coastal Facilitator/Peel and South West;
- (b) Bunbury Port Authority.

#### JERVOISE BAY HARBOUR PROJECT, ENVIRONMENTAL COMMITMENTS

1516. Hon J.A. SCOTT to the Leader of the House representing the Minister for Commerce and Trade:

In relation to the environmental commitments the Government made in relation to the proposed Jervoise Bay harbour project

- (1) How much of the promised \$2m has been spent on upgrading nearby regional parks?
- (2) How much of the promised \$1m has been spent on seagrass revegetation programs in Cockburn Sound?
- (3) Where are the promised groundwater nutrient removal bores located and how much nitrogen has been prevented from entering Cockburn Sound?

- (4) Will the Minister for Commerce and Trade table the Groundwater Recovery Plan due to have been completed on June 24 1999?
- (5) If not, why not?

Hon N.F. MOORE replied:

- (1) \$16,000 has been spent on preparing Jervoise Bay Conservation and Recreation Enhancement Plan in consultation with CALM and Community representatives. The plan has been presented to, but not yet accepted by, the Department of Environmental Protection.
- (2) \$32,500 has been spent on aerial mapping of seagrass meadows, identification of potential regrowth sites and drafting a Seagrass Management Plan. The Seagrass Management Plan has been submitted to Department of Environmental Protection.
- (3) The location of the groundwater recovery bores has been identified in the Jervoise Bay Groundwater Steering Committee's Groundwater Recovery Plan. No nitrogen has been removed as the approval of the Groundwater Plan by the Department of Environmental Protection is required before pumps can be installed. (see 5 below).
- (4) No.
- (5) On 15 June 1999 a status report was forwarded to the Department of Environmental Protection. This report advised of the establishment of the Jervoise Bay Groundwater Steering Committee to assess treatment options, the Committee's plan and proposed hydrogeological investigations. The Steering Committee endorsed the Recovery Plan on 16 March 2000. After minor editorial changes, the Recovery Plan will be submitted to the Department of Environmental Protection by 27 March 2000.
- (6) As soon as the plan has been approved by the Department of Environmental Protection, the Minister for Commerce and Trade will arrange for a copy of the plan to be sent to the member.

#### GILLEECE, MR JACK, TENGRAPH SYSTEM

1519. Hon TOM STEPHENS to the Minister for Mines:

I refer to the report of the inquiry carried out into Mr Jack Gilleece, in particular those sections related to SoftCopy Digital Mapping Pty Ltd, and ask -

- (1) What was the value of the contract for the export of the Tengraph system to the Mongolian Government?
- (2) What commission or other payment did SoftCopy receive for its part in the export of the Tengraph system to the Mongolian Government?
- (3) Are you aware whether Mr Gilleece received any commission or other payment from SoftCopy for his involvement?
- (4) If not, will you instruct your department to make inquiries in this respect?
- (5) If not, why not?
- (6) Are you or your department aware of any other involvement of SoftCopy in exporting the Tengraph system to any other customers?
- (7) If not, will you instruct that inquiries be made and undertake to table the results?

Hon N.F. MOORE replied:

- (1) There has never been any contract for the export of the TENGRAPH system to Mongolia.
- (2)-(5) Not applicable.
- (6)-(7) The TENGRAPH system has not been exported or sold to any party or country since its development and commissioning by the Department of Minerals and Energy, and there are presently no plans to do so. With the exception of Mongolia, SoftCopy has not approached the Department regarding the exporting or sale of the TENGRAPH system to any party.

#### INGLIS, MR GORDON, LETTER TO MINISTER FOR RACING AND GAMING

1524. Hon N.D. GRIFFITHS to the Minister for Racing and Gaming:

- (1) Has Gordon Inglis for Media Arts Group Pty Ltd communicated to you in writing with respect to litigation before the Supreme Court?
- (2) On what dates did he so communicate to you?
- (3) On what dates did you respond?
- (4) If you have not responded, why have you not responded?

Hon M.J. CRIDDLE replied:

- (1) No
- (2)-(4) Not applicable.

