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Thursday, 23 March 2000

Legislative Council

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

TENDERING FOR LOCAL CONTRACTS - REVIEW OF GOVERNMENT POLICY

Motion

Resumed from 22 March on the following motion moved by Hon Tom Helm -

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

HON LJILJANNA RAVLICH (East Metropolitan) [11.04 am]: Mr President, as you and most members in the Chamber are aware, this is a subject which is very close to my heart. This is an area in which the Government has done an absolutely lousy job. The rate of contracting out by this Government has been unprecedented. Given that the Government spends approximately \$6b on the procurement of goods, works and services, it is a substantial part of the State's budget, which is around the \$10b mark. Criticisms have been made for a long time by a range of people of the Government's contracting-out activities. I am sure that if contractors honestly believed they would not be penalised by bringing their concerns into the public arena, we would have much more open disclosure about the processes the Government applies when awarding contracts.

One major concern to me is that I often get complaints from people who have put tenders in for government contracts and have not been awarded them. For example, on Saturday night I heard from somebody who was tendering for a contract. The tenderer met all the specified criteria and his tender was \$5m cheaper than the next quote.

Hon Barry House: How do you know?

Hon LJILJANNA RAVLICH: I know because I was advised by somebody who had put a bid in. I know that even though all the criteria were met and the bid was \$5m cheaper, the contract was awarded to somebody else. At the end of the day contracting gives rise to a potential for favours to be awarded, people to be looked after and so on. I am sure that if contractors did not feel that they would be putting their future chances at risk, many of them would be much more open about the shoddy processes engaged in by the Department of Contract and Management Services and other government agencies when they award contracts. This is of concern.

Given the amount that is expended by the Government in this area, it is also of concern that we have very little regulation of contracting arrangements. I understand that only recently has the Government introduced the notion of a contracts referee. I do not know where the contracts referee is currently placed. It might be somewhere in CAMS. We do not have a contracts ombudsman, which was an election promise before the 1993 or 1996 election. The Government has crowed about the importance of having an independent contract ombudsman so that people can feel free about taking their concerns to an ombudsman, knowing that they will be fairly dealt with. I do not know whether a contracts referee will have the same powers as a contracts ombudsman. I suspect that it probably will not.

This motion is about having the Minister for Works review the State Government's policy of amalgamating small and medium-sized contracts. It deals with a problem about which many small businesses have major concerns; that is, instead of large contracts being broken up into smaller contracts and therefore attracting a range of bidders and causing the work to be distributed among a number of companies or organisations, the reverse is happening and smaller contracts are being amalgamated into larger contracts so that agencies can achieve economies of scale. I have previously raised this concern with the House. When government agencies do that and the Government does not regulate the size of contracts, their behaviour is anti-competitive.

A number of forces are at work here. As I have said, the Government's policy states that contracts should be broken up so that regional tenderers and small businesses can put in bids, so that the work is more accessible to a range of bidders. Although it has promoted this policy of breaking down contracts into bite-sized chunks, as it were, it has also set criteria for chief executive officers which basically say that they will be evaluated on the extent to which they save money for the Government. Some of the chief executives feel that a key way they can save that money for the Government is by amalgamating small contracts into large contracts. In doing so they will attract interest from multinationals or larger contractors with the capacity to deliver economies of scale, compared with smaller operators, businesses and tenderers. Therein lies the problem. It is a complex problem and must be dealt with.

This problem also arises as a result of the government policy whereby government agencies achieve exemptions for devolved purchasing authority. Government agencies do not conduct all their purchasing through the Department of Contract and Management Services. A four-class scale applies to autonomous purchasing, and the extent to which an agency can carry out devolved purchasing without referring to CAMS depends on the class of that agency. Agencies must be accredited to fall into one of those four categories. A class 1 category provides agencies with autonomous purchasing power of up to \$50 000 a contract. Higher value purchasing must be arranged by a third party designated by the State

Supply Commission. In other words, an agency with class 1 purchasing autonomy can handle contracts up to the value of \$50 000. Some of these agencies, as at 20 October 1999, are the Animal Resources Authority, the Health Promotion Foundation and the Rottnest Island Authority. Interestingly, although the Rottnest Island Authority has the authority to handle purchase contracts up to only \$50 000, it is dealing with a contract at the moment which is much bigger than \$50 000. It is not being handled by CAMS; CAMS is having very little involvement with it. The Rottnest Island Authority has not sought an exemption to purchase a contract over that \$50 000 mark.

Hon Barry House: What is the contract?

Hon LJILJANNA RAVLICH: At this point I will not tell the House what the contract is. However, it is a major contract that will possibly run into tens of millions of dollars. Yet the Rottnest Island Authority has devolved purchasing authority of up to \$50 000. If it wants to purchase or enter into contractual arrangements beyond \$50 000, it is supposed seek an exemption from the State Supply Commission for the right to purchase beyond \$50 000. That has not happened. What really concerns me is that the State Supply Commission is supposed to regulate this purchasing, but it is moribund. Nothing happens at the State Supply Commission because this Government, in its wisdom, has crippled it. The Government has chopped it off at the knees. It kneecapped it and basically made it non-operational. I do not know why people are even at the State Supply Commission, because it seems that an agency like the Rottnest Island Authority is able to enter into multimillion dollar contractual arrangements when it has a purchasing authority of only \$50 000. It is an absolute disgrace.

Hon Barry House: Explain to me how it can do that.

Hon LJILJANNA RAVLICH: It just does it because there is no regulation by this Government. It occurs because this Government does not care. Hon Barry House did not even know that the problem existed.

Hon Barry House: Tell us what the contract is and the Government will check on that.

Hon LJILJANNA RAVLICH: At this point I will not tell the House what the contract is. It is a multimillion dollar contract that involves the Rottnest Island Authority. The authority has not gone through the proper channels and does not have the authority to purchase beyond \$50 000. Yet it is dealing with a contract which will run well over \$10m. It did not even bother to go to the State Supply Commission and get an exemption to increase its autonomous purchasing authority beyond the \$50 000 mark.

Hon Greg Smith: Prove it.

Hon E.R.J. Dermer: If the government backbenchers cared, they would know.

The PRESIDENT: Order! Hon Ed Dermer will get his opportunity in moment. Members must speak one at a time. It is not that I do not appreciate interjections, but officers are required to record what is being said. That is difficult if people interject.

Hon LJILJANNA RAVLICH: I do not appreciate the interjections. I had a late night last night! I am concerned that the regulator does not have the resources to do the job of regulating. A widespread problem exists throughout the Public Service as a result of the inactivity of the State Supply Commission. A fight is occurring over who is supposed to regulate spending, over who should have total responsibility for the whole area of contracting. Should it be CAMS or the State Supply Commission? The report of the review of the State Supply Commission Act was undertaken by representatives from Crown Law. The House might recall that I sought information about that review, which was tabled in May 1999. Crown Law wanted to charge me \$30 000 for access to the information, which I can only conclude must be really valuable to be worth so much. I felt really rich when the Freedom of Information Commissioner said I did not have to pay \$30 000; I only had to pay \$260. I felt wealthy for that whole day because I had saved myself thousands of dollars. A Government that contracts out \$6b worth of goods, works and services should want to tidy this up very quickly. The review has been going on for a year and a half and we still do not know what the Government intends to do vis-a-vis the recommendations made in the report. The report has some interesting recommendations. I will not go through them because the report is available.

The PRESIDENT: Order! Hon Ljiljanna Ravlich does not need to go through the recommendations unless they relate to tying local contracts to similar statewide contracts which are preventing local contractors and suppliers from tendering for local contracts. The member should be talking to the motion. Obviously, the issue of tendering requires a certain amount of latitude, but an exposé on that report is probably a bit wide.

Hon LJILJANNA RAVLICH: Regulation of the government policy on breaking up contracts into bite-sized chunks, so that they can be accessed by small contractors, is critical. The State Supply Commission is supposedly the regulator. However, it is not acting as a regulator because the regulator's position is not clear and it is awaiting the outcome of a determination by the minister on a report. This has been the situation for the past year and a half, and it is not good enough.

I raised the issue of autonomous purchasing because no-one has any idea, certainly not the State Supply Commission, of what sort of contracts government agencies have entered into in the marketplace. I am concerned that agencies that have reached the class 4 classification of autonomous purchaser can make purchases without any upper limit. Usually the larger agencies or government trading enterprise are given class 4 status; for example, the Water Corporation, Main Roads, the Health Department, the Education Department, AlintaGas and Western Power. The reason I make this point and how this relates to the motion is that these agencies go out into the marketplace and enter into multimillion dollar contracts.

Hon Barry House: Are you trying to tell us that each of these agencies should go through a central agency to buy a pencil?

Hon LJILJANNA RAVLICH: Why not? Hon Barry House does know how many contracts the Government has entered into, or the debt level on those contracts. The Government cannot rein in its public spending. The Chamber of Commerce and Industry has been at the Government over those issues for the past two years. The Government cannot rein in public spending and it has a debt of \$620m because it does not know what contracts it has entered into in the marketplace.

Hon Barry House: Centralising the whole operation will blow it out tenfold.

Hon LJILJANNA RAVLICH: Hon Barry House has no idea what he is speaking about. I have been looking into this area for the past two and a half years. The Government has no idea about the contracts its agencies have let in the marketplace. I asked a question in this place about joint venture arrangements between Western Power and Integrated Power Services and the minister did not know what I was talking about. That will all come to light. When agencies have autonomous purchasing authority with no upper limits, there is no scrutiny of whether the contracts are being reduced in size to meet government policy. Everything that I have heard today indicates that rather than reducing the size of contracts to make them more appealing to local contractors and suppliers who tender for local contracts, in reality what happens is the reverse and contracts are bundled up into huge contracts with the idea that they bring economies of scale. The way that these contracts are bundled up rather than broken up into smaller contracts is anti-competitive, because it means that small contractors cannot get a chunk of the market. Small businesses complain about this, because it is difficult for them. The Government is big on rhetoric and promises, but is light on action.

I take my guide from the government policy statement on government buying titled "Buying Wisely" which was produced in September 1996. This document puts within a buying framework how government should carry out its procurement activities. At the heart of this motion is the issue of competition and whether what is happening in practice at the moment is anti-competitive. Page 16 of "Buying Wisely" reads -

Competition is the catalyst for innovation, efficiency and growth. It provides and promotes opportunity and choice, and ensures best result for buyers and sellers.

Through open bidding, competition improves accountability and encourages confidence in the process and outcomes achieved.

When the Government cuts out a certain part of the market, one could argue that competition is not being encouraged and that the benefits that flow from competition will not be generated.

Hon Ray Halligan: Do you agree with that policy?

Hon LJILJANNA RAVLICH: I do not have a problem with competition in the marketplace. However, what is happening in practical terms is anti-competitive. The Government is bundling up all of its contracts and making them huge, which is stopping small and medium businesses from competing.

Hon Ray Halligan: Do you agree that it can create efficiencies?

Hon LJILJANNA RAVLICH: I do not have a problem with basic economics, that benefits can be generated from the economies of scale. However, the Opposition is arguing that what the government policy states and what happens in practice are two different things. The Opposition is asking the Government to review its policy of amalgamating small and medium businesses. The "Buying Wisely" document reads -

Government agencies will use a competitive market for all their requirements -

The point I am making is that they are not. To continue -

- and encourage the development of supplies and local industry.

That local industry component is the most important point. Increasingly the trend is that much of the contract work is going to offshore bidders.

Hon Barry House: Are you aware of the regional buying compact?

Hon LJILJANNA RAVLICH: That policy does not work. I listened to the comments made by Hon Tom Helm yesterday in which he referred to correspondence which indicated that the Minister for Education had bypassed conditions X, Y and Z of the regional buying compact in a contract. The Government must get its act together about what is contained in its policy, what is the value of its policy and whether it means anything. For example, a government policy is that contractors, particularly building contractors, should employ X number of apprentices. That policy has never been enforced. That is another example of lack of regulation. I see no point in having these policies if the Government does not care about those policies. If the Government puts a policy in place, such as encouraging open competition, it must ensure that the market is aware of the policy, so that it creates an environment in which open competition can occur. The heart of the Government's policy is to encourage small and medium businesses in regional areas.

Hon Barry House: Give us some detail.

Hon LJILJANNA RAVLICH: I do not have the regional buying compact here but I do not think I need it. I have some interference in the background but I am confident that it will subside.

Hon Greg Smith interjected.

The PRESIDENT: Order! I am trying to listen to Hon Ljiljanna Ravlich.

Hon LJILJANNA RAVLICH: Section 3.6 of the "Buying Wisely" document is about encouraging small and regional businesses. It states -

The small business sector, particularly in regional areas, is an important employer and a source of innovation and efficiency.

I agree with that. It continues -

More importantly, it is the incubator for new businesses, ideas and solutions and therefore critical in terms of sustaining a competitive market.

Chief Executives will ensure that small and regional businesses are actively encouraged to compete for government work. In particular, they will ensure:

- * Contract opportunities are appropriately packaged or tailored where possible to actively encourage bids from small and regional businesses.

This is government policy but I do not know of many cases where this actually occurs. There is \$6b worth of purchasing and \$3.2b of that is in the works area but I cannot cite many examples where this has occurred, particularly with the Main Roads Western Australia contracts. The Minister for Transport might like to comment on that.

Hon M.J. Criddle: Where what occurs?

Hon LJILJANNA RAVLICH: Examples of where work has been broken up so regional participants can bid for the work.

Hon M.J. Criddle: It happens under virtually every contract.

Hon LJILJANNA RAVLICH: Either everybody else is wrong and the minister is right or they are right and the minister is wrong. That is a common complaint about what does not occur. One only needs to pick up the State Supply Commission's report to see that the contracts are getting bigger. That is the Government's own report. I do not have it in front of me or I would refer to it directly. The contracts are getting bigger because government agencies and chief executive officers seek, as a primary driver, economies of scale; that is the reality. The "Buying Wisely" report continues -

- * The full benefits of dealing with small regional businesses (including those related to sustaining alternate sources of supply and longer term competition) are actively considered in all buying decisions.

The report goes further but this is an area which is of major concern. As opposition spokesperson for public sector management, I have to say that government contracting is a pretty secretive area. Although the Government claims it is open about its contracting activities, we know it does not put the contracts on the table but tells us that everything is on the Internet. Much of the information is not on the Internet and I am concerned about getting into government one day and finding that no-one has much idea of what has occurred in this area. It is a dog's breakfast.

