WESTERN AUSTRALIA

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(HANSARD)

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Thursday, 18 June 1998

Legislative Council

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

JOINT STANDING COMMITTEE ON THE ANTI-CORRUPTION COMMISSION

Report on Complaints made by Det Sgt Peter Coombs against ACC Officers - Tabling

HON DERRICK TOMLINSON (East Metropolitan) [11.02 am]: I am directed by the Joint Standing Committee on the Anticorruption Commission to present a report on complaints made by Detective Sergeant Peter Coombs against the Anti-Corruption Commission special investigator Geoffrey Miller QC and others. I move-

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

Question put and passed.

[See paper No 1712]

Statement by Hon Derrick Tomlinson

HON DERRICK TOMLINSON (East Metropolitan) [11.02 am]: This report deals with complaints about an Anti-Corruption Commission special investigator made to the Joint Standing Committee on the Anti-Corruption Commission by Detective Sergeant Peter Coombs, an officer of the Western Australia Police Service. Detective Sergeant Coombs made 11 complaints relating to his appearance before Mr Geoffrey Miller QC.

Members will be aware that Mr Miller reported to the ACC in December last year. The ACC subsequently sent an edited version of the report to the Commissioner of Police and six drug officers were suspended by him under section 8 of the Police Act for want of confidence. Detective Sergeant Coombs was one of those officers. The report was also referred to the Director of Public Prosecutions. Members will also be aware of the most unsatisfactory course of events since then. The suspended officers obtained an injunction to prevent publication of the Miller report, as it has become known. About the same time the DPP stated that there was insufficient evidence in the report to justify a prosecution.

Last month the Full Court of the Supreme Court ruled that the suspensions were invalid because they were based on findings of guilt in the Miller report - findings which were beyond the ACC's power to make. The Miller report was reformulated and sent to the Commissioner of Police. He is expected to announce his intention shortly. I stress that the report tabled in this House is not about the substantive subject matter of the Miller report. The Joint Standing Committee on the Anti-Corruption Commission has not seen the report and is not in a position comment on its veracity. That is unsatisfactory, but will require an amendment of the Act to remedy.

Detective Sergeant Coombs' complaints relate to a hearing of the Miller inquiry on the morning of 3 October 1997 at which he gave evidence. During the evidence the name of a person known to Mr Miller came up. Mr Miller let it be known shortly before an adjournment that he knew this person through a recreational interest and asked whether he should stay away from him. Detective Sergeant Coombs advised that he should. Mr Miller then asked about other names and received similar advice from Detective Sergeant Coombs. Just as the hearing was about to adjourn Mr Miller stated that the interchange about his associates was personal and need not be transcribed from the tape recording to the written transcript of the hearing. During the adjournment this was reconsidered and when the hearing reconvened, but before Detective Sergeant Coombs was readmitted, Mr Miller revoked the instruction that the earlier interchange should not be transcribed.

Detective Sergeant Coombs' main complaints are, firstly, that at the morning adjournment on 3 October 1997 Mr Miller directed that the tape recording of the interchange between him and Detective Sergeant Coombs regarding his associates should be erased and that it was erased in his presence. Secondly, that Mr Miller misused his powers as a special investigator in compelling Detective Sergeant Coombs to answer questions seeking sensitive police information known privately to the special investigator. The other complaints flow from these. The third core complaint was that there was a close personal association between Mr Geoffrey Miller QC and certain known criminals.

Notwithstanding Detective Sergeant Coombs' persistent assertions to the contrary, the Joint Standing Committee on Anti-Corruption Commission finds that Mr Miller did not direct that the tape be erased, nor was it erased. The written transcript of the hearing which appears as an appendix in the report supports this conclusion. It records Mr Miller's instruction and retraction as relating to transcription from the tape, not erasure of the tape. The committee

initially was reluctant to listen to the tape to verify the accuracy of the transcript because of extremely sensitive material relating to organised crime and the drug trade said to be recorded on it.

Statutory declarations from the three commissioners of the ACC Mr Terry O'Connor QC, Mr Don Doig and Commodore David Orr, RN retired, were obtained which stated the transcript was an accurate record of the tape of the proceedings. In addition, the committee called as witnesses all the people who were in the hearing room as well as Detective Sergeant Coombs at the time the exchange took place. They were Mr Geoffrey Miller QC, Mr George Tannin, counsel assisting the special investigator, Mr Pruiti, junior counsel assisting the special investigator, Mr David Warren, an ACC senior investigator, and Ms Rosie D'Uva from Verbatim Reporters, who was the recording monitor for the transcript. All of those witnesses confirmed the accuracy of the transcript. In addition, Mr Cyril White, the manager of Verbatim Reporters who was on the premises and responsible for overseeing recording and transcription was called before the committee and confirmed that the tape had not been erased.

Notwithstanding our earlier reluctance, the committee resolved to hear the tape and did so at the ACC premises. This confirmed the accuracy of the transcript and that it did not appear to be wiped or dubbed. The committee did not seek forensic tests on the tapes. For Detective Sergeant Coombs' allegations that the tape had been wiped to stand would require that a conspiracy of forgery and subsequently perjury by Messrs Miller, Tannin, Pruiti, Warren, and White and Ms D'Uva had been perpetrated.

That is not credible. All of the evidence accumulated by the committee refuted Detective Sergeant Coombs' complaints. Each of the witnesses gave a consistent account of the day's proceedings and the progress of the special investigation which denied Detective Sergeant Coombs' allegations. He produced no substantial evidence to support his claims, but relied solely on supposition and inference to elaborate and defend his story.

In addition to the complaints made by Detective Sergeant Coombs relating to the evidence of October 1997, in subsequent hearings and letters to the committee Mr Coombs made more complaints about the action of the ACC. They are contained in the report as follows -

> Mr Miller and Mr Tannin agreed to erase the portion of the tape dealing with the matters raised by Det. Sgt. Coombs and that Mr Miller issued an instruction to that end.
>
> That the ACC conspired to prevent Det. Sgt. Coombs from appearing before the Joint Standing Committee to give evidence about matters raised in his letter of 9 April 1998.
>
> That, even if the instruction to erase the tape was not carried out, there was a criminal conspiracy between Mr Tannin and Mr Miller and an attempt to falsify by omission the record of the hearing.
>
> That, as a Special Investigator, Mr Miller breached s.50 of the ACC Act by failing to disclose his material personal interests in persons who were subjects of the Special Investigation.
>
> That the Chairman of the ACC, Mr Terence O'Connor, must have known of Mr Miller's own personal interests in associating with "high level crooks".
>
> That the powers of the ACC were being utilised to support Mr Miller and Mr Tannin's private personal action against Mr Sattler and 6PR and this represented a conflict of interest and abuse of power of that office.
>
> That the Chief Executive of the ACC, Mr Wayne Mann, had no authority to state on 16 April 1998 that no charges would be laid against Det. Sgt. Coombs for any action arising out of the publication of Det. Sgt. Coombs' Statutory Declaration.
>
> That the Chairman of the ACC, Mr Terence O'Connor QC, conspired with officers of the Commission to prevent Det. Sgt. Coombs from giving evidence to the Joint Standing Committee.

The committee investigated each of those complaints and for each complaint the committee found that the allegation was without foundation.

In the report, the committee reaffirms its belief that there is a need for an independent arbiter to respond to complaints against the conduct of the ACC or its officers. Some complaints can be dealt with by the three ACC Commissioners. Others can be referred to the Police Service for further action. However, when complaints are made of the kind raised by Detective Sergeant Coombs, high level and independent action is necessary.

Similar agencies in Queensland and New South Wales provide for a parliamentary commissioner or inspector general to ensure that civil rights are not denied. Those agencies are considered briefly, along with other options, in the report. They are also canvassed in detail in a discussion paper tabled earlier in this House. The committee intends to present a recommendation for an arbiter when it has evaluated public response to the discussion paper.

STANDING COMMITTEE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT - LAND CONTAMINATION INQUIRY

Motion

Resumed from 17 June on the following motion -

That the House direct the Standing Committee on Ecologically Sustainable Development to inquire into and report upon -

(1) The extent to which land, including groundwater -

(a) in the metropolitan area, and

(b) in the non-metropolitan area,

is contaminated by hazardous substances which pose or are likely to pose an immediate or long term hazard to human health and/or the environment.

(2) The number and location of all sites in Western Australia that are identified as contaminated by hazardous substances.

(3) The extent to which -

(a) underground storage tanks, and

(b) other activities,

are a source of contamination of land, and the adequacy or otherwise of the manner by which these sources are monitored.

(4) The extent to which there are management strategies currently in place for contaminated sites, and how they could be made more effective.

(5) The financial, health, environmental and legal implications for future redevelopment of land that has been identified as contaminated.

(6) The adequacy or otherwise of existing legislation to properly monitor and manage contaminated sites.

(7) The extent to which "dumping fees" for solid and liquid waste contribute to -

(a) land contamination; and

(b) unlawful safety practices across industry sectors, particularly the building and construction industry.

(8) The policy of the Water Corporation on providing in-fill deep sewerage in existing industrial estates and the degree to which that policy militates against desirable environmental outcomes.

(9) The effectiveness of the Government's response to the recommendations of the 1994 Legislative Assembly's Select Committee on Metropolitan Development and Groundwater Supplies.

(10) Any other matters relating to contaminated sites as the Committee deems necessary.

HON LJILJANNA RAVLICH (East Metropolitan) [11.15 am]: I am very pleased to be able to continue my remarks. Yesterday I spoke briefly about the importance of an investigation into land contamination in Western Australia. I outlined three of the areas I hope that this committee will examine. I also hope that the committee will examine the extent to which management strategies are in place for contaminated sites and how they can become more effective. The emphasis on their becoming more effective is particularly important.

Present activities in the community indicated that management strategies are particularly weak. People affected by land contamination are complaining that their voice is not being heard and that they are being frozen out of processes. I hope this committee will examine that area. In addition, I hope the committee will examine the financial, health, environmental and legal implications for future redevelopment of land identified as being contaminated.

The other day I was invited by a group in the Southern River area to examine the old Gosnells dump. The whole area had been fenced off, as these areas usually are once they have been identified. The gentleman showing me around pointed out that not only are the local residents living within close proximity, many of whom operate kennels and

whose ground water is being adversely affected by contamination, but also proposals are in train for this land to be developed in the future. I do not know the veracity of that. However, we have experience of problems in areas developed on contaminated sites. Obviously health, environmental and legal implications are involved even where sites have been clean, and possibly deemed to be totally remedied. However, what will happen in the long term, if the remediation is deemed not to have been very effective? That is another area of concern I hope the committee will investigate.

I hope it also will investigate the adequacy or otherwise of existing legislation to properly monitor and manage contaminated sites. I would also like the committee to examine the extent to which dumping fees for solid and liquid waste contribute to land contamination and unlawful practices across industry, particularly the building and construction industry. I do not know whether an investigation has examined the impact of dumping fees and how certain operators conduct their business. I have been advised that, rather than paying the amount to dump at a tip, some businesses are dumping their refuse in John Forrest National Park or other bushland areas.

Hon Ken Travers: And around the reservoirs.

Hon LJILJANNA RAVLICH: Yes. I do not think that has been investigated. From my experience of the building and construction industry I am aware that one of the dilemmas in which some demolition contractors find themselves is whether to clear rubble from site and take it to a tip and pay the appropriate dumping fee or whether to take a shortcut and burn the rubble on site.

Unfortunately, given the weakness of WorkSafe Western Australia in checking what goes on at many construction sites, the building refuse is disposed of by burning on construction sites, rather than being properly carted away to a tip. This whole issue requires a thorough investigation, as does the policy of Water Corporation of providing infill deep sewerage in only residential areas, rather than also covering industrial estates. The fact that it does not cover the existing industrial estates begs the question, to what degree does that policy militate against desirable environmental outcomes?

The effectiveness of the Government's response to the recommendations in the 1994 report of the Legislative Assembly Select Committee on Metropolitan Development and Groundwater Supplies is another issue on which I hope, if we are successful with this motion, we will have a thorough investigation. I have gone through the report, which contains many recommendations covering ground water supply. We should put a ruler over them to see how effective the Government's response has been to that report.

I refer to term of reference No 10. As members will be aware, often when a committee is conducting inquiries or investigations a number of issues may emerge which, because of its limited terms of reference, the committee cannot investigate. For that reason, I have left these terms of reference fairly open.

The problem with contaminated sites cannot be underestimated. The other day a friend of mine, who happens to be Croatian-born lady, told me that in September every year the people here who have come from Vela-Luka, a town on the Adriatic coast, get together at Vela-Luka Park in Cockburn for a picnic; they naturally have some affinity with it. This lady told me that she had received a telephone call to say that Vela-Luka Park is no longer available to the community because it has been fenced off. I made some inquires and was advised that the park has been closed by the Health Department and that originally it was a gasworks site. The Waters and Rivers Commission carried out testing on that site which showed up aromatic hydrocarbons and a whole range of compounds, one being carcinogenic tar. This is a little park in the middle of a fairly built-up area. It begs all sorts of questions about how the Government and the local council will deal with the problem. I was advised that more testing of the soil in the park will be conducted. Once the testing is completed a draft report will be done.

My office spoke to the relevant people at the Cockburn City Council, and was told that in these matters the problems start when the report is issued. This is when the big conflicts occur such as who is responsible, who is liable, who will pick up the tab, and a whole range of other issues. As well as that, residents also have complaints about how they will be dealt with. The identification of the problem is just the start. A whole range of issues follow on from that. This is very complex issue, and it has caused grave concern within the community.

As a member of Parliament, one of first groups to approach my office was the Contaminated Sites Alliance. Following that meeting and my subsequent inquiries, I have come to the conclusion that this issue is of major importance to community wellbeing. The Contaminated Sites Alliance does not represent all the groups that are concerned about contaminated sites. I will provide the names of a few of these groups to highlight that this is a very extensive problem. First, there is the Bellevue Action Group, which is concerned about the Omex oil refinery site in Bellevue, and I will touch on that more fully a little later because there are big problems there. The Coalition for the Jandakot Water Mound is concerned about the threats to ground water across the Jandakot mound. The major concern of the High Wycombe Concerned Residents Group is the tip site in Adelaide Street in High Wycombe. The

Minim Cove Action Group is concerned about the former CSBP site in Mosman Park, and I will speak at some length about that because of the ongoing problems associated with the clean-up of that site. The Mirrabooka Action Group is concerned about the Atlas tip site. The Southern River Action Group is concerned about the Gosnells tip site. I have visited that site. The problem there became apparent to it me, particularly for those who live or have properties close to a contaminated site. The West Byford and the Peel Estate Conservation Committee is concerned about landfill issues relating to the Serpentine and Peel catchment areas. That does not represent all the groups. This alliance represents only a small number of people who are concerned about contaminated sites. We have a very grave problem.

I know the Government has not ignored this problem entirely. Although a discussion paper has been put out, some issues have been overlooked. It is certainly not the definitive response to this problem. Hon Christine Sharp shares my concerns and I understand she will seek to move an amendment to this motion.

Hon Max Evans: To delete the motion?

Hon LJILJANNA RAVLICH: Surprise, surprise; no, it is not. It will actually strengthen the motion.

Hon Max Evans: It could not make it a better motion than your motion.

Hon LJILJANNA RAVLICH: I can see the big, warm smile spreading across the Minister's face because he is very pleased to hear that. The Government has recognised the problem; however, I believe there must be a comprehensive and thorough investigation of this whole issue. The best way to achieve that is for this motion to be passed and for the comprehensive inquiry to be conducted by the Standing Committee on Ecology Sustainable Development. As members will be aware, committees have the advantage of being able to call people to present before them and answer very frank questions. I am sure representatives from many of the groups I have mentioned will be more than happy to provide a committee with the responses that are required.

We have a very serious problem in Western Australia, with 1 500 contaminated sites, excluding rural properties, already identified with organochlorine pesticide notices, and 1 200 rural properties being subject to notices for pesticide contamination. These are a major source of soil and ground water pollution. Some land used for industry or agriculture has been turned into residential land, the most obvious being that at Minim Cove.

Many homes are located within close proximity to contaminated sites. One of the key problems is the nature of contaminating substances, which are largely unknown, at many potentially contaminated sites in the metropolitan areas. It has struck me when I read information in relation to contaminated sites that an independent assessor goes to a site and makes a determination of the contaminated substances; he might identify five or six of them. Then the Department of Environmental Protection comes in and it finds an entirely different set of contaminants; it might find only one. Usually somewhere between those extremes is the truth. We must have a system which establishes that truth, because failure to do so will lead to further risks. It is significant that this cat and mouse game does not continue between the Department of Environmental Protection and independent assessors. It is of no doubt that contaminated sites are a threat to public health. If we do not get the assessment right and continue to build on sites that have been contaminated, based on faulty information that the sites are nowhere near as dangerous or a health threat, we will transfer the problem across and we will have to deal with it in the future. It is very important that we get the assessments right because of their relationship to public health.

I turn to management strategies because this is another area which seems to be of major concern to people who have experience with the contaminated sites allowance or people who have been involved, because they may not be in a formalised group. They may have property close to a contaminated site for whatever range of reasons. Management strategies currently in place for contaminated sites are poor at best. They must be made effective. I hope that the committee will bring before it either representatives from the Contaminated Sites Alliance or other interested people with the view to identify how the processes can be made better. The Government talks big on consultation. The Government continually advises this place that consultation is effective, but one does not have to go very far or wide within the communities that are affected to find that most people are of the view that the consultation processes are totally inadequate, and the management strategies are also lacking.

We must move away from a head in the sand mentality. We must accept the fact that positive and open communication is absolutely imperative in achieving the right sorts of outcomes. We also need to ensure that the way that these matters are managed is effective and agreed to, so that the process can move in the right direction in a positive manner.

Currently there are many weaknesses in the system. Although legislation exists to protect the environment from contamination, there is no legislation to deal with either the cleaning or future management of sites already contaminated. The biggest issue for legislation is the question of liability. It is an issue that any Government would find difficult to deal with. It is difficult because liability is about money. If one cannot make the polluter liable, then

somebody must be made liable. The longer the Government delays making hard decisions, the more we will see toxic waste bleed into our land and water supply. This is a critical issue with regard to contaminated sites.

Hon Simon O'Brien: You are a very critical person. I am sure you can deal with it.

Hon LJILJANNA RAVLICH: The member flatters me.

I will be a member of the committee and I look forward to looking at the issue of legislation; who is liable for the compensation of those people affected, who is the polluter, who has been a party to the decisions, and so on. A whole range of issues exist in relation to this. We must take a positive approach and make some hard decisions. There is currently no incentive for industry to clean up contaminated sites, and if there is no incentive, cleaning up is an added cost to industry, so why would it do it? That needs to be addressed. There is no clearly defined role for the Government in the clean up operations. One often hears the fact that the Government avoids any responsibility until it gets to the point where, politically, it is embarrassing to keep turning away from the problem. We must more clearly define the role of the Government in the clean up operation.

I commented early in my remarks yesterday that a register should be developed. If we know there are 1 500 contaminated sites, we should be able to go somewhere and identify the 1 500 sites on a map. There should perhaps even be a grading of the degree to which those sites are contaminated with information on their limited land use. Not every contaminated site is appropriate for housing development. I am not sure what the provisions are, but I would suspect that they are probably quite inadequate. This would be a very good thing for the committee to investigate, to ascertain what sort of planning has been done in the past in relation to these 1 500 contaminated sites, and how the register will be managed and planned in the future.

Land titles do not carry a notice that warns potential purchasers of previous contamination; that is a problem. I know, for example, at the McCabe redevelopment, some very expensive homes are being built and people are paying a lot of money for them. I do not know what percentage of those homes are being purchased by foreign or interstate investors who may not be familiar with the history of the McCabe site and CSBP's role there historically. They may not be familiar with any of that detail. I wonder what provisions are in place to warn some of these potential purchasers that the expensive house that they will be investing their life savings in is built on an ex-contaminated site. This is something which this committee should look at very seriously.

Many people from Perth may move down that way without being aware of the contamination. I must be honest, Mr President: Before I began looking at the issue of land contamination I did not know much about the McCabe site or any other site. I was a little familiar with the Omex Petroleum Pty Ltd site, having grown up in Midvale. It was not too far away from home. That was my only prior understanding of contaminated sites. Nevertheless it is a very important issue, because people purchasing property located on or near contaminated sites should be warned of that contamination. I am fairly confident in saying that I do not think those purchasers are advised about the contamination.

I turn now to the current deficiencies in the system. It appears that not one agency is responsible for overseeing clean up operations. It appears that there is a lot of buck passing from agency to agency. Sometimes people become a little confused about who they are dealing with, and the time has come to allocate that responsibility to one agency. I do not know which agency that should be - the Department of Environmental Protection or the Health Department - because it cuts across a number of agencies. If that responsibility cannot be allocated to one agency perhaps a peak body should be set up, in which the key players can get together to consider how to operationally address some of the issues. I do not think that happens currently. According to the people with whom I have spoken, there is no evidence to suggest otherwise. Also, there is no specific legislation to manage contaminated sites; that legislation is long overdue. A lack of certainty exists about clean up standards. At what point do we say that a site has been fully cleaned up and has been given a clean bill of health?

I do not know whether we adhere to an Australian standard in this regard. Hon Christine Sharp may know, because she is more familiar with these things than I. Hon Greg Smith is not here at the moment. He would know for sure! I do not know whether we adhere to international, Australian or state standards. However, we must consider at what point a site is given a clean bill of health. The committee could consider that matter within its fairly broad terms of reference. Those issues need to be addressed, and I am confident that the committee will take that line.