#### GANTHEAUME POINT, PEARL BAY RESORT DEVELOPMENT

1648. Hon TOM STEPHENS to the Leader of the House representing the Minister for Lands:

In relation to the failure of Pearl Bay Resort Developments to provide the \$10m performance bond after being selected as the developer of Gantheaume Point in Broome -

- (1) Can the Minister for Lands confirm that Dunn and Bradstreet recommended back in January 1999 that Pearl Bay Resort Developments provide information to the Government on their capacity to carry out the project?
- (2) If yes, was this basic precautionary recommendation carried out?
- (3) If not, why not?
- (4) Will the Minister provide an explanation as to what evidence, and table any documents he had, which led him to believe that Pearl Bay Resort Developments had the capacity to carry out the development?
- (5) If not, why not?

Hon N.F. MOORE replied:

- (1)-(2) Yes
- (3) Not applicable.
- (4) [See paper No 857.]

Correspondence from:

- (i) LandCorp seeking confirmation of a bank guarantee from Pearl Bay Resort Developments; and
- (ii) the Company's affirmative response.
- (5) Not applicable.

#### GANTHEAUME POINT, PEARL BAY RESORT DEVELOPMENT

1650. Hon TOM STEPHENS to the Leader of the House representing the Minister for Lands:

- (1) Can the Minister for Lands confirm that LandCorp wrote to Pearl Bay Resort Developments on May 19 1999 seeking a commitment from them that they would provide a \$10m bank guarantee at the initiation of the Memorandum of Understanding should they be chosen as the successful tenderer for the Gantheaume Point development in Broome?
- (2) Can the Minister also confirm that Pearl Bay wrote back on May 27 1999 saying they were willing to provide the \$10m bank guarantee at the initiation of the Memorandum of Understanding document?
- (3) If yes to parts (1) and (2) above, why did the Minister wait six months before terminating the agreement with Pearl Bay Resort Developments?

Hon N.F. MOORE replied:

- (1)-(2) Yes
- (3) This is a project in regional Western Australia worth many millions in investment terms and capable of generating substantive additional employment opportunities. The financial broker commissioned by Pearl Bay Resort Developments asked for more time to complete arrangements. In this context it was felt to be prudent to give adequate time for the provision of the Bond.

### QUESTIONS WITHOUT NOTICE

#### MAIN ROADS WA AND WESTRAIL, CONSULTANCY CONTRACTS

**969. Hon TOM STEPHENS to the Minister for Transport:**

I refer to the Auditor General's Report No 1, April 2000, which found that Main Roads Western Australia and Westrail have awarded two consultancy companies a total of 33 contracts in breach of proper purchasing principles.

- (1) When did the minister first become aware of concerns about contracts awarded by Main Roads and Westrail to two consultancy companies in breach of proper purchasing principles?



- (2) What action has the minister taken in response to those concerns?
- (3) Will the minister launch an inquiry as to who was responsible for awarding these contracts in breach of proper purchasing principles?

**Hon M.J. CRIDDLE replied:**

- (1)-(3) I am aware of the contracts referred to by the member. I understand they go back to 1995 and operated until 1998. When I became the minister in charge of this portfolio there were two issues about which I was concerned. We spent considerable time debating the contracting process in this House, as the Leader of the Opposition would well and truly understand. The Government put in place processes to address these issues. I said at the time I was not happy with the situation and I addressed it. To emphasise the fact that this has been addressed, the report itself says -

Main Roads has, overall, good contract management procedures for the more than 1 000 contracts it awards each year valued at \$350 million. A review by CAMS in 1999 concluded: *"In general . . . processes are thorough, justifiable, documented and controlled in a way that is a model for other government agencies"*. Following a review of its own practices, Main Roads has established a Tenders Committee and all contracts over \$10 000 are now subject to more stringent audit and endorsement.

That is the process I have put in place to overcome the problem we have had. Members must be aware that about 23 contracts in one area and 33 in total are in dispute. There are an enormous number of contracts. The Auditor General looked at about 3 500 contracts in Main Roads and came up with these observations. The member is saying that \$500 000 has been squandered when in actual fact they may well have performed the job in an efficient manner. Is the member suggesting that everybody who works, does not do the job properly?

Hon Tom Stephens: I am talking in a general sense.