In conclusion, if the Government has policies, they should mean something. Given the extent to which it contracts out, there is an obligation on the Government to have respect for taxpayers' money and to ensure that it properly regulates contracting activities. There is ample evidence to demonstrate that there is very little regulation of the Government's contracting out activities. The fact that we still have not heard from the Minister for Works and Services about the review of the State Supply Commission Act and the fact that the State Supply Commission is almost non-operational is concerning given the magnitude of the money spent in this area. I am particularly concerned about small businesses and local contractors, many of whom cannot enter the marketplace. Hon Tom Helm touched on an issue yesterday which I would have liked to bring to this place. It was the issue of preferred suppliers being invited by the Department of Contract and Management Services to pay for the privilege of registering as preferred suppliers for panel contracts. Small businesses wanting to enter a panel contract can register in one of a number of categories and pay a fee for each category the businesses registers in. The example I saw would have resulted in a small contractor who wanted to get onto a panel contract being charged something in the order of \$600 or \$700. That is a substantial sum of money for a small contractor.

Hon M.J. Criddle: Can you tell us where that was?

Hon LJILJANNA RAVLICH: The Department of Contract and Management Services.

Hon M.J. Criddle: You are mentioning things. Can you give us an indication of where that occurred?

Hon LJILJANNA RAVLICH: I have the documentation downstairs, but this is a requirement to register for the whole-of-government panel contracts. The Minister for Transport would know that there are about 54 of these contracts. The people on the register are the preferred suppliers of government agencies. If an agency wants somebody to put an annual report together, it goes to the register and sees the list of preferred suppliers. In the past one had only to register on this list but the Department of Contract and Management Services is now looking at possibly charging people to register.

Hon Greg Smith: How would you suggest it be done?

Hon LJILJANNA RAVLICH: The point I am making, Hon Greg Smith, is if the Government is asking small businesses to pay \$600 or \$700 just to be registered to access government work, that is an impost on them. For a Government that promised to deliver benefits to small businesses, this is absolutely ironic. It is a disgrace. In the example I saw the cost

was \$600 or \$700 but I am sure there are many examples in which the cost of picking up government work will run into thousands of dollars and potentially tens of thousands of dollars. I was concerned about this matter and began to investigate but it was all very quickly hushed up by the powers that be at CAMS. However, this is a problem area and something on which the Government has not come clean.

Hon M.J. Criddle: We will address the issue.

Hon LJILJANNA RAVLICH: I am glad the minister will address it as the issue was raised by Hon Tom Helm. The point I am trying to make about the motion is that that is yet another example of discrimination against small businesses in particular. If this Government is dinkum about looking after regional areas and small businesses, it needs to get a better handle on the process and realise how some of its policies are causing pain in those areas.

Hon Greg Smith: Small local contractors never had the opportunity to get this work before and they are celebrating.

Hon LJILJANNA RAVLICH: I can tell Hon Greg Smith that not too many of the people who have come to my office have been celebrating. There is a perception about jobs for the boys. There is a perception that if one knows somebody within a government agency, at CAMS or wherever, one will pick up government work. If one is not of the right political persuasion or is not well connected, one will not pick up work. Some people are doing it really hard. The benefits that the Government claims flow from contracting out are not evenly spread throughout the community, and I doubt very much whether there are any benefits at all. What this Government has done in contracting out is an absolute disgrace. The saddest thing is that the Government does not even know what it has done, because it has devolved the operations of the public sector and given agencies autonomous purchasing rights. The Government does not know what they are doing.

Hon M.J. Criddle: Are you saying probity officers are not doing their job?

Hon LJILJANNA RAVLICH: Who are the Government's probity officers? Where are they? How many are there?

Hon M.J. Criddle: Most of the contracts -

Hon LJILJANNA RAVLICH: No. Tell me how many there are. It is a simple question: How many probity officers does the Government have?

Hon M.J. Criddle: Most major contracts have a probity officer.

Hon LJILJANNA RAVLICH: The minister has missed the point. I am asking him a simple question: How many probity officers does the State of Western Australia have?

The PRESIDENT: Order! It is not question time. Hon Ljiljanna Ravlich has a right to be heard and the minister will have an opportunity to respond in due course.

Hon LJILJANNA RAVLICH: This really gets up my nose, because Hon Murray Criddle is a minister of the Government and he is trying to be half smart. The bottom line is that we would be lucky to have three or four probity officers to handle \$6b-worth of contracts. What an absolute disgrace! How many probity officers are there, minister? It is an absolute disgrace. The minister is really bugging me now and getting up my nose.

Hon M.J. Criddle: You do not understand.

Hon LJILJANNA RAVLICH: No, I do understand. The minister does not understand. How many probity officers does the Government have?

Hon M.J. Criddle: I just tried to tell you.

Hon LJILJANNA RAVLICH: How many?

Hon M.J. Criddle: I just told you that most of the major contracts with which we deal have probity officers.

Hon LJILJANNA RAVLICH: The Government has thousands of major contracts, so it must have thousands of probity officers! Give me a break - truly! One of the problems is that there is not enough regulation of that contracting area. If there were more regulation, there might be some contracts that delivered a profit rather than a continual loss.

I will conclude my remarks because I know that another member wishes to speak. From everything I have seen and heard - I have watched closely and listened fairly carefully - this is a disaster area for the Government. I hope the coalition does not win government after the next election, because this State cannot sustain the contractual losses which have resulted from the ineptitude of this Government.

HON GREG SMITH (Mining and Pastoral) [11.42 am]: To some extent the matter raised in Hon Tom Helm's motion is something that the Government and government members recognised two years ago. It is not a new issue of which we have just become aware. In contracting out, the State Government responded to some extent nearly two years ago by introducing the regional buying compact, which gives preference to regional and local suppliers.

At the time, I had the pleasure of going on a trip through my electorate with the Minister for Works and Services to introduce the regional buying compact to all the local contractors. We spoke to local contractors in places like Broome, Kununurra and Karratha, and they were pleased with the way the Government is contracting out a lot of its services, because it has given them the opportunity to tender for government work for which they never had the opportunity to tender

previously. Homeswest had its own maintenance crew, and if people had a Homeswest house which needed maintenance, they would have to wait until someone from Homeswest got to their area, whereas now, in a place like Karratha, local builders have the opportunity to contract for that work, and they are getting it. An architect in Karratha is now getting the work to plan the local courthouse and the local schools. He even works on things as small as gazebos. He has the opportunity to tender for that work, and because he is pre-qualified, quite often people go straight to him and he gets the government work. Previously, he did not have the opportunity to get this sort of work. The same thing happens with all sorts of contracts, whether they be painting, plumbing or anything else that people need to have done.

A problem that arose with the contracting system, as Hon Tom Helm said, is that some of the contracts were too big. The Government recognises that. The example that comes to mind most often is when we put computers in all the schools in the State. The Government spent \$100m to put computers in schools, which was a great initiative. However, when it decided to do that, the Education Department put out for a contract to supply computers to schools. The result of that was unfortunate, and it could not be fixed once it had happened. If we did it again, we would do it differently.

Hon Ljiljanna Ravlich: Do you have any other examples?

Hon GREG SMITH: Yes, and I will get to them. What I am saying is that we recognised there was a problem with the way it was done. The difficulty was that, for example, the local computer supplier in Geraldton did not have the ability to access the contract to supply computers to just Geraldton, and the supplier at Kununurra could not access the contract to supply the schools there. It would have been much better if the contract had been broken up. Contracting out is subject to government policy, and the chief executive officers of government departments are involved.

Hon Ljiljanna Ravlich: You are saying exactly the same as I said.

Hon GREG SMITH: I am telling the member that we have recognised that it happened, and we are already doing something about it.

Hon Ljiljanna Ravlich: What have you done?

Hon GREG SMITH: We are breaking up contracts.

Hon Ljiljanna Ravlich: Give me an example.

Hon GREG SMITH: No doubt the Minister for Transport will explain in great detail, when he has the opportunity next week, how we are breaking up some of those contracts. If we did the school computer exercise again, I am sure we would do it differently.

We have looked at ways to get CEOs to follow government policy and to make sure they break up the contracts. We may look at monitoring CEOs' performance to make sure they do that, so that if they are not pursuing the Government's policy of providing contracts to regional areas, some sort of discount might be applied to one of the performance guarantees they must meet.

Hon Ljiljanna Ravlich: This has been policy since 1996, so why isn't it happening? It is the year 2000, four years down the track. Why isn't it happening?

Hon GREG SMITH: It is happening. This is the problem when the Australian Labor Party brings in motions like this. The people who are getting these contracts are, generally speaking, people who are on our side of the political fence. We knew about these matters two years ago and the Labor Party has just discovered them in the past six months.

Hon Ljiljanna Ravlich: Did you just say that most of the contracts go to people of your political persuasion?

Hon GREG SMITH: No. I am saying that most people in the business community are supporters of our side of the political fence, because they know that when it comes to business, we know how to run business. If people are ALP supporters, they will be more concerned about the unions, because they would be ex-union officials, ex-union organisers, ex-electoral officers or ex-research officers, whereas all of the people in our organisation are from the business community or have a business background. Therefore, we understand how business works. That is why, when we came into Government, we set about restructuring the way government work is done. The ALP would like government departments to do everything. We had a government-run laundry service, for God's sake. Hon Ljiljanna Ravlich is suggesting that we should have a government maintenance service for all the Homeswest homes.

The PRESIDENT: Order! The motion is about whether the Minister for Works and Services should review state government policy in respect of small and medium-sized contracts. That is pretty broad, but it is not as broad as some of the issues the member is raising now.

Hon GREG SMITH: I was led astray by the interjections. Through its regional buying contract and tendering process, the Government has allowed small and medium contractors to get government work. We have not excluded them; rather we have included them. They are doing work that in the past was performed by government bodies which were renowned for their inefficiency. We are getting better value for the taxpayers' dollars. In a contract tendering process, there will always be winners and losers. Of course, there will always be people who did not get a contract who think they should have, and they will not be happy with the way in which the process operates because they feel aggrieved. We must be very responsible about how contracts are awarded because taxpayers' money - not ours - is involved. It belongs to the people of Western Australia.

The Government has two responsibilities: One is to ensure the money is spent responsibly; the other is to ensure the work is spread around the community as much as possible. Contractors in Karratha, Kununurra, Kalgoorlie and Geraldton are getting government contracts. When I talk to the people in these areas, they tell me that they are very pleased with the system and that they are getting work they never had the ability to access before. The local real estate agents in Broome and Kununurra are handling the disposal of the chattels at Government Employees Housing Authority properties - for example, refrigerators - rather than their being sent to Perth and sold at one big auction centre. These motions brought into this place by members of the Australian Labor Party can be likened to a Hollywood stage - the front is obvious, but there is no detail behind it.

Hon Ljiljanna Ravlich: You have not even spoken on the motion.

Hon Barry House: You had 45 minutes and did not touch on it. You moved it and still didn't talk about it.

Hon GREG SMITH: Hon Ljiljanna Ravlich and Hon Tom Helm have provided the detail of one issue where the Government has gone wrong. Of course, there will always be one contract that will not work out.

I now come to the network contracts for Main Roads Western Australia. Because those in the business community are our support base, they approach all government members of Parliament. Years ago, those members were made aware of what was going wrong in contracting out and the size of the contracts.

Hon Ljiljanna Ravlich: When did they tell you that?

Hon GREG SMITH: As I said, it was 18 months or two years ago. We had to work through a -

Hon Ljiljanna Ravlich: Did they say that you have serious problems with contracting out?

Hon GREG SMITH: No, they did not say that. They said that these contracts were too big for some of them to put in a tender for. When we raised this issue through the usual processes we use, rather than discussing it in this place, the Minister for Transport recognised the difficulties and dealt with them. Now contracts are broken down into various levels. The first is for \$100 000 contracts which can be given without contractors having to go through a very rigorous process.

Another level of work can be given out with minimal processes to be followed, as long as all the checks and balances are in place to make sure the money is spent properly. There is yet another level for the very big contracts. We must do this because we are spending taxpayers' money. Members opposite are the first to stand and scream at the top of their voices if they find one example of spending taxpayers' money improperly.

Hon Ljiljanna Ravlich: Matrix.

Hon GREG SMITH: It ended up saving the Government money. The Auditor General and Bird Cameron proved it.

Hon Ljiljanna Ravlich: Where is Max Evans?

Hon GREG SMITH: The minister recognised and changed the system covering the term network contracts so that it accommodated small contractors. It is not correct for members opposite to say that the Government is not complying with its policy. A 10 per cent preference for a local supplier which is taken off the bottom line at the beginning of the process, not the end of it, is fairly good. I have heard no complaints from people saying that the figure should be more or that it is not enough. A complaint has come to me that some people, who were not in a region six or 12 months ago, will set up as local suppliers and qualify. It is a bit like the flood damage criteria; Hon Tom Stephens referred to that in the debate last night. If criteria is set, people will position themselves to fulfil them. We cannot shut every loophole as it arises. The Government has followed the policy for tendering for local contracts. There will always be room to refine and improve a policy, and that is what the Government is doing.

Because members of our political persuasion are in government, those in the business community deal with us directly. We are the first people to be told about any difficulties in this area. When government members of Parliament visit a town and meet with members of the Chamber of Commerce and Industry of Western Australia, do those opposite think that the local business people do not bring up the fact that a contract has been awarded to an outside company or that it is too big for the local people to tender for? We even get approached by people who think they can telephone us when these tenders are being put out and somehow try to get them some favours. That does not happen. It has never happened under our Government, but it did happen under the previous Labor Government. Our contracting system operates in such a way that it is beyond reproach. No-one has ever raised questions of improper conduct or of contracts being awarded to people as political favours by this Government. That is why the process is done in the way it is.

Hon Ljiljanna Ravlich raised the fact that to prequalify, companies must pay a fee of \$600. When companies put in for contracts, we must check whether they are reputable, have the expertise to perform the work they are contracting for, and will have the capital behind them so that if the successful tenderers get into financial difficulties during the contract, their business will not fall over. The \$600 payment will cover the cost of carrying out those checks. Unfortunately, that happened recently in Exmouth when a contractor involved in a Homeswest job ended up going bankrupt. We could say that more time should be spent on looking at some of the companies to which contracts are awarded, not less, and that we should take a more thorough approach to the way contracts are awarded.

Hon Ljiljanna Ravlich seems to be suggesting that we should have a centralised purchasing office somewhere in Perth. She is suggesting that if a regional school wants to buy a box of chalk and new eraser, it should ring the central purchasing office in Perth. Under that system, a tender will be put out for a box of chalk and a new eraser.

Hon Derrick Tomlinson: That is the way it used to be done through the old government stores.

Hon GREG SMITH: Then the goods will be sent to the school by mail or a courier so that they arrive quicker.

Hon Derrick Tomlinson: No, by mail!

Hon GREG SMITH: The box of chalk and eraser would be sent to a regional school from Perth. No-one can say that local and regional businesses are missing out when the local schools can go to local suppliers to buy their requirements. That is the most commonsense way to do these sorts of things. We have had to undo a system that was in place that caused gross inefficiencies. Our undoing of that system is causing problems at the other end. No doubt all the unions members who do the work for the organisations represented by Hon Ljiljana Ravlich are aggrieved because the people for whom they used to work probably do not get the work.

Debate adjourned, pursuant to standing orders.