I turn now to a number of sites: I wish to talk about the Omex site at Bellevue, and quickly consider issues relating to Minim Cove, the Gosnells tip, the Southern River site and the Southern River Canal Zone Association and some of its concerns. My colleagues on this side of the Chamber queried whether I would go on for days and days, and I asked them what would make them think that!

Hon Derrick Tomlinson: Probably because you do go on!

Hon LJILJANNA RAVLICH: I was just testing to see if the member was awake! I realise that I must move on, because I do not want to take all of tomorrow as well. I am very keen to progress this matter.

Hon Max Evans: You have two weeks to go!

Hon LJILJANNA RAVLICH: The Omex site is of considerable concern. I have been lobbying about the Omex site for some time - as have other members.

Hon Derrick Tomlinson: Since 1987.

Hon LJILJANNA RAVLICH: Hon Derrick Tomlinson may be able to help me out on this issue!

Hon N.D. Griffiths: You do not need any help.

Hon LJILJANNA RAVLICH: The Government has allocated $6.9m to the clean up of the Omex site - a 12 400 cubic metre clay pit containing a toxic cocktail of heavy metals, lead, acid and other chemicals. People do not know exactly what is there. If people cannot agree on what the site contains, how can we agree how to fix it?

Hon Derrick Tomlinson: The clean up of the Omex site is a serious problem. People do not know what they are dealing with.

Hon LJILJANNA RAVLICH: That is right. In 1994 the Department of Environmental Protection briefing notes indicate that soil samples on properties adjacent to the site were contaminated with lead, hydrocarbons, polycarbons and acids. The tests also found a higher than acceptable atmospheric lead level. I am sure it will cost more, but the Government has allocated $6.9m - usually in such matters there is an overrun - to remove the toxic sludge from the site. A commitment has been made, but concerns have been expressed about the percentage of money allocated to remediation of the Omex site. There is great concern about the amount of money to be paid by the Government to the polluter to buy back the land to clean up the site. There is an inherent difficulty in all of this.

Some questions have been put to me about Omex, apart from residents expressing their concerns - which I will address later. How much will Mr Quackenbush, the company owner, be compensated for the site prior to its being cleaned up?

Hon Derrick Tomlinson: How much will he contribute to the clean up? He is not being compensated.

Hon LJILJANNA RAVLICH: There was some talk of the Government having to buy the land from Mr Quackenbush before the clean up could commence. Hon Derrick Tomlinson has a Cheshire cat smile on his face!

Hon Derrick Tomlinson: I have just swallowed the canary!

Hon LJILJANNA RAVLICH: There may be something in that. I am keen to find out about either proposition. Will the Government buy the contaminated land from Mr Quackenbush, as part of the deal to clean up the site? An amount of $2m has been reported - but I do not know. If that is not the case, and Mr Quackenbush has been identified as the polluter, how much will be contributed to the Government?

I am advised that the Government has already sent departmental officials to negotiate with one or two residents, and that the oil company has offered a deal to a couple of local residents. I do not know how true that is. However, it appears that only a select number of residents have been identified. I do not know whether this is over and above what the Department of Environmental Protection is doing, or whether the oil company is acting of its own volition. However, this indicates to me that the process is not right. It appears that something is fundamentally wrong. Residents around the site want a reallocation due to health risks now and during the clean up phase. I understand that the Government is resisting that. I do not know why, apart from a purely cost basis. Perhaps the Government is concerned that if it sets a precedent it will have to relocate people from any area close to the site.

Hon Derrick Tomlinson: Three have been settled, and the other nine are being negotiated.

Hon LJILJANNA RAVLICH: I am pleased to hear that, because residents have demanded relocation on legitimate grounds.

Hon Derrick Tomlinson: And the Government has responded sympathetically.

Hon N.D. Griffiths: But slowly.

In part, this inquiry will look at the processes which have been used and determine if those processes can be applied in a policy sense. The residents want to relocate for a number of reasons. They have been affected by the fallout from the pit fires and polluted ground water releasing vapours through the soil. They have suffered stress, inconvenience and risks to their health during remediation.

A strong argument can be put about property devaluation. Some people may have bought their land at a reasonable price 20 or 30 years ago. No-one will purchase a house there now with the uncertain nature of surroundings.

Hon Derrick Tomlinson: There is also the serious problem of the Bellevue Bowling Club. It has a green over one of the contaminated pits.

Hon LJILJANNA RAVLICH: That is interesting; the bowling club may have to be bought out.

Hon Derrick Tomlinson: The little old ladies will not be playing bowls there for long.

Hon N.D. Griffiths: It is a very good bowling club, too.

Hon J.A. Cowdell: I am sure Hon Norm Kelly would be interested in that.

Hon LJILJANNA RAVLICH: I hope that we can help the people directly affected by the Omex site. A major concern is the inappropriate nature of the community consultation. I place this letter on the record. It is from Richard Eddy. I am not sure of his role within the contaminated sites alliance but I imagine he is one of the organisers or convenors. The letter is to the editor of *The West Australian* and reads as follows -

> Dear Sir,
>
> Mr Court, your decision announced last Thursday to clean up part of the toxic contamination at the Omex site in Bellevue because of its threat to groundwater is welcome, but completely fails to address the human aspect of the problem.
>
> Innocent homeowners close to the site, who have been unable to list their properties for sale let alone sell them and endured years of anxiety living under a health threat, will apparently be expected to put up with years more stress and further health risks living in the immediate vicinity of the proposed decontamination operation.
>
> The Department of Environmental Protection, in its newsletter accompanying your press release, talks of ongoing "community consultation". We know about the DEP's "community consultation" processes because we've taken part in them. Our experience indicates that the Omex community can expect to be listened to and then ignored, just as happens in many of the formal Environmental Reviews. The department has elevated marginalisation of the community to an art form.
>
> We had been hoping that your new minister might have been able to break the mould. Alas . . .
>
> So Mr Court, don't kid yourself that the public will congratulate you or your environment minister for ignoring the plight of local residents and sharing the $7m clean up burden among everyone while you let the polluter off scott free. Both issues - sympathetic consideration for victims and sheeting home financial liability where it belongs - need much closer attention as your government faces hundreds of other contaminated sites and implements its proposed Contaminated Sites legislation.

Hon Derrick Tomlinson: When is that letter dated?

Hon LJILJANNA RAVLICH: 11 October 1997. Irrespective of the Government releasing a discussion paper and identifying a number of issues, what we are hearing from the ground level is that people do not feel that things are quite right for a number of reasons. I cop that a percentage of the population will always be dissatisfied with something; that is human nature.

Hon Max Evans: We have noticed that in here.

Hon LJILJANNA RAVLICH: Minister, people from Mosman Park are saying the same thing. The people in Southern River are saying the same thing.

Hon Derrick Tomlinson: They are saying the reverse at the dog kennels.

Hon LJILJANNA RAVLICH: They are also saying that the Government is not consulting with them. They are saying that the process is a sham.

Hon Derrick Tomlinson: I thought you were saying that there are complaints in all levels of society.

Hon LJILJANNA RAVLICH: There are, but in relation to contaminated sites and the Government's handling of the issue of remediation of those sites and how it will deal with the emerging social and other problems which impact on people living nearby, the overwhelming sense is that the Government is not listening. The processes are not right.

Hon Derrick Tomlinson: I will be very interested to hear what Hon Ljiljanna Ravlich says about the dog kennels because the complaint there is the reverse. The Government is acting against them as the polluters.

Hon LJILJANNA RAVLICH: Wait until I get to that.

Hon Derrick Tomlinson: I am waiting with bated breath.

Hon LJILJANNA RAVLICH: I am not there yet, so Hon Derrick Tomlinson will have to wait until tomorrow. That is part of tomorrow's program.

Hon Derrick Tomlinson: I shall bate my breath.

Hon Ken Travers: Hon Derrick Tomlinson should remain in suspense.

Several members interjected.

The PRESIDENT: Order! I was very interested in the discussion.

Hon LJILJANNA RAVLICH: Thank you, Mr President.

The PRESIDENT: Hon Ljiljanna Ravlich should return to the motion now.

Hon LJILJANNA RAVLICH: The House has before it evidence that the community consultation processes are not as they should be and that the Government fails to address the human aspect of the problem. I know that Hon Christine Sharp has advised that she intends to move an amendment to the motion. I agree with that. She wants the human aspect of the problem to be considered in the study.

The contaminated sites alliance issued a media release on 25 March 1998. I am happy to table it. It states -

> A fundamental problem seems to be the adoption of an adversarial approach towards the community. The Government sets up so-called "consultative" committees which are consultative in name rather than deed. The community is talked to, not listened to. Any listening takes place only after the community has been told what is intended to be done. Having worked out its strategy before involving the community, the Government effectively paints itself into a position which leaves it little face-saving room to manoeuvre, and the community is left with no alternative but to adopt an aggressive disposition in defence of basic entitlements.

The media release continues -

> Cleaning up contaminated sites is not just a matter of getting rid of the toxins. Looking after families endangered by such sites or their clean-up operations is an extremely important aspect.
>
> The people living around the Omex site are not the sort who have millions in shares or family trusts, but people whose modest homes are their primary assets - assets which have become devalued and cannot be sold because they are close to a toxic site which their owners had no responsibility in creating. Their predicament should have been recognised at the outset and the need to relocate them built into the remediation plans.

I am heartened to hear that some time down the road we have three relocations. This sets a precedent. The point is that the need for relocation must be built into the remediation plans. It will be interesting to look at the remediation plans and what components should go into them.

They are some of the concerns in the community about the Omex site. So much information has been written about the Omex site that I could go on for months. However, I will not do so because the whole idea is for some of these problems to be brought to the fore and that there be an opportunity to speak to some of the people directly affected, with a view to ensuring that, on the basis of their personal experiences, we can drive policy in the right direction, make the right decisions and make recommendations to the Government.

Debate adjourned, pursuant to standing orders.

COMMITTEE REPORTS - CONSIDERATION

Committee

The President (Hon George Cash) in the Chair.

Standing Orders Committee - Second Report on Proposed Amendments to Standing Orders incorporating Sessional Orders adopted 10 April 1997

Resumed from 11 June on the following motion -

> That the report be noted.

To which the following amendment was moved -

That all words after the word "That" be deleted and the following words be substituted -

the recommendations made by the Standing Orders Committee be agreed to.

Hon J.A. COWDELL: Last week I moved an amendment to the motion to the effect that the recommendations made by the Standing Orders Committee should be agreed to. Clearly, it is time to get on with amending the standing orders. A further period of reflection is not needed. In August last year a report was presented by the select committee which reviewed the Legislative Council's standing orders and standing committee system. The report, which pertains to some of the issues proposed, has been under consideration for nine months. The new sessional orders have been operational for some time, and members have had time to evaluate the operation of those sessional orders in both the old Chamber and the new Chamber. Members have also had time to consider the second report of the Standing Orders Committee, which we are now considering.

I will not go over the details of the recommendations in that second report, but I noted last week that the first recommendation about the new sitting and adjournment times of the House had much to commend it. The second recommendation of giving priority on Thursdays to consideration of committee reports also had much to recommend it, and it has worked well. Last week I referred to the benefits that may derive from the establishment of a business management committee as a replacement for the Bills Classification Committee, which should not be continued with.

I concluded last week by referring to the amendment to Standing Order No 72, to recognise the current procedure under sessional orders; that is, that the House consider the current form of urgency motions only on Tuesdays. This may be viewed in some quarters as a concession on the part of the Opposition.

With regard to the fifth recommendation, and the time reserved for committee meetings, once again, the sessional order has worked well. The committees have concentrated their efforts on Wednesdays and there has been sufficient time to allow committees to deliberate, and also for heroes of the Chamber to submit to buccal swabs and the like, with or without press coverage.

Hon Helen Hodgson: I believe they are totally painless.

Hon J.A. COWDELL: Indeed, they are totally painless, other than in the mind!

This committee time has been put to good use on Wednesdays. The decision was originally made with regard to Wednesdays because all members were in the Parliament and focused, following the Tuesday sitting. The decision was made because committees were seen as an integral part of the work of this Chamber and this Parliament, rather than as some side activity which had no place or status. Putting the time aside on Wednesdays clearly established that priority and had much to commend it.

The sixth area of recommendation related to the stages of a Bill referred to a standing committee. The import of the sessional order is that some status should be given to a committee report and members should avoid revisiting everything a committee may have dealt with. We came up against one particular problem in our experience in the operation of this sessional order only a week ago. However, I am sure this proposed change to insert a new Standing Order No 234A may be amended to take account of that particular problem. The final amendment to Standing Order No 137 is just an administrative procedure.

In conclusion, I look forward, particularly under the leadership of the Leader of the House and with the advice from time to time of the business management committee, to there being a genuine Notice Paper or Orders of the Day, that is not a digest or a list of everything that has been a whim or interest of this Chamber for the past 18 months.

Hon N.F. Moore: We have been trying very hard to remove some things from the long list, and those who have the whim would like them to remain on the Notice Paper.

Hon J.A. COWDELL: I suggest that we may, with greater effort, achieve that end and perhaps -

Hon N.F. Moore: I do not adopt a ruthless approach such as you are proposing.

Hon J.A. COWDELL: - instead of what is circulated each day, we may have something which bares some resemblance to what is proposed to be dealt with during the course of the day. That is not to be totally inflexible.

Hon N.F. Moore: Last week you wanted to put it in the newspaper.

Hon J.A. COWDELL: Yes. If we get some ordering, we can publish it. I said last week that being aware the schedule has merit. If members know what we are dealing with each day, we can develop some understanding -

Hon N.D. Griffiths: It does help!

Hon N.F. Moore: If I thought it would help you to swap seats for a day to gain an understanding, I would do so.

Hon N.D. Griffiths: You have had a lot of cooperation, and you know it.

Hon J.A. COWDELL: There is some merit in having information made available to the general public on some of the Bills or motions to be discussed. Indication could be given at the beginning of the week of matters which we might consider on the Tuesday, Wednesday and Thursday of the sitting week. It would be desirable to have an abbreviated Notice Paper at the beginning of each day so members have some understanding of the day's program. We would then not have the usual mad scramble. I have known members to be given one or two hours' notice to gather notes and prepare for Bills. Suddenly, a matter moves from, say, Order of the Day No 48 to No 5 on the Notice Paper.

Hon N.F. Moore: Whenever it happens, perhaps I should explain the reasons for it. Often people are not available, not well, have not had the briefing, have left their notes at home, will not be here tomorrow or other countless reasons. I could ruthlessly ignore those matters, but I do not. We will have no flexibility at all if it goes in the newspaper.

Hon J.A. COWDELL: If we had ordering in advance, no doubt members would be prepared and make themselves available.

Hon N.F. Moore: They do not do that, with respect.

Hon J.A. COWDELL: Members will be available for certain days and not have matters suddenly sprung upon them. This is a worthwhile aim, rather than a continuation of the chaos which often occurs. We should find a remedy.

The Australian Labor Party is supportive of the seven amendments proposed in the second report of the Standing Order Committee. Of course, it is willing to consider any useful amendments which may improve the recommendations. However, it sees merit in the manner in which the committee proposes that we amend standing orders.

The PRESIDENT: For members' information, should this amendment be carried, I intend to put the clauses individually for two reasons: First, so we make some progress, and second, so that if anyone wants to amend a clause, the opportunity will be afforded to that member to do so.

Hon B.K. DONALDSON: I was a member involved in the previous Parliament who looked at some changes designed to make this place more productive. Under the previous system, committees would work and produce reports, but the reports gathered dust when they were tabled. It has been a surprise to many people how important this hour has become since the sessional order was applied for the allocation of time for the consideration of committee reports. This order has improved the productivity and the quality of the work in the committee structure. For that reason, we have identified a time on Thursday for that consideration. That sessional order is excellent.

I have been in the fortunate position to consider what will happen with the classifications of Bills, and the general informal arrangement which emerged to consider the running of the House. I am afraid that I differ with the Leader of the House on the Classifications of Bills Committee. It was never going to be a panacea applying some rigidity in how we debate Bills - that determination belongs to the House. However, it was an indicative summation by the Opposition, and even by the Government, of how much consideration legislation would require. Although it may have been a yawn to many members, people like the Leader of the Opposition, the Deputy Leader of the Opposition, members of the Australian Democrats and the Greens (WA) had the opportunity to say to the Leader of the House that, for example, they did not have a problem with a Bill so it could be given an A classification. However, that decision remained flexible within the House. It provided an indicative idea to the Leader of the House of members' views. The classification was not proposed to be rigid.

Prior to the application of the sessional orders, as Hon John Cowdell can well remember, we had difficulty convincing our colleagues that change was needed.

Hon J.A. Cowdell: Not the afternoon tea change.

Hon B.K. DONALDSON: When one starts to attack the conventions of the House, such as getting rid of afternoon tea, one can assume one is either courageous or a fool. I like to think my colleagues would say it is the former.

Hon N.D. Griffiths: It is the former: You're courageous.

Hon N.F. Moore: On this issue, he is the latter.

Hon B.K. DONALDSON: Seriously, I welcome this change. We have had a different composition of the House since the 1996 election and the 27 May composition of the Chamber. The way legislation has progressed through

the House has been a sign of great maturity. Flexibility has been evident, as the Opposition needs to have the odd trick up its sleeve. That rightly is part of the thrust and parry of a House of Parliament. I could say that it is disaster if I leave a meeting at 3.55 to attend the Chamber for a matter under consideration only to find that the Opposition has used a tactic at 4.00 pm to change the program. However, that is what Oppositions are about. A good cooperative approach has been adopted in the running of this House.

If we lived in an ideal world, what is proposed would be excellent, but our system requires flexibility. The convention of this House, under Standing Order No 129, is that -

> Any motion connected with the conduct of the business of the Council may be moved by a Minister at any time without notice.

The convention is that the Leader of the House needs some semblance of an idea of how the agenda is running. If we had too many chiefs and not enough Indians, members know what the end result would be. This convention has worked well over many years. I would hate to see that taken away by an organised structured committee.

It does not matter to me. I am not speaking about retaining this so-called Bills Classification Committee. Do not get me wrong. I have had the opportunity to view firsthand what has been happening. I have been very impressed. Whichever way the House determines this business management committee, or whatever it may be called, and whoever sits on it other than the Leader of the Government and the Leader of the Opposition, that process of identifying problems and being able to discuss them among themselves should continue. With other business of the House that is not put forward by the Government the Leader of the Government has at times accommodated the Labor Party, the Democrats and the Greens in those so-called informal discussions.

I refer to page 8, clause 2 -

> The committee shall meet at a time and place fixed by the Leader of the House.

I do not have a problem with that. I will not read out these clauses because it will take so much of my time. Clauses 2(a), 2(b) and 2(c) are unworkable. Clause 2(c) reads -

> at any other time, as determined by the Leader of the House or when so requested in writing by a majority of the Committee.

This destroys the very good process that we have set up here. This formalises it. It detracts from what this House represents and what it stands for. Clause 2(b) reads -

> where the House is sitting, on each Thursday following the adjournment of the House;

We changed the sitting hours to finish at five o'clock, not only to accommodate country members but also many members who like to have the opportunity to get home once a week to have a meal with their families. This is why the House generally agreed to the change in hours. This creates another imposition. So many things can happen between that Thursday and the start of the next sitting week.

The next clause refers to the function of the committee to make recommendations to the Leader of the House. I have some problem with that. I know the word "recommend" can be construed in different ways. One meaning is that it is only a recommendation that the committee would like to see happen. However, if it is formalised it could create a situation in the House where three of us make a recommendation to the Leader of the House, he does not take that on board and friction develops. We need flexibility rather than rigidity. I would also like to see a Bills Classification Committee composed of other members. It is important. It is an indicative figure only.

Hon J.A. Cowdell: I presume you are still referring to some form of classification.

Hon B.K. DONALDSON: I would like to see a committee established, but it should not be a committee formally appointed by the House because that would give it a validity that the House is not seeking. It would lift its profile and its members would tend to think, "We are the business management committee; we will run the House." I firmly believe in having a committee because it gives the opportunity to the Leader of the House, the Leader of the Opposition and to the minor parties - the Democrats and the Greens - to come together and work through these issues. The proof is in the pudding. Given what we have succeeded in doing this time when some members thought it would be unworkable because of the nature of the House, it has worked very well. My view is, "If it ain't broke, don't fix it."

I would like to see that informal arrangement. If the House wishes to appoint people, and if that is the way it goes, I would oppose it. However, if the Leader of the Government and the Leader of the Opposition can get their heads together and leave this process of selecting or inviting people on to a committee, that is one way it could be overcome. I would support that. I have problems with more formal arrangements. Hon John Cowdell may well

remember that we discussed this issue at length; also with the Clerk, Mr Marquet. We knew it was not a panacea; it was to be a sort of time management arrangement because there was so much happening with things changing rapidly. However, let us leave it in that informal situation.

Another suggestion I would like to float relates to getting a better result from this House in terms of sitting times. At present we have probably only one avenue to gain an extra hour a week, if we want it. Most committees are finished by 10 o'clock on a Thursday. Instead of commencing at 11 o'clock, why not do likewise - although I hate to follow that other place.

Hon N.D. Griffiths: The member is.

Hon B.K. DONALDSON: Why not look at a 10.00 am start? I know some of my own colleagues might want to bash me around the head.

Hon N.D. Griffiths: With justice.