Hon M.J. CRIDDLE: I am reading what the Auditor General has said. I am telling the member opposite that I was aware of that, and I dealt with it and came up with a conclusion which I have just clarified, which indicates that we now have control of the issue and we are handling it well.

#### WESTERN POWER AND ALINTAGAS, LEGISLATIVE EXEMPTIONS

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

- (1) Why are -
  - (a) Western Power; and
  - (b) AlintaGas
 included in schedule 3 of the State Records Bill 1999 which exempts them from its provisions?
- (2) Has the minister or his agencies made any written or verbal request to be exempted?
- (3) If yes, on what basis has that request been made?
- (4) Will the minister table any submission or other document seeking the exemption; and, if not, why not?

**Hon N.F. MOORE replied:**

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

#### THIRD PARTY MOTOR VEHICLE INSURANCE PREMIUMS, GST IMPLEMENTATION COST

**971. Hon N.D. GRIFFITHS to the Minister for Transport:**

Some notice of this question has been given. What is the estimated cost to the Department of Transport to implement GST on third party motor vehicle insurance premiums for the financial year 1 July 2000 to 30 June 2001?

**Hon M.J. CRIDDLE replied:**

This goes back to 15 March, so I will answer it with regard to that time. I thank the member for some notice of this question. The Department of Transport is still consulting with the Insurance Commission of Western Australia on the requirements of GST on third party insurance, in liaison with the Australian Taxation Office. Once discussions have been completed the full costing will be undertaken and made available.

#### PORT KENNEDY RESORTS PTY LTD, PROJECT REVIEW

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

Further to question without notice 787 of Tuesday, 21 March 2000 regarding the results of the review of the Port Kennedy Resorts Pty Ltd project commissioned by the Minister for Planning I ask -

- (1) Although the answer states the review made no specific recommendations regarding the legislative amendment,

would the Minister for Planning please advise what in the review indicated that there may be a need to consider legislative amendment?

- (2) In reference to the review's terms of reference tabled on 21 September 1999, does Port Kennedy Resorts Pty Ltd have the financial capacity to complete the project?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1)-(2) As indicated in my answer to question without notice 787 of 21 March 2000, the minister is currently considering the developer's comments on the review prior to determining what action, if any, may be appropriate. In light of this, it would be inappropriate to release any of the findings of the review before a determination is reached.

#### NORTHBRIDGE TUNNEL, REASON FOR CONSTRUCTION

**973. Hon TOM HELM to the Minister for Transport:**

Does the minister agree with the senior traffic engineer at Main Roads that the major reason for constructing the Northbridge tunnel was to get the traffic off Riverside Drive? If not, what is the principal reason for the tunnel?

**Hon M.J. CRIDDLE replied:**

Debate has been raging around the city today with regard to the tunnel. There will be a reduction in the amount of traffic along Riverside Drive. It is intended that Riverside Drive become a boulevard-type thoroughfare with a connection as it remains back to Riverside Drive. The other feature is that if one approaches the city from the east, the opportunity will exist to go onto East Parade, down into the tunnel and then to exit through north and south ramps in Wellington Street. These ramps will be constructed by September. Many people have become instant experts on the fact that we may well have some form of traffic congestion in the city. This has been studied over a very long period and this Government has had the courage to accept that we need a northern bypass to the city to remove some of the congestion.

Anyone who travels along Riverside Drive at present would realise there is severe congestion there as well as on the causeway. This will alleviate that congestion. We will have the Graham Farmer Freeway and a new bridge over the river and traffic will be brought in from the Great Eastern Highway through the tunnel. With all those options, traffic will not need to enter the city; it will bypass the city. The traffic will go onto the freeway and will have a seamless drive down to the south to Safety Bay Road where the lights will be removed, and it will be a world-class freeway. People will also have the opportunity to drive seamlessly to the north up to Joondalup. We will have access around and through the city which will be second to none. It will be an outstanding facility and it will help with the traffic flow. Yesterday the safety operation was carried out successfully. I look forward to the opening of the tunnel on 22 September.

Hon Tom Stephens: The people of Carnarvon can hardly wait.

Hon M.J. CRIDDLE: That leads me to the fact that we are talking about road funding. I ask the Opposition how much money it will spend on roads in the future.