COMMITTEE REPORTS - CONSIDERATION

Committee

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

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

Resumed from 16 March on the following motion moved by Hon M.D. Nixon -

That the report be noted.

Hon GREG SMITH: The attention deficit hyperactivity disorder issue will not go away if we bury our heads in the sand; in fact, it will simply get worse. I will choose my words very carefully, because as I began to build my case last week I had to sit down because we adjourned for lunch.

Western Australia is particularly exposed to the ADHD problem because it is the youngest State in the youngest country in the world. This country was settled by Europeans less than 200 years ago. Those people were prepared to sail across the ocean to a new country - the last frontier.

It is unfortunate we have called ADHD a "disorder", because it is simply a different way of thinking.

Hon Derrick Tomlinson: Which can result in disorderly behaviour.

Hon GREG SMITH: Yes, but it is not a disorder in itself. Just as Hon Ken Travers is tall and I am short; Hon Ray Halligan is nearly bald and Hon Max Evans has a full head of hair -

Hon Derrick Tomlinson: And I am slim and attractive.

Hon GREG SMITH: And Hon Norm Kelly could be described differently. These are differences, and the great thing about the human race is its differences. That is what makes us human and our society so vibrant and such a great place in which to live. The last thing we celebrate is sameness - although our education system is based on sameness. The characteristics I mentioned are physical differences, and we are all happy to accept that there are enormous differences in those characteristics. However, when it comes to mental characteristics, we try to make everyone the same.

ADHD is a way of thinking -

Hon Derrick Tomlinson: It is a condition.

Hon GREG SMITH: That is a good word to use.

When the pyramids were being built, people needed to be able to do tedious jobs such as hoeing a crop. A cultivator would spend all day in a field cultivating with a hoe and a shepherd would spend night and day tending a herd. If a person was not suited to that sort of thing, he was probably in the army or was an explorer and had a short life expectancy. I have studied genetics and selective breeding and I have come up with a theory as to why we will see more rather than fewer cases of ADHD as time goes by. People involved in cultivating the land, living an urban lifestyle and domesticating animals now outnumber those who have a right hemisphere brain dominance. Other cultures, for example, our indigenous people, have had to be very good hunters to live and survive. The people who were best at hunting survived. That is why we now see Aboriginal people over-represented as a proportion of the population in AFL football. They are superb footballers. American Negro slaves were selectively bred for only two generations, but they are now some of the most superb athletes in the world.

Our development has resulted in our population having fewer and fewer people who are right-brain dominant. Aboriginal cultural development has resulted in more and more right-brain dominant people, because the attributes those people displayed were required for long-term survival. That has happened naturally.

Hon Norm Kelly interjected.

Hon GREG SMITH: I am talking about having different levels of excellence in order to survive. It is not absolute on either side, but it is leading both ways.

Hon Derrick Tomlinson: It is the abstract versus the concrete.

Hon GREG SMITH: I thank the member. We no longer need to be right-brain or left-brain dominant to survive in society, because very few people head off to war or to explore uncharted territories and get killed in the process. I imagine Burke and Wills suffered from ADHD.

I would like the Leader of the Opposition in his capacity as shadow spokesperson for Aboriginal Affairs to listen to what I am about to say because I am trying to deal with issues such as Aboriginal youth suicides, youth suicides generally and the dropout rate from the education system. I will quote a paper prepared by Sandy Moran, who has studied ADHD in depth. She went as the Western Australian delegate to the world conference on attention deficit syndrome in New York. She is not someone who is unqualified to comment.

Hon Tom Helm: She is preparing a doctor's thesis.

Hon GREG SMITH: "The Specific Child and Adolescent Health Problems in Western Australia Report 1999" states that Aboriginal children are twice as likely as non-Aboriginal children to be hospitalised for mental health and mental health related problems. Those problems include conduct disorder, of which 40 per cent have ADHD, 12 per cent of those being Aboriginal children; hyperkinetic syndrome, of which 100 per cent have ADHD; non-dependent drug use whose users have an ADHD predisposition; and depression. Some 44 per cent of hospitalisation reasons are connected to attention deficit for Aboriginal children. Rather than the Government burying its head in the sand and saying that they will not fit into the education or legal system, we must recognise that whether black, white or brindle, this condition exists. Rather than build more jails or exclude people from our education system, if we were to go to the cause of what is creating some of these issues, we could deal with the issue better. For example, if we had doctors who could diagnose whether this condition existed in children in their early years of school and treated it, whether through medication or through a different system of education, fewer children might commit suicide and fewer juveniles might be in jail. Education is set up to suit about 70 per cent of the population. It is set up specifically for a one-size-fits-all scenario.

Hon Tom Helm: Like a slot machine.

Hon GREG SMITH: Yes. Children who drop behind in their development in the education system lose their self-confidence. They then do things that they consider themselves to be good at. For example, if a kid is very good at stealing cars, but he cannot read or write, he will receive some recognition from his peers for being very good at stealing cars. We must understand that the right-brained thinking people in society are one of our greatest assets. Currently we view them as a liability. Only last week my family and I saw my children's psychiatrist. This issue arose because he was aware that it had been in the newspapers. He said that children with ADD do not look at a piece of paper and see words and lines; they see the whole thing. It is almost a three-dimensional view. Last week I referred to why women cannot read maps and men do not listen. Neurologically it has been discovered that men can look at objects in three dimensions better than a woman can and there are about seven times as many males than females with ADD. We should recognise that the problem exists and deal with it rather than have people running around making complaints about the over-prescription of drugs or that we are using medication for ADD in the same way valium was used by women to treat depression. If we look at the tablets that the children are given and say this is what we are going to use to get them through the education system, hopefully they will come out at the other end and be able to make a constructive contribution to society.

Hon Tom Helm: The proviso must be that there is an accurate and appropriate diagnosis before the drugs are prescribed.

Hon GREG SMITH: That is right; there must be an accurate diagnosis. The problem at the moment is that an accurate diagnosis is available to some sections of the community, but not all sections of the community. That could be a major issue that is affecting the educational development of Aboriginal communities. Because they do not have access to the psychiatrists and the doctors to recognise and deal with the problem, they will be left untreated. That leads to youth suicide, juvenile detention centres or juveniles breaking the law. This is particularly relevant to me as the member for the Mining and Pastoral Region, because it has been found that country children are more affected than city children. This could be because the parents of the children with ADD are the people less likely to get a city job, in an office for example, and are more likely to work in the mining industry. It is interesting that the WA Rural Paediatric Service database 1996 records indicate that attention deficit disorder was the major reason for paediatric consultations. In Paraburdoo, ADD accounts for 28 per cent of paediatric consultations. It is incredible to think that in a mining town like Paraburdoo, 28 per cent of paediatric consultations are due to ADD. In Newman it was 18 per cent and in Tom Price it was 18 per cent. That demonstrates that the people who are more likely to go to these mining towns - the truck drivers, mechanics or welders - are now producing children who are likely to have ADD.

It has been said that approximately 30 per cent of the population has ADD or right-brained thinking and it is too large a percentage to ignore. Regardless of who is in government, a continued research program has to be carried out to establish what effect this is having on the community and it has to come up with some proactive ideas to accommodate the 30 per cent of people who are not fitting into our education system. We have to diagnose them, medicate them and get them through the education system as it exists now or we have to have a different curriculum to get them through with minimal medication. My children's psychiatrist told me last week that he believes we medicate children so that the teachers can handle them, not so that the children can handle the education system. Many experts who are dealing with ADD and hyperactivity - like Dr Naidoo, the psychiatrist who looks after my children - could make some valuable contributions. We should make an effort to get these people together and get them to come up with some lateral ideas to deal with the condition. The rewards to the community and society would be enormous. We would find that there would be less and

less juvenile crime and less drug use. It has been suggested that substance abuse is a form of self-medication. One of the most damaging self-medications for people is marijuana.

Hon Tom Helm: It is interesting following that line of argument regarding the incidence, for example, of petrol sniffing in some of your local communities.

Hon Greg Smith: Yes, and the incidence of alcoholism. The habitual use or addictiveness of drug use is said to be one of the traits of attention deficit disorder. It probably starts off as self-medication for the condition itself.

Hon E.R.J. DERMER: I have been very interested in listening to the comments of Hon Greg Smith. I thought, given the general subject under discussion, it may be worthwhile for me to share with the House some personal experiences and, arising from those personal experiences, observations of what is required in the education system, particularly the secondary and the primary education system. I went through a particularly difficult year in grade 4 of primary school.

Hon Derrick Tomlinson: Is that all?

Hon Simon O'Brien: Was this recently?

Hon E.R.J. DERMER: I had hoped that members might be interested in the general flavour of this discussion and in some serious consideration, and I will try not to be distracted by the unhelpful comments from those who are less interested. At the end of grade 4, I was diagnosed as dyslexic, which was explained to me at the time as incomplete dominance of one hemisphere of the brain over the other. If a person is right-handed, consistently right-footed and right-eyed, the left side of that person's brain is dominant. That is the common condition. A less common condition is if the right side of a person's brain is dominant, he or she is therefore left-handed, left-footed, left-eyed, etc. At the end of 1966, when I was diagnosed as dyslexic, someone who had incomplete dominance was perceived as having a problem. The simple diagnosis for that was to determine whether a person used the hand and foot on the same side. I remember going to the class of a very competent teacher, Mr Robert Lefroy, who was providing remedial reading classes at Wembley Primary School. The first thing he did was ask me to draw something, to kick something and to look at a portrait of the Queen on the classroom wall through a hole in a piece of paper. That way he could quickly diagnose whether a student was completely dominant - either left or right or incompletely dominant and used the right hand and the left foot. It was understood at the time that the incomplete dominance that occurred in some people would interfere with their capacity to learn to read. One of the simple characteristics of dyslexia is to invert letters in one's perception when one reads them on a piece of paper; that is, a lower case "b" and "d" could be inverted. It also was a characteristic to invert two characters alongside one another; for example, the number 18 could easily be read as the number 81. It is not difficult to imagine how these characteristics could play havoc with a child going through his school years.

To my good fortune, the services of Mr Robert Lefroy at the Wembley Primary School were available, and I found them very helpful. I spent two years under his effective care in that classroom, during which I progressed through one year of normal primary school curriculum and as a result had eight years of primary school education. However, the process worked to the extent that I had the good fortune to eventually complete a science degree with honours at the University of Western Australia. A positive prognosis at the end of my grade 4 education in 1966 appeared to be unlikely, but I ended up having a good deal of success. I put that down to early intervention and finding where a child is in his educational development, clearly defining the problems that may be impeding his development and taking the time required to address those problems before proceeding with the normal curriculum sequence. That sequence is the usual way in which a child learns and develops through each of his years at school.

Hon Derrick Tomlinson: The unfortunate aspect of your experience is that it was not early intervention; in fact, it was quite late intervention if it occurred at the end of grade 4.

Hon E.R.J. DERMER: The earliest intervention possible is ideal, and I was fortunate in the sense that I was diagnosed at the end of grade 4. It would have been better had it been earlier, and it would have been less effective if it had been later or not at all. There appears to be a hereditary component in these types of conditions. My eldest son has been diagnosed with attention deficit disorder or attention deficit hyperactive disorder - I am not sure exactly which; my wife has a greater command of the details of his condition. In studying the condition of our eldest son, my wife has come to a firm retrospective diagnosis that I also have the same condition. The science of recent years is more refined than it was in the mid 1960s. The imprecise diagnosis of dyslexia may now have given way to a more precise diagnosis of ADD.

Another personal experience which sheds light on this debate is the role I undertook from 1983 to 1986 as a teacher of year 8 and 9 high school students. One of the classes I undertook was year 8 mathematics. In each class I was presented with an array of 32 or 33 students, all at various stages of development in arithmetic and other aspects of mathematics. By the time those children came before me in their first year of high school, I could see that the curriculum I was presenting - which, according to the norm, was the appropriate curriculum to be presenting at the year 8 level - was appropriate for only a small proportion of those students. Many of the students had command of what I was presenting many years before. They were well advanced, and they could cope despite what I presented, because they understood the mathematics and had progressed beyond that. Other students, unfortunately, had lost touch with the normal sequence of the mathematics curriculum many years before. What I was presenting to them was not helpful, because they did not have clearly in their minds the prerequisite concepts to understand what I was presenting as the normal year 8 curriculum. My answer to that was to encourage those students to see me after school. That was my best endeavour to track when those students had lost touch in the sequence of learning mathematics. What was needed was to find when each student had lost touch with the sequential learning of mathematical concepts in the primary school years and to start building their development of

mathematical understanding from the point at which they had lost touch. If they had lost touch at year 3, there was precious little hope of their understanding what I was presenting at year 8.

What is required, be it the skill of numeracy, which I was endeavouring to teach, or the skill of literacy, which I was endeavouring to learn in 1966 with limited success but with marked success in 1967 and 1968 and in the years that followed, is to assess as early as possible where the child has the need, when he lost touch with the sequence of learning and to address that need. To achieve that, schools must have flexibility in the way they are structured. To find in a year 8 class of 32 students those students who lost touch with the logical sequence of learning mathematics at, say, year 4, there must be an ability to take those students aside and teach them at the appropriate level from which they lost touch, to restore their understanding of mathematics at that level and then to progress their understanding. To do this, more teachers are needed to enable students to be taught in smaller groups, where they will receive a greater degree of personal attention, and to enable flexibility when looking at any particular age cohort.

Hon NORM KELLY: The Australian Democrats appreciate the work that the Standing Committee on Constitutional Affairs has put into this report and what it has produced in it. It is a very good first step towards what should be an ongoing inquiry into ADD and ADHD. The report highlights specific issues such as the incidence of ADD and ADHD and the fact that there is a higher prevalence of these conditions in males rather than females, and that is based on the fact that males' brains work differently to females' brains. I think that is something that women have been well aware of for many years.

The report discusses the treatments available and the use - and I believe the possible misuse - of the drugs that are prescribed for these conditions. Drug use is often necessary, and I read what Hon Greg Smith said last week about the use of these drugs by his own children and the benefits they have. Today's *The Australian* reports on the incidence of other drugs being used, which are becoming commonplace, and the benefits of using these drugs. There is a potential for misuse and the potential for future problems that may be caused by the initial use of these drugs. We must be well aware that the long-term use of methylphenidates and dexamphetamines have not been sufficiently researched, so we do not know what long-term effect they may have on children. As children go through puberty in their early teenage years they experience physiological changes as well as social changes, and these changes can have a marked impact on the use of these treatment drugs as well as the condition or behaviour that is being treated. Manifestations may occur, making the treatment no longer suitable. Hon Derrick Tomlinson interjected earlier about the need for proper diagnosis of the condition prior to the administration of these drugs. I also said that there needs to be an ongoing diagnosis to make sure that those drugs remain the most beneficial way to treat such conditions.