Hon B.K. DONALDSON: However, I float that as an idea in this debate on the changes to sessional orders. We could have an hour for motions, an hour for the committee, have lunch between 1.00 pm and 2.00 pm, and be back here until 3.45 pm. Question time would be from 4.00 pm to 4.30 pm, which would leave half an hour afterwards. Could we utilise that extra hour somewhere in the morning - split it up into half hours? We find that we cannot get committee reports through in that extra half hour. Could we split it between that and orders of the day? It may be that Mr President can look at some amendments. I do not know whether his committee thought about changing the hours or was happy with the present arrangement; however, it is important that we consider a change.

I do not have a problem with the rest of the standing orders suggested by the committee. My problem is with only the first one. As I said earlier, I have been fortunate because I have been able to watch this group of people over a long period of time. Mr President, you will remember that, long before I got a second go, I ran into a brick wall among some of my colleagues on these proposed changes. I am very pleased that you, the present leader and the former President, Hon Clive Griffiths, told me, "Keep bashing your head because change will happen." I do not know whether they wanted me to run into a brick wall and bash myself senseless so that I would not continue with some of my wild ideas.

I appreciate the work done by your committee, Mr President. I am not trying to detract from that. I like to see change if it is for the better; I would support it any day. I support the intent of your aims, Mr President. I think that maybe you have missed the point a little with the business management committee. I would like to think that maybe there will be some amendments to that suggestion; I do not know, but I have heard some rumours. If there are amendments, I hope that in some of them you may pick up some of the points I have raised.

Hon M.J. CRIDDLE: I just wanted to touch on the times that are in place in this recommendation. As a person who is on more committees than most, the Wednesday 4.00 pm start certainly suits my arrangements with committees and presumably those of any other person in a similar situation. It also suits the needs of a person who travels from the country. I am one such member. It gives country members a day in the middle of the week when we can concentrate on committee work. Our day starts sometimes at 8.00 am and goes right through, but it gives us the opportunity with a couple of hours in the middle of the day to deal with whatever may come from a second committee.

Although Hon Bruce Donaldson spoke about starting earlier on Thursday morning, backbenchers also need to be brought up to speed with what is happening in government circles and, I would imagine, opposition circles. I have been fortunate enough not to be placed in that position. I probably never will be.

Several members interjected.

The PRESIDENT: Order!

Hon M.J. CRIDDLE: Thursday morning is a time for me and others to also do that. I am on the Select Committee on Native Title Rights in Western Australia, which meets on a Thursday morning. That is another time therefore when members can meet and also be briefed. Our backbench committee on rural matters meets on Thursday morning. It gives members the opportunity to be up to speed with what is going on in government, which is essential; it is a good thing. We need to have that time to be briefed on matters of government.

I commend the 5.00 pm closure on Thursday night, although the adjournment debate sometimes takes us beyond that time. Any later causes problems for people wanting to catch planes home. I do not get home until 10.00 pm on Thursday in those circumstances. I imagine that other country members are in a similar situation. This set of times fits quite well with coming down on Monday night and sitting through the week.

The President will be aware that I was on the original committee, the one removed from this one. The Leader of the

Government needs to maintain some control over the way the House is run; in fact, he should maintain control once Parliament sits. Any discussion that may ensue prior to that needs to be principally between the Leader of the House and the Leader of the Opposition. Perhaps there is room for others to be co-opted to that committee but not to have the ability to overrule in any way how the House will be run. That consideration needs to take place very seriously. I note that under Standing Order No 129 the Leader of the House will still maintain the control of the House. The House seems to have been running very well since the other parties have come into the House. I would not like to see a disruption of that and have the running of the House taken out of the hands of the Government.

As regards the lodging of questions, I understand that it costs a lot of money and takes a lot of work to get answers in on time. Even putting question time back to midday puts a lot of strain on the people who have to prepare the answers and get them right. We had an example recently with the Attorney General where pressure was applied. There needs to be that time to get the answers as correct as possible. The lead time up to question time is certainly necessary.

Hon HELEN HODGSON: I support the basic propositions put forward in the Standing Orders Committee report. We debated most of these issues in some detail at an earlier stage when the select committee was convened to look at the whole issue and reported separately. I believe that led to the referral of the matter to the Standing Orders Committee and the drafting of these new standing orders.

As a new member of the House, obviously I cannot comment on any difference between the operation of the House under the old standing orders and its operation under the new standing orders. However, the use of Wednesday as a committee day gives an opportunity for standing committees to meet. Generally that works very well. There can be occasional problems when a member is on more than one committee. Hon Murray Criddle has explained that he is on a number of committees. He seems to have found no clashes between responsibilities. On a couple of occasions I have participated in an inquiry and found that as a participating member of another committee at times my schedule has been a bit tight, but it is workable. It is better than the system would be if we were trying to manage that around the ordinary sitting times of the House without having time allocated specifically on a committee day. The move is commendable and needs to be supported.

As to the sitting hours of the House, I do not have the requirement to travel to and from the country that some other members have. The ability to extend beyond 10.00 pm is useful on occasions. In the last two days we were able to use it constructively, without using it to defeat the orderly business of the House but simply to complete items which it would have been silly to have left at the stage they had reached at 10.00 pm when matters could be easily resolved. Having hours in place does provide some guidance but there must be flexibility when circumstances require.

I raise the matter of Bills that come back from the standing committee with amendments. This issue arises if the committee report does not address a specific instance and one would like some information from the Minister handling the Bill. The information may or may not lead to an amendment.

Not long ago I was faced with the situation where I had two issues for which I wanted a quick response. Had we gone into Committee with the Minister's advisers present, the response would have been very quick and easy. As it has turned out, I have had to make separate approaches to the Attorney General for that information. That is a different system. The queries I had would have been easily resolved at the Committee stage. I hope that when we deal with this question clause by clause there will be a way of ensuring that does not become a problem in the future. That in no way suggests that this place should be redebating something that has been extensively covered in committee, because that would be defeating the committee system. I put on notice that that is certainly not my intention in saying that there needs to be some ability to debate it. I cannot be on every committee. If a report comes back from a committee and something which has not been specifically reported on strikes me - it may or may not have been addressed in debate in committee but it is not in the report before me - the ability to ask a couple of questions at times might be necessary.

I support the concept of the business management committee. It facilitates the two-way flow of information. It is vital that members of the committee see it as a mechanism to facilitate the flow of information to ensure the House is operating smoothly. Obviously on occasions parties do not tell everyone what they will do until they do it. However, at the same time, in enhancing the orderly flow of business in the House it is equally inappropriate to ambush other parties by moving totally unexpected motions. We need a balance between the two. Having a committee that discusses what is expected to be debated and the anticipated length of the debate at least allows members to know where they stand. It provides the opportunity to explain why something cannot be dealt with at particular time.

The Bills Classification Committee has been meeting on a Wednesday. I support the notion that it meet on Thursdays in respect of the business of the following week. Given that the House sits on Tuesday, Wednesday and Thursday, members can make arrangements with Ministers for briefings on Friday and Monday. If members know on a

Thursday that the Government intends to bring on a particular debate next Wednesday or Thursday, they can organise their diaries to have the necessary meetings to ensure they are informed on the matter. That will improve a member's ability to deal with a debate on that day.

On occasion members have made appointments for briefings on a Friday and then discovered that for reasons beyond the control of the managers a debate has been moved to the Thursday. We then informed the Minister that we had made appointments for Friday and asked that the program be rearranged. Sometimes it was possible and sometimes it was not. Having a meeting on the Thursday about the issues to be debated during the following week will improve the flow of business as long as there is cooperation from all Ministers in both places in ensuring that staff are available to assist with briefings on the Monday and the Friday.

I appreciate that flexibility is absolutely essential. The number of times members are expecting a debate to proceed and that it will take an hour, but it has either been extended well past that or has collapsed after 20 minutes, which indicates that there are times when things will not go to plan. However, having a fixed idea of what we are expected to achieve allows us to organise ourselves to ensure we are ready to deal with business when the Leader of the House expects it to be debated.

I appreciate that there are circumstances beyond anyone's control in this Chamber. A matter might arise in another place or a Minister might want to progress debate and we are asked to say that we can or cannot bring on the matter. The ability to determine on a Thursday what we are expected to do the following week will allow us all to be better prepared and will reduce the number of occasions on which that happens. It has been a concern during the past session.

I support the committee's recommendations. I believe some amendments will be moved and I am interested in considering their impact.

Hon J.A. SCOTT: I support the amendment to the motion and the recommendations.

I congratulate the President for the way in which the committee was chaired and the lack of emotion that was displayed. We have been moving forward quickly on these changes. I also congratulate the participants in the process for the way in which the issues have been debated in a spirit of ensuring better standing orders for the House. We must admit that the existing orders are archaic; they are more suited to the previous century than to a Parliament moving into the new millennium.

Hon B.K. Donaldson: They are designed to keep you in order.

Hon J.A. SCOTT: It is excellent that the recommendations have come forward without any delving into language like "buccal swabs" and so on. They have come through quickly under the guidance of the chairman.

Hon Bruce Donaldson suggested that the House start sitting at 10.00 am on Thursdays. Some members are on more than one committee and the committees meet on Thursday mornings. I am a member of the Joint Standing Committee on Delegated Legislation, which concludes its business at 9.55 am. That is in another place and that makes it pretty hairy -

Hon B.K. Donaldson: I floated the idea for discussion.

Hon J.A. SCOTT: I would otherwise agree. The House has experienced an attitude change since the last election. As a member of the crossbench and being here by myself -

Hon Bob Thomas: We looked after you.

Hon J.A. SCOTT: I was not looked after in those days. Most of the time I did not know what was going on. I had to scrape around to find out.

Hon Bob Thomas: You were in the same boat as members of the ALP.

Hon J.A. SCOTT: A vast improvement has been made. The attitude of all members involved indicates an intention to keep improving the situation. That is important and it is worth noting that change. It is probably not so obvious to the major parties, because they had some idea of what was going on. As the shadow Minister for the meaning of life I often arrived in this place with a stack of Bills and some other Bill I had not counted on was being debated. I would have to go back to my office to get the relevant material, hopefully before the debate had concluded. In some cases I was hopeful that the debate had concluded before I returned!

The mooted changes still leave the Leader of the House in control of business management. That should not be a problem as I see it and as has been made out.

The proposed change to the proceedings on Thursdays is also important because often we come out of that committee

meeting just before the parliamentary session begins and we have little time to let everyone even in our small party know what is going on because members may be occupied with other matters. If we had that extra time in between, we could inform not only each other but also the public about what was likely to occur at the next meeting. That is a good move.

I hope that we will continue to consider where we will go from here. Clearly, other changes can be made to enable this place to work a lot better. Some concerns are held by members on this side of the Chamber about question time, which rather outdoes the gymnasium for the amount of jumping around that people do. In many ways that could be made a lot more dignified. It is obviously necessary to try to find some way in which non-government business can be brought to resolution without imposing too heavy a burden on the Government's ability to conduct its business. I would very much like to see some move in that direction. A range of improvements can be made as we go along. I am confident that with the mood that exists currently, we will make those changes and they will be beneficial to everyone in this place and, as a result, be beneficial to the community that we represent, because we will get better scrutiny through the committee system and will also conduct our business without much of the posturing and silliness of politics of which the public gets a bit sick at times. I support the amendment.

Hon N.F. MOORE: I thank those members who have contributed to this debate. I am a bit hurt at some of the comments made by Hon John Cowdell.

Hon N.D. Griffiths: You are a bit sensitive.

Hon N.F. MOORE: I am far too sensitive.

Hon J.A. Cowdell: You are overly sensitive.

Hon N.F. MOORE: Those members who think that certainty is an important element of the way in which the House operates should have been here in 1977. In 1977, if my memory serves me correctly, we had 25 members and the Opposition had nine members, and the House used to sit for a couple of hours a day, and there was always certainty, because the Leader of the House, Hon Graham MacKinnon, would say, "This is what we will do today, whether you like it or not"; and it happened that way. The Labor Party with nine members usually had only one speaker, and we would be finished by 8.30 pm, having started at 4.30 pm. There was always certainty in this place - the certainty was that the business would proceed and would finish when the leader decided it would finish, usually after all members had had their say; and that would be it.

Since then, regrettably, the numbers have turned around a little. We no longer have 25 members; and, I must add, without in any way being political on this occasion, that the Labor Party does not have many more members than it had in those days. It is a much different place in the sense that to try to accommodate the needs of three opposition parties - I am not sure that the Democrats and the Greens (WA) would regard themselves as opposition parties, but three parties other than the government parties - is much more difficult than it was in the days when it was the Labor Party and the Liberal-National Parties Coalition.

I endeavour to ensure that I talk to everyone and work out some compromise that respects the needs of everyone. Many members do not know about that, because I do not talk to them. I do not say to the Leader of the Opposition, "Hon Helen Hodgson has a problem with this", or "Hon Jim Scott cannot do this at this time." Often when I have talked to all of the leaders, I find that I cannot work out something that suits everyone; so I then have to make a decision which will offend at least one group. That is the nature of the exercise. It is not always easy to reach consensus in respect of the management of the day's business.

I listened to Hon John Cowdell with some interest. I have also read the COG report about the need to have some serious certainty in the way the House operates. We could do that, and I could organise in advance what will happen next week. I could say, "At 10.00 am on Wednesday, the House will sit and it will do this; at 11.00 am it will deal with a certain Bill; at 1.00 pm it will deal with another Bill; at 3.00 pm it will deal with another Bill." I could even say, if members really wanted, "At 2.15 pm on a certain day, Hon John Cowdell will be speaking, if you want to listen to him."

Hon N.D. Griffiths: That is over-prescription.

Hon N.F. MOORE: It is absolutely over-prescription. I could always decide on a Thursday, if that is what members wanted, or on any day that they liked, at what time a certain piece of legislation would start the following week. However, I would have no idea, and nor would Mr President or any member, when it would finish. Therefore, although I could say, "The House will start at such and such a time, and these are the Bills with which we will deal", I could give no assurance about what would happen once we had started the process. As Hon Helen Hodgson said this morning, it is easy to know when something will start, but we have no idea how long it will take. Last night, we had a one and three-quarter hour speech from the Leader of the Opposition. That is a bit unusual -

Hon N.D. Griffiths: On a very important Bill.

Hon N.F. MOORE: Of course. We had an eight hour speech on one occasion and a two hour speech on another occasion. However, last night the Committee stage went through in about 10 minutes. I would have predicted quite the opposite. That is the difficulty in trying to provide any certainty about when a matter will finish. The previous day, we debated the Criminal Law Amendment Bill (No 1). That is a bit like the Dog Act - everyone talks on it. That is fair enough. The nature of this place is that it is exceedingly difficult to be prescriptive in advance about what will happen. What I will try to do, to the best of my ability, is say to other parties on a Thursday, "This is what I think we will do next week, and these are the Bills with which I would like to deal next week." I cannot give a guarantee that they will be dealt with on Tuesday, Wednesday or Thursday, or that one Bill will not go from Tuesday through to Wednesday or whatever. I endeavour, to the best of my ability, to give some advance notice of what will be done in the following week, without trying to be specific about when it will happen and on what day.

Hon N.D. Griffiths: This week has worked quite well.

Hon N.F. MOORE: It has, but we have not done much either.

Hon N.D. Griffiths: You have had three Bills passed.

Hon N.F. MOORE: We have made some progress, but not a huge amount of progress.

Hon J.A. Scott: It might help if members had to stand on one leg to make their speech.

Hon N.F. MOORE: That is probably a good idea, because yesterday I saw one member sit on his posterior to make a speech that went for nearly two hours. If members had to stand on one leg to make a speech, that might help.

Hon N.D. Griffiths: That is very unfair.

The PRESIDENT: Order! Let us move along. We do not have much time left.

Hon N.F. MOORE: I indicated to the House when I introduced this motion that we note this report and will deal with these sessional orders before the House rises at the end of next week or the week after. I had proposed to come back to the Chamber with some motions as a result of this debate. Hon John Cowdell has moved an amendment to the motion that states basically that we agree to the recommendations of the committee. You have indicated, Mr President, that you will deal with it clause by clause. I thought, without having had a chance to discuss it with you, that if we agreed to Hon John Cowdell's motion, we would be agreeing to all of the recommendations, and that would, therefore, not provide an opportunity for amendment to, or rejection of, any particular recommendation as we progressed through it.

The PRESIDENT: Order! There is a need for me to respond. If the Committee agrees to the amendment as proposed by Hon John Cowdell, it will not be interpreted as being an agreement to every clause in its present form, because I have said that needs to be taken clause by clause on the basis that the motion is a complicated motion anyway and deals with quite different areas. That can be overcome. I hope that will help the Leader of the House.

Hon N.F. MOORE: Thank you, Mr President. I am not seeking to argue the point with you, as that is not something I would ever contemplate, but I have a different view about what would be the effect of this amendment. I propose to draft some amendments to the proposition in respect of a management committee. Generally speaking, there is an acceptance in the House about all the other sessional orders. I will put those on the Notice Paper between now and next week, and I think that is a way in which we can resolve this matter, unless the House decides otherwise. As I indicated earlier, and having listened to the debate, I do not believe that I can support the recommendations of the committee on the management committee, but I am prepared to put into standing orders some modified version of that which will establish the committee in standing orders but remove much of the prescription that this report suggests should be the case.

Debate adjourned, pursuant to sessional orders.

Sitting suspended from 1.01 to 2.00 pm

ROAD TRAFFIC CODE AMENDMENT REGULATIONS (No 2) 1997

Motion for Disallowance

Pursuant to Standing Order No 152(b), the following motion by Hon N.D. Griffiths was moved pro forma -

> That the Road Traffic Code Amendment Regulations (No 2) 1997 published in the *Gazette* on 23 December 1997 and tabled in the Legislative Council on 10 March 1998 under the Road Traffic Act 1974, be and are hereby disallowed.

HON N.D. GRIFFITHS (East Metropolitan) [2.00 pm]: The motion seeks to disallow the Road Traffic Code Amendment Regulations (No 2) 1997, which are the subject of the thirty-third report of the Joint Standing Committee on Delegated Legislation. I move this motion in my capacity as that committee's deputy chairman. The report outlines why the committee is of the view that the regulations should be disallowed. I propose to take members through the report.

The report indicates that the broad purpose of the regulations is to incorporate into Western Australian law the performance standards for securing loads on vehicles as formulated by the federal Office of Road Safety, the National Road Transport Commission and industry. A load restraint guide steering committee was established to develop what is known as the "Load Restraint Guide - Guidelines for the Safe Carriage of Loads on Road Vehicles". That guide was published in 1994, and my committee colleague Hon Simon O'Brien currently is in possession of my copy of that guide. The guide is very important in considering this set of regulations, as page 127 of the guide sets out the relevant performance standards incorporated into the regulations. That page is in an annexure to the report of the standing committee. The purpose of the regulation and guide is to enhance the safe carriage and restraint of loads. It is part of a reform package relating to transport by heavy vehicles. It was considered that standard regulations and a practical guide for the securing of loads throughout Australia would ensure safety by providing better loading practices. Therefore, the regulations have a worthy intention.

The Commonwealth enacted regulations in 1995 which the Ministerial Council for Road Transport endorsed for adoption by the States and Territories. The regulations before us are Western Australia's response to the State's commitment to implement legislation to comply with that federal reform package. However, the committee has a number of concerns regarding the regulations which it addresses in the report. The report notes -

> Various States and Territories have already adopted regulations which refer to the Load Restraint Guide and the "performance standards".

The report outlines in an annexure the relevant regulations which applied in other Australian jurisdictions. For example, it contains extracts from the commonwealth Road Transport Reform (Mass and Loading) Regulations, and regulations in force in Victoria, New South Wales, Queensland and the Northern Territory. Regulations in those jurisdictions referred to the guidelines set out in the load restraint guide. That is not the case in Western Australia. The report notes -

> The reform package specified the adoption of:
>
> > "Standard regulations and a practical guide . . . for the securing of loads throughout Australia."

The regulations make no reference to the practical guide developed in conjunction with all state authorities and industry; namely, the load restraint guide. Unfortunately, the regulations before us merely set out performance standards which, in the view of the committee, are not readily understandable by those affected by them in the absence of prescriptive guidance. I refer members to the bottom of page 2 of the committee's report which sets out regulation 1610A(5). Members need only read that to appreciate that, without a degree of explanation, it would be extremely difficult for anyone to understand just what is going on here.

The committee went through an appropriate process of hearing evidence from a number of people. It heard from Mr Dombrose, the manager of vehicle standards at the Department of Transport. Mr Dombrose stated that before the implementation of the law, an education campaign would be required to educate those responsible for enforcing the law, such as police, vehicle examiners and the transport compliance unit, as well as the transport industry and the public at large. The committee has been unable to ascertain precisely how many "load restraint guides" have been sold in Western Australia.

Hon Simon O'Brien: There is one here!

Hon N.D. GRIFFITHS: There is one copy of the document in the Chamber.

Hon E.J. Charlton: Would you like to borrow mine?

Hon N.D. GRIFFITHS: Two copies are in the Chamber. The committee is concerned that the education process has not been carried out to the necessary degree. Reference should be made in the regulations to the load restraint guide. The committee's report outlines why this reference is needed.

I ask members to note that the regulations in the other States specifically provide for it as an administrative proceeding. The real concern of the committee is in respect of the evidentiary provisions relating to the securing of loads. The matters I have referred to - and another matter I will deal with in closing - are significant but the real area of concern on the part of the committee is with respect to matters dealing with evidence. In this report the regulations are set out in annexure A; they have been available for all members to read and digest. The report makes reference

in its body to the regulations. The point can be demonstrated by referring in part to the regulations. I am not quoting out of context. It is set out on page 4. The regulations are set out in the annexure. In any proceedings for an offence evidence is proof of that fact in the absence of evidence to the contrary.