Hon Tom Stephens: In the CBD?

Hon M.J. CRIDDLE: The Government spends more money in the country than it does in the CBD.

Several members interjected.

The PRESIDENT: Order! I have said before that the Parliament employs officers to record what is being said, but obviously many members could not care less about that. What about showing a bit of courtesy to those officers.

Hon M.J. CRIDDLE: The point is that we will have a first-class facility in Perth. I can assure the Deputy Leader of the Opposition that the Government has done as much as it possibly can for the people in the country. In 1993-94 the Government expended \$320m. This year it will expend \$806m in the Transport budget, of which \$60m is federal funding. It is an outstanding contribution to the road network in Western Australia, and it is a credit to this Government. I ask the Opposition whether it will match it or get anywhere near it when we go to the next election.

#### TOURISTS TO GREAT SOUTHERN REGION

**974. Hon MURIEL PATTERSON to the Minister for Tourism:**

- (1) How many tourists annually visit the great southern region of Western Australia?
- (2) How much economic activity do they generate?
- (3) What percentage are international tourists?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) Estimates are available with the recent release by the Bureau of Tourism Research of two nationally coordinated regional tourism surveys. The national visitor survey covers domestic tourism for the 1998 calendar year, and

the international visitor survey covers international tourism for the 1998 calendar year. The number of overnight domestic visitors to the great southern region in 1998 was estimated at 544 000, and the number of overnight international visitors was estimated at 53 000. That is total estimate of 597 000 visitors to the region.

- (2) According to the domestic tourism expenditure research program coordinated by the BTR, an estimated \$139m was spent by domestic overnight visitors to the great southern region in 1998. Although no reliable estimates are currently available for the amount spent by international visitors to the region, the BTR, in association with the Western Australia Tourism Commission, is working on a methodology to estimate international tourism expenditure at the regional level. The estimate of \$139m domestic tourism expenditure in the great southern region is therefore only part of the total impact of tourism expenditure in the region.
- (3) Approximately 9 per cent, or 53 000 visitors, to the great southern region in 1999 were from international origins. This places the great southern region third after Perth and the Kimberley among regions visited by international tourists.

#### FINANCE BROKERS SUPERVISORY BOARD, COMPLAINTS

##### **975. Hon NORM KELLY to the Leader of the House representing the Minister for Fair Trading:**

- (1) Will the minister explain the discrepancy between his answer to question without notice 948 asked on Tuesday and figures taken from the Finance Brokers Supervisory Board annual reports which state that the number of complaints for the years 1995-96, 1996-97 and 1997-98 were 39, 47 and 38 complaints respectively?
- (2) Will the minister provide a breakdown of the number of complaints from January 1995 to the end of 1999 on a per six-month basis?
- (3) On what date did Cabinet endorse the recommendations of the reference group that was established to review the finance broking legislation and that reported to the minister in December 1998?
- (4) What action has been taken since that date to prepare legislation for the Parliament?
- (5) Further to parts (1) and (2) of question without notice 948, is the minister aware that all correspondence to the board is directed through the administration of the Ministry of Fair Trading?

##### **Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1)-(2) The figures provided in answer to question without notice 948 were calendar year figures and not financial year figures as used in the annual reports of the Finance Brokers Supervisory Board. In addition, the Finance Brokers Supervisory Board annual report figures include a significant number of complaints about unlicensed persons. These complaints were not included in the answer to question without notice 948 because they are not regarded as complaints against finance brokers. However, following the question, further analysis of figures has identified that some codes in the years in question were deleted in 1998, and those files with defunct codes were not included in the answer to the member. The Ministry of Fair Trading is currently reviewing its historic database to ensure that a full and complete set of numbers is available. The minister will provide the member with the results of that review.
- (3) 29 March 1999.
- (4) The final report of the finance brokers industry reference group made a series of recommendations for legislative change. Given the problems that have become apparent in the industry since the time the final report was delivered, further legislative proposals to bolster protection for consumers who deal with finance brokers have been examined. A submission seeking cabinet approval to draft amendments that include both recommendations from the reference group and further proposals is near completion. Reforms recommended by the reference group which did not require legislative change, such as amendments to the code of conduct issued under the Finance Brokers Control Act 1975 and the publication of consumer information regarding private investments, have been implemented or are being considered by the Finance Brokers Supervisory Board.
- (5) Yes. However, all correspondence addressed to the board is passed directly to an officer of the board.