There is a danger that the effects of these drugs can make them a highly desirable tool for parents to use to turn a problem child into a child who behaves in a far more acceptable way. The drugs are beneficial not only for the child but also for the parents in that they may reduce the stress of having to deal with a problem child. It is also very easy, if there are insufficient health funds to treat children, to use the easy option of prescribing drugs rather than to explore the more complex reasons behind a child's behaviour. We have seen quite alarming differences in the rate of prescription of these drugs in various States. I notice, once again in today's *The Australian*, that over a period of about four years in South Australia in the early 1990s the prescription of these drugs increased by 2000 per cent. I note in the committee's report that Western Australia also has a significantly higher than average rate of prescription for these drugs. I have been told by a person who has done a doctorate on this topic that in South Australia that very high rate has been reduced due to three specific doctors no longer being in a position to prescribe such drugs in this State. South Australia saw a concentration of prescriptions coming from a limited number of doctors. One doctor died, one retired and the third moved interstate. The departure of those three doctors has had a marked impact. One of them had actions taken against him for malpractice on a couple of occasions. He was able to successfully counter those actions by saying that as an expert in the area he naturally attracted a far higher number of patients and therefore his high rate of prescriptions could be justified. When we see one doctor prescribing 60 per cent of a State's prescriptions, we must be very concerned. What concerns me is that the doctor moved to Western Australia. He is now practising in this State and the concerns he raised in South Australia may become concerns for me and others here who are interested in this issue, whether it be for overprescribing or because he is attracting a lot of patients with these conditions. I do not intend naming the doctor today because it would be irresponsible of me to do so without any evidence of his misusing his powers to prescribe.

Hon Greg Smith: Is he a recognised expert in these areas?

Hon NORM KELLY: He was able to successfully defend himself from the charges of malpractice in South Australia on the basis that he was a recognised expert in the area, and that is why he attracted more patients with these problems. It would be irresponsible of me to name him, but this is something that we should be alert to. I believe the authorities are probably already aware of this. When we look at the overall issue we do look at the specific cases of possible overprescribing.

Another concern I have relates to the committee's recommendation 1, which states -

That more research into the diagnosis, management and treatment of ADHD be conducted and the results reported to Cabinet.

I do not have a problem with the first part of the recommendation about the need for more research but I do have a concern about the second part; that is, that the results be reported to Cabinet. My concern is that the committee found it appropriate that such information go to Cabinet and not be accessible somewhere in a way that the public can use. Another part of the report highlights the need for more public awareness of the conditions and the treatments available, yet the committee has

recommended that the results of research on these matters go to Cabinet. Early in the report there is mention of a technical report which came from a cabinet subcommittee. Point 7.4 states -

During its inquiries the Committee obtained a copy of the Technical Working Party's report on Attention Deficit Disorder to the Cabinet Sub Committee dated April 1997 ("the Technical Report").

I assume this shows that the report is not publicly available but that the committee was able to access it. It concerns me that the information is being retained in a way that is not openly accessible to the public. That is detrimental to further information being disseminated throughout the community.

I would like to speak further on some of these matters but I appreciate that I must allow time for someone else to speak.

Hon B.M. SCOTT: I made a contribution last week in the debate on this report, but I want to add further to this most fruitful debate. It is interesting that a committee report should engender so much comment and debate, and that is a good thing. I shall reflect briefly on the recommendations made in the report. Last week I touched on the changing scenario in child development, and the issues that researchers have identified in changes in children's development and patterns. I did not have a chance to talk in detail about the research findings from Canada, under the heading of "The Ontario Child", which looked very closely at new, different and exciting areas of research involving brain development and how we should assess children when they enter the school system.

I have had the benefit over some years of meeting people in Australia and overseas who have dealt with the school systems and how children are accommodated. This debate highlights that our school systems should fit the child rather than the child fitting into the system. This issue has been raised in a paper given to me by Sandy Moran about children being accommodated in school systems and the systems not dealing with all children in the same way. Sir Christopher Ball raised this issue with me five years ago when I met him in England. As I have said in this Chamber before, he commented on Western Australia's early childhood programs, and the importance of setting in place programs that are flexible enough to allow differences in children and to accommodate their needs, rather than providing an over-structured preschool program that does not accommodate children with different needs. That is the challenge for educators in any classroom situation - to look at the children, establish their needs and move from there.

That issue can perhaps be accommodated in the second recommendation in the report, with which I agree - that a professional advisory body be established to formulate guidelines and policies for the diagnosis, management and treatment of attention deficit hyperactivity disorder. The diagnosis, management and treatment of ADHD are a province of the matters we have talked about already; that is, one of the keys to making children's school or academic life successful is to make sure there is early assessment and early intervention. One of the key recommendations in my report in 1994 to Hon Norman Moore was that the State should establish a kindergarten place and preprimary place for every child in this State. That is not to provide a watered down year 1 program earlier and earlier. One of the key components of good and sound early learning programs is to provide appropriate early assessment and early intervention. The second recommendation in this report supports the fact that we need to do research, follow-up the programs and make sure the programs in the schools do not become structured, watered down, year 1 programs but contain the key components of early assessment and early intervention.

Yesterday *The West Australian*, and I understand *The Australian*, carried articles about Hillary Clinton's concern about the use of mind-altering drugs for children. *The West Australian's* article was headed "US worries for its legally drugged children". It is a common concern around the world. Some people have alleged that Hillary Clinton is using this as a politically motivated vote-winner but at least it is getting the issue on the agenda. She has warned parents to be careful about giving preschool children Ritalin and other mind-altering drugs. Other members this morning have spoken about the drugs, and reference is made to them in the report. Research shows a high incidence of children in Western Australia are taking prescription drugs, such as Ritalin and Prozac. That highlights the issue of children who are not fitting into the school program and are school failures. That issue must be addressed. A child who fails at school almost inevitably will fail in life. That is why these reports are before us.

A report entitled "Attention Deficit Hyperactivity Disorder/Conduct Disorder - A major contribution to juvenile crime and substance abuse" was prepared by Dr Melvyn Wall and submitted to the Premier's task force on drug abuse. A further report entitled "The significance of attention deficit hyperactivity disorder to youth offending, delinquency and substance abuse" was submitted to the Governor, Major General Michael Jeffery, in November last year. Those reports refer to early intervention and the importance of assessing children very early for their learning difficulties.

One of my recommendations was that a major component of good and sound early childhood programs should be early assessment and early identification of children, followed by intervention programs. One of the problems identified at the Pineview Preschool in Coolbellup, which has a high level of Aboriginal students, is poor speech and language development. So much is to be said in this debate, but it cannot all be covered in the short time available. People have already identified the causes of language difficulty and developmentally delayed language, but in the Pineview kindergarten a special speech therapist is doing early identification of all students, and not just Aborigines. That should be a common feature in the preschool programs.

The other issues raised in the report of developing programs and establishing a professional advisory body are very important. This will provide a body of knowledge. There is a lot of knowledge in the community at the moment, but that needs to be brought together to assess the programs in schools and preschools to see whether children are being identified correctly for their learning difficulties. Dyslexia was a common generic term when I was teaching; parents were perplexed

by it but it is simply a learning difficulty and not a specific learning problem. Many issues have been talked about, including the dominance of the right or left side of the brain, and we are finding out more and more about these issues. That is why it is exciting to be involved in a group in Perth which is looking closely at bringing together people in a national seminar to consider the findings of the Ontario study. We have not even tapped the ability of children's brains and how we can help them to learn and progress further. It is an exciting movement, of which we should be taking notice.

Recommendation 4 by the committee is interesting. It states that a program of public and professional education and awareness should be established. I hope that will happen with consideration of the early childhood programs and best practice.

Hon SIMON O'BRIEN: The forty-seventh report of the Standing Committee on Constitutional Affairs in relation to a petition regarding attention deficit hyperactivity disorder is a most valuable document, and I thank the committee for its work in completing its inquiry and presenting this report. In particular, I acknowledge my colleague Hon Ray Halligan, who brought this matter to the attention of the House not only through tabling the petition but also through causing it to be retabled on two occasions, and who participated as a member of the committee.

I am also grateful to the principal petitioner, Mrs Moran, for the following reason. The consideration of this report thus far has included a number of contributions from a number of members who have some background and personal experience in this area, and that has been valuable and instructive to me and also to the House, I am sure. I do not have any immediate experience of attention deficit conditions, yet I have found myself confronted with this complex and difficult area of concern to the community. Therefore, reports such as this are vital instruments to enable people in my position to come to grips with this critical matter, and for that reason I acknowledge the valuable contribution that is made by committees in bringing forward reports such as this. I direct the attention of the House to the fact that this report is quite a slim volume and not six inches thick. Some people seem to think that reports on complex matters need to be six inches thick and to contain all sorts of appendices in order to give weight, literally, to their value. The value of this report is that it manages to identify and tease out the critical areas in a way that is easy to understand.

Recommendation 2 of the committee is that a professional advisory body be established for the purposes set out in the report, comprising members from a number of areas. However, paragraph 3.4 of the report states, under the heading "The Minister for Education's Submission", that -

The Committee was advised that the Education Department agreed, in principle, to a program of public and professional education, provided it did not cut across its existing policies and guidelines. The Education Department did not support the establishment of a professional advisory board, but did support the effective utilisation of existing support agencies . . .

However, I note that recommendation 2 of the committee has ignored that view of the Education Department, and that the Education Department per se does not appear as one of the recommended members of the proposed professional advisory body, and I will be interested to see the response from the Minister for Education, and others, to this report in due course.

When I received my copy of the report recently, I received concurrently some material from the principal petitioner, Mrs Moran, whom I mentioned earlier and who has been acknowledged by other members, including my colleague Hon Barbara Scott. The package of information was an eye-opener for me, because while reams of attention deficit-related material have been sent to me from one source or another and I have cupboards full of the stuff, it gave me the opportunity for the first time to consider all that material in a way that I could understand. Members may talk about their support for public education programs, but they will have great difficulty in convincing the community at large if they cannot convince members like me in the first place of the importance of understanding what attention deficit conditions are all about. The material which was presented by Mrs Moran and which was supplemented by the information in this report helped me to come to grips for the first time in a serious way with this area of public concern.

It also drew together a number of important issues which are related and with which I am familiar and thereby helped enrich my understanding of those issues. One of those issues is the recidivism and incarceration rates of certain members, particularly younger members, of our society. I have been studying ways in which we can alleviate and deal with this problem, which seems to be perplexing society at this time. It also drew together other threads, such as the direct relationship between people with educational difficulties and their later appearance, in many cases, in our justice system. Those two brief examples helped me to realise that there are material, real ways in which we can approach problems such as crime rates and recidivism, particularly among young people, and it gave me a fresh enthusiasm for continuing with those sorts of inquiries.

I was particularly interested also, in view of my interest in illegal drugs, of which the House is well aware, to read about the effects of marijuana, in particular tetrahydrocannabinol, when used by people who have a propensity towards schizophrenia, and to read the material that has been made available to me about the use of THC by people who have a propensity towards attention deficit conditions. That flies in the face of some of the views that are being expressed about the desirability of decriminalising the use of cannabis in our society; and I will return to that theme with considerable enthusiasm when next we take up that issue.

I thank the committee, the petitioners and those who participated in the committee's inquiry for their work. It has been enlightening to me, as well as much appreciated by other members of the House, and it has paved the way for a greater and most necessary understanding of this problem in our society.

Hon E.R.J. DERMER: In considering this report, I am conscious of the limited time available and would like to pick up from where I left off previously. Whether it is literacy or numeracy, it is important to understand the sequence in which concepts are learnt, find the point in the sequence at which the child's understanding is broken, and address it. However, that will require the application of considerable extra resources to school education in this State. I hope the content of this debate and the report will be brought to the immediate attention of the Minister for Education for that purpose. I understand that the Government of New South Wales has a program of picking up and addressing deficiencies in literacy education at years 1 and 2 of primary school. My own experience is with sequential learning in mathematics, and my wife has gone through the process of teaching my son sequential literacy by the use of a book which can be described as how to teach a child to read and write in 100 easy lessons. It took my wife 12 months to go through that book, but she had great success. Different ways of thinking are important to a broad community.

Debate adjourned, pursuant to standing orders.

Sitting suspended from 1.00 to 2.00 pm

STATEMENT BY THE PRESIDENT

Laptop Computers - Software Installation

THE PRESIDENT (Hon George Cash): I have been advised that over the past several weeks contractors for the Ministry of the Premier and Cabinet have been installing computer software on members' laptop computers. The information technology services unit of the Parliament has identified that a procedure that was used has led to a potential security breach. The parliamentary IT unit is now assisting the Ministry of the Premier and Cabinet in resolving the problem; however, in the interim members should not connect to the Parliament House computer system until they have spoken to the parliamentary IT help desk operators on extension 200. Mr Speaker has advised members of the Legislative Assembly in similar terms in this matter.

RAIL FREIGHT SYSTEM BILL 1999

Referral to Standing Committee on Estimates and Financial Operations

Resumed from 22 March on motion by Hon Kim Chance -

That the Rail Freight System Bill 1999 be referred to the Standing Committee on Estimates and Financial Operations and that the House direct the Standing Committee on Estimates and Financial Operations to inquire into and report on -

- (1) the effect of the conditions which have been agreed between the Government and the Hon Mark Nevill in respect of the Rail Freight System Bill 1999 generally, and specifically;
- (2) the impact of these conditions on the sale price of Westrail assets; and
- (3) the predicted level of future use of the Kalgoorlie-Esperance standard gauge line; and
- (4) the predicted impact of the sale of Westrail on the grain industry; and
- (5) the means by which the separation between the narrow and the standard gauge network's management will be structured; and
- (6) other matters relating to the proposed sale.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [2.01 pm]: Members will recall that last night I commented on the committee report and remarked that a deal of work had been done on it, but that there was no need for this legislation to go to a committee again. There has been a lot of discussion about the reasons that the freight system should be sold. Early in the piece, before the Government made a decision to go ahead with the freight business sale, a scoping study was done. As a result, the Government made a decision to go ahead with the sale of Westrail freight. A task force was set up which comprised very competent people who have the ability to analyse the requirements for the sale, the business and all the requirements that may well need to be put in place for legislation. It was identified that legislation was necessary, and we are discussing that now. The task force looked at all the issues that had to be assessed on the movement towards that legislation. It identified that if Westrail freight was sold, we would be looking for major growth in the business and for an A class operator that could lift the profile of the business and its operations which would increase competition. With the new independent access provisions by the access regulator there would be an opportunity for others to get involved in the rail system. That would put further pressure on the Westrail rail system because of the opportunity for cherry picking. There is a lack of opportunity for the government system to compete with the pressures that private enterprise may put on the system. Another issue was identified: If a private operator is involved in this process, there is an opportunity to drive down freight rates.

The main indication is that four private operators in the eastern States and one in New Zealand have had an opportunity to improve the infrastructure of their systems and have done that with great benefit to those States and New Zealand and the people there. I might point out that TranzRail in New Zealand was sold in 1993. It has increased its operating ratio by 8 per cent and has added a billion dollars to the New Zealand economy through productivity gains. Its prices have decreased by about 10 per cent. There has been a 37 per cent growth in tonnage, and revenue has increased by 18 per cent.