Essentially, in a number of offences created by the regulations the proposition is this: The prosecutor needs evidence of the fact and that is proof of the fact unless there is evidence to the contrary; not evidence of a particular standard, not a prime facie case, not evidence of substance, just evidence. It could be a scintilla of evidence and that would lead to the reversal of the evidentiary process when a defendant has to prove his or her innocence. Those examples are set out on page 4 and at the top of page 5 of the report. In the report it is stated -

> Averment provisions are relied on in circumstances where it is reasonable for a defendant to provide the evidence. The Committee considers that it is not reasonable in this case.

I am not talking about averment provisions. Averment is really a statement. However, this puts a greater onus on the prosecution than an averment, but not much more. It is merely the presentation of some evidence, no matter how slight. When that occurs it is up to the defendant to prove his or her innocence.

It is true that in our law there is a number of examples where the burden moves across. One of the most common is with respect to the offence of being in possession of a prohibited drug with intent to sell or supply. If it is a certain quantity there is a presumption. It is then up to the defendant to prove his or her innocence. That proof is on the balance of probabilities. The prosecution has to prove those matters beyond reasonable doubt. When the balance shifts, it is for a defendant to prove his or her innocence on the balance of probabilities. However, the fact remains that it is a reversal and it is left to the defendant to prove his or her innocence. It is unlike the offence of being in possession of a quantity of prohibitive drugs. That is something that calls out for an explanation and it is reasonable that the defendant should be in a position to give an explanation. Here, the prosecution merely has to provide some evidence. It does not have to establish to any standard, any particular standard, any standard at all. It merely has to produce some evidence.

I will use the words of the committee on this point -

> By adducing sufficient evidence to the contrary, the defendant is provided with an opportunity to negate the evidence of non-compliance adduced by the prosecution. However, this appears to entail a shifting of the evidentiary burden.

It is the committee's view that the burden of establishing all elements of the evidence should remain with the prosecution. Effectively, that is what happens in the rest of Australia. Why are we different? We should not be different. We should apply the same regime that applies in the rest of Australia. It is the committee's view that in this case the department has got it wrong. It should go back to the department for a rethink to bring in a fresh set of regulations to deal quickly with the problem. There is no reason why the department cannot do that and when it does, I am sure it will have the support of the community.

At the risk of re-emphasising the point, this is not intended to be a protracted debate, I have to take the members through the committee's report. To continue -

> It is the Committee's opinion that, with one exception . . . the use of the words "in the absence of evidence to the contrary" does not provide a defence to the defendant but clouds the evidentiary burden in proceedings alleging breach of the Regulations. The Committee recommends that the wording is changed to clearly show that the prosecution must prove non-compliance with the "performance standards". The defendant would in any event be entitled to assert compliance. But it must remain with the prosecution alone to negate the defendant's assertion and prove to the requisite standard non-compliance.

The exception is referred to. It reads -

> . . . where the load, or a portion of it, has fallen off the vehicle or has become dislodged from the place on the vehicle where it was restrained. It is appropriate in those circumstances for the burden to be placed on the defendant because the loss or movement of a load is prime facie evidence of a breach of the "performance standards".

As the committee notes -

> The reversal of the onus of proof in this instance alone acts as a legal excuse, not technically a defence, because the defendant has an opportunity to demonstrate that the loss or movement of the load occurred notwithstanding that the vehicle was loaded in accordance with the "performance standards" and that the force which gave rise to the loss or movement of the load was beyond the parameters set out in the "performance standards".

As the committee points out -

> For the other offences contemplated by the Regulations, the onus of proof must clearly remain with the prosecution to establish non-compliance with the "performance standards" and it is against the principles of sound legislative drafting of provisions which impose an offence to set up a competing evidentiary burden.

The remaining point which the committee raises is dealt with on page 6 of the report. It is a matter of lack of clarity - minor compared to the matters of evidence - however, the committee makes a point for the sake of completeness -

> Regulation 1610(1) states:
>
> > A person shall not drive a vehicle carrying a load that is placed on the vehicle in a way that makes the vehicle unstable or otherwise unsafe.

The committee makes the observation that this could be read, not necessarily as referring to the manner of driving the vehicle and not the method of restraining the load. For example, as the proceedings can be taken against the driver of the vehicle, can the owner of the vehicle also be prosecuted? It makes reference to what occurs in New South Wales.

Those are the reasons why the committee seeks the disallowance of these regulations. Mr President will note that the committee has caused a significant number of notices of disallowance to be placed on the Notice Paper. On behalf of the committee, I sought to have those regulations discharged a week ago. The committee seeks, in carrying out its duty to the House, to engage in appropriate consultation. The committee seeks to give the matters due consideration when it proceeds with the disallowance motion which it has instructed me to move. It does so as a last resort and with great reluctance. The committee comprises members from both Houses and from all parties. We try to get our heads together and come up with alternatives if we are of the view that alternatives are advisable.

Hon Norm Kelly interjected.

Hon N.D. GRIFFITHS: Hon Norm Kelly says that the committee does not comprise all parties. It is a committee, like most joint committees, which is representative overall of the composition of the Parliament. We would have to have extremely large committees if very small parties had to be on every committee.

One of the reasons the Joint Standing Committee on Delegated Legislation is engaged in submitting reports is that members can have the opportunity to read them and not vote for something simply because it happens to be moved by a member of a particular party. This is a parliamentary committee doing its duty on behalf of the Parliament and therefore the people of Western Australia, not a group of members of Parliament who happen to be acting in one way because they are members of the Liberal or Labor Parties or, dare I say it, Democrats or Greens, National Party or whatever. I only ask that the House give due consideration to the committee's report in arriving at a decision on this matter.

HON B.M. SCOTT (South Metropolitan) [2.23 pm]: I support the comments made by Hon Nick Griffiths. I remind the Chamber that the principal function of the House is to review legislation and make sure that it is the best possible legislation that Western Australia can have.

As a member of the Joint Standing Committee on Delegated Legislation and having read the report throughly, it seems to me that in drafting these loading regulations parliamentary counsel had examples from other States and the Commonwealth to draw upon, and indeed was instructed to draft the amendments in a similar style and content as the commonwealth regulations. However, despite all of this it seems that we have ended up with what would seem to be inappropriate regulations. There is no excuse for this in my view. The committee has therefore moved to disallow. The Delegated Legislation Committee has outlined a number of concerns with these regulations. Parliamentary counsel should take note of these and produce something that will be the best possible legislation that Western Australia could have. I support the committee in its move to disallow.

HON NORM KELLY (East Metropolitan) [2.24 pm]: I will first comment on the committee's report. I appreciate the comments of Hon Nick Griffiths. This is the true work of a committee which is designed to look through subordinate legislation to take the work away from other members so that we have a few members researching these areas. However, we must make sure that we do not accept such a report as gospel. It is important that members read these reports and form their own opinions from that reading. That is entirely the reason we have an hour on Thursdays to consider committee reports, so that we can make our comments and draw to the attention of the Chamber those areas where we believe the committee report may be wrong. For those reasons I have done quite a deal of research into this disallowance motion. It is important that I, as the representative of my party on these issues, do so.

The load restraint guide is referred to in the report as being the manual, as it were, for the implementation of the performance standards. Page 6 of the load restraint guide details the performance standards in a more explanatory manner in which truck drivers can understand exactly what we are talking about.

Hon Kim Chance: Drivers are very understanding people.

Hon NORM KELLY: Exactly. It refers to forward, reverse, lateral and vertical movement of truckloads, especially on rough roads. Prior to coming to this place I worked as a truck driver on a few occasions under very different conditions.

Hon Greg Smith: Have you been carting uranium near Kintyre?

Hon NORM KELLY: I have, and I will come to that. I transported dangerous and flammable liquids through the city streets of Sydney for a few years. A driver really needs to be aware in those circumstances of how liquid loads can move about, especially when they are in 44 gallon drums or the like. He must bear in mind the impact they might have if they were to leave the vehicle. As Hon Greg Smith hinted by way of interjection, I have also worked in the north west of this State for a number of years transporting goods of various types from the coastal areas through to the desert areas. In areas like those around Telfer a driver quickly finds how secure his load is because of the corrugated roads and the rough tracks in those areas. He quickly finds out if rope ties are secure. A driver should always stop after about 20 kilometres to resecure his load and to take up the shifting that will inevitably occur. I carted uranium oxide out of Kintyre, when it was in its sample form as part of the exploratory process of drilling on the sites in the national park, as it was then, which of course has been excised since then to expedite the mining of uranium, but that is a debate for another day.

Hon Simon O'Brien: Have you noticed any side-effects?

Hon NORM KELLY: Other members may have. Because of the roughness of these roads, I was driving a very good Mercedes four wheel drive truck, but unfortunately it was diesel powered. I did not have the benefit of a gas powered Mercedes engine in those days. It is unfortunate because I am sure we are all well aware of the economic benefits of gas powered Mercedes engines, their lower particulate emissions and their better impact on the environment.

As members are no doubt aware, we are talking about a disallowance motion on load restraints, which I will come back to.

Several members interjected.

The PRESIDENT: Order!

Hon NORM KELLY: As Hon Nick Griffiths mentioned, a number of concerns have been raised by this report. Those concerns have not been fully addressed in my briefing with the Minister's officers. I refer to the fact that the load restraint guide is not detailed in the regulations. It has been explained to me that that is not possible. I have not gone fully through the Road Traffic Act but I will refer to section 111 which relates to regulations. Subsection (1) states -

> The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the licensing, equipment and use of vehicles and for the regulation of traffic, generally.

That would seem to be a pretty all encompassing power to prescribe regulations under this Act. On initial reading one would have to say that is sufficient power to be able to include a reference to the load restraint guide under these regulations. I have been told that it is not possible to refer to that advice. I have not seen the advice or the basis for it. That concern has not been adequately addressed.

Another concern is the lack of proper education in sections of the industry, not so much about the availability of the load restraint guide but about the need to conform to the new provisions. This guide is available through Main Roads WA at a cost of $6. I do not know the current licensing arrangements for truck drivers, but I would like to think that when obtaining or renewing a licence, drivers would be made aware of the need to comply with the guide and that it is readily available.

An education rig travels around the State attending agricultural shows. Those involved demonstrate how to tie knots - the typical truckies' hitch or double hitch - to ensure that drivers can secure a load to the appropriate degree of strength. That sounds like a sideshow promotion, but I have not seen it, so I cannot say that categorically. I would like the education provisions to infiltrate all sections of the industry - not only truck drivers but all those who must enforce the regulations.

Hon Nick Griffiths detailed the major concern in the report in respect of the evidentiary provisions. I do not have a legal background, so I will defer to legal opinions on that issue. The jury is still out because of the conflicting opinions about how these regulations can be interpreted. I am not yet convinced that the committee's concerns have been addressed.

The regulations contain a minor ambiguity in terminology. Regulation 1610 states -

> (1) A person shall not drive a vehicle carrying a load that is placed on the vehicle in a way that makes the vehicle unstable or otherwise unsafe.

That could mean the way the vehicle is driven, not the securing of the load. That could be covered by sections 60, 61 and 62 of the Road Traffic Act, which refer to careless or reckless driving and so on.

The committee is also concerned about liability. The driver, the owner or the company leasing the vehicle could be liable and there could be a degree of liability for those working in a transport yard. The committee's report raises these serious concerns.

The previous regulation specifically provides that -

> A person shall not drive a vehicle carrying a load, unless the load is so arranged, contained, fastened or covered that the load or any part of it cannot fall or otherwise escape from the vehicle.

That is open to interpretation and it would be extremely difficult for someone in the transport industry to determine what should be done. The performance standards covered in the load restraint guide give all parties a far better method of determining exactly how the loads should be secured.

The guide comprehensively deals with the variety of goods transported by road. I am interested in hearing the Minister's comments on a couple of areas not covered in the guide. Once again, I hope that they are adequately covered in other documents and that they are readily available. My prime concern is the transport of livestock in this State. There appears to be no mention in the guide of the transport of livestock. If there is another booklet, guide or whatever, some reference should be made to that in this guide, which purports to be all encompassing. This is a contentious issue, especially when we consider the transport of livestock through the metropolitan area. We are considering not only animals falling from the vehicles - even though fortunately that occurs very infrequently - but also the waste falling from the vehicles. The Australian Democrats would prefer to see the abolition of this form of transport. Even if it were to cease, we would still need to deal with the transport of livestock throughout the rest of the State. I would like the Minister's comments on that.

No mention is made of smaller loads, such as those carried on domestic box trailers. I understand that is covered in the normal A class specifications.

We must look very closely at how we educate transport operators in this State. My days in the heavy transport industry started in the early 1980s. The transport industry has advanced amazingly since those days in respect of professionalism in ensuring that loads are secured. I applaud the coordination of State and Federal Governments in trying to establish national guidelines so we have uniformity throughout the country.

For the reasons I have outlined, the Australian Democrats will support the motion. I look forward to hearing the Minister's comments about a better way to address these concerns and how these regulations can be better implemented in the future.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [2.39 pm]: I thank members for their comments in outlining the background to the committee's decision to move to disallow the regulations. This issue has arisen as a consequence of a national approach to ensuring that loads are secured and that regulations are in place to support the principles involved. However, the regulations must relate to the current Road Traffic Act in this State.

The committee has addressed the fact that the regulations differ from those in other jurisdictions in that they make no reference to the load restraint guide, which contains the performance standards as picked up in the regulations. The averment provisions that Hon Nick Griffiths mentioned are relied on in circumstances where it is reasonable for a defendant to provide evidence. The committee believes that the use of the words "in the absence of evidence to the contrary" does not provide a defence to the defendant but clouds the issue; that the regulations lack clarity in terminology in that they may be read to refer to the manner of driving the vehicle and not so much to how it is loaded; and that the information on the new load restraint provisions is not reaching all of the industry.

The key matter that has brought this issue to the fore is the current Road Traffic Act. I had intended to bring amendments to the Road Traffic Act to the Parliament in this session. Obviously now that will not be the case, and those amendments will be here in the spring session. They will deal with many issues, such as the new driver training

arrangements that will be put in place, a number of road safety initiatives that the Office of Road Safety and the Road Safety Council are putting in place, and driver licensing and associated factors.

As Hon Barbara Scott has mentioned, the original drafting instructions provided for amendments that were similar in style and content to the regulations in the Commonwealth and the other States. That was the decision that was made by Western Australia Transport. However, following the advice from parliamentary counsel that the regulations in the Commonwealth and the other States did not fit our Road Traffic Act, or could not specifically refer to our Road Traffic Act, parliamentary counsel recommended that the Road Traffic Act be amended to make it consistent with the regulations in the other States and the Commonwealth.

There will always be a difference of opinion about rules and laws, and that is why we need highly paid lawyers to assist us to make decisions and to get the best information. When they do not agree, people finish up in court, and it is then up to the court to interpret the law, or, in this case, the regulations.

Rather than debate this matter further at this stage, the best thing to do, recognising the comments that have been made by members of the committee and members in this place, is to disallow these regulations and redraft them. In the spring session we should amend the Road Traffic Act to properly deal with the new regulations so that they will have the consistency and clarity that people agree is in regulations in the Commonwealth and the other States.

In this case, because the tyranny of numbers is so forceful, and because I am such a cooperative Minister for Transport and want to see this take place in a coordinated way, I will agree with the committee that while this grey area remains, it is better that we disallow the regulations. I also give an undertaking that the regulations will be changed to incorporate what Transport originally wanted to achieve in its directions to parliamentary counsel, and that the Road Traffic Act will be brought into this place for appropriate amendments.

Question put and passed.

SHIRE OF AUGUSTA-MARGARET RIVER - LOCAL LAW RELATING TO WALLCLIFFE RESERVE

Motion for Disallowance

Pursuant to Standing Order No 152(b), the following motion by Hon N.D. Griffiths was moved pro forma -

> That the Shire of Augusta-Margaret River - Local Law Relating to Wallcliffe Reserve (Reserve 41545) published in the *Gazette* on 29 January 1998 and tabled in the Legislative Council on 10 March 1998 under the Local Government Act 1995, be and are hereby disallowed.

HON N.D. GRIFFITHS (East Metropolitan) [2.44 pm]: The broad purpose of this local law is to provide for the management and control of access to the Wallcliffe reserve. This matter is the subject of the thirty-second report of the Joint Standing Committee on Delegated Legislation, which was tabled yesterday, and I move the motion and speak to it in my capacity as deputy chairman of that committee. In making my observations in support of the committee's recommendation that the local law be disallowed, I am referring to the thirty-second report.

This local law and what it seeks to do has a bit of history. The Wallcliffe cliffs is a significant area, and in some respects this issue has ramifications for other parts of the State and other parts of the Shire of Augusta-Margaret River. The Western Australian Tourism Commission expressed its concern at the total ban on recreational activity at the Wallcliffe cliffs and suggested that the management plan that had been drawn up by the shire to deal with the matter in 1993, but that had not been adopted, might be the way to deal with this issue. That management plan involved a managed permit system. If the local law were not disallowed or subsequently changed, it would exclude a number of people who wished to have an involvement with this area, such as people engaged in climbing, caving and tourism of an environmental nature, and the general public. The site is not far from the Prevelly Park townsite, which is visited at various times of the year by people who engage in surfing and the like, so it is a part of the world which is relatively well known to the general public.

In considering the local law, the shire had before it a recommendation from its rangers' department. That recommendation is referred to at page two of the report. The pertinent part of that recommendation states -

> We believe a controlled permit system for eco-tourism groups and climbers defining restrictions, numbers, access points, parking fees etc, and including indemnity against liability is infinitely preferable to a total ban on access. Far better to have controlled access than to attempt to control illegal activities. Permits would allow for control on numbers and therefore impact and if the situation arose a total ban could be imposed.

Reference is then made to the development of a management plan and what would be involved in such a plan; and that is set out in some moderate detail in the report. I do not propose to go through that because it is not necessary; I am sure interested members have considered that.

One of the submissions received by the committee was from an organisation known as the Climbers Association of Western Australia. Its submission is set out in annexure D to the report. That association raises objections, saying it had approached the shire but had not been accommodated. As the association sees the matter, there is no equivalent law in Western Australia. It made reference to the shire rangers department and the management plan for the Wallcliffe reserve, which recommended that climbing access be allowed under a permit system. The association made the pertinent point that the plan was never adopted.

The report of the committee sets out the consultation which was entered into and the evidence taken. That is illustrative of how the Delegated Legislation Committee dealt with the matter.

Three members of the committee had the good fortune to travel to that lovely part of the world a couple of weeks ago. I regret to say that I was not one of them. The subcommittee took evidence and submissions from relevant people. It is important to note that, in considering this matter, the committee accepts the bona fides of the shire's concerns about the degradation of the reserve and the need for its protection. The shire's concerns can broadly be considered under three categories: The safety of the cliffs, conservation issues, and matters to do with heritage values, including issues of cultural Aboriginal significance.

The report outlines evidence which was presented to the committee and makes some observations about that evidence. I will take the House through those observations for two reasons. First, it will reacquaint the House with the document which was presented yesterday. It is important that members bear in mind the relevant parts as the committee sees them. Second, the more fully I do that - without being too lengthy - it may save somebody else having to stand and make the same points. Of course, it is a matter for them as to whether they do so. In that context, my observations may be a little longer than would otherwise be the case but will probably be of a similar length to the previous disallowance motion.

In considering this issue, the people of Western Australia are really concerned about safety. We have had the Gracetown tragedy. Gracetown is near Prevelly, which is close to the mouth of the Margaret River. The Wallcliffe area is just around the bend. Following the Gracetown tragedy, the shire engaged a firm of geological consultants to conduct a geotechnical inspection of the Wallcliffe cliffs. The cliffs are central to the area we are concerned with. The consultants provided a report and that report dealt with a significant part of this issue. Page 4 of the committee's report says -

> Recommendations in relation to the Wallcliffe cliffs include the following:
>
> > "People who abseil on the cliff or use it for rock climbing must be warned that the cliff contains unstable areas, and that they use the cliff at their own risk. Thus signs should be placed on any vantage points at the top of the cliff and at the climbing spots at the base."
> >
> > "The cliff is a truly magnificent, unique, natural asset that should be enjoyed by as many people as possible. The key to the use of the cliff is management, so it is seen and appreciated only by the genuine enthusiasts and travellers."

Reference is made to some minor falls in recent times but the important point in this report is that the consultants believe signage provides the answer to the problem of safety. The report itself, insofar as it deals with the Wallcliffe cliffs, is set out fully and is annexure E to the committee report.

In dealing with conservation issues, we are talking about a class A reserve for the purpose of recreation. It should be accessible to the public because it is a shire reserve; no entry fees are charged. The subcommittee which visited the area on 5 June saw evidence of environmental damage and pedestrian traffic at the foot of the cliffs. Evidence was heard of people sheltering under the cliffs. The committee noted that the shire had serious concerns over the degradation of the reserve. Those concerns led to the preparation of the management plan. It is noted that the management plan has been completed and provides details of the concerns. It provides a different solution from the one the local authority is espousing.