#### NORTHBRIDGE TUNNEL, EMERGENCY ESCAPE DOORS

##### **976. Hon KEN TRAVERS to the Minister for Transport:**

- (1) Is the minister aware of an article on page 13 of the autumn 2000 edition of "Quad Wrangle" expressing concerns regarding the inaccessible emergency escape doors in the Northbridge tunnel?
- (2) Has the minister or Main Roads WA sought legal advice on whether the tunnel complies with the requirements of the Disability Discrimination Act?
- (3) Did yesterday's emergency scenario in the tunnel include anyone with a mobility disability being required to escape through the inaccessible emergency exit doors; and, if not, how can it then be called a worst-case scenario?

- (4) What action does the minister intend to take to make the tunnel fully accessible for people with disabilities?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1) I am aware that Main Roads has been working with the Disability Services Commission and the Department of Transport's customer service advisory council to satisfy the needs and concerns of people with disabilities. The most recent meeting occurred on Wednesday, 23 February 2000. In respect of the emergency evacuation of the tunnel, overseas research shows that in the event of an accident in a tunnel, motorists are reluctant to abandon their vehicles. However, they are prepared to modify their actions when receiving instructions from the appropriate authority. The evacuation of the tunnel is therefore likely to occur only following the arrival of emergency authorities. In this case motorists would normally be directed along the breakdown lane to exit out of the tunnel portal. There is no impediment to people with disabilities to exit the tunnel in this way. In the scenario of multiple accidents or large scale incidents, evacuees may also be directed to the escape corridor. People with disabilities will need assistance to exit via the escape corridor. This is a similar situation to the evacuation of a multistorey building where people are required to evacuate by stairs.
- (2) No.
- (3) Yes. People with disabilities were involved in the emergency exercise in the tunnel.
- (4) The tunnel meets the requirements for all road users.

#### "WA FORESTS TODAY"

**977. Hon J.A. COWDELL to the Attorney General representing the Minister for the Environment:**

I refer to the minister's answer yesterday regarding the Department of Conservation and Land Management's eight-page publication "WA Forests Today".

- (1) Who printed the brochure?
- (2) Were any additional costs incurred regarding this brochure other than the production and distribution costs outlined yesterday?
- (3) If yes, what were those costs, and what services were provided for each cost?
- (4) What is the estimated staff cost to CALM and how many hours were spent by CALM staff in producing the brochure?
- (5) In which local newspapers has the brochure appeared or will it appear?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) Progress Printers.
- (2) Yes.
- (3) \$600 for coordination of inserting the publication into newspapers, including scheduling and press check.
- (4) Work was done as part of normal duties and a record of staff time on the project was not kept.
- (5) The insert has appeared in or has been booked for *Comment News*, *Stirling Times*, *Midland/Kalamunda Reporter*, *Eastern Suburbs Reporter*, *Canning Community*, *Southern Gazette*, *Post Newspapers*, *Wanneroo Times*, *Hills Gazette*, *Herald newspaper* and *The Voice newspaper*.

#### STATE RECORDS BILL, WATER CORPORATION

**978. Hon TOM STEPHENS to the minister representing the Minister for Water Resources:**

- (1) Why is the Water Corporation included in schedule 3 to the State Records Bill 1999, thus exempting it from the provisions?
- (2) Has the minister or the Water Corporation made any written or verbal request to be exempted?
- (3) If yes, on what basis has that request been made?
- (4) Will the minister table any submission or other document seeking the exemption; and, if not, why not?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1) The Water Corporation is included in schedule 3 on the basis of a submission made to the Government in March

1999 commenting on the printing of proposed government records legislation. It should be noted that schedule 3 organisations are not exempted from all provisions of the State Records Bill 1999.

(2) Yes.