It also carries milk that formerly went by road. It has invested \$440m over five years, reopened lines and upgraded existing lines. Of course, that expenditure has been of great benefit to the network.

In 1997 the South Australian operation was losing \$50m a year under government ownership and now it is a profitable and tax paying company. Its prices have decreased by between 5 and 10 per cent. The volume is up by 14 per cent. Its grain market share has increased from 35 per cent to over 40 per cent. It has captured the transportation of copper cathodes to the port, removing 100 semitrailer journeys per week from Adelaide's central business district. Over \$60m has been spent on infrastructure and rolling stock. There has been an enormous benefit from the privatisation.

Tasrail has had a similar story. It was sold in 1977. In the first seven months, it achieved a profit for the first time in 127 years. The operating ratio is up by 37 per cent. The prices have decreased by 23 per cent. That is a really good story. The tonnages are up 52 per cent, and the revenue by 53 per cent. It has attracted the transport of timber and construction materials previously carried by road. There is a planned investment of \$40m for infrastructure and rolling stock during the first five years, the reopening of closed lines and the building of a new line to Bell Bay. In response to the growth of that business, employment has increased by 37 per cent. In 1999 the rail freight operation in Victoria was sold. In the first six months it has achieved profitability. Freight prices have decreased by 4 per cent, there are plans to reopen four closed lines and it has done other good work in that area. That clearly shows that privatisation has worked in other areas.

Hon Kim Chance: Only when the rail systems were given away at no cost.

Hon M.J. CRIDDLE: It clearly shows that they are operating in a very good environment.

Hon Kim Chance: Tasrail went for \$15m. It was a gift.

Hon M.J. CRIDDLE: We intend to go with a structure of a shareholder company that will own the assets, and that has the lease of all the Westrail track through subsidiaries and cannot run trains on the standard gauge track in Western Australia. The train service would be split into two companies. It will be able to run trains anywhere in Australia and may have the lease on the narrow gauge track. It cannot lease the standard gauge track.

The track management company must have the lease on the standard gauge track, may have the lease on the narrow gauge track and cannot run trains anywhere. It is ring-fenced under the state rail access regime. The standard track must be leased by a dedicated track management company that does not run trains. The narrow gauge track may be leased by a dedicated track management company or a company which also runs trains.

Much has been said about what is believed might happen under a private rail operator in country areas, particularly in the wheatbelt. I represent that area, as does Hon Kim Chance. I would not do anything that I thought might damage the opportunity for grain to be carried on rail at a reasonable price. As I travel around - I have travelled to quite a few places lately - I have had no indication that people are desperately concerned about this. Just recently I visited Wongan Hill. The people there were concerned only about the structure and how it would operate. There is a real acceptance. People throughout farming communities have moved on from being concerned about who will deliver the services there; the concern now is whether the services will be delivered in a very good manner. We are looking for an A class operator to deliver that service and be a very good corporate citizen in those areas.

While we are focusing on the grain task, we must bear in mind that it is about seven million or eight million tonnes at this time - obviously it will grow - but the total task is about 30 million tonnes of bulk product. That is substantially from the mining industry. Therefore, there is a very large responsibility to shift that material in the mining areas. All the issues we are raising -

The PRESIDENT: Some of the issues the minister is raising now would no doubt be considered by the Standing Committee on Estimates and Financial Operations or in the Committee of the Whole House. This is a referral motion.

Hon M.J. CRIDDLE: That is the point I was about to make. Those issues were dealt with by the committee or can be dealt with in this place when we go into committee. Some members have said that there are many amendments on the Supplementary Notice Paper and that they need time to consider them. It is my intention in committee to deal with two clauses relating to the transfer of appropriation and the independent access regulator. We will not be going into the further amendments on the Supplementary Notice Paper.

There is no need to send this to another committee for review. It is time we made some decisions. I will oppose the motion.

Question to be Put

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [2.11 pm]: I move -

That the question be now put.

Hon Tom Stephens: What a joke!

Question put and a division called for.

Hon Tom Stephens: It is unprecedented.

Hon Kim Chance: You will pay for that.

The PRESIDENT: Order! A division is taking place.

Hon Tom Stephens: What comes around goes around.

Hon N.F. Moore: This is the bit coming around to your side. I have had enough of you!

Hon Tom Stephens: You are showing discourtesy by not telling us what is going on.

The PRESIDENT: Order! The Leader of the House and the Leader of the Opposition will refrain from disturbing the House.

The division resulted as follows -

Ayes (14)

Hon M.J. Criddle
Hon Dexter Davies
Hon Max Evans
Hon Ray Halligan

Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore
Hon Mark Nevill

Hon Simon O'Brien
Hon B.M. Scott
Hon Greg Smith
Hon W.N. Stretch

Hon Derrick Tomlinson
Hon Muriel Patterson
(Teller)

Noes (13)

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

Hon Helen Hodgson
Hon Norm Kelly
Hon Ljiljanna Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens

Hon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer (Teller)

Pairs

Hon Peter Foss
Hon B.K. Donaldson
Hon M.D. Nixon

Hon Bob Thomas
Hon N.D. Griffiths
Hon Tom Helm

Question thus passed.

The PRESIDENT: The question is that the motion moved by Hon Kim Chance be agreed to.

Question put and a division taken with the following result -

Ayes (13)

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

Hon Helen Hodgson
Hon Norm Kelly
Hon Ljiljanna Ravlich
Hon J.A. Scott

Hon Christine Sharp
Hon Tom Stephens
Hon Ken Travers

Hon Giz Watson
Hon E.R.J. Dermer (Teller)

Noes (14)

Hon M.J. Criddle
Hon Dexter Davies
Hon Max Evans
Hon Ray Halligan

Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore
Hon Mark Nevill

Hon Simon O'Brien
Hon B.M. Scott
Hon Greg Smith
Hon W.N. Stretch

Hon Derrick Tomlinson
Hon Muriel Patterson
(Teller)

Pairs

Hon Tom Helm
Hon Bob Thomas
Hon N.D. Griffiths

Hon Peter Foss
Hon M.D. Nixon
Hon B.K. Donaldson

Question thus negated

Referral to Standing Committee on Public Administration

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [2.17 pm]: I move -

That the Rail Freight System Bill 1999 be referred to the Standing Committee on Public Administration and that the House direct the standing committee to inquire into and report on -

- (1) the effect of the conditions which have been agreed between the Government and the Hon Mark Nevill in respect of the Rail Freight System Bill 1999 generally, and specifically;
- (2) the impact of these conditions on the sale price of Westrail assets.

Mr President, you are faced with an unusual situation, because it might be said that in an ideal world this motion would have been an amendment to the earlier motion. However, some unprecedented processes have just been unleashed in this place.

Hon N.F. Moore: They have not and you know that well.

Hon Ljiljanna Ravlich: How desperate are you?

Hon N.F. Moore: I am not; I am simply sick and tired of listening to you!

Hon TOM STEPHENS: I regret that.

Hon N.F. Moore: No you don't; you will not let this place make a decision.

Hon Ljiljana Ravlich: You are a waste of time!

Hon TOM STEPHENS: I regret the situation facing the Chair.

Hon N.F. Moore: You could not care less!

Hon TOM STEPHENS: Members must realise that one important aspect of the procedures of this Chamber is that a majority Opposition is entitled to have every opportunity to put arguments before the House.

Point of Order

Hon GREG SMITH: Is the Leader of the Opposition verging on a breach of Standing Order No 93, which refers to reflections on votes of the Council?

The PRESIDENT: Standing Order No 93 states -

No Member shall reflect upon any vote of the Council except for the purpose of moving that such vote be rescinded.

From what I have heard from the Leader of the Opposition so far, that standing order has not been breached. However, the question which I must resolve at this stage - this is one of the reasons I will continue listening to the Leader of the Opposition - is whether the same rule will apply or whether the mere substitution of "Standing Committee on Public Administration" for "Standing Committee on Estimates and Financial Operations" and the deletion of a number of the terms of reference is an abuse of process of the House. The Leader of the Opposition was quite right in his opening statement when he said that, had someone wanted to move to delete "Standing Committee on Estimates and Financial Operations" and substitute "Standing Committee on Public Administration", that was an option available to the House at that stage. No doubt members would have considered that option. I am prepared to listen to more from the Leader of the Opposition on this matter. However, there is a very strong possibility that I will have to consider abuse of process.

Debate Resumed

Hon TOM STEPHENS: Members of the Labor Opposition want to speak in support of this motion. For the information of the House, we do not propose to take much more time debating this matter, so it was unnecessary for the procedure which has just been utilised to have been drawn upon. Nonetheless, we believe it is appropriate for this Bill to be sent to a standing committee. Now that the House has chosen for it not to go to the Estimates and Financial Operations Committee, another option is for it to go to the Standing Committee on Public Administration. One of the advantages of its being sent to that committee is that it is important that the proposal for the transfer of public administration of an asset, which until now has been handled in the public domain through public administration, be subject to the scrutiny of that standing committee, keeping in mind that some significant new developments have progressed in the way this sale is proposed to be handled. Today in the House the Minister for Transport gave some responses which this House will not have the chance to debate unless the debate takes place right now. The minister will then have a chance to enter into a debate about the proposals and responses he gave to the House on another question which has just been determined by the House.

The PRESIDENT: Order! My problem is that I must consider whether the issues being raised now could have been raised during the last debate when it was proposed that some of the terms of reference be referred to the estimates committee. If I do nothing, when a member loses an opportunity to refer a Bill, someone else could immediately nominate another committee to which it should be referred. If that were to occur, it would be an abuse of process if it became part and parcel of the procedures of this House. The Leader of the Opposition, if I understood him correctly, said something to the effect that he wanted to raise various issues but did not have the opportunity during the last debate and that he was using this opportunity to raise various issues. However, he seemed to indicate that he and some of his colleagues did not intend to spend a lot of time on it.

Hon Tom Stephens: That is correct, Mr President. It will be a brief debate.

The PRESIDENT: As such, it would be in the interests of the House that this debate be adjourned and that the Leader of the Opposition be able to continue his remarks at a later stage of this day's sitting, if that is the wish of the House, to enable the Leader of the House, the Leader of the Opposition and other interested members to discuss the matter. It will also give me an opportunity to consider the question of abuse of process, because the more the Leader of the Opposition speaks, the more I am inclined to say that the procedure now being adopted is an abuse of process. I am not suggesting that he set out to do that; I am just saying that that is the position in which we find ourselves. It would be in the interests of the Leader of the Opposition to adjourn the matter, because if he continues with his comments in the same light, I will have no other option but to declare it an abuse of process. We are all adults and we should be discussing these issues in a proper manner. I leave that option to the Leader of the Opposition.

Hon TOM STEPHENS: I move -

That I be granted leave to continue my remarks at a later stage of this day's sitting and that the debate be adjourned to a later stage of this day's sitting.

The PRESIDENT: I assume that the reason the Leader of the Opposition has moved that motion is that he has heeded my comments. A part of those comments was that the Leader of the Opposition, the Leader of the House and other interested parties discuss the matter. Again, it is up to members to decide. The question now is that the debate be adjourned and the Leader of the Opposition be granted leave to continue his remarks at a later stage of this day's sitting.

Hon N.F. Moore: I am the only person who does not get a say in this.

The PRESIDENT: Standing Order 109 provides that the question to adjourn debate is not a debatable issue. I have made some suggestions and it is up to members whether they take up those suggestions. The question is that the motion be agreed to.

Question put and passed.

Hon N.F. MOORE: On a point of explanation, I happen to be in charge of the next two items on the Notice Paper and I will be sitting in this seat until five o'clock. The point I was seeking to make earlier was that the Leader of the Opposition will achieve his end by ensuring that this matter is delayed for the rest of the day. If that is what opposition members want to do, that is what they will continue to do.

Hon Kim Chance: You did not bother talking to us.

Hon N.F. MOORE: The Opposition gave us a long list of the next speakers, because I asked for it this morning. That is the situation in which we now find ourselves, so, in view of the fact that I am handling the next two items, I cannot guarantee that I can find time to speak with the Leader of the Opposition this afternoon. He has got his way.

The PRESIDENT: The Leader of the House has made his explanation. All members can tell me whether someone can or cannot do something. However, they elected me to be President and therefore to chair the Legislative Council. I try to do that in an impartial manner. Members might not like some of the suggestions I make, but I make them because sometimes I look beyond today. I look to next week. I even look as far ahead as a change of government in the future or a change of composition of the House. I invite members to accept that my comments are made in good faith in the interests of the Legislative Council. I have made my suggestion. The Leader of the Opposition has moved a motion and has accepted an opportunity to talk. The Leader of the House has indicated that he may not be able to find time. I cannot do any more than that. I cannot force people to talk. That opportunity exists and I suggest that everyone in this place approach the business of the House in an adult manner. I cannot ask members to do any more.

ACTS AMENDMENT (SEXUALITY DISCRIMINATION) BILL 1997

Order of the Day Discharged, and Referral to Standing Committee on Legislation

HON HELEN HODGSON (North Metropolitan) [2.30 pm]: Members of this Chamber will be aware that I intend to move a motion on the consideration of the report. I move -

That the order of the day be discharged and the Bill be recommitted to the Legislation Committee for clarification of the committee's recommendations in respect of clause 8 proposed sections 35O(3) and 35P(3) and that the committee report back to the House no later than 2 May 2000.

These particular matters that were raised in the forty-fifth report of the Legislation Committee had optional recommendations, and I ask the committee to clarify which version of the amendments it intended to be incorporated in the Bill.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [2.31 pm]: The Government does not support this motion. The Bill has already been to the Legislation Committee. It has been there since about 1997, so it has had a fair old assessment by that committee. Hon Helen Hodgson knows full well that this House made a decision to defeat clause 1 on Tuesday. Had the process of the House continued, where the report was put forward for adoption, the Bill would have failed. However, because that motion was not moved and the House did not adopt the report, technically the Bill is alive. For all intents and purposes the Bill is dead, and should be dead. The member should accept that it is dead and lost. It was lost for the simple reason it did not have the numbers in the House; it was not a technicality as I heard in the media. The facts are that the House voted against clause 1. If this motion gets up because of a technicality the Bill will stay alive. The technicality is in keeping the Bill around when the House has voted against it. I cannot work out why on earth this member wants to send this Bill off again to a committee that has had three goes at it. The committee came back to the House and reported; the House had a debate and voted against clause 1.

Hon J.A. Scott: It is important to a lot of people.