With respect to matters of heritage values including those of Aboriginal cultural significance, the report of the committee notes the historic importance of the reserve to European settlement in Western Australia. The reserve is within walking distance of Wallcliffe House, which was built in 1865 and originally occupied by the Bussell family. It is of great significance to the early history of European settlements. The cliffs themselves have significance in their relationship to Wallcliffe House. The current owners of the house have expressed concerns about the uncontrolled access. A very real problem with this local law is that even if it were the only problem the law should be disallowed. The area to be affected by the law goes beyond the shire reserve to include private property. It is a great concern that, in trying to manage a shire reserve, a map is drawn, and the local law applies to an area set out in the map detailed and that includes private property. With the greatest of respect to the local authority, it has overreached itself. The committee points out on page 5 -

> The difficulties of the Shire in clearly showing the location of Wallcliffe cliff face within the Local Law and failing to delineate the area of cliff on private land from that within the Reserve illustrates the difficulty inherent in controlling access to the Reserve and preventing trespassing . . .

That is, trespassing on the private property. The committee heard evidence of the significance of the reserve. The area covered by the local law goes beyond the reserve.

The reserve has significance to Aborigines. The committee notes that no comprehensive archeological or, as the committee puts it, ethnographic assessment has been made of the reserve. However, the committee heard evidence of the area's significance to Aborigines. The caves in the reserve are considered to have potential as archeological sites but so far a preliminary dig has not revealed a high degree of archeological artifacts. The reserve is considered to be of cultural significance to the descendants of the original inhabitants. In the committee's view, the reserve contains areas of cultural significance to Aborigines. There is reference to that issue in one of the annexures to the report.

The committee noted that the shire followed processes leading to the local law, and I have made some passing reference to them in particular to the management plan. The difficulty with this local law is that it imposes a complete ban on anyone entering within 10 metres of the cliffs. The purported exclusion zone goes into private property. No signage is erected at the river to indicate the exclusion zone and the area has not been fenced off from the public. This is a blanket exclusion zone. The committee notes the shire's reluctance to revisit the management plan or to redraft its local law. At page 8 of its report the committee has made a number of suggestions on how to deal with the matter. I mention that in passing, because I want to deal with the issue of public liability.

Members will have the Gracetown tragedy on their minds. The committee's report deals in detail with the issue of the public liability of the shire as a public authority. The report notes the comments of certain justices of the High Court in the recent case of Romeo and the Conservation Commission of the Northern Territory and sets out extracts of relevant judgments. I refer to the judgment of Justice Kirby in that case in which he states -

> Where a risk is obvious to a person exercising reasonable care for his or her own safety, the notion that the occupier must warn the entrant is neither reasonable nor just.
>
> . . . However, because the risk was obvious and because the natural condition of the cliffs was part of their attraction, the suggestion that the cliffs should have been enclosed by a barrier must be tested by the proposition that all equivalent sites for which the Commission was responsible would have to be so fenced.

His honour also states -

> . . . regard may be had to considerations such as the preservation of the aesthetics of a natural environment and the avoidance of measures which would significantly alter the character of a natural setting at substantial cost and for an improvement in safety of negligible utility.

He also refers to -

> The perceived magnitude of risk, the remote possibility that an accident would occur, the expense, difficulty and inconvenience of alleviating conduct and the other proper priorities of the Commission confirm the conclusion that breach of the Commission's duty of care to the appellant was not established.

Other extracts from the case are referred to in the committee's report. It was the committee's view that public safety should always be borne in mind and, taking into account the report commissioned by the shire and this recent case in the High Court, the appropriate course is to disallow the local law and to engage in a management plan.

The committee summarises the position on page 10 of the report. It states that in the area of exclusion, the local law is overreaching as it encompasses private land. For this reason alone the committee considers that the local law is flawed and should be disallowed. The committee further notes public safety, environmental preservation, conservation, Aboriginal cultural significance and heritage issues. It makes reference to the management plan and makes the observation that it can see no reason that the management plan cannot be revisited involving all relevant stakeholders so the Wallcliffe cliffs can be enjoyed by as many people as possible. The committee notes its concern at the precedent the local law sets for the future management of public reserves throughout Western Australia. The committee has given consideration to how this matter should be resolved and regrets that this local law overregulates and overreaches. The committee concluded that the local law should be disallowed.

HON BARRY HOUSE (South West) [3.05 pm]: I agree with the committee's resolution to disallow this bylaw and commend the committee on the report that was tabled in the House on Tuesday. I have a particular interest in this matter because my home is down that way and I know the area well. My office is based in Margaret River and I know the people involved quite well. I also attended some of the hearings as an interested observer at the Legislative Council committee office and at Margaret River when the committee inspected the site.

Concern was aroused because of a blanket ban on a public reserve designated for recreational purposes. That has raised some suggestion of an overreaction to the situation. That may be the case, but there are some understandable reasons. History tells us that the shire was trying to resolve the matter, so the committee's recommendation should not be seen as critical of the shire's moves.

The Wallcliffe cliff face has become increasingly accessible to people over the past few years. It is a classic case of a place that is being loved to death by the people who are taking an interest in the cliff for various reasons. The area requires proper management. I have visited the area on several occasions. However, it was obvious to the committee when it visited Wallcliffe a few weeks ago that the base of the cliff is damaged and there is a safety factor attached to that as well. I do not think anybody who visits there would deny that.

The area is of special significance to different people for different reasons. Historically, it is a special area to the Aboriginal community. It is a dominant feature on the landscape and obviously has been for several thousands of years. The report outlines an Aboriginal legend about Margaret River, or the Wooditchup river. Out of interest, my office is located in Wooditchup arcade. It was a special area of significance for Aboriginal men in the area. Anecdotal evidence from people like Terry Merchant and Helen Lee-O'Brien is that Aboriginal women refuse to go anywhere near the base of the cliffs. It is also significant for European history, because the Bussells were one of the original European inhabitants of that area of the world. Wallcliffe house is the original home of Alfred Bussell's family and was built in 1865 after Ellenbrook house, which is 8 km north of Wallcliffe house. Alfred Bussell was a member of the Legislative Council of Western Australia in the 1870s.

Hon Derrick Tomlinson interjected.

Hon BARRY HOUSE: He was the original Alfred Bussell. The present Alf Bussell has not managed to get elected yet.

Hon N.D. Griffiths: He has tried hard.

Hon BARRY HOUSE: Yes, he has tried very hard.

That location is also a special area of significance to climbers, who are an elite group of sportsmen. To most of us they are daring, brave and perhaps a bit stupid; nonetheless, theirs is a growing recreational activity. A very active, professional and well organised climbing association in Western Australia has been using that cliff at Wallcliffe for some time. We are told that it is the only inland cliff of that magnitude available to the climbers in that area. Two other cliffs - one at Wilyabrup and the other at Moses Rock - are seaside cliffs and therefore totally different from inland cliffs, which have a dry surface. Parts of the cliff at Wallcliffe are almost vertical and some parts are more than vertical because they have formed an overhang. The climbers see it as a special area of challenge for their sport and recreation. They adequately demonstrated that, done properly, climbing can have a low environmental impact on an area.

However, in many areas it is not the professional people who cause the damage but the people who are not involved in an official activity. Everybody will agree that the impact on that area has not been caused by one, two or even a dozen people; it has been caused by hundreds of people, particularly other the past 10 years.

In a way I guess it could be claimed that climbers were irresponsible for creating, I think, four climbing routes up the cliff face by inserting their climbing hooks into the cliff. The hooks have been inserted with fibreglass resin and as a result are permanent features. It would have been easy for the committee to say that because the hooks were illegally added to an area in a national park they must be pulled out. Removal of the hooks would create more damage than if they remained in the cliff. That is not a solution.

The area is also of special significance to Wallcliffe House, currently owned by Mark Hohnen, because part of the cliff is on his property. One of the deficiencies of the maps the committee was given to work with was the unclear delineation of public and private property. Wallcliffe House is a magnificent building in the process of receiving heritage listing. The owners are very tolerant. However, often strangers cross their property to have a look at the cliff face. It is almost inaccessible. The only way to get there is from the top of the cliff - if one did not know it existed one would come across it only by accident; from the river by boat or canoe; or through the private property of Mark Hohnen. Mr Hohnen also has approval for development some distance from the cliff face. He is obviously concerned about retaining the history and integrity of the cliff.

It is also a special area for tourism, particularly the ecotourism industry. Looking back at the cliff face from the Margaret River it is a proud feature. The group that has used the general area considerably over the past five years is an ecotourism venture called Bushtucker Canoe, Cave Tours. I know some coalition members of this House have been on a Bushtucker tour, because I went with them.

Hon N.D. Griffiths: Some members of my family have been on it.

Hon BARRY HOUSE: It is run very well by Helen Lee-O'Brien, who has been very successful with the venture, albeit not financially, as she will attest. However, she has received accolades as a result of winning sections of the Sir David Brand Tourism Awards over the past three years. She has been acknowledged for a job well done. She accesses parts of the river foreshore by canoe and then walks around the cliff face to the cave above Wallcliffe House.

It is an interesting area. From as far back as the 1860s the Bussell family have written their names into the walls of the cave. Among them is the name of Sam Isaacs, who, with Grace Bussell, rescued people from the wreck of the *Georgette*. Before refrigeration, the Bussells used the cave as their larder because of its constant temperature and freedom from insects. In those days it was a very efficient way of keeping perishable products. It is also a special place to the Augusta-Margaret River Shire because the shire has responsibility for the reserve.

However, it is only part of the reserve. The greater reserve takes in all of Surfers' Point and the mouth of the Margaret River. That is a very important reserve for the shire to manage with world class surfing championships and a host of other attractions occurring there.

In enacting this bylaw, the sensitivity of the shire should be appreciated. With the Education Department and the Department of Conservation and Land Management, the shire is cited in litigation as a result of the Gracetown cliff collapse. That has certainly been a factor in its decision. As Hon Nick Griffiths said, the Gordon report on the safety of limestone features in the area pointed to some doubt about the safety of sections of the cliff.

Hon N.D. Griffiths: It was not a major doubt.

Hon BARRY HOUSE: That is right in the context of things. However, we can understand the nervousness of the shire in the light of the situation it is currently facing.

Hon N.D. Griffiths: That is one of the reasons the committee took the rare step of sending some of its members to inspect the site.

Hon BARRY HOUSE: It was a very welcome step; I was pleased they had a look.

Against the backdrop of that, prior to even the Gracetown cliff collapse, the shire had been seeking a resolution of the issue in this area. In 1993 it put together a very comprehensive management plan. The implementation of that plan has been attempted at various stages, without success. In this case we cannot say that the shire has not done its homework. It has done its homework thoroughly.

It seems that everyone has the best of intentions when it comes to managing this physical asset. However, it is obvious that a section of it at the base of the cliff, which is about 80 metres long, has been damaged and human traffic is causing some problems.

If it is allowed to continue, it will severely restrict the heritage value of the site to different groups and it will possibly create some safety hazards as well. As I said before, many more people are using that area, in addition to the few elite climbers who see it as a special area and the groups of people who go into the vicinity with Bushtucker Cave tours. I do not think there is a great rush from anybody in particular to fence off this area. We all recognise its value, and fencing it off and excluding it is probably not an option. However, what comes out of this, may result in an option that does not involve doing that.

If this motion is passed and the bylaw is disallowed, the matter will go back to the shire. I think it will be quite happy to rework the bylaw. By doing that, it will enable the shire, first of all, to get a couple of things accurate; for example, the maps. It will also provide the opportunity for the shire to work through a couple of possible solutions. To my mind the best solution would be to operate a permit system, similar to that used by the Department of Conservation and Land Management in sections of national parks, and, of course, the permits must be policed.

The permit system could operate for the climbers. I would like to see a permit system operated through the Climbers Association of WA which will put some direct responsibility on that group to police its members who use that cliff face. Once again, I hear from people that it is not necessarily members of that association who cause most of the damage and who yahoo on the cliff face; rather, it is overseas climbers and people who just drop in out of the blue. I am sure the members of that association will be quite happy to act as honorary rangers in the area and they have indicated their preparedness to do their bit in providing some sort of infrastructure to protect the area in the longer term. They are prepared to put something back, whether by way of boardwalks or whatever.

Another group of people who would be most interested in the permit system are the eco-tour operators. To my knowledge, there is only one; that is, the Bushtucker Cave tours. Those tours have a minimal impact on the area. Canoes are dragged up to the bank and I suppose some pathways are created as a result of that. However, this organisation has demonstrated over the past five years a very responsible attitude to looking after the environment. I am sure these people will be quite pleased to be given the responsibility of being honorary rangers in return for

some security, some permit or lease, which will allow it to use that area under licence, according to a set of very carefully thought out conditions.

Aboriginal groups are also involved in this process. This area is clearly of some significance to Aboriginal men, at least, which in its own right might be sufficient cause for disallowance. A blanket ban would have restricted those people from accessing the cliff at any time. Obviously they cannot be excluded. The report indicates that further work could, and probably should, be done in relation to the Aboriginal heritage and significant issues.

Another issue arising out of this topic - in a way it has provided a catalyst to examine these things in a little more detail - is the liability of the state agencies and local government bodies in terms of property owned or managed by the State. This issue is probably more sensitive in the Margaret River area than anywhere else at the moment, primarily because of the Gracetown tragedy. I came across this issue when I was doing some work for the Minister for Sport and Recreation, and I chaired a ministerial task force on trails which was involved in developing a trail network in this State. We looked at the liabilities of agencies, such as CALM, where dual use trails were developed on CALM land and that of other state agencies. It is a very imprecise and murky area that needs some sort of definition.

One option is to enact some legislation which restricts the State's liability and which puts the onus on an individual when that person moves into those areas and uses the recreational facilities. As part of my work with that task force, I came across a possibility in this area. This legislation is from the United States. Section 31 of the Illinois Recreational Use of Land Water Areas Act, covering the short title and purpose, states -

> The purpose of this Act is to encourage owners of land to make land and water areas available to the public for recreational or conservation purposes by limiting their liability towards persons entering thereon for such purposes.

It goes on to refer to malicious acts, which could not be excused, and provides a legislative framework that will give protection not only to taxpayers through the State Government and local government authorities, but also to private owners of property who donate that land for recreational purposes. I have brought this to the attention of the Attorney General previously, and I know he is aware of the general issues. One of these days we may see some legislation in this Parliament along these lines. Out of general interest, I seek leave to table this document.

Leave granted. [See paper No 1713.]

Hon BARRY HOUSE: In summation, the disallowance should proceed on the basis that, first of all, it is not a criticism of the Augusta-Margaret River Shire Council. It has done its homework thoroughly and has explored this issue for six or seven years before getting to this point. It came up with this bylaw in an attempt to resolve the issue. The shire is still keen to resolve the situation but it needs a vehicle to do that. If disallowed, it will be a message from this Parliament to the shire to go back and rework the bylaw, to allow for controlled management and controlled access of the area. The shire had to do something. It was in a no-win situation: It could not police the non-policy it had. I do not think it expected to police the blanket ban fully. The shire does not have those sorts of resources.

It was a cry to get the issue resolved. I know that the climbers association, the eco-tourism operators, the private landowners next door, and the Aboriginal community also want some decent, sensible resolution to the issue. I believe that can come out of this debate if the issue is put back to the shire and some further discussion is conducted with all of those stakeholders, and a proper permit system that allows controlled access with a decent management plan is implemented.

HON NORM KELLY (East Metropolitan) [3.30 pm]: Briefly, I would like to say a few things in support of this disallowance motion, firstly, with regard to the role and the work of the committee in addressing this issue. Further to my comments on the first disallowance motion of today, this is a classic case in which it would have been entirely negligent of the committee not to have physically visited and inspected the site and had that opportunity to speak with the people at the site. I have not personally visited the site, so I cannot comment on the detail. Secondly, an issue is raised in section 8.3 of the committee's report which refers to the wider implications of other competing interests of recreational demands on a reserve, as against those of conservation and safety of people. Restriction of access to such places can lead to significant impacts on other accessible areas. That is why proper management of these reserve areas needs to be very closely looked at before changes are made. I am not commenting directly on this location, but on the wider issue of such reservations.

In my travels to various countries, I have noticed the wide range of protections which are implemented. In the United States, where high levels of litigation exist, warning signs and liability waivers are placed everywhere in the national parks and anything that looks half dangerous, such as just a minor form of danger to the general public, is fenced off. Conversely, in the national parks in Britain, there are no signs. One is surprised at times when walking in dangerous areas to find one is right on the edge of a cliff, or a danger such as that. They are the two extremes that I have

experienced. I think Australia lies somewhere in the middle. We have a good responsible system of ensuring the safety of persons and conserving these areas, and leaving them accessible at the same time. I take this opportunity to point out to the House section 8.3 of the committee's report in that area because it is an area which will come up again and again. As such, the House should be aware of it.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [3.33 pm]: This issue has been well covered in the broad points of view that obviously are the basis of the action taken by the Augusta-Margaret River Shire. The community is living in a time in which litigation is certainly to the fore. When things go wrong and people are injured, someone ultimately is held responsible. I am concerned that we are living in a time that when things go wrong, it is always someone else's fault. As a consequence of that, various organisations and individuals now must take appropriate action to ensure that their responsibility is not seen to be flawed, and as a consequence, not to be held liable. As Hon Barry House said in his summing up, that is the reason that the shire was placed in the invidious position of having to take this action as a consequence of the Gracetown tragedy in an attempt to deal with an ever growing realisation that it is confronted with many thousands of people travelling into the area to enjoy themselves. There is always the other component; that is, the effect that people have on an area simply by being there. Those are the reasons for this regulation.

I am advised by the Minister for Local Government, who is ultimately responsible as far as the Parliament is concerned, that it is his opinion that the regulation should be disallowed, and he therefore supports the action taken by the committee on the understanding that an attempt will be made to reconcile the situation with a form of regulation that will be satisfactory to all concerned. It will be difficult; there is no easy way out of this. We must recognise that. That is why so many organisations are now attempting to put in place a code of practice to ensure that people know how to deal with situations, rather than having so many laws that will put in place rules which people are required to abide by.

It is under those circumstances that I was interested to hear Hon Barry House's comments about the Augusta-Margaret River Shire. I will be going down there in the near future on transport and road upgrade issues. Although I am not the Minister responsible, I will take the opportunity to discuss this situation with the shire, as obviously Hon Barry House, the Minister for Local Government and other members have already done, and will continue to do in the future. The Minister has agreed and acknowledged the reasons that the committee has taken this action to disallow the regulation. We certainly do so not as an action towards the shire for getting it wrong - not at all. The Government is simply acknowledging that it is a difficult issue, and acknowledging that the shire took this action for very specific purposes, and agrees with what it has done and the reasons that it did so. The Government will certainly try to work with the local government authority involved to resolve this issue in a way that the committee, the public of Western Australia, the shire, and the people of the south west can have rules in place to safeguard all concerned.

Question put and passed.

ESTIMATES OF REVENUE AND EXPENDITURE

Consideration of Tabled Papers

Resumed from 11 June.

HON E.R.J. DERMER (North Metropolitan) [3.40 pm]: This afternoon I will examine in the context of the State Budget the theme of my maiden speech. This theme is the responsibility we hold as a Parliament for the hope of all Western Australians; that is, the hope for a better future and the hope that is entailed in a realistic opportunity to improve their personal lot and that of their families. The fundamental objective of the Australian Labor Party is to enhance and provide that hope for Western Australians. In providing the hope for individual and family improvement we naturally defend the cohesion of Australian and Western Australian society. By providing hope for Western Australians to improve their position in life we defend our society against a fissure, against the divide in society between those who have hope and those who do not, and between the haves and the have nots. We must protect our community from the division between two communities living in one, where there is no interchange between the haves and the have nots, and no opportunity for the have nots to improve their lot, and no hope for the have nots.

The model we have a responsibility to defend is at the heart of the thinking of the Australian Labor Party. We must defend Western Australian society from becoming similar to what we read about Indian society, where two nations are living in one - a prosperous middle-class nation and a great mass of people without hope for improvement. From my reading of the situation, that society has no interchange or movement between the two classes because those in the lower class do not have an opportunity to improve their position. Our great responsibility is to make sure that every Western Australian has the opportunity to improve his or her position in life. The hope of each individual is essential for social cohesion.

As a modern development, information technology has great potential to encourage hope among Western Australians,

and by that means to encourage the cohesion of our society. If it is developed widely throughout our society, information technology combined with modern communications has the potential to enhance the employment prospects of many, and to encourage informed and active participation in our economy. The Western Australian Government and Parliament have the responsibility to contribute to that enhancement. Conversely, information technology also has the potential to do great harm. If information technology and modern communications are confined to the understanding and access of a few, it could be used to reinforce the social and competitive advantage of an initiated elite in employment and other economic markets. In the hands of a few, modern information technology and communications technology can become a powerful instrument for the dominance of those who understand the technology over those who do not.

The Western Australian Government and Parliament have the responsibility to defend Western Australians against this potential harm; to defend the social cohesion of Western Australia; to defend our society from the potential for information technology to become a tool for those who would use it to dominate others; and to ensure that we have the right policies for modern information technology and communications to become a tool for the many, so that many people can advance their lot in our social economic structure, improve their position in the employment market, and enhance their lives through the use of information technology. The Government and the Parliament have the responsibility to develop and implement the right information technology and communications policies. Implementing the right policy for information technology and communications is vital for our economic future. Information technology combined with communications technology is becoming the basic medium of commerce throughout the world. I wish to explain the fundamentals of this philosophy.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon E.R.J. DERMER: It is very important that the House clearly understand the nature of electronic commerce. Electronic commerce is the exchange of commercial information by way of information technology, which is essentially a tool for organising that commercial information, and modern communications, which is the means by which that information is exchanged from one business to another, or from a business to a consumer. Electronic commerce by way of information technology and modern communications has become the medium for commerce. This is simply explained by considering a contract. A contract is offered by way of modern information or technology and communications. That contract can be considered by a range of people with the potential to meet that contract. They will offer the terms on which they will meet that contract to the person offering the contract. Then the person or business offering the contract can consider the various options available to him or it in the marketplace, and decide on which of those to accept the contract. Electronic commerce becomes the medium for commerce. Information technology combined with communications becomes the medium for commerce.