(3) The submission by the corporation raised concerns about the impact of the proposed Bill on the operations of the Water Corporation and suggested that the tenor of the Bill was directed at public sector agencies not subject to the discipline that corporatised agencies are bound to observe in the record-keeping arena to meet their substantial reporting obligations under their respective Acts. It suggested that the Bill compromised one of the key principles of corporatisation, being maintenance of competitive neutrality, and that the significant rights of access that the commissioners, the Director of State Records and the minister for the State Records Commission would have to information held by the corporation might compromise commercial-in-confidence material.

Hon Ljiljanna Ravlich: It is a monopoly. Why would that be the case? It is a joke, and you know it is a joke.

The PRESIDENT: Order!

Hon M.J. CRIDDLE: The answer continues -

(4) No, the exemption provided is acceptable.

#### MARINERS COVE DEVELOPMENT

**979. Hon CHRISTINE SHARP to the Attorney General representing the Minister for the Environment:**

Recently the outline development plan for the Mariners Cove development was approved allowing for a reduction in public open space from 10 per cent to 8 per cent because the design conforms to the Western Australian Planning Commission's liveable neighbourhoods community design codes. However, given that area A of the Creery wetlands is of great significance to the people of Mandurah because it contains healthy samphire and a tuart, marri and banksia woodland with intact understorey, why is the developer allowed to clear a greater area of remnant vegetation?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question. There was no requirement in the Environmental Protection Authority's assessment for retention of vegetation in area A above normal public open space requirements. The decision to reduce the area of public open space was made by the Planning Commission.

#### TEACHERS, PERMANENCY

**980. Hon HELEN HODGSON to the parliamentary secretary representing the Minister for Education:**

- (1) How many teachers were granted permanency status by the Education Department in 1999?
- (2) Do any of those teachers granted permanency status in 1999 hold foreign citizenship; and, if so, how many?
- (3) Is it Education Department policy to deny permanency status to teachers who do not hold Australian citizenship, regardless of their length of service in Western Australia?
- (4) Does the Education Department have guidelines or a policy that states the criteria for granting a teacher permanency status; and, if so, will the parliamentary secretary table a copy of the guidelines or policy?

**Hon BARRY HOUSE replied:**

I thank the member for some notice of this question.

- (1) During 1999, 182 teachers were awarded permanency and 646 were placed into positions for 2000 that will entitle them to permanency after prescribed periods of satisfactory service.
- (2) The Education Department does not hold this information.
- (3) No.
- (4) Permanency is available to teachers who take up "clear vacancies", these being positions that are substantively vacant and have not been sought on transfer by existing permanent teachers during the annual transfer process. Under these circumstances, permanency is awarded after two years in a designated difficult-to-staff school, and three years in other schools. Relevant advice to teachers regarding this policy was published in *School Matters* in November 1999. I seek leave to table a copy of that article.

Leave granted. [See paper No 855.]

#### DAIRY INDUSTRY AUTHORITY, COMMITTEE TO DISPOSE OF ASSETS

**981. Hon KIM CHANCE to the minister representing the Minister for Primary Industry:**

- (1) What is the name of the committee that the Minister for Primary Industry intends to establish for the purpose of disposing of the assets of the Dairy Industry Authority of Western Australia?

- (2) Who are the members of that committee?
- (3) Will the Government be making arrangements to ensure that the funds that were raised by the distribution adjustment assistance scheme levy are retained by the Government for the specific purpose of assisting the dispossessed former milk vendors?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1)-(3) A transition advisory group has already been appointed under ministerial authority and is operating to plan and guide the transition of the Dairy Industry Authority to a deregulated market. The advisory group is chaired by Perth businessman Stuart Hicks and includes producer representatives Graham Ravenhill, Danny Harris and Eric Biddulph; DIA Chairman Jim Watts; and Sarah Clancy, senior policy officer to the Minister for Primary Industry. The transition of the DIA will see the ownership and net assets of the DIA transferred to the industry.

#### CORRECTIONS CORPORATION OF AUSTRALIA, APPROACHES TO JUSTICE MINISTRY PERSONNEL

**982. Hon MARK NEVILL to the Attorney General:**

- (1) What protocols are in place for Corrections Corporation of Australia in approaching members of the Ministry of Justice to work at Acacia Prison?
- (2) Is the minister aware of any approaches to existing Ministry of Justice staff to provide services to that prison?
- (3) Is the minister aware of any Ministry of Justice staff who have left to join the employ of CCA for Acacia Prison?