Hon N.F. MOORE: So is everything else we do in here important to people. A lot of the Bills that the Government brings in here that members opposite knock out are important to people. The way the world goes around is that when a vote is lost that is the end of it - or that is what I would have thought. We have another example today of somebody wanting to use the rules of the House to get their own way regardless of what the majority position happens to be. We have had two examples of that already today. The Government has no intention of supporting this motion. The Bill has already been to the Legislation Committee. It was there in 1997, if memory serves me right. It has been recommitted to the committee on a couple of occasions since. It has come to the House; we have debated it. We had a vote and clause 1 was lost. Now, because of a technicality, the Bill remains alive and the member wants to send it to a committee - to do what? I do not know. Presumably it will come back to the House in due course and the member will want to debate it again, and hope that

next time around she will get the numbers. I do not know. I gave an undertaking to the Australian Democrats that I would bring this Bill on for discussion, as I have agreed with the Greens (WA) to bring on a Bill about marijuana. I have fulfilled my obligations in respect to that matter. If the Bill goes off to a committee and comes back to the House - again by reference to that committee - I cannot give a guarantee at this time that the matter will be discussed in the future. I hope the House will vote against this motion.

HON MARK NEVILL (Mining and Pastoral) [2.35 pm]: This is a procedural motion to keep the Bill alive. The simple fact is that the reason the vote was tied is that I had given Hon Helen Hodgson a commitment but I missed the vote. It was certainly not deliberate, because I would not have turned up for the division shortly after that if there was any deliberate attempt not to do what I said I would do. Hon Helen Hodgson is in order doing this to keep the Bill alive. It is not her fault that the vote was tied; it is mine, and I take responsibility for that. I hope that the Leader of the House does not unnecessarily delay this Bill, as seems to happen with quite a few Bills in this place, and just deals with the problems. It was my fault and my responsibility that this has occurred. I accept that and I hope that we can move on quickly.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [2.36 pm]: The Labor Opposition will support the motion. It acknowledges that it is an unusual procedure, but recognises the unusual circumstances in which the short title was lost; apparently because, as a member has explained, he inadvertently missed yet again another division.

Hon N.F. Moore: You cannot help yourselves. You have the nastiest streak of anybody I know. He is one of your colleagues.

Hon TOM STEPHENS: The Leader of the House should look in the mirror.

The need for the will of the House to prevail is an important issue that the House has before it.

Several members interjected.

The PRESIDENT: Order! The Leader of the Opposition is entitled to speak. I am entitled to hear what is being said.

Hon TOM STEPHENS: It is important that the Government recognises that it would be a travesty if it chose to let this matter languish on return from the Legislation Committee.

HON DERRICK TOMLINSON (East Metropolitan) [2.38 pm]: I was approached by Hon Helen Hodgson to ask my opinion on this and to ask whether I would support it. At the time it sounded like a good idea. I have had some thoughts about that.

Hon Ljiljana Ravlich: And a bit of pressure.

Hon DERRICK TOMLINSON: No, there has been no pressure, because I have not discussed it with anybody. This involves two matters. The first is the manner in which clause 1 was lost. I was not here. I did not vote. I read the *Hansard*. The vote was tied, in which case the Chairman voted to maintain the status quo.

Hon N.F. Moore: No, there is no casting vote in Committee. It is in Committee so the Chairman voted, as he is entitled to do.

Hon DERRICK TOMLINSON: In that case it has not been lost on the vote; it has been lost because it was a tied vote and the convention of the House is to maintain the status quo. What we are talking about is not winning or losing a vote but maintaining the status quo. That causes me considerable concern. Had it been a vote that was won or lost by a majority of one, that would have been a clear decision of the House one way or the other. Here we have no decision of the House, and I do not want to go into who was where, and why not; that is irrelevant. What is relevant is that the vote of the House was a tie and the convention in such instances is that the status quo remain. Under those circumstances I am reluctant to keep the question alive because if I did so I would be overturning the convention of the House.

My second concern is the way in which the matter was debated, because the Bill was before the Legislation Committee for some considerable time. As one might imagine, there were strong feelings on both sides on the matter, but the Legislation Committee, in characteristic fashion, debated the matter objectively and thoroughly. In those objective and thorough discussions there were several matters on which we decided to disagree, but rather than put in a minority report we decided that we would simply report to the House that we could not agree on certain matters, and that these were matters for the House to decide.

The PRESIDENT: I assume that you are giving me this background as you get around to commenting on the specific purpose of the motion, which is to deal with clause 8.

Hon DERRICK TOMLINSON: Those matters which the committee had decided to refer to the House for its decision were not decided, because the procedure was to follow the new standing order, which requires that decisions of standing committees to make amendments become binding on the House. If no amendments are made, the previous decision holds. There were serious matters which I indicated I wanted to debate in detail. That opportunity was not provided. I would like the opportunity to reconsider them. Had the Bill gone back to the Legislation Committee, I would have liked to reconsider them. As it stands, the referral is a single term which precludes the Legislation Committee from doing anything other than consider that matter. If the member wishes to amend her motion so that the matter can be referred to the Legislation Committee, I would consider my position, but I am not prepared to vote to refer the matter when the convention of the House has already been to maintain the status quo.

Question put and a division taken with the following result -

Ayes (14)

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

Hon Helen Hodgson
Hon Norm Kelly
Hon Mark Nevill
Hon Ljiljana Ravlich

Hon J.A. Scott
Hon Christine Sharp
Hon Tom Stephens
Hon Ken Travers

Hon Giz Watson
Hon E.R.J. Dermer
(Teller)

Noes (13)

Hon M.J. Criddle
Hon Dexter Davies
Hon Max Evans
Hon Ray Halligan

Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore
Hon Simon O'Brien

Hon B.M. Scott
Hon Greg Smith
Hon W.N. Stretch

Hon Derrick Tomlinson
Hon Muriel Patterson
(Teller)

Pairs

Hon N.D. Griffiths
Hon Tom Helm
Hon Bob Thomas

Hon Peter Foss
Hon M.D. Nixon
Hon B.K. Donaldson

Question thus passed.

RAIL FREIGHT SYSTEM BILL 1999

Resumption of Order of the Day

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [2.48 pm]: I seek advice on an issue. The House has been considering Order of the Day No 6 and we now know that that has been adjourned to a later stage of today's sitting. The next item that I propose to deal with is Order of the Day No 2, which is a disallowance motion which must be resolved today. In the event that the disallowance motion is in progress at 5.00 pm, a vote will be taken on that, but I am not sure whether the House will get an opportunity to resume Order of the Day No 6. I raise this question in view of the President's suggestion. I wonder how the matter might be dealt with. Can I be given an indication of when the issue might be resolved so that I can return to Order of the Day No 6 before the end of today's sitting?

The PRESIDENT: Let me firstly deal with the question in respect of Order of the Day No 2, which is the disallowance of regulation 6 of the Vocational Education and Training Amendment Regulations (No 2) 1999. Standing orders provide that the question relating to the motion must be put prior to the House adjourning tonight. Irrespective of whether we commence debate on it, at 5.00 pm, the time in the standing orders that I am required to call on the Leader of the House to adjourn the House, I will be putting the question on Order of the Day No 2, with or without debate. If we begin debate on Order of the Day No 2 and are still debating it at 5.00 pm, I will interrupt the debate for the purpose of putting the question. If we begin debate on Order of the Day No 2 and are still debating it at 5.00 pm, it has been the custom of the House for, in this case, outstanding Order of the Day No 6, which is the Rail Freight System Bill 1999, and the proposed referral of that Bill to the Public Administration Committee, to appear on the next day's Notice Paper. It is not as if it will be lost forever.

Hon N.F. MOORE: On the same issue, customs have a habit of being modified over time. If I had my druthers, at this point in time I would move that we go to Order of the Day No 6, the Rail Freight System Bill, and then perhaps seek what Mr President sought to achieve earlier; that is, some resolution of the question of whether the motion moved by the Leader of the Opposition is in breach of the same standing order. I would then not be taking the risk of losing the Rail Freight System Bill on the question of custom. I regret to say that some people in this place do not always abide by the traditions and customs. I do not wish to find myself in a position where that could occur on this occasion.

The PRESIDENT: Let me advise the House, because it seems the House has taken up a suggestion I made. If we begin debating other orders of the day and do not get to Order of the Day No 6 today, I will direct that Order of the Day No 6 appear on the next Notice Paper of the Legislative Council - it will not be lost. If members want to go to Order of the Day No 6 now, they may. If that is the case, then I have a question to resolve and that is abuse of process. I want to leave the Chair and consider some precedents in respect of abuse of process. I am in the hands of the House. Everyone can play games until five o'clock tonight because one thing is certain; if the House does not order otherwise, that is when we will adjourn.

Hon N.F. MOORE: I apologise for delaying this, but the House will understand that I will not risk a Bill being removed from the Notice Paper on a technicality. I understand what Mr President is suggesting he will do. However, if I had my druthers, I would prefer to resolve the issue of the Rail Freight System Bill before we proceed with the disallowance motion.

The PRESIDENT: If that is the case, I would be happy to leave the Chair to consider the options available to me. That will give the Leader of the House, the Leader of the Opposition and other interested members an opportunity to consider some other issues. I will return in due course. That break will assist me and perhaps the Leader of the House and the Leader of the Opposition. Does the Leader of the Opposition wish to comment on this?

Hon Tom Stephens: No, Mr President, but I will be seeking the advice of the Clerk during the period you are away from the Chair.

The PRESIDENT: I will leave the Chair until the ringing of the bells.

Sitting suspended from 2.52 to 4.00 pm

Referral to the Standing Committee on Public Administration - Ruling by the President

THE PRESIDENT (Hon George Cash): On leaving the Chair, I said that in the absence of an agreement on the progress of the Rail Freight System Bill 1999, I would rule on the motion moved by the Leader of the Opposition which proposes to refer the Bill to the Public Administration Committee. The form of the motion raises two questions. The first is whether the motion as it is framed contravenes Standing Order No 170, which forbids the House from entertaining a question which is the same in substance as one that has previously been finally disposed of by the House in the same session. The probation is commonly referred to as "the same question rule".

In deciding this matter I adopt the words of Speaker Whitehead of the New Zealand House of Representatives when he said -

Its purpose (the same question rule) is to prevent a question which has already been decided from being brought up again in an altered form, and its true meaning can be expressed as "having the same effect".

Importantly, so far as this case is concerned, the Speaker continues -

A question is not substantially the same because it contains 4 out of 5 points of the question as originally proposed. The quantitative interpretation cannot be sustained. The important point is the EFFECT of the words, not the amount.

Accordingly, the fact that the later motion is two paragraphs rather than the original five has no bearing on whether the motion is in order. The question is whether both motions achieve the same effect. Looked at from a broad perspective, both motions purport to refer a Bill to a committee. However, the orders of reference in each motion pay no regard to the discrete functions of the estimates committee and the Public Administration Committee. It seems to me that the intent was to get the Bills to a committee, any committee, without regard to the particular roles that the House requires those committees to perform. There is no doubt that both motions have the same effect and it is immaterial that in both cases the attempted reference is to two standing committees. My answer would be the same were the Leader of the Opposition to have moved for the appointment of a select committee, with the same terms of reference as those proposed for the standing committee references.

Similarly, the matter can be placed on the footing that Standing Order No 170 applies in the sense that the House has declined, at this stage, to refer the Bills to a committee, other than a Committee of the Whole House. It is this point which also raises the question of whether the second motion is an abuse of the procedures of the House. As was pointed out, there was every opportunity for any member to move that the Bill be referred to another committee, rather than the estimates committee. All that was required was a simple amendment to delete one committee and substitute another. Given that opportunity and the common knowledge of the House that such an amendment could be offered, it is an unnecessary intrusion on the time of the House to propose, by separate motion, that the original committee is less suitable than another to consider the Bill. Were that to be permitted, it would be open to a member to move the same motion in respect of each committee of the House. That is not the purpose of the rule which permits referral of Bills and other matters to a committee. It is clear from the construction of the two motions that the object in the second case was not so much to secure committee scrutiny as to delay the Bill's progression to the next stage of its passage. I am not prepared to accept, absent terms of reference that distinguish between the functions of one committee and another, that valid grounds exist to refer this Bill to the Public Administration Committee.

Ample provision is made in the rules for motions to be amended to suit the circumstances as the House sees them. Accordingly, any attempt to refer a Bill to any committee for a similar purpose in each case is simply putting the matter up for auction. The motion is bad on two grounds: It offends Standing Order No 170 and abuses the procedures of the House by making into a separate motion that which could have been achieved by amending the first motion.

[Questions without notice taken.]

QUESTIONS WITHOUT NOTICE

Point of Order

Hon TOM STEPHENS: During question time today, I asked a question without notice pertaining to the tabling of information, which was done, and I expressed my appreciation to the minister for doing that. Regrettably, from time to time ministers take a considerable amount of the time of the House by reading off lists which would be better tabled, as did a parliamentary secretary representing a minister during question time today. Is there an opportunity when we are dealing with the tabling of information during questions without notice for the Chair to advise government members that perhaps a way to respond to such a question is either to table the document or else to not table the document but not engage in a lengthy reading out of the detailed information to delay the time of the House?

Several members interjected.

The PRESIDENT: Order! Let us handle things in a proper manner. I have been asked a reasonable question, and I will give a reasonable response. The manner in which a minister and/or parliamentary secretary answers a question concerns

the Chair only if the answer breaches the standing orders. On a number of occasions I have heard questions asked that invite the minister or parliamentary secretary to table a document. On some occasions that occurs; on other occasions, the minister or parliamentary secretary, I assume, believes it is proper for the House to hear the answer, and reads it. I do not have any authority to direct someone to table a document if that member chooses to read the answer. The Leader of the Opposition raised the issue and asked if I would pass the message on, so to speak. I think the message has been delivered. There is not a lot more I can say on that. Standing Order 138(c) deals with replies and states -

A reply shall be concise, relevant, and free from argument of controversial matter.

Equally, questions are meant to be framed in the same way.

STATEMENT BY THE PRESIDENT

Laptop Computer Upgrade

THE PRESIDENT (Hon George Cash): Earlier today I indicated that there has been a potential breach of security in respect of members' laptop computers. I have just received a letter from Mr M.C. Wauchope, Director General of the Ministry of the Premier and Cabinet, which states -

Dear Mr President

As you are aware, as part of the Microsoft Office conversion, upgrading of the Members' notebook computers has been carried out by a contractor employed by Workskills.

It has been brought to my attention that unfortunately, in endeavouring to provide a level of functionality the contractor understood Members required (that is, the ability to share information in their electorate offices), he failed to address security issues which arose when the computers are used in connection with Parliament's network. While a mistake was made, it is considered the contractor was acting in good faith.

A significant number of Members in both Houses were affected, all of whom have been contacted either in person or through their offices, to arrange for the computers to be reconfigured to disable the share facility.

Although the Ministry is not aware of any actual security breach, it is accepted that there was the potential for such a breach to occur. The Ministry is most concerned that this situation has arisen and, as such, has written to the employer of the relevant contractor expressing its dissatisfaction with the outcome.

The Ministry regrets any inconvenience caused to Members of Parliament.

Please do not hesitate to contact me if you wish to discuss this matter further.