It is fairly easy to appreciate that those who will succeed in modern commerce and in a modern economy are those who have access to information technology, combined with modern communications and, most importantly, those who will succeed in the economic environment are those who understand both information and communications technology. A good example to illustrate the point is a builder. If a builder is looking at the various requirements of a house that he has been contracted to build, he can use information technology to spell out the specifications perhaps for the tiles he needs, and then use modern communications to relay that requirement to each of the people available in the market who provide the tiles. They will come back to him with the specifications of what price they are prepared to provide the tiles for, and he can then choose competitively which of those he wishes to take up in closing the contract. It is a medium for exchange of information in the commercial world.

I recollect studying economics in my later years of high school. I remember one of the first lessons we learnt was the relationship between supply and demand; the intersection of the supply and demand curves being the price at which a price of any good or service required was met. This theory had a number of assumptions. One was of perfect market knowledge, which seemed to me at the time to be absurd. The assumption meant that if I was a consumer, I had perfect knowledge of all the various options I had in the marketplace in which I could buy the good or service that I wanted. Interestingly, by way of electronic commerce, by way of using information technology and modern communications to relay commercial information, the economy that we live by and survive in has taken a great leap forward towards the achievement of perfect market knowledge. I stress these points because clearly for any participant in the economy, whether a business person or someone who is offering his services in the labour market, if the basic medium of commerce becomes the use of information technology and communications, that person must have the skills of information technology in commerce and also the understanding if he is to be successful.

Skills and understanding together amount to education. Government has two principal responsibilities. First, it is certainly consistent with the views of the Australian Labor Party that giving hope to many Western Australians and achieving social cohesion will depend on having the widest possible understanding and skills in information technology; that is, information technology education.

The second strategy towards achieving the widest possible use of information technology in the community is keeping the price down and achieving the widest possible access to the network of communications that enables the effective use of information technology at any location, and having those locations connected by a telecommunications network which enables the information to be relayed.

It is a fairly simple concept. Information technology and communications work together. Information technology is used to organise the information at a location; communications technology is used to relay that information to people at other sites in the network, and to relay any response back to the first site. This is the notion of the web or the network.

Two strategies are necessary if information technology is to become a force for good. If information technology is to provide opportunities to many people rather than to allow dominance by a few, we must achieve the widest possible development of skills and understanding - that is, education; and the widest possible access to information technology and the communications that work with it. Achieving that wide access to the network and the widest possible education is a matter of great urgency. Every day electronic communications becomes more widely the prevailing medium for commercial exchange in our economy. We cannot relax and contemplate the situation. We cannot exaggerate the urgency of implementing the right policies.

If we are to achieve the widest possible access to the telecommunications network we must address three central objectives: Firstly, we must minimise the cost; secondly, maximise the geographical spread; and, thirdly, maximise the bandwidth. In a modern communications network, the bandwidth determines how much information can be moved along the network. Therefore, the best policy to give access to most Western Australians should be based on the widest geographical spread, the maximum bandwidth and the lowest cost. Of course, that is also the best policy for the health of our overall economy and our subsequent prosperity. Geographical reach is very important in Western Australia.

I am sorry to say that the Government has failed to listen to the concerns of the information technology and communications consumers, both private and commercial. The Government has failed to listen to industry participants. The Western Australian information technology and communications industry participants commonly hold a concern that this Government neither listens nor makes decisions. This Government must understand the urgency of achieving the right policies for information technology and communications.

At a 1997 regional and rural communications seminar, an industry participant asked the Deputy Premier what was the Government's policy on advancing the extension of the telecommunications network by way of joint projects for the underground installation of a telecommunications network and energy infrastructure. The Deputy Premier's reply was of great concern to me, especially given the urgency of getting the policy right, extending the network, and arriving at the right education policy for IT. The Deputy Premier's chilling reply was that there was no policy because the Ministers could not agree. Again, the Ministers are derelict in their duty to find the right policy and to accept that urgent need.

In 1997 we witnessed the collapse in negotiations for a joint project between AlintaGas in Kalgoorlie and a telecommunications carrier for the installation of underground cabling in the district. I cannot stress enough the urgency of getting the policy right, and expeditiously extending the network in Western Australia. Half way through its fifth year in office the Government finally announced the formation of a new structure for the implementation of IT and communications policy. On 21 July 1997 the formation of the Office of Information and Communications within the Department of Commerce and Trade was announced. Again, I remind the House of the urgency in getting the policy right, in achieving widespread education on IT, and extending the network. Electronic commerce is the medium for our economy. The future of our economy depends on getting the policy right. The future prosperity of all Western Australians depends on achieving the right policy for IT and communications.

More than two months after the announcement of the formation of the Office of Information and Communications, advertisements were placed in the Press for staff for that office. Again, I remind the House of the urgency of establishing the right telecommunications network within geographical reach of all Western Australians, achieving the lowest cost, and providing the broadest bandwidth. However, it took two months after the announcement of the formation of that office, for the advertisements to be placed for staff! Widely affordable access to IT and communications services is central to the hopes and opportunities of many Western Australians to maintain a cohesive society in Western Australia.

I repeat that two months after the announcement of the formation of that office, an advertisement for staff was made. On 23 October 1997 in this place I asked when the Office of Information and Communications would be fully operational. I was shocked when I heard that it would be in December 1997. We are approaching the end of the Government's fifth year in office, but we have been told that perhaps the office would be fully operational by December 1997! The chance of our economy maintaining its strength as part of the global economy depends on our

policy on information technology and communications being ahead of the game. We cannot afford to fall behind. Clearly this Government does not understand the urgency attached to developing and implementing the right IT and communications policy.

At first glance the 1998-99 Budget Statements show a little more promise. The budget papers include a number of worthwhile objectives for the Department of Commerce and Trade. That is not before time. Page 191 of the Budget Statements lists a number of major initiatives for the Department of Commerce and Trade in 1998-99. The first point reads -

> To work closely within Government promoting the use and advantages of information and communications technologies, including expanding to 60 Telecentres in partnership with the Federal Government.

That is a worthy aim, and one I am pleased to see listed as a major initiative for 1998-99. The next point reads -

> Progress the implementation of the Telehealth Communications infrastructure that will deliver, currently non-existent, health and other services to rural and remote communities in Western Australia.

I am pleased to read about that progress. However, I am concerned that a time frame has not been included in the commitment to that initiative. The telehealth communications infrastructure has enormous potential to extend the network throughout Western Australia. Because it is listed as a major initiative for 1998-99 the least one could expect is to see a time frame for its implementation. The next initiative reads -

> Develop a telecommunications strategy that will coordinate service provision throughout the State via the promotion of investment in public infrastructure and services and aggregation and rationalisation of Government networks.

That initiative is to develop a strategy during this Government's sixth year in office. I do not need to remind the House again of the urgency of not only developing but also implementing those strategies. It is desperately late to develop that strategy in the Government's sixth year in office. I urge the Government not to waste any more time. It should proceed immediately with the development and implementation of that strategy. I remind the House again of the tardy way in which the Office of Information and Communications was established. The next initiative reads -

> Develop an information and communication industry sector business development strategy and raise the awareness of the benefits of information and communications for business, industry, government and the community.

Western Australian business leaders fully understand the urgency. They want to see the Government put the right policy in place for information technology education and the extension of the network. The sixth year of this Government's term is not the right time to develop the strategy; it should have been an immediate priority for the Government on its election. Western Australian business leaders fully understand the urgency; the Government fails to understand the urgency. The business leaders are crying out for the right policy and for a structure in government which gives them an opportunity to share their wisdom and experience with this Government. This Government will not develop the right policy. It has not implemented the right policy and has been extraordinarily tardy in the development of the Office of Information and Communications.

Page 191 of the Budget Statements for the Department of Commerce and Trade contains a table of expenditure listed under major policy decisions. This table is very disturbing. Line item one is "Creation of the Office of Information and Communications". The office was announced in July of last year by a Government elected in February 1993. Last year, members of this House were told that the office would be fully operational by December 1997 after an extraordinarily lengthy, drawn out period of establishment. Now we are told that a major policy decision for the 1998-99 financial year is to create the Office of Information and Communications.

The Western Australian economy will wither on the vine while we wait in vain for this Government to develop and implement the appropriate information technology and communications policy. It is disturbing to see that the budget allocation for the creation of this office is $3.2m for 1998-99, projected to $5.2m in 1999-2000. That $5.2m allocation will continue until the 2001-2002 financial year. It is grossly inadequate. That the office is still in the development stage and not fully operational is evident in the fact that the budget allocation for 1998-99 is significantly less than the allocation for 1999-2000. The office announced too late - in July of last year - has taken this long to become established with a director and staff. Members were promised that this office would be fully operational by December last year. Clearly, it is still in the creation phase by its budget allocation of this year compared with that of the future. This office, which is so vital to all of our welfare, to our economy, is yet to be made fully operational.

I am sure I can be forgiven for my lack of confidence in this Government's ability to deliver the right policy on information technology and communications. The Government can be assured of my vigilance in demanding the

delivery of the objectives of this budget paper. I hope we will see a rapid improvement in the Government's performance in this important policy field. All Western Australians are paying the price for the Government's failure in information technology and communications policy. That failure to implement the right policy is an impediment to the economy.

The Western Australians paying the greatest price are our young. They have the most at stake. The provision of information technology education in Western Australian schools is woefully inadequate. The Treasurer's budget speech heralded a great initiative for information technology education in Western Australian schools. The Treasurer's budget speech in *Hansard* of 30 April states -

> Our $100m computer initiative will provide, in our public schools, one computer for every five secondary students and one for every ten primary students.

The PRESIDENT: Order! Did Hon Ed Dermer say he was quoting from *Hansard* of this year?

Hon E.R.J. DERMER: Yes.

The PRESIDENT: Members cannot allude to debates from the other place in the same session of Parliament.

Hon E.R.J. DERMER: The same words were presented in the Treasurer's budget speech which was circulated with the budget papers. May I quote from those?

The PRESIDENT: In a strict technical reading of the standing orders, it is questionable. However, I am sure Hon Ed Dermer can find words to indicate his meaning which were not necessarily said in the Legislative Assembly but were said somewhere. I am not trying to stop Hon Ed Dermer talking, but he specifically said he was referring to something from the Legislative Assembly.

Hon E.R.J. DERMER: The Treasurer's budget speech, as circulated and published with the budget papers, made it very clear that these ratios will be the best in the world by saying that the objective was to achieve the ratios. The speech indicated that the money for this initiative is available now through the state development fund. However, to ensure the most efficient utilisation of this technology, a phased introduction is necessary. This bold statement from the budget speech circulated with the budget papers -

The PRESIDENT: I do not want to interfere with Hon Ed Dermer's speech, but I think the Minister for Finance made the same speech. If Hon Ed Dermer had not mentioned the Legislative Assembly I would have not raised the issue.

Hon E.R.J. DERMER: I checked *Hansard* of both the Assembly and the Council and there was a point in difference in the two speeches delivered. The point I wanted to make was in the speech circulated by the Treasurer rather than the one made by the Minister for Finance.

Hon Max Evans: I am sorry about that.

Hon Ken Travers: The Minister for Finance is a man of integrity.

Hon E.R.J. DERMER: On the face of it, this sounds like a wonderful opportunity with the Government finally attending to its responsibility in information technology. The disturbing thing is that when one looks more closely at the detail one finds that the detailed delivery is very disappointing. I refer to the uncorrected proof of *Hansard* for the Legislative Council during the estimates hearing.

Hon Max Evans: The corrected one is out.

Hon E.R.J. DERMER: I had the good fortune of chairing that committee. I asked -

> Is there a $100m initiative for computers in public schools in Western Australia?

Hon Norman Moore replied -

> No. It is $80m for government schools and $20m for non-government schools.

The speech circulated by the Treasurer referred to public schools but I will not take up time debating the general understanding that a public school is a state school.

Hon N.F. Moore: It is not.

Hon E.R.J. DERMER: I am pleased to see the allocation for non-government schools because information technology education is urgently needed in all Western Australian schools. It took a series of questions to disentangle the answers I received and to establish the following conclusion I made. Further in the estimates hearing I said -

> The estimate of 24 000 is for the total number of computers to be purchased from $80m expended over three

> financial years, which will involve four school years. How many computers will be purchased by the $20.2m in the first financial year of 1998-99?

The Director General of Education, Ms Vardon, answered -

> It is difficult to give an estimate until schools have completed their technology plans and we have completed that audit. As soon as that is available we would be able to provide that additional information.

I look forward to receiving a substantial commitment; something I have not yet received. I asked -

> You are presenting a precise figure of $20.2m, but you cannot give me an estimate of how many computers you will buy with that money?

Hon Norman Moore replied -

> That is the estimated number of dollars that is available to be expended in this financial year. The number of computers that will be purchased will depend on the need of schools, based on the audit, the capacity of industry to deliver, and a range of other programs including training to teach about computers, and a range of services that will be part of the program.
>
> If you want us to be precise about the number of computers to be purchased, I suggest that you are being premature. This time next year we will have a better idea of what the following year will deliver because we will have gone through of a year of purchasing and we will know the price to be paid and what other services will be necessary.

I asked in the estimates hearing for an estimate of the number of computers to be purchased in the forthcoming financial year, and I was told to wait until the end of that financial year for an answer. I was also told that I was being premature. As a member of this Parliament, I desperately call on this Parliament to take seriously the need for information technology education in Western Australia. This program is in its infancy.

Hon Ljiljanna Ravlich interjected.

Hon N.F. Moore interjected.

The PRESIDENT: Order! The Leader of the House and Hon Ljiljanna Ravlich will come to order. We are not at a football match; this is a debate in the Parliament.

Hon E.R.J. DERMER: Clearly this program is in its infancy and it is bereft of established direction. It is far from being the bright new future for information technology education, lauded in the speech by the Premier and Treasurer circulated with the budget papers. It must be clearly understood that the need for information technology is urgent.

Debate adjourned, pursuant to standing orders.

BOOKMAKERS BETTING LEVY AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Racing and Gaming), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Racing and Gaming) [5.02 pm]: I move -

> That the Bill be now read a second time.

The Bookmakers Betting Levy Act sets the rate of levy payable by bookmakers on their betting turnover. Currently, a levy of 2 per cent is imposed on all bookmakers' betting turnover, including sports betting. This Bill seeks to lower the rate of bookmakers' betting levy payable on sports betting conducted from a racecourse under section 4B of the Betting Control Act from 2 per cent to half of 1 per cent.

Sports betting first commenced in Western Australia in 1992. Section 4B of the Betting Control Act authorised bookmakers fielding at a racecourse to conduct sports betting during a race meeting. In 1993, sports bookmakers became the first in Western Australia to be permitted to receive bets by telephone. Later, in 1996, section 4B was amended to allow sports bookmakers to operate at any time from a racecourse, not just during a race meeting.

Despite these initiatives sports betting in Western Australia has struggled, with only moderate turnover levels of around $2m to $3m a year being achieved. By comparison, sports betting has flourished in other parts of Australia,

particularly the Northern Territory where sports betting turnover exceeded $63m in 1995-96. This is because sports betting in those States is taxed at lower levels. In the case of the Northern Territory the tax rate is half of 1 per cent.

While this difference may not seem significant, bookmaking on sporting events is different from bookmaking on racing. Often only two competitors participate in a sporting event such as a football match and this is known as head to head betting. With this type of betting gross profit margins tend to be low, at around 5 per cent, and bookmakers must pay their turnover tax or levy from this profit.

In this scenario, Western Australian sports bookmakers must pay a levy equivalent to 40 per cent of their gross profit compared to 10 per cent in the Northern Territory. This places our sports bookmakers at a competitive disadvantage in the odds they are able to offer punters and in their ability to market their product. Anecdotal evidence suggests that this disadvantage is resulting in local sports betting business being lost interstate. A reduction in the levy on sports betting conducted under section 4B to half of 1 per cent will remove this competitive disadvantage and provide full time sports bookmakers operating from a racecourse in Western Australia with an opportunity to develop on an equal footing with telephone betting operations of interstate competitors. However, bookmakers should note that the reduction in the levy will not apply to bookmakers attending a designated sporting event and accepting bets on that event, in accordance with section 4A of the Betting Control Act, as amended by the Betting Control Amendment Bill 1996. Betting in these circumstances is intended to principally provide a service to patrons attending that event. Therefore, the Betting Control Act establishes the event as if it were a race conducted at a race meeting, thereby attracting the levy of 2 per cent. I commend the Bill to the House.

Debate adjourned, on motion by Hon John Halden.

RACECOURSE DEVELOPMENT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.06 pm]: I move -

That the House do now adjourn.

Computers in Schools - Adjournment Debate

Hon N.F. MOORE: I have a couple of comments to make to the House. First, I apologise to Hon Ed Dermer for my unnecessary comment a moment ago by way of interjection.

Hon Ljiljanna Ravlich: What about me?

Hon N.F. MOORE: That was true. The Government spent some time in the Estimates Committee explaining that the money for computers in schools has been allocated in this Budget, and the process of determining how it will be spent is going through the Education Department. I tried to explain to the member that the work has not been completed and, therefore, it is not possible to say exactly how many computers will be purchased for schools this financial year or how much will be spent on other support services. An estimate was given with respect to the number of dollars available and the numbers of computers that could be purchased for that amount. I also explained that until the department goes to the marketplace, it cannot know how much the computers will cost because the quantity purchased will have an effect on the price paid.

I told Hon Ed Dermer that if he asked this question next year, the department would be in a position to provide the exact number of dollars to be spent in the following years because it would know what the marketplace will deliver. The department does not know how it will be implemented this year until the audit of schools has been completed; that is, the number of computers in each school, which schools need them, and how it will be implemented.

It is a very good program and I am disappointed that the member has taken such a negative view of a significant contribution to education in Western Australia. Many students will have access to a computer who would not otherwise have had that access for many years, if the decision had not been made to provide the Education Department with these dollars from the proceeds of the sale of the gas pipeline. I would be pleased to hear people such as Hon Ed Dermer, who normally gives credit where it is due, say this is a very good scheme.

Hon E.R.J. Dermer: It is a good scheme that should be in place now instead of four years' time.

Hon N.F. MOORE: The program will be implemented over a period of four years. I tried to explain in the Estimates Committee that if the department spent $100m in the first year, it would have to find another $80m from somewhere else to make up the $80m that will not be spent from the $100m this year.

Hon E.R.J. Dermer: Those are not the Treasurer's words.

Hon N.F. MOORE: If the member thinks that the Government should borrow $80m, he should say so. That is how the Labor Government operated when it was in office. That is why this Government is still trying to sort out the finances of Western Australia. The Government has allocated $20m for this program that can be spent this year. It is a good program and it is time the member gave it credit.

Sittings of the House - Adjournment Debate

Hon N.F. MOORE: I indicate to members with respect to the sittings of the House that, according to the legislative program, the Legislative Council is due to rise at the end of next week. I do not imagine that will be possible, bearing in mind the legislative program. I give members prior notice that I suspect the House will sit the week after next to complete the program. Members should be prepared for that extra week's sitting. I have no doubt that the business of the House can be completed in the following week, provided members in this Chamber who have unlimited time in which to speak do not speak at length every time they make a speech.

Hon John Halden: You are not referring to me?

Hon N.F. MOORE: No. Even when Hon John Halden had that opportunity, he did not use it. I raise that matter for the information of members and indicate that they should not make serious plans for the week after next, if they expect to be part of the deliberations of the House.

Scarborough Senior High School - Adjournment Debate

HON E.R.J. DERMER (North Metropolitan) [5.09 pm]: I have another urgent matter of importance to draw to the attention of the House.

Hon N.F. Moore: If it is about the Scarborough Senior High School, it is not urgent. We have already heard about it 15 times.

Hon E.R.J. DERMER: In defending my constituents and the families of Scarborough and surrounding suburbs, I have made many endeavours to not only bring this Government to account, but also to drive home to the Ministers, who will not listen, the importance of defending that community institution.

Tonight I draw the attention of the House to one important part of the good work of Scarborough Senior High School which sadly seems to be scantly appreciated by the Minister for Education. I refer to Aboriginal education. I asked a question this Tuesday about the need to ensure that the Aboriginal students at Scarborough, of whom there are a number, will receive a decent education into the future. I was very disappointed with the answer I received as it entirely missed the point: It suggested that the Aboriginal students at Scarborough would be well served by the bigger, newer school which would provide a wider subject choice. I hope that these Aboriginal students will be successful in their tertiary entrance examinations and vocational courses, and find strong employment prospects thereafter.

I draw the attention of the House, and I hope of the representative Minister, although he is not here at the moment, so I hope he is listening, to two important matters: First, I refer to the commitments in the local area education planning framework. I quote the principles on which the local area education planning program is proposed to be presented -

> Students' educational opportunity will be improved by having increased access to curriculum and quality facilities.
>
> The interests of students should be the paramount consideration for planning. All decisions must improve educational opportunities, not diminish them.

My concern is that the Aboriginal students at Scarborough Senior High School will have their educational opportunities savagely diminished by any program to close that school. This judgment is not only mine, but also that of people who have committed themselves professionally to the education of Aborigines. They say it is important to have schools close to home, and for them to be welcoming. That is certainly the proud tradition of Scarborough. The Aboriginal students are widely respected and welcomed and receive a first-class education at Scarborough.