**Hon PETER FOSS replied:**

- (1)-(3) With regard to questions (2) and (3), I am not aware. With regard to question (1), I am not aware of the protocols, and I ask the member to put that question on notice. I understand that CCA intends to advertise for staff, and there is nothing to prevent a person who is employed by the Ministry of Justice from applying for a job which is advertised by anyone. We expect that some staff will apply. If there is a protocol to prevent that, I think that may be regarded as being anti-competitive. If the member puts that question on notice, I will find out whether there is a protocol.

#### QRD CONSULTING

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

- (1) Can the minister confirm that West Coast College of TAFE's research and development branch, QRD Consulting, has subcontracted a consultancy company, Transformation 2000?
- (2) Can the minister advise the nature and value of the work given to Transformation 2000?
- (3) Can the minister confirm that the manager of QRD Consulting, Ms Moira Watson, is the sister of the principal of Transformation 2000, Ms Irene Harrison?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) Yes.
- (2) Transformation 2000 has provided professional services in the area of leadership management development and learning technologies for operational learning projects including practice firms, virtual business, partnering competencies, work-based training, women leadership management, and managing our future together. The value of this work is \$62 624.85.
- (3) Yes. Transformation 2000 was the successful candidate chosen from a panel of consultants established through an expression of interest process. Prior to the appointment of Transformation 2000, Ms Moira Watson formally declared the relationship in writing to the then director of development.

#### REID HIGHWAY EXTENSION, WATER AND RIVERS COMMISSION

**984. Hon GIZ WATSON to the minister representing the Minister for Water Resources:**

With regard to the Carine wetlands and the proposed extension of Reid Highway -

- (1) Has the Water and Rivers Commission been consulted on the likely impact of the extension of Reid Highway on the adjacent Big Carine Swamp?
- (2) If yes, what was its response?
- (3) Will the minister table that response?
- (4) If no, why not?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1) The Reid Highway extension proposal was referred to the Environmental Protection Authority in May 1992. The Water and Rivers Commission came into existence in 1996. However, the former Water Authority of Western Australia was responsible for advising on impacts to the wetland.
- (2) The Water Authority had considered the drainage impacts and had no objections to the proposal. Advice was also given on the design of the sediment retention basins that would be required to protect the wetland.
- (3) No.
- (4) No file records on this matter are held by the commission as it only came into existence in 1996.

**CITY NORTHERN BYPASS, CONTRACTS****985. Hon TOM STEPHENS to the Minister for Transport:**

On 23 October 1997, the Parliament was told that 53 contracts had been awarded for the city northern bypass project.

- (1) How many contracts have been issued since that time, and what is the total value of these additional contracts?
- (2) Can the minister table a list of these additional contracts and the value of each?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question. The information requested by the member is being researched. I ask that the question be placed on notice.

**PILCHARD DEATHS, PFIESTERIA ORGANISM****986. Hon BOB THOMAS to the minister representing the Minister for Fisheries:**

With regard to the widespread death of pilchards on the south coast -

- (1) Did research into the cause of the deaths identify the presence of the organism pfiesteria?
- (2) If not, will Fisheries WA now test to see whether this organism was present at the time of the deaths?

**Hon M.J. CRIDDLE replied:**

I thank the member for some notice of this question.

- (1)-(2) No.

**EDUCATION DEPARTMENT, SCHOOL ADMINISTRATION SOFTWARE****987. Hon E.R.J. DERMER to the parliamentary secretary representing the Minister for Education:**

Will the Minister for Education confirm that during the procurement process for school administration software that resulted in the Education Department's contract with the RM Australasia Pty Ltd, the department failed to specify a requirement for the accommodation of the industry-standard firewall software, which schools use to protect their data from unauthorised access?

**Hon BARRY HOUSE replied:**

I thank the member for some notice of this question.

The procurement process that resulted in the Education Department's contract with RM Australasia Pty Ltd was for application software. It is usual practice to specify firewall requirements as part of technical infrastructure requirements, not the application requirements.

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