Yours sincerely

M C Wauchope
Director General

RAIL FREIGHT SYSTEM BILL 1999

Discharge of Order of the Day

HON KIM CHANCE (Agricultural) [4.40 pm]: I move -

That Order of the Day No 6 be discharged from the Notice Paper.

Hon N.F. Moore: You know what you are doing to the processes of the House.

The PRESIDENT: Order! This is a valid motion. However, I advise members who contemplate speaking on it that such a motion does not enable them to canvass the second reading of the Bill again. They must give concise, pertinent reasons for the Bill to be discharged. This is not a wide-ranging debate on the merits or otherwise of the Bill.

Hon KIM CHANCE: Thank you, Mr President. I am pleased that you have advised me and other members of the limits on this motion. It is a matter to which I have had to give some thought, although I have not had much time to think about it.

The changes that have been made to the Bill and the agreements made between the Government and Hon Mark Nevill have so altered its function as to create a sufficiently different piece of legislation -

Hon Mark Nevill: What nonsense!

Hon KIM CHANCE: - from that which we debated at the second reading stage and from that which was the subject of a referral to the Public Administration Committee. There are significant changes. As I pointed out - I do so only by reference - in my earlier motion, some of those changes are such that the Government is now presenting an argument 180 degrees from that which it put in respect of the original Bill. It has completely turned around.

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

Hon Mark Nevill: That is not correct.

Hon KIM CHANCE: If that is not correct, I ask members to look at what the Bill provides. It provides that the standard gauge system -

Hon N.F. Moore: Let us get on with the Bill and we will provide the answers.

Hon KIM CHANCE: It is a shame that the Government would not allow this matter to be debated on the last motion. However, it appears from my reading of what we have before us that two separate managers of the rail system have arisen directly from these amendments. If I am wrong, let someone tell me.

Hon M.J. Criddle: Let us get into the committee stage.

Hon KIM CHANCE: Hear me out! The Minister for Transport responded prior to the Leader of the House's gagging the motion and denying me the opportunity to close the debate on this issue. I raised this matter during debate on the motion preceding this motion and, in responding to opposition points about substantial differences in the legislation as introduced and now, the minister said that there is no substantial difference between the two versions. He did not address the question raised; that is, that we are now dealing with a proposition that hives off the standard gauge unit.

Hon M.J. Criddle: I gave you an outline of exactly what it was.

Hon KIM CHANCE: The minister did not acknowledge the difference, which is what we asked him to do. There is a substantial difference. There is dispute now about whether my reading of the Bill is correct. I still claim that mine is a fair interpretation. It is not an argument that I intend to pursue at this time, because that would be improper. Had we been able to go through this process in the proper way - as the Opposition had started to do - we could have had it out. Some members of the Opposition now believe we are faced with an entirely different Bill, or a Bill of a substantially different nature from that which has already been through the second reading stage, the second reading vote and a committee reference.

I do not think it is the same Bill. I am no longer satisfied that we have before us legislation that is substantially the same as that originally introduced. There is one simple solution to that; that is, to discharge the Bill and start again. I can understand why members might find that an appalling prospect. I acknowledge the huge amount of work that has gone into trying to get this deal together. However, clearly there were faults in the process from the beginning and shortcomings in the way the Government proposed to do this. To get to a position in which the Government could command a majority in this House, it has had to change the process. However, the changes are so fundamental as to cause this House to call, with reason, for the legislation to be discharged at this stage. If the Government wishes to do so at some time in the future, it can reintroduce it. The Australian Labor Party would have no objection to that.

Hon W.N. Stretch: And hold it back another year.

Hon KIM CHANCE: The member is trying to divert me. I will not put the President in a position whereby he must tell me I am wandering from the core of the motion. I have no intention of talking about this forever. I do not know whether another speaker will make a contribution after me.

Hon Tom Stephens: I will speak.

Hon KIM CHANCE: I intend to sit down now.

Several members interjected.

The PRESIDENT: Order! There is too much audible conversation in the Chamber.

Hon KIM CHANCE: I want to ensure that everyone, including my colleagues, understands the parameters of this debate, so that they do not draw your wrath, Mr President. Those parameters are extremely narrow and revolve around why this Bill should be discharged. There is one simple and clear reason I can think of - members can perhaps think of others: It is substantially and fundamentally different from the legislation the House has already considered.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [4.49 pm]: My comments about this motion will be brief. Today in this Parliament we should have had the opportunity for consideration of a debate in which arguments would flow across the Chamber about the foreshadowed motions which were to reach this place and about their impact on the Bill that is before this Parliament. For a whole range of reasons, some of which are the offensive tactics which have been employed, that has not happened. As a result, there is a real risk that the community of Western Australia will be faced with the prospect of a deal being struck between the Government and a renegade member of the opposition benches, which is not subject to all of the glare of public scrutiny that it should otherwise be subjected to before this legislation is passed. In particular, it seems incumbent upon this Government to go back into the regions of this State which will be affected by this new deal to consult much more widely than with only one member of this House and to ensure that all of the constituent elements of the affected communities are aware of the arrangements that are being struck and their impact on those communities. Why is it that the people of Wongan Hills, for instance, for whom the minister spoke recently in his reply, should be deprived of the information about what is contained within the agreement between the Government and that member before the Bill goes through? Why can those people not have the opportunity to reflect upon that agreement to decide whether they should in turn, go to their representative members - Hon Kim Chance and other members from that region - to see whether some additional issues should be included in any agreement which is struck prior to this Bill

becoming law? Why should the people of Wongan Hills not have the opportunity to have their representative members advance their case in the same manner as that which has been granted for one member representing one part of this State? That is an additional reason that the motion currently before the Chair should be seriously entertained. Why can this Government not expose itself to the full glare of public scrutiny and assessment of the new directions upon which it has embarked? My preference would be for this Bill to be discharged and for it to become an election issue. We are now in the lead-up to the next state election. My preference would be for this motion to be carried and for the Government to be left with the task of -

Hon Barry House: That is not a reason for it to be discharged.

Hon TOM STEPHENS: Yes, it is. That is why I would like the House to support this motion.

Hon Barry House interjected.

Hon TOM STEPHENS: There is nothing wrong with being transparent unless one is a member of this Government. This Government has an obligation to be transparent. I have watched the Government for nearly two terms. I have watched it go to the polls deceitfully in the past. Now it gets the chance to say to the people of Western Australia, "Vote for us. We are the party that will privatise everything that moves, including Westrail freight, given the opportunity." This is the opportunity for this Government to give the people of Western Australia a chance to say whether they are persuaded by the arguments and the deal making that has gone on with this Bill and whether they will give those currently on the Treasury benches another chance at controlling an agenda such as the privatisation of Westrail. In places like Wongan Hills and throughout much of the bush in Western Australia, people have had enough of this agenda, and they want to give the Government that message in no uncertain terms.

Hon W.N. Stretch: Have you been to Wongan Hills?

Hon TOM STEPHENS: No, I have not. However, I am happy to take this Bill out there before it passes through this House. I would prefer to take the Bill out to Wongan Hills before it becomes law. I would prefer that the people of Wongan Hills have a chance to tell Hon Kim Chance whether they are satisfied with the deal that has been struck between the Government and the renegade member for the Mining and Pastoral Region who was elected on an anti-privatisation campaign and strategy.

Hon Mark Nevill: Nonsense!

Hon TOM STEPHENS: I led the anti-privatisation campaign in that region.

The PRESIDENT: Order, members! One member at a time should speak so I and others can hear what is being said. The Leader of the Opposition's comments about other members are not relevant to why this Bill should be discharged.

Hon TOM STEPHENS: There is a case for discharging this motion now to ensure that at the end of the process of discharging this Bill, the Government has the decency to see whether the people of Western Australia want to entrust it with a mandate for handling the Government agencies, instrumentalities and that part of the social infrastructure of this State that Westrail represents and whether they are prepared to leave the Government with the opportunity of pursuing its agenda. I commend the member for moving his motion, and I hope that the House will support it.

HON MARK NEVILL (Mining and Pastoral) [4.57 pm]: I oppose the discharge of this motion. There has been no substantial change to the Bill. It is still a Bill to sell Westrail freight. In my speech at the second reading stage I made clear the path which I would require the Government to go down before I would agree to the privatisation of Westrail. I was opposed to the Bill as it stood, and I would not have supported it. An amendment which clearly sets out what I would do about the standard gauge railway land has been on the Notice Paper since November. My speech indicated that I wanted the Australian Rail Track Corporation to be able to bid. The upgrading of the lines would normally be in a lease document.

The PRESIDENT: That is not a matter which can be discussed at this stage. If the Bill is discharged, it can be reinstated only after the giving of requisite notice. The only way the member can talk about the lease and the other matters is if we go into Committee on the Bill. We are now talking about whether the Bill should be discharged, not about whether a lease should or should not operate.

Hon MARK NEVILL: I was just about to relate this to the next election as the Leader of the Opposition did, so it all comes together in a coherent package. The Opposition is not putting forward an alternative to which people can respond, and that is the problem. There is a vacuum there and the problem is clear. There has been no attempt to put any amendments on the Notice Paper of this House to offer the people of Western Australia some alternative. The Opposition knew that the Bill had a good chance of being passed if the Government could get my support, so it should look at how it can get the best outcome for that Bill. The Opposition has not done that. All it has done is call me a rat and all sorts of names over the airwaves in the past two days. There has been no attempt to address the policy situation.

Debate adjourned, pursuant to standing orders.

VOCATIONAL EDUCATION AND TRAINING AMENDMENT REGULATIONS (No 2) 1999, REGULATION 6

Disallowance Motion

The following motion by Hon Helen Hodgson was moved pro forma on 7 December 1999 -

That Regulation 6 of the Vocational Education and Training Amendment Regulations (No 2) 1999, published in the *Gazette* on November 5 1999, and Tabled in the Legislative Council on November 11 1999 under the *Vocational Education and Training Act 1996*, be and is hereby disallowed. (TP 376)

Question put and a division taken with the following result -

Ayes (13)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport

Hon G.T. Giffard
Hon Helen Hodgson
Hon Norm Kelly

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

Hon Ken Travers
Hon Giz Watson
Hon E.R.J. Dermer(*Teller*)

Noes (14)

Hon M.J. Criddle
Hon Dexter Davies
Hon Max Evans
Hon Ray Halligan

Hon Barry House
Hon Murray Montgomery
Hon N.F. Moore
Hon Mark Nevill

Hon Simon O'Brien
Hon B.M. Scott
Hon Greg Smith
Hon W.N. Stretch

Hon Derrick Tomlinson
Hon Muriel Patterson
(*Teller*)

Pairs

Hon Bob Thomas
Hon Tom Helm
Hon N.D. Griffiths

Hon Peter Foss
Hon B.K. Donaldson
Hon M.D. Nixon

Question thus negatived.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.05 pm]: I move -

That the House do now adjourn.

Standing Order No 110 - Adjournment Debate

Hon N.F. MOORE: I would like to take a moment to mention a couple of matters. The motion I moved today that the question be put - it used to be a motion that the House do now divide - is called the closure motion, and is Standing Order No 110. I invite members to read the debate in *Hansard* at page 11868 on Tuesday, 12 April 1994 which saw that standing order introduced into this Parliament. It was agreed to unanimously. It was designed to replace previous Standing Order No 110 which was a straight out guillotine motion in which there would be an automatic vote once the motion was moved, and no possibility for consideration to be given as to the fairness of the guillotine being used. Paragraph (c) of new Standing Order No 110 provides that the Chair, at its discretion, may decline to put the motion and a decision is final and not subject to dissent, debate or comment. The then Leader of the Opposition, Hon John Halden, agreed to this standing order on behalf of the Labor Party on the basis that that paragraph was added to the closure motion, which meant that the Chair could exercise a discretion to ensure that any guillotine or closure motion was in fact fair. That was so the Chair did not simply move a guillotine after one person had spoken on an issue, which would be grossly unfair. It is the obligation of the Chair to make an assessment as to whether enough people had been given an opportunity to make a judgment about a particular issue before he would allow this motion to be voted upon. That new standing order was agreed to by both sides of the House without debate, other than the mover who was you, Mr President, as Leader of the Government in those days, and Hon John Halden as Leader of the Opposition. There was further debate on the motion, and it was agreed to without division.

I used that standing order today because I believed that enough people had spoken on a particular issue, and the House agreed with me. However, I have learnt my lesson. It seems that we have lost the goodwill that was around when that standing order was brought in. I invite members to read the debate and what Hon John Halden said in those days, which was about trying to help the House get through its business. Hon John Halden stated -

We had come to a position which did not allow members to filibuster but allowed for suitable scrutiny of legislation. I believe that has been achieved in this matter.

This standing order is designed to avoid filibuster but at the same time allow people to have their say. I believed today when I moved the motion that members had had enough time to have their say on what is effectively a procedural motion to refer a particular matter to a committee. The House agreed with that, but the Opposition did not. I have been told that I will wear this. I will wear whatever happens to me in this place and that is a fact of political life. If members opposite do not want this standing order they should think about what might happen down the track. Governments come and go; Oppositions come and go and numbers change from side to side. This standing order was put in at the requirement of both sides of the House to provide that the House get through its business expeditiously. That is why it is there, and why it was used today. I can give members on my side of the House an assurance that I will not use this again as long as I can help it. However, we should not have standing orders that members believe should not be used.

If Hon Kim Chance ever sits on this side of the House and feels that members are filibustering - I can guarantee they will -

he should not get up and say that some standing order should stop this from happening. Hon Kim Chance knows as well as I do that that will happen in the future. He knows why as well as I do, because he was here and he voted for this standing order.

Hon Kim Chance: It was an improvement on what it replaced.

Hon N.F. MOORE: That is exactly right. Anybody is entitled to use it as I did today. I acknowledge that it got noses opposite out of joint, because this is an issue on which they want to filibuster and avoid making a decision. That is what it is all about. I invite members to read that short debate to know how we got the standing order, so they know why I used it today. It was on the basis that five or six members had spoken; every party had spoken, including the Government, and it was my view that we had had enough debate and it was time to get onto the debate itself.