I now refer to a document called "Aboriginal Education: Operational Plan 1997-1999", published by the Education Department of Western Australia. Page 1 reads -

> Aboriginal people continue to remain the most severely educationally disadvantaged group in Western Australia.

I have no argument with the words of the Education Department. We have an enormous responsibility to give

Aboriginal students an education to provide hope and to improve their opportunities in life - that is the opportunity provided at Scarborough Senior High School. The Minister's answer on Tuesday gave me no confidence that these students will receive an excellent education if the likely decision is made to close Scarborough Senior High School. The paper from the department lists a number of difficulties which stand in the way of their effective education -

> The lack of a supportive school environment, the transiency or mobility of families, poor self motivation, racism, harassment, peer pressure, poverty, lack of support structures from the home, the undervaluing of education by the community, homelessness, substance abuse, pregnancy, alienation from families and poor health can all be attributed to Aboriginal students not achieving in our school system.

I am pleased to report to the House that Scarborough Senior High School is an excellent educational environment for Aboriginal students. This was not achieved by accident, but through good, professional work by teachers at the school and the entire high school community. The other students are supportive of that pocket of Aboriginal students, which has been confirmed as the largest pocket in a western suburban high school. The Minister says it comprises 17 students, but I am told it is 22.

Why is this group at Scarborough so successful? It is because they have a supportive and positive school, into which the students have been welcomed. The school is proud of its Aboriginal community. That pride erases racism, harassment and other problems. Those problems are diminished almost to the point of extinction at that school. The peer pressure for Aboriginal students at that school is not to ignore school or to give up in the economic system we confront, but to achieve. Scarborough Senior High School is a beacon for the rest of the State in Aboriginal education. The Minister for Education fails to recognise that point. If he closes that school, he will confirm non-recognition. It is important that we do not despair of Aboriginal education and take advantage of opportunities. We must understand and appreciate the good work done in the school.

I will be happy to share many quotes from this document on Aboriginal education with the House, but I have limited time. It further reads -

> Aboriginal people have a valuable contribution to make to educational decision-making. By sharing a responsibility for decision-making, the Aboriginal community can work together in partnership with schools and educators towards common goals. Schools are to plan more effective educational programs to meet their students' needs by being fully informed about the range of viewpoints that exist within their local school community.

The Aborigines in Scarborough Senior High School are respected, and they feel at home. Their parents appreciate the respect, and can communicate effectively with the teachers, and together as a community they achieve an effective educational opportunity for those students.

This is a wonderful good news story coming from Scarborough Senior High School. We have reason to live in dread of the bad news story from the Minister for Education, who has no respect for the good work done at this school. The Minister's literature states that a stable environment and good relationship with their school is needed to give these students hope. That is what I fear the Minister for Education will move to abolish. I asked a question on Tuesday -

> Will the Minister explain how the need for an Aboriginal student to travel by bus to attend a larger school 15 or 20 minutes away from his or her community will improve that student's educational outcome?

That is not possible. The experience of the Aboriginal teachers is that if students are local and part of the local community, they will thrive in that environment. If one abolishes the local school, one steals that opportunity to advance the student's position in life. The Minister failed to address the point in my question, and rabbited on about the importance of having a wide range of subject choice. That is a good objective. However, a more central objective is to provide a nurturing, supportive and sensitive environment to give Aboriginal students an opportunity to advance themselves. This exists at Scarborough Senior High School. If the Minister decides to abolish that school, he will make a deliberate statement that he puts no priority on Aboriginal education.

Police Act, Section 8 - Adjournment Debate

HON NORM KELLY (East Metropolitan) [5.20 pm]: I would like to take a few moments to comment on some events that occurred today and about the state of the Police Act. Members are aware of a number of police officers who, over recent months, have been suspended from the Police Force. This morning five of those officers were served with notices from the Commissioner of Police, issued under section 8 of the Police Act. I will quote from one of those notices. It says that in the absence of being persuaded otherwise, the Commissioner of Police gives notice that he intends to recommend to the Governor, that the Governor approve the removal of the officer from the Police Force.

Hon Derrick Tomlinson: Recommended to the Governor? It must be a commissioned officer?

Hon NORM KELLY: Yes.

Hon Derrick Tomlinson: What are the other grounds?

Hon NORM KELLY: The grounds for the commissioner's action are based on the evidence, information and matters contained in the notice, which reads -

> a Report and associated papers which I have received from the Anti-Corruption Commission (ACC), an exact copy of which I have requested that the ACC provide to you;

The reason for serving this notice under section 8 is based on the information derived from investigations of the Anti-Corruption Commission. I am far from being in a position to determine guilt or otherwise of any of the parties involved in this situation. That is not why I have risen to speak this afternoon. I wish to talk briefly about the inadequacies that are present in the Police Act. I refer to section 8 of the Police Act which in part states that -

> . . . the Commissioner of Police may, from time to time, as he shall think fit, suspend and, subject to the approval of the Minister, remove any non-commissioned officer or constable;

As was pointed out, with a commissioned officer he would be able to recommend that removal to the Governor. The last time that section was amended was about 30 years ago, in 1969. I refer to this section because there have been complaints made of the commissioner in regard to these investigations.

Hon Derrick Tomlinson: I think the honourable member should be very careful about what he says. I also recommend that he read the report of the Wood royal commission.

Hon NORM KELLY: Thank you, Hon Derrick Tomlinson.

Hon Peter Foss: Other members have looked closely at it.

Hon NORM KELLY: We need to be sure that we have open, accountable procedures when it comes to looking into -

Hon Derrick Tomlinson: And open, accountable police officers.

Hon NORM KELLY: These are highly sensitive matters. There must be confidentiality. However, there are occasions when the confidence of the public in this State - not only in the Police Service but also in the accountability bodies and mechanisms - is under threat.

Hon Peter Foss: The honourable member knows who stopped the order.

The PRESIDENT: Order!

Hon NORM KELLY: These police officers have 21 days to show cause why they should not be sacked from the Police Force. As I said, I am not in a position to say whether these people are guilty. I am looking at the processes that we have available to us to investigate these matters.

Hon Peter Foss: As recommended by the royal commission.

Hon NORM KELLY: We have to ensure that there is no denial of natural justice to any people in this State. That is what I am primarily concerned about.

Hon Peter Foss: I think the honourable member should find another way.

Hon NORM KELLY: This is a situation where these officers can be investigated without having legal representation when they are interviewed.

Hon Derrick Tomlinson: That is not true.

Hon NORM KELLY: These officers have 21 days to show cause. This is an inadequate situation, especially when we refer to the Police Act and realise that the commissioner does have other powers to come to the same end.

Hon Derrick Tomlinson: Not at all, it is quite a different power.

Hon NORM KELLY: Section 23 of the Police Act allows for an independent investigation of these matters which can be referred back to the commissioner so that the commissioner can then act. The Codd report looked at matters of investigation. Even that report has inadequacies. I raise this now because it is important if there are denials of natural justice.

Hon Peter Foss: Why do you say there is a denial of natural justice?

Hon NORM KELLY: Because I have been shown enough to see.

Hon Peter Foss: I do not think you have.

Hon NORM KELLY: It is possible that people have been wronged in the process of these investigations.

Hon Derrick Tomlinson: In what way?

Hon NORM KELLY: I raise the matter in this House so that people can be made aware that there are serious inadequacies; and it relates back to the fact that the Anti-Corruption Commission Act needs a serious overhaul. That has already been pointed out in the report from the joint committee on the Anti-Corruption Commission -

Hon Derrick Tomlinson: Tell us what changes you recommend?

The PRESIDENT: Order! The member on his feet is not entertaining interjections.

Hon NORM KELLY: There has been no action on that report from this Government for the past couple of years, even though the Government has been aware of these inadequacies.

Hon Peter Foss: What inadequacies?

Hon NORM KELLY: The open and accountable processes that are not present in the Anti-Corruption Commission.

Hon Peter Foss: There was an injunction by the police officers.

Hon NORM KELLY: There are avenues available such as through the Parliamentary Commissioner Act, section 23 of the Police Act and the Anti-Corruption Commission Act. However, they are not sufficient in this case where police officers were suspended firstly without pay. After having had to go through the Supreme Court, it was shown that they had a case there.

Hon Derrick Tomlinson: They did not show that at all.

Hon NORM KELLY: They were then suspended on pay. However, even with suspension on pay, they are forced to take their annual and long service leave. If they are reinstated to the force because there is no case to answer, they will have lost their leave entitlements in the meantime.

Hon Peter Foss: You really ought to refer this to the ACC committee.

Hon NORM KELLY: This goes far wider and I will refer things to the committee, Attorney General.

Hon Peter Foss: You had better.

Hon NORM KELLY: Once again, the committee does not have sufficient expertise or powers, nor should it -

Hon Derrick Tomlinson: They were not given by you. A decision of this House can give us whatever resources we request.

The PRESIDENT: Order! Hon Norm Kelly.

Hon NORM KELLY: I raise this as a preliminary matter at this stage. As members may be aware, I have had a Bill for introduction sitting on the Notice Paper now for many months. It has not been introduced because of the limitations placed on what can be introduced as a Bill in this House.

Hon Peter Foss: You can move it any time.

Hon NORM KELLY: There has been no action by the Government, or the Opposition in the other place, to have the Act amended. That is why I am forced, through matters such as this, to raise these concerns. These are not just my concerns. They are concerns of various police officers.

Hon Peter Foss: You can move it any time, Hon Norm Kelly, you know that.

Hon NORM KELLY: They are concerns also of the wider community. I appreciate this opportunity to bring this to the attention of the House.

Subiaco Centro Project - Adjournment Debate

HON KEN TRAVERS (North Metropolitan) [5.27 pm]: I bring to the attention of the House the situation concerning a number of constituents in the North Metropolitan Region and a meeting I attended earlier this week. I refer to a public meeting called by the Subiaco Independent Housing Group and People With Disabilities. The purpose of the meeting was to gain community support for a proposal to find, as part of the Subiaco Centro Project,

community housing, particularly for people with disabilities. It was an extremely well attended meeting. A number of excellent presentations were made. I intend to quote from one presented by the Mayor of Subiaco, Tony Costa.

Hon John Halden: A very good mayor.

Hon KEN TRAVERS: A very good mayor. I have heard of him being critical of the Labor Party in the past, therefore it was a pleasant change to hear him criticise the Government. A lobby group of 18 parents from Subiaco got together a year ago to try to find housing in the inner city areas for people with disabilities. We need to look at why it would be important for those people to have housing close to the city. It relates to their being close to their families and to a number of other facilities. I quote from Tony Costa's speech at that meeting, where he made reference to the increasing demand for public housing reaching all-time highs within the Subiaco area. He said -

> Municipalities such as Subiaco are desired because of their proximity to transport, the full range of community services and employment opportunities, as well as the amenities they offer.

Tony Costa went on later in his speech to say why it would be specifically important for people with disabilities. He said -

> I believe that a case needs to be made for the specific provision of housing which is targeted at accommodating the needs of people with disabilities. The locality of Subiaco is near to many of the hospital and related facilities as well as public transport which makes the Redevelopment Project the ideal location for affordable housing, including housing for people with special needs.

People in this unfortunate situation should be located close to their families. Members would be aware that there is a range of public hospitals in Subiaco, particularly the Shenton Park Rehabilitation Hospital, which is an annexe of the Royal Perth Hospital.

The statewide average of public housing is 6 per cent. In Subiaco it is only 5.2 per cent. I believe that the Government currently has a policy of making available for public housing one in nine houses in developments in which it is involved. I understand the Subiaco Centro project will have in the order of 650 dwellings. Even at the 6 per cent ratio rather than the one in nine, it would mean in the order of 40 dwellings needed to be provided. I understand there are no provisions at this stage for public housing in that development. I am led to believe that the chief executive officer of the Subiaco Redevelopment Authority has made an offer of three to four lots. I put to you, Mr President, that is totally inadequate.

This is not the first time that we have seen this situation arise. We have seen it with the East Perth redevelopment. My colleagues the members for Perth - in the Legislative Assembly, Diana Warnock, and in the Federal Parliament, Stephen Smith - have been long campaigning for this Government to live up to its commitments under the Better Cities program to provide affordable housing as part of that redevelopment. This is even more important because we are talking about people with disabilities. They are a group of people in our society who are already disadvantaged. I hope that all members would be keen to make their lives a little easier and a little better.

I note that the Subiaco Centro project has received some Better Cities program funding. It was under the second round, which meant it was not specifically required to provide affordable housing, but I argue that it still has a very strong moral obligation to provide it and should be providing it.

One of the reasons I quoted the mayor's speech was that I can imagine that people here might be asking what the City of Subiaco is doing about it. Is it prepared to contribute if it is so keen? The City of Subiaco is prepared to put its hand in its pocket for this cause. It has made an offer of land to the tune of 1 500 square metres, which will provide something in the order of 36 units. The only thing that is holding up this offer is that it still requires some negotiations with the Subiaco Redevelopment Authority over the infrastructure costs and for that authority to negotiate the cancellation of a lease which is currently held over that property. The Subiaco Redevelopment Authority will need to negotiate to cancel that lease anyway before the project is completed at some point within the next five years. I urge it to bring that negotiation forward and have that lease cancelled to free up the land so that those people who need this housing urgently and desperately are able to be housed in proper accommodation.

From an historical perspective I draw the attention of the House to a question asked in the other place on 25 September 1996 by Dr Judyth Watson. It is on page 6228 of *Hansard*. Dr Watson asked the Minister for Planning -

(1) Will the Subiaco redevelopment include housing suitable for people with disabilities?

(2) If not, why not?

(3) If so, what sort of housing is planned?

The response of the Minister was -

> The proposed Subiaco redevelopment scheme includes draft planning policies on residential development incorporating "self-contained units and assisted care accommodation, in situations designed to provide continuing and graduated care". The provision of such accommodation is the responsibility of non-government and government agencies and private companies and individuals.

The private individuals, local authorities and non-government authorities have done their part in meeting the requirements set out in that answer. All that is required for those people to be properly housed is for the State Government to come to the party and provide its component. I urge the Government to make sure that the Subiaco Redevelopment Authority gets active and assists these groups by providing housing.

Workplace Agreements - Adjournment Debate

HON KIM CHANCE (Agricultural) [5.35 pm]: I can understand why the Attorney General was so embarrassed by the question I asked at question time today about the disparity between the second reading speech for the Workplace Agreements Act and the compulsion that will now apply in respect of workplace agreements.

Hon Peter Foss: I was not embarrassed.

Hon KIM CHANCE: If he was not embarrassed, he darned well should have been.

Hon Peter Foss: That may be so but I was not embarrassed.

Hon KIM CHANCE: The Attorney General gave the second reading speech in his own name and on at least seven occasions he emphasised and highlighted the matter of choice in the Workplace Agreements Act. We have the situation now where on 1 July workplace agreements will become compulsory. The problem is that the words "choice" and "compulsion" are not synonymous in either legal terminology or common use. There is a conflict between the two. I am not allowed to use the word "lie" in this House. If I were, I would apply it to that second reading speech.

The PRESIDENT: Order! The member cannot even do it by implication.

Hon KIM CHANCE: I would not, Mr President. Cearly a conflict of fact exists here to the extent that one government backbencher, whom I will not name, and I suspect there may be more than one, has told nurses in a country town in this State that the member never believed that this would be the outcome of the Workplace Agreements Act. The member said that the member was told that the workplace agreements legislation would enhance and not detract from choice. Even government backbenchers find themselves embarrassed. If they are embarrassed and they played such a small role in the introduction of the workplace agreements legislation into this place, how should the Attorney General feel? He is the Minister who defended the Workplace Agreements Act on the basis that it would cause a meeting of minds and enhance choice. It does not enhance choice.

When will the Government respond to this dichotomy of fact, which is created by the promise of choice on the one hand and the denial of choice on the other?

Industry Training Councils - Adjournment Debate

HON LJILJANNA RAVLICH (East Metropolitan) [5.38 pm]: I understand the limitation on time. As you probably understand, Mr President, when someone asks a question of a politician and he says that he will talk for two minutes, I should know it would be longer than two minutes. I have four minutes in which to make some remarks. I take nothing away from the very important comments of Hon Kim Chance.

I have asked a number of questions in this place over time about the future of the industry training councils. This area is of great concern to me, given that the other day a letter arrived on my desk which signalled the virtual demise of ITCs through a strangulation of funding. The correspondent sets out a new framework under which ITCs will be able to apply for funds. From now on they will be funded only for core functions. For non-core functions they will have to compete with the private sector for government funding. That is an indication that these ITCs will be on pretty much shoestring budgets and not have the resources with which to operate effectively.

It is a little hypocritical that this Government on the one hand talks about the need to ensure that we have an available skilled labour force for our future industrial requirements and on the other hand talks about the possibility of importing labour. It then reduces the funding of the key agencies that play a vital role in forecasting labour requirements in certain skills and occupations for Western Australian industry.

The Minister said that this new model of funding will increase the efficiency and effectiveness of ITCs. I cannot see how it will do that given that their budgets will be cut by about 50 per cent. This move is also supposed to result in

greater flexibility. I do not know how an agency can be more flexible after a 50 per cent cut in funding. In addition, it is designed to put ITCs in a competitive position in the marketplace. Obviously if an agency is desperate for funding it will have to compete, otherwise it will collapse.

Since this Government came into office the ITCs have been very concerned about their future. They have raised their concern with me and other members of Parliament on numerous occasions. This Government has given assurances that the ITC structure will not be changed. It is an important aspect of training in Western Australia. However, this is what we have seen in the past few weeks. It is totally unacceptable.

We cannot have good labour market forecasting and assessment of skill requirements when ITCs have budgets of about $80 000 a year. These organisations will be strapped for cash and they will not be able to do their job effectively and efficiently. This Government will use that as a further argument to abolish them. That is the way this Government operates and it is totally unacceptable. I will raise this matter when I have a greater opportunity to put all the arguments on the table. Many people in the ITC network are concerned about their future, the future of training and the future of their employees.

Question put and passed.

House adjourned at 5.42 pm

QUESTIONS WITHOUT NOTICE

TAX REFORM

Federal Government's Package

1716. Hon N.D. GRIFFITHS to the Minister for Finance:

I refer to the Federal Government's tax reform package as outlined on the front page of *The Australian* today.

(1) What proposals have been put to the Minster for Finance by or on behalf of the Federal Government with respect to the effect on state taxes of a goods and services tax?

(2) Has the Federal Government rejected the Government's income tax sharing proposal as implied by the article?

(3) What planning has been undertaken to change state revenue legislation as a result of any such federal proposals?

(4) Does the Minister support a full GST on food and housing as is proposed?

Hon MAX EVANS replied:

(1)-(4) I have not been informed of the Federal Government's proposal and if the member would like to put the question on notice I will look at it.

BYRON, Mr GARY

Legal Proceedings

1717. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the Attorney's answer to question without notice 1653.

(1) Who is Mr Gary Byron threatening with defamation proceedings?

(2) When was the threat made?

(3) Has the matter been resolved?

(4) If so when, and on what terms?

Hon PETER FOSS replied:

(1)-(4) I do not believe it is sensible for these things to be canvassed in this place in case they lead to further aggravation. The matter has not been proceeded with. I do not believe it will be proceeded with. However, I do not think it is wise to canvass it here in case it constitutes something which causes it to be revived.

ATTORNEY GENERAL

Defamation Action Against

1718. Hon HELEN HODGSON to the Attorney General:

I refer to the report in today's *The West Australian* in respect of legal action being taken against the Attorney General -

(1) Has the Attorney General requested the Government to consider payment of his legal fees related to this matter?

(2) If so, what was the response?

(3) Does the Government have a policy on when legal fees will be paid; and, if so, will the Attorney General table that policy?

Hon PETER FOSS replied:

(1)-(3) The guidelines on ex gratia payments for legal fees were tabled in this House by the then Attorney General, Hon Joe Berinson QC - tabled paper No 382/1990. I suggest the member read these as they indicate the conditional nature of any early response by the Government. I do not believe it is in my or the taxpayers' interest to indicate the current situation.

OAKAJEE STEEL MILL

Land Ownership

1719. Hon B.K. DONALDSON to the Leader of the House representing the Minister for Resources Development:

(1) What is the current zoning of land being developed by An Feng-Kingstream Steel to build its proposed steel mill at Oakajee?

(2) Who currently owns the land at the site of the proposed new port?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The current zoning of the land which An Feng-Kingstream Steel proposes to develop at Oakajee is general farming.

(2) The land adjacent to the proposed site of the Oakajee port is classed as vacant crown land and is administered by the Department of Land Administration.

WESFARMERS CSBP LTD

Arsenic Trioxide Leak

1720. Hon GIZ WATSON to the Minister for Mines:

In respect of the leakage of arsenic trioxide during transportation from CSBP's Kwinana facility to the Mt Walton intractable waste disposal site earlier this year -

(1) Is the Minister aware that CSBP had adequate warning via the meetings of the Kwinana Industry Consultation Committee that there were problems with the proposed method of packaging and handling of the arsenic trioxide?

(2) If the Minister was aware, why did he not ensure that the Department of Minerals and Energy inspected the load before it left Kwinana?

(3) What assurance can the Minister give that such spillage of toxic materials will not occur again?

(4) Will the Minister initiate prosecution for breach of the Explosives and Dangerous Goods Act?

(5) If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) I understand that the committee made its concern known to CSBP. I am aware that CSBP was fully briefed on the transport requirements under the Dangerous Goods Regulations 1992.

(2) CSBP had prepared a detailed management plan that had benefited from the scrutiny of two departments, namely the Department of Environmental Protection and the Department of Minerals and Energy. There was no reason or need for government inspection.