Carnarvon Flood Assistance - Adjournment Debate

Hon N.F. MOORE: On the adjournment debate we have only a certain amount of time and I did not get a chance to respond last night to Hon Tom Stephens and Hon Kim Chance about Carnarvon. A suggestion was made by those members that the levee banks in Carnarvon were put in place by this Government. The first lot of levee banks around Morgan Town were put in after the 1960-61 flood, which was the worst in living memory. There were no levee banks then and the whole of Carnarvon was flooded - the town, east Carnarvon, the plantations, the whole works. The 1980 flood, which I also witnessed, occurred after the levee banks were constructed. That was worse than the recent flood because the whole of East Carnarvon was flooded - the residential areas, small businesses and so on. A study was carried out by Sinclair Knight Merz Pty Ltd, which recommended a levee that went along the south bank of the Gascoyne River down to Browns Range to protect all of East Carnarvon. The growers on the north side of the river vigorously opposed that because they felt it would take away the north bank of the river. Instead, the East Carnarvon levee and the Boundary Road levee were constructed in 1988 after the plan was agreed to in 1984. The Opposition was in office in 1988. That is the levee people are now complaining about because it caused the water to bank up and flood the plantations in a way that had not happened before. They may well be right, but the 2000 flood level at the bridge is still lower than the 1960 floodwaters. It was not quite as high, but it is the worst flood in 40 years. There were two floods in a row in 1960 and 1961, so it was a double whammy. There is a view that the levee banks caused the water to be higher in the plantation areas. There seems to be a valid argument that the levees added to the problems in the plantation area. However, at the same time, they protected East Carnarvon. If members look at the photographs of the 1980 flood and compare them with the 2000 flood, they will see that the East Carnarvon levee protected a lot of properties, although it may well have had a detrimental impact on the plantations. There is no doubt the river is moving north; that is what happens when levees are provided on the south bank. Instead of trying to score political points like the Leader of the Opposition tried to do last night in a disgusting way, we should sensibly try to work out a solution. I always say that nature should not be mucked around with in the form of a river delta. Rivers always go in the direction they want. When people try to protect something, there will always be an adverse effect somewhere else. We must work out where the drainage channels should go and get rid of properties in that area to allow the drainage to take place in a proper, unimpeded way. I saw a house with a drainage channel right through it. Three-quarters of the house was underwater. The house was in a plantation in an area on a map prepared by the Water and Rivers Commission which shows that the area ought to be a floodway. Those things should be attended to. Nobody has done that in the past because when a town floods, everybody worries like hell at the time and rushes around fixing things. Once the floodwaters recede, everybody goes back to normal and hopes it does not flood again. This Government has been unfortunate that Carnarvon has flooded three times while in office.

Hon Tom Stephens: There could be a lesson there.

Hon N.F. MOORE: Yes; God has said we need water in this country and that is happening as a result of the Government. However, the Government has dealt with these three floods in a fair and equitable way. Topsoil has been replaced, which was not the case in 1960 and 1980. The problem is that the topsoil will be down the river and out to sea on the other side of Dorre Island in a few years. Replacing topsoil is a short-term solution, which Hon Kim Chance understands. We must look at the long-term solutions. I hope we can get a bipartisan approach to this.

Hon Kim Chance: I hope so too.

Hon N.F. MOORE: That would be better than the point-scoring exercise we were exposed to last night, which I found outrageous.

Hon Ken Travers: The Leader of the Opposition should be invited to inspect the floods.

Hon N.F. MOORE: It is his electorate. He can fly up there at government expense.

Hon Ken Travers: I meant the Leader of the Opposition in the other place.

Hon N.F. MOORE: The Leader of the Opposition, Dr Geoff Gallop, can fly there at government expense anytime he likes, just like I did the day after it happened. I am going up there again tomorrow. There is no problem with the Opposition going there; I believe Hon Tom Stephens turned up.

Hon Tom Stephens: They will bring out the ambulance when the Leader of the House goes there. They think it must be an emergency for the Leader of the House to visit his electorate.

Hon N.F. MOORE: It may well be, but I am happy to be there when there is an emergency, rather than in Parliament trying to score a few points. We need to look at the history of the situation and not try to exaggerate it or change it through motions in the House.

Standing Order No 110 - Adjournment Debate

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [5.13 pm]: I refer to a couple of matters that have been raised by the Leader of the House in his adjournment motion. When talking about the gag motion, as it is known, and the debate that took place in 1994, the Leader of the House should keep in mind the context in which that motion was agreed to by the Opposition. The motion was accepted because it was an improvement on what existed and because some protections would be built into the system.

The House needs to remain ever vigilant when a motion like that is being moved and I am pleased that the Leader of the House is saying that he will not be rushing to move such a motion again, but that does not preclude other members on his side from trying it. It means that the point of order -

Hon N.F. Moore: I will bet you a bottle of Grange that one day you will do that.

Hon TOM STEPHENS: What does a bottle of Grange cost? The last bet I had with a Liberal was for a case of wine in the lead-up to the 1996 election in Meekatharra. He did not pay up. The bet was with Ross Atkins, who bet me that the Government would not introduce a gold royalty. I am still waiting for the case to arrive.

Hon Kim Chance: Are you registered on a list of creditors?

Hon TOM STEPHENS: I have reminded him a couple of times. I think I will take that bet, although I do not know what a bottle of Grange Hermitage is worth. It will be an added incentive for me to never use it. Having made the bet and having it recorded in *Hansard*, I will now have to find out what a bottle of Grange Hermitage costs.

The PRESIDENT: All I can say is that I hope that no bets are officially made, otherwise I may have to step in.

Hon TOM STEPHENS: When such a closure motion is being considered I do think it is appropriate for the Chair to consider a point of order when there is the prospect of amendments being made to motions that are otherwise precluded from being moved because the closure motion is before the House. I recognise that puts the Chair in an awkward situation and that the Chair is left with having to read the mind of the members of the House when there is the potential for an amendment motion. The exercise today has proved that there are many ways to skin a cat. Although there are some red-headed members of the Chamber who have a "Go get 'em, boys" approach when it comes to these issues, I was just trying to make sure that members who have that approach realise that there are many ways to skin a cat and it is not worth the effort. I appreciate the answer given to the House earlier by the Leader of the House in relation to the issue raised by Hon Kim Chance.

Carnarvon Flood Relief - Adjournment Debate

Hon TOM STEPHENS: I appreciate that members were offended by my comments last night about the issue of politics in flood relief situations. Today I received the following letter which I will read to the House because it raises a large number of concerns which I hope will be raised for other members -

Dear Tom

I would like to take this opportunity to thank you for taking the time to visit with us and our neighbours during your recent trip to Carnarvon.

It was great to speak to someone who actually seem to care about the plight of ordinary people like ourselves. It's a shame our local MLA, Mr Sweetman, doesn't seem to have the same feelings!

After your visit on Monday evening, I forwarded a letter to our local Director of Works and Services at the Shire of Carnarvon to tell him of our situation. A copy of the letter is enclosed for your information. Some time shortly thereafter I received a phone call from Rod Sweetman's office advising that the decision would be made regarding the payment of funds for those people seeking financial assistance some time on Tuesday and that I would receive a call from Mr Sweetman either Tuesday afternoon or Wednesday morning. At this time, I advised Mr Sweetman's secretary that the funds were really not the issue but rather that we required the soil to help rebuild the foundations of the house as our first priority. Some 20 minutes after that I received a call from Bruce Walker from the Shire of Carnarvon advising that between himself, Mark Lewis at Ag WA and Rod Sweetman, a decision would be made regarding the issue of financial assistance. He recommended that I get a supply of sand for the house as soon as possible and that between the Shire and Ag WA, they would foot the bill. I then received a fax to confirm this (also attached).

However, later that same evening I received a visit from Mr Sweetman at our property. His purpose of the visit he said was to assess the damage done. During his "assessment" he made references as to how he could not believe that the Shire had gone to the trouble they had for us when he was the Chairman of the Top Soil Committee whose purpose it was to visit each individual property damaged by the flood to assess for topsoil replacement.

Hon Kim Chance: Mr Sweetman is the chairman?

Hon TOM STEPHENS: Yes. The letter continues -

He was not impressed with Bruce Walker for making a decision regarding our property.

His parting words were "Well I've seen what I want" and I was left in a state of bewilderment and outrage that I

could be treated in such a manner. I was made to feel that our small property was of no significance whatsoever and that the plight of the plantation owners was the most important issue of all. Whilst I sympathise with each and every person who has been affected by this flood, I am devastated by what happened to our property.

Since then I have heard nothing from anyone. We are making plans to start fixing the foundations of the house this weekend.

Hon Barry House: Will you table that letter?

Hon TOM STEPHENS: I am happy to table the extracts I have quoted.

Hon Muriel Patterson: Why not the original?

Hon TOM STEPHENS: That person put her name to the letter and I will not divulge her name without her authority. If that letter does not start ringing alarm bells in the minds of all members of this House, nothing will.

Hon Muriel Patterson: Not at all, without a signature.

1. Hon TOM STEPHENS: The letter has a signature. Taxpayers' funds are to be available for that community and when a person approaches the shire to access financial support through the topsoil committee or the personal plight fund, the responses and the assessments are made by the local member of the coalition who hangs onto the seat by approximately 94 votes. That member has now been made chairman of the topsoil committee and is intimately involved in the decision making for the disbursement of emergency funds in that community. What a disgrace. What a politicisation of the emergency situation facing those local residents. By what right does the Government politicise this emergency in such a way?

With reference to another issue raised by the Leader of the House earlier, before we went to Carnarvon I asked to speak with the flood recovery committee. That opportunity was not made available to me or my colleague Hon Kim Chance. The flood recovery committee appears to be run by the coalition member for that area, and he does only that which is permitted. Apparently that committee does not involve itself in meeting with other members of Parliament who represent that area.

I return to the implementation of the report on the implementation of a flood mitigation scheme for the Gascoyne River. Dr Doug Mcghee, who many members know, carried out a study on behalf of this Government which was tabled in August 1999. The report outlines a path of action that the experts have devised and recommended to government to be implemented in that community. To date not one step has been taken towards implementing the recommendations of the McGee report. I agree there should be a bipartisan approach to the needs of that community, but in relation to that, the Government should not embark upon the strategies used on this occasion; that is, totally ignore the needs of that community until there is a crisis and then politicise the use of taxpayers' funds to respond to that need.

Health Services - Adjournment Debate

HON SIMON O'BRIEN (South Metropolitan) [5.24 pm]: I am seeking some recognition and assistance for Mr and Mrs Park of the suburb of Queens Park. I will refer to them as Les and Judy. Health is perhaps the most emotionally charged area of public policy. It is an area which most people do not access on a day-to-day basis and when they do it is because either they or a family member is sick or injured and suddenly health becomes the most important issue in one's life. In a time of stress, confusion, anxiety and other strong emotions people often judge health services critically, impatiently and angrily. The role of a doctor or nurse in a public hospital is not an easy one. I know that because when I was a young adult I worked in a hospital on shifts behind the scenes for 18 months. I have seen what happens and things do not change in terms of human interaction. Doctors and nurses have heavy responsibilities and face constant demands and general aggravation. Some handle it better than others, but they all deserve our support. It is a tough job and I want to ensure that the doctors and nurses get our support. I am concerned that many of our health professionals could get some more support from the middle management in our public health system, in particular with the culture which deals with patients and patients' families. In some cases the managers are letting down the health professionals who are at the frontline.

Judy Park was first diagnosed as having a heart condition when she was in her early 20s and the past 20 years have been a struggle. Les and Judy have two young adult children and it has been a struggle all the way. There have been many incidents over the years. I do not intend to go into the clinical issues of the Park case because they are and have been the subject of review by competent medical authorities and I do not profess to enter that discussion. I am concerned about the human dimension and the effects on a family. In 1997 Judy Park was in a bad way. She had received life saving medical attention from the experts and the skilled operatives in our health system, particularly at Royal Perth Hospital. She had received that treatment but was in a bad way. She was in the heart ward and receiving an intensive form of treatment. In due course and despite being sicker than ever, Judy Park was removed from the heart ward and taken to a quieter area. There was no discussion about it; that is just what happened. When a patient is being treated in an aggressive way to deal with a complex and dangerous health condition, there is consultation with the family all the way. The family is told what is being done and can see by the sense of urgency that things are being done for their loved one. However, in passive treatment without any other form of communication or advice, the absence of that sense of urgency communicates to the family that, "We have given up; we have put this person to one side to die. We have made that decision."

I ask members how it is that we can have a health system which is so good yet it contains a culture which says the health professionals as the temporary custodians of patients can make decisions about whether patients are actively treated or left

to die without reference to the family. Many doctors in that situation might call the family in and say, "Les, Richard, Leanne, your wife and mother is very sick and we think that if we proceed with any form of treatment, it will kill her." That is a hypothetical situation, but the alternative might be to put her to one side and she might pull through or at least they would have her for a bit longer. All sorts of options can be presented to the family and they can be told to go away and think and talk about it before coming back to talk again as it is a difficult decision. Families agree and then ask the doctor what he thinks they should do. However, it is not up to medicos to make that decision without reference to the family if for no other reason than the family will not be satisfied. It could then become an ongoing issue as it has in this case.

The Parks said that they wanted treatment for Judy, and they demanded it, and it went on and on, with the Parks insisting but with the treatment not being changed until the last minute, when Les insisted once more and there was a move to a different type of treatment. As a result, in the long term Judy came home, but she is an invalid and is in a very bad way. The Parks contend that that was added to greatly by the fact that there was a period - indeed, almost up to her imminent death - when she was not treated aggressively and positively even though the family was urging the medicos to do something about it. Judy is very ill. She is chair-ridden and cannot walk. She is suffering from incontinence, and part of the treatment for her heart condition is diuretics, which of course exacerbates that troublesome condition. The Parks are short of money. They are full-time carers. They love Judy, their wife and mother. They want her to be with them for as long as she can be, and who knows how long that will be, but they also need quality of care. They need some additional resources in recognition of the treatment that they claim they have suffered at the hands of the health service bureaucrats - not the doctors, but the people who have refused to recognise that some of the decisions that were made were poor and should not have been made in that way.

The tip of a chest cavity catheter was left in Judy's back when she came home from the hospital. That issue was settled, and in a letter dated 23 November, the Office of Health Review wrote to Mr and Mrs Park suggesting that the Health Department doctor had agreed to talk to his insurer about an in-principle amount of \$45 000 to cover all past treatment and legal fees. However, that did not come to fruition. There was a \$18 000 settlement in respect of the catheter tip, but it was nowhere near the \$45 000 to compensate for all of the trouble, needs and wants and legal fees that the Parks have incurred.

On 17 January 2000, the Director of the Office of Health Review wrote to the Parks saying -

I refer to your letter of 12 January 2000, giving approval for your wife's case to be used by this office in discussions with the Metropolitan Health Services Board about the development of protocols for interaction between medical staff and families of patients who have a serious complex illness.

Good on the Metropolitan Health Service Board for now moving to address this problem and to develop a protocol. The director said also -

I will now take this matter up with the Board.

It was a good enough case to be used as a textbook case to develop protocols, yet he said also -

I will also write to Royal Perth Hospital and advise that this office does not intend to take any further action in respect of the treatment aspect of your complaint, but that I intend to raise the issue of communication identified in your complaint with the Board.

On the one hand, the Parks have a letter that clearly supports their view that they have a valid claim for compensation. However, I am not sure that it is really compensation that they are after. They want a hand, and they want someone to acknowledge that they could have been treated better. The Health Consumers' Council WA summed it up for me when it wrote -

It has been with considerable concern and bemusement that we have observed the handling of this case by the Office of Health Review, where it appears that more effort has been spent seeking to avoid dealing with the matters raised than in progressing the case towards a resolution.

That raises an issue that I intend to follow up.

Department of Productivity and Labour Relations - Adjournment Debate