(3) I am advised that CSBP has altered its contractor management procedures to prevent a recurrence of this problem.

(4) The Department of Minerals and Energy has laid charges against Wesfarmers CSBP Ltd for failing to ensure that the arsenic trioxide waste was contained in packaging and in bulk containers that conformed with the Dangerous Goods Regulations 1992.

(5) Not applicable.

TOURISM

Products - Goods and Services Tax

1721. Hon CHERYL DAVENPORT to the Minister for Tourism:

(1) Does the Minister support the federal Tourism Minister Andrew Thomson in lobbying for certain tourism products to be exempt from a GST?

(2) Does the Minister support a GST on the remainder of the tourism industry?

(3) Has the Minister sought the views of the WA Tourism Commission on the impact of a GST?

(4) Will the Minister table any assessment undertaken by the Minister or his department, or any other studies or reports of which he is aware which assess the impact of a GST on the State's tourism industry?

Hon N.F. MOORE replied:

(1)-(4) This is a hypothetical question. Ministers are being asked if they support a GST of some description or other.

Hon N.D. Griffiths: What are you doing?

Hon N.F. MOORE: I gave an answer recently in respect of the Ministry of Sport and Recreation along the lines that I personally supported the outline of a GST contained in Fightback 1. I still do. However, that might not be able to be implemented, nor be what the Federal Government decides to deliver.

Several members interjected.

Hon N.F. MOORE: Members opposite asked the question; they should let me answer. I am sorry to interrupt their interjections. When I know what the Federal Government proposes by way of a GST I will have it assessed with respect to the effect on the tourism industry.

Hon Cheryl Davenport: They are lobbying against certain aspects of it.

Hon N.F. MOORE: I suggest that Hon Cheryl Davenport read it more carefully. The federal Minister for Tourism is part of the Federal Government and when the Federal Government makes a decision on the GST that will be its position.

Hon Ken Travers interjected.

Hon N.F. MOORE: Hon Ken Travers is pathetic at times.

The PRESIDENT: Order! Hon Ken Travers will come to order.

Hon N.D. Griffiths: Why don't you stand up for Western Australia sometime?

Hon N.F. MOORE: I will tell Hon Nick Griffiths about standing up for Western Australia. We had the absurd situation last night of the Leader of the Opposition talking about the mining industry being in some way disadvantaged. The Opposition's federal members in the Senate have held up native title changes and have caused more damage than one could possibly imagine a GST would cause. Members opposite ask me hypothetical questions about what we might do in the future. I can tell them that what they are doing in opposition now is holding Western Australia back dramatically. The quicker they learn that the better.

WINE PRODUCERS

Cellar Door Subsidy

1722. Hon MURIEL PATTERSON to the Minister for Finance:

(1) What is the current status of the State Government cellar door subsidy for wine producers?

(2) Have all wine producers been informed of the changes and are any additional changes being contemplated?

Hon MAX EVANS replied:

The 15 per cent tax will be rebated to them. There was talk at one stage of a limitation on sales of 45 litres. That has been removed. They will be in the position they were in before the changes were made by the Federal Government.

ROADS

Widening - Reduction in Pollution Levels

1723. Hon J.A. SCOTT to the Minister for Transport:

The Minister has consistently asserted that constructing or widening roads reduces the level of air pollution. As such statements are in direct opposition to findings of scientific studies and inquiries undertaken in other jurisdictions -

(1) (a) Are the Minister's statements based on research; and if so,

(b) can the Minister table the data which supports his statements?

(2) (a) If the Minister has no relevant data will he explain the basis of his statements or is there no basis; and

(b) will he undertake to investigate the actual effects of increasing or widening roads?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

The terminology in the question could lead one to believe that I make decisions on the run without properly researching road plans. I cannot understand anyone thinking like that. It is awful!

(1) (a)-(b) I am told by the Commissioner of Main Roads that considerable -

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Hon Ljiljanna Ravlich is entitled to her opinion, but I wish she would not share it with the Chamber during question time.

Hon E.J. CHARLTON: The commissioner said that considerable investigation into the matter has been undertaken by a number of agencies, including the Department of Transport in the United Kingdom in its publication "Design Manual for Roads and Bridges - Environmental Assessment" and in the United States of America in the United States Environmental Protection Authority's study "Evaluation of Motor Vehicle Emissions".

The results of these investigations, together with the studies undertaken in Australia, show a clear correlation between vehicle speeds and exhaust, with a clear indication that exhaust emissions are significantly lower in free flowing traffic conditions. I have arranged for Main Roads to provide the member with a copy of these papers. Hon Jim Scott should travel internationally.

Hon N.F. Moore: One way.

Hon E.J. CHARLTON:

(2) (a)-(b) Not applicable.

HIGH SCHOOL

University of Western Australia Land

1724. Hon E.R.J. DERMER to the Leader of the House representing the Minister for the Environment:

(1) Will the Minister confirm that Mr John Iacomella of the Education Department has advised the Perth district local area education planning consultative committee that the department has undertaken discussions with the University of Western Australia regarding the potential of purchasing university land to establish a new high school to provide high school education in the area currently serviced by Hollywood and Swanbourne Senior High Schools?

(2) If yes, what is the progress of these discussions?

(3) Have these discussions advanced sufficiently to enable the Minister to advise the estimated cost of establishing such a school on the land purchased from the university?

(4) If not why not?

(5) If yes to (3), what is the estimated cost of establishing such a school?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Mr Iacomella advised the Perth district education local area planning consultative committee that the representatives from the Education Department of Western Australia were meeting with representatives of the University of Western Australia about land being available for a possible school site.

(2) The option of building a new school in the western suburbs is one of several options listed in the local area education plan. The Education Department is still investigating the new school option. Locating a suitable site is part of this investigation.

As yet no decision has been made. However, information resulting from discussions between the Education Department and the University of Western Australia will be considered before a final decision is made.

(3) No.

(4) Work to identify an appropriate site for a possible new school is ongoing.

(5) Not applicable.

MT LESUEUR NATIONAL PARK

Underwood Farm

1725. Hon J.A. COWDELL to the Minister representing the Minister for the Environment:

(1) Will the Government save the 870 hectares of bushland on the Underwood farm adjoining the Mt Lesueur National Park that is threatened with clearing?

(2) How will the Government secure this land for the State's natural heritage?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The proposal to clear native vegetation on Location 10598 Cockleshell Gully Road adjoining Mt Lesueur National Park has been assessed by the Environmental Protection Authority. The authority has provided its report and recommendations. In accordance with the Environmental Protection Act 1986 the EPA report is now subject to a two week appeal period that will close on 19 June 1998.

(2) Following the appeal period, all appeals which have been lodged will be considered prior to deciding whether the proposal will be allowed to be implemented, and if so, any conditions that may be applied.

TAXIS

Drivers' Awards

1726. Hon GREG SMITH to the Minister for Transport:

I understand that the taxi driver awards were made today. Will the Minister make the House aware of who received the awards and what their purpose was?

Several members interjected.

The PRESIDENT: Order! Members are wasting their own time.

Hon John Halden: It is being wasted by Hon Greg Smith.

The PRESIDENT: Order! Every member in this House is entitled to ask a question. In normal circumstances every member can ask one question before a member is allowed a second question. If they do not like that they can change the standing orders. That is the way we will operate. At the moment Hon Greg Smith has the call. I have a list in front of me of other members who have signified they want to ask a question. Whether we get to them is up to the members and it will depend on the interjections.

Hon E.J. CHARLTON replied:

I spoke briefly to Hon Greg Smith about the taxi industry and about the award for good drivers. As I said, the award is presented every three months, culminating in the driver of the year award. Probably no-one in Western Australia knows that because they do not read good news stories in the newspapers, but read about anything that is detrimental to the taxi industry. The taxi industry has suffered much from bad media that has never been substantiated.

Today the awards for the March quarter were made to the driver of the month for January, Dianne McGarry; for February, Bill Allen; and for March, Neil Cook. The access driver awards are given to people who go out of their way to help people with disabilities beyond the call of their jobs. They are nominated by people using the industry. The winner for January was John Johnson. The tourist award went to George Dowling and the safety taxi driver award went to Wei Xaun Lai.

Hon Kim Chance: This is a bloody disgrace.

Hon N.F. Moore: This is not your time; this is members' time.

Hon E.J. CHARLTON: I cannot believe this. We will not hear or read about those people. However, on many occasions members opposite have quite rightly asked me about problems associated with the taxi industry and about people being injured as taxi drivers. I am appalled by the reaction of the members opposite. I thought they would take some interest in these Golden Wheel Awards which are for the benefit of the taxi industry.

Surely members in this place could take advantage of the answer I gave Hon Greg Smith to spread this good news about the taxi industry in their electorates. It is of no benefit to the Government; it is about the taxi industry. Obviously all members opposite have been spouting drivel in the past years about the taxi industry and today have no respect for or interest in it. They can rest assured that I will do my bit to ensure they hear what members opposite had to say today.

PUBLIC SECTOR EMPLOYEES

Workplace Agreements

1727. Hon KIM CHANCE to the Attorney General:

On at least seven occasions in the second reading debate of the Workplace Agreements Bill the Attorney General told the House that workers' choices would be improved by the Bill. Now that the Government has decided to make workplace agreements compulsory for prospective public sector employees, will he apologise to the House and recant the offending statements?

Hon PETER FOSS replied:

That is hyperbole.

Hon N.D. Griffiths: It is the truth.

Hon PETER FOSS: The member's speech was hyperbole.

Hon N.D. Griffiths: You made the statement.

METROPOLITAN REGION SCHEME AMENDMENT 987/33

1728. Hon NORM KELLY to the Attorney General representing the Minister for Planning:

(1) Why was Western Australian Planning Commission proposal No 11 contained in metropolitan region scheme amendment 987/33 overturned?

(2) Will the Minister table the documents on which this decision was based?

(3) Will the Minister ensure that the documentation relating to future decisions to overturn the recommendations made by the Western Australian Planning Commission about metropolitan region scheme amendments will be available publicly?

Hon PETER FOSS replied:

I do not know. I ask that the question be placed on notice.

EXPLORATION LICENCE AND MINING LEASE APPLICATIONS

1729. Hon CHRISTINE SHARP to the Minister for Mines:

(1) How many exploration licence and mining lease applications have been made in each of the past 10 years?

(2) Of these applications, how many were objected to in the Mining Warden's Court on environmental grounds, how many were sustained by the Mining Warden, and how many were overturned by the Minister for Mines?

(3) How many of these exploration licence and mining lease applications have been objected to in the Mining Warden's Court by mining companies during the same period?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1)-(3) The issues raised in this question are complex and cannot be answered from an examination of departmental registers on mineral titles and objections. I would be happy to arrange for the member to receive a briefing from the Department of Minerals and Energy concerning the processes involved and the information that is recorded about such matters. A question which asks how many exploration licences and mining lease

applications have been made in the past 10 years, and seeks information that might be relevant to all of them, is the sort of question that should be put on notice. It is a very time consuming activity to get that information. From what I am told by the departmental officers, it is very difficult to answer this question in the context in which it is asked. As I said, if the member wishes, I will arrange for her to have a briefing and obtain the information in that way.

WHITFORD CITY SHOPPING CENTRE, ZONING

1730. Hon RAY HALLIGAN to the Attorney General representing the Minister for Planning:

(1) What is the current zoning on the town planning scheme that covers the Whitford City Shopping Centre?

(2) Is there any chance that the size of the shopping complex will be increased?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) The Whitford City Shopping Centre site in the suburb of Hillarys is zoned urban under the metropolitan region scheme, and the Whitford town centre and service station are zoned under the City of Wanneroo town planning scheme No 1.

(2) A development application for substantial development, including retail floor space at the Whitford City Shopping Centre, was refused consent in March and April 1997 by the City of Wanneroo and the Western Australian Planning Commission respectively, pursuant to the metropolitan region scheme, the City of Wanneroo town planning scheme No 1, and applicable planning policies. The owner of the centre has lodged an appeal against the refusals to the Town Planning Appeal Tribunal which has partly heard the appeal. The hearing is set down for 15 June to 3 July for completion. Depending on the outcome of the appeal, the size of the centre may be increased.

BUS PURCHASE

Visits to European Manufacturers

1731. Hon KEN TRAVERS to the Minister for Transport:

Further to the Minister's answer to question without notice 1689 on Tuesday, 16 June -

(1) Will the Minister table the itinerary and reports in the Legislative Council today?

(2) If not, why not?

(3) When will the Minister table these documents?

Hon E.J. CHARLTON replied:

(1)-(3) If I remember rightly, that question was asked by Hon Tom Stephens. I do not have the answer with me today. I did have the answer, but last night I was advised by Hon Tom Stephens that he would not be here today, and so I did not bring the document with me.

Hon Ken Travers: Will you table it?

Hon E.J. CHARLTON: Yes, on Sunday afternoon at 3 o'clock.

METROBUS

Redundancy payments

1732. Hon BOB THOMAS to the Minister for Transport:

(1) Is the Minister aware that when former MetroBus drivers transferred to private bus operators in September 1996, during the first round of privatisation, they did so because they were told that they would never be able to receive a redundancy payment if they stayed with MetroBus and transferred to the private sector at a later stage?

(2) Given the Government's announcement that the remaining MetroBus drivers will now be entitled to full redundancy payments on transferral to the private sector, does the Minister accept that these former MetroBus employees have been misled by the Government and have suffered as a consequence?

(3) Will the Government now seek to rectify the situation and make an ex gratia payment to these drivers?

Hon E.J. CHARLTON replied:

(1)-(3) No. The first part of the member's question is totally inaccurate. If that information was passed on to MetroBus drivers by members of the Labor Party or the union representative -

Hon Bob Thomas: It was passed on by you.

Hon E.J. CHARLTON: - they must apologise to the drivers. In the first round of the new operations, drivers had two options: An opportunity to apply for a job with the new operators, which many did and many succeeded; and an opportunity to stay with the other 50 per cent of the service that was provided by MetroBus. Those people had a choice. Those who decided to go were given a transition payment and an opportunity to work with a new employer. Those who did not want to do that had the opportunity to stay with MetroBus. That is why they were not offered a redundancy package at that time.

In the latest round - that is, the final 50 per cent of the operation going to the private operators - there is no opportunity for the drivers to stay with MetroBus. Those people will not have that option. As a consequence, the Government has quite generously offered the redundancy package before the due date of 5 July when the new operations will start. Drivers had a choice of taking a redundancy package up-front, the opportunity to go to the new operators, and an opportunity of redeployment. The chances of redeployment in the government sector are minimal for bus drivers, unless they have other capabilities or they want to participate in retraining. I make it very clear that the content of the question is quite wrong. It is totally the opposite to what was implied. People were not told that there would be no redundancy packages in the future. Redundancy is always available. That is what this Government has done right across the board for all people who want to leave its employment, at its request.

CAR REGISTRATION FEES INCREASES

1733. Hon LJILJANNA RAVLICH to the Minister for Transport:

I ask this question on behalf of Hon Tom Helm. On talkback radio this morning an unemployed caller reported that the registration fees for his 1984 Toyota coaster bus had increased from $303 per annum to $528 per annum, an increase of $225; and a cabbie reported that registration fees for his vehicle increased from $832 per annum to $1 175 per annum, an increase of $343 per annum.

(1) Will the Minister explain these increases, given his previous statements that the increases would be between $47 and $100 a year?

(2) Will the Minister acknowledge that the new road building tax is creating an unacceptable burden on many Western Australians?

Hon E.J. CHARLTON replied:

I do not have any notice of a question from Hon Tom Helm.

Hon Ljiljanna Ravlich: It is simple enough.

Hon E.J. CHARLTON: Obviously it is, otherwise the member would never have read it out!

Hon Ljiljanna Ravlich: I still love you; give us an answer.

Hon E.J. CHARLTON: Most of the time, I am very gentle and caring towards the member, and I think a lot of her; however, sometimes she tries to take advantage of my good nature.

Hon Ljiljanna Ravlich: You will keep. I have a good nature.

Hon E.J. CHARLTON:

(1)-(2) I do not know how anyone can infer that the increase in these fees is a result of the road building tax. The basis of the changes in the fees is the weight of the vehicle. Of course, some fees have increased. Coincidentally, a person came to my office in Parliament House today and told me what a wonderful thing it will be when all of the roadworks are done so that people will be able to go about their business in a more efficient manner.

Hon Ljiljanna Ravlich interjected.

Hon E.J. CHARLTON: That is what those opposite have always wanted. Hon Jim Scott cannot wait for that to happen. He wants to penalise and burden road users and vehicle owners with such high costs that their vehicles never leave the garage. They will then get on their bikes, much like Hon Jim Scott, and pedal around. We will turn the bikepaths into walkways and use the roads for cycling on.

The PRESIDENT: Order! Other members want to ask questions. Could the Minister bring his answer to a close.

Hon E.J. CHARLTON: I thought that as a consequence of not having a copy of the question, it was an opportunity to assist the member with a bit of other information that will be to her great advantage as she moves around her electorate.

TEACHERS

Professional Development

1734. Hon HELEN HODGSON to the Leader of the House representing the Minister for Education:

(1) Where will centres of excellence to provide professional development for teachers be located?

(2) How many hours of personal professional development have been budgeted for each teacher?

(3) Will these courses be offered in normal working hours or will teachers be required to attend in their own time?

(4) What arrangements will be made to allow country teachers to attend professional development courses?

(6) Will they be required to travel to and from these courses in their own time?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The Centre for Excellence in Teaching is located at 18 The Terrace, Fremantle Prison, Fremantle.

(2) There has been no specific allocation of hours. The centre will broker professional development for systems and schools on an as needs basis.

(3) There will be a range of offerings to allow teachers to attend in school hours and in their own out of school time.

(4) The centre will arrange for professional development to be offered in country centres and in the metropolitan area.

(5) Travel will be required during school time for professional development offered at this time and in teachers' own time for courses outside of school hours.

DIEBACK RESEARCH

1735. Hon J.A. COWDELL to the Minister representing the Minister for the Environment:

(1) What funds are appropriated in the 1998-99 Budget for dieback research?

(2) What funds, if any, is the Commonwealth contributing for this research in the next financial year?

(3) What funds were expended by the Department of Conservation and Land Management on mapping and interpretation of dieback risk areas in 1997-98?

(4) What funds are anticipated to be spent next financial year?

(5) What area has been treated with foliant phosphanate this initial year and at what cost?

(6) What areas is it anticipated will be treated next financial year and at what cost?

Hon MAX EVANS replied:

I thank the member for some notice of this question. This questions requires research and I request the member put it on notice.

MINISTER FOR TRANSPORT

Vehicles - Reply to Question on Notice 1504

Hon E.J. CHARLTON: On 7 April 1998 I was asked question on notice 1504 by Hon Norm Kelly regarding how many vehicles are leased or owned by agencies under my control, how many are passenger vehicles and commercial

vehicles and the total number of vehicles that are petrol or diesel powered, LPG powered or powered by other means. As the total number of vehicles leased or owned has changed during the last month for both MetroBus and the Department of Transport, I seek leave to table the following correct reply to the question.

[See paper No 1714.]

The following question was incorporated -

1504. Hon NORM KELLY to the Minister for Transport:

For all agencies under the control of your ministry, can the Minister advise -

(1) How many vehicles are leased or owned by those agencies?

(2) Of these, how many are -

(a) passenger vehicles; and

(b) commercial vehicles?

(3) Of the total number of vehicles, how many are -

(a) petrol or diesel powered;

(b) LPG powered; or

(c) powered by other means?

Hon E.J. CHARLTON replied:

Albany Port Authority -

(1) 7.

(2) (a) 3.
(b) 4.

(3) (a) Petrol - 6.
Diesel - 1.
(b)-(c) Nil.

Geraldton Port Authority -

(1) 23.

(2) (a) 4.
(b) 8.

(3) (a) 23.
(b)-(c) Nil.

Dampier Port Authority -

(1) 6 vehicles (owned).

(2) (a) 4 passenger vehicles.
(b) 2 commercial vehicles.

(3) All 6 are petrol/diesel powered.

Esperance Port Authority -

(1) 11.

(2) (a) 4.
(b) 7.

(3) (a) 11.
(b)-(c) Nil.

Bunbury Port Authority -

(1) 18.

(2) (a) 4.
(b) 14 - includes 1 forklift, tractor and front end loader.

(3) (a) 17.
(b) 1 - forklift.
(c) Nil.

Port Hedland Port Authority -

(1) 7.

(2) (a) 3.
(b) 4.

(3) (a) 7.
(b)-(c) Nil.

Fremantle Port Authority -

(1) 61.

(2) (a) 18.
(b) 43.

(3) (a) 61.
(b)-(c) Nil.

Westrail -

(1) 377.

(2) (a) 91.
(b) 286*.

(3) (a) 377.
(b)-(c) Nil.

* Includes 23 road coaches.

Eastern Goldfields Transport Board -

(1) 18 Omnibuses.
1 Sedan.
1 Utility.

(2) (a) 19.
(b) 1.

(3) (a) 20.
(b)-(c) Nil.

MetroBus -

(1) 435.

(2) (a) 416.
(b) 19.

(3) (a) 386.
(b) 2.
(c) 47 CNG.

Main Roads Western Australia -

(1) 719.

(2) (a) 325.
(b) 394.

(3) (a) 719.
(b)-(c) Nil.

Department of Transport -

(1) Total 1 017 - 877 owned, 140 leased.

(2) (a) 983.
(b) 34.

(3) (a) 968.
(b) 2.
(c) 47 buses powered by compressed natural gas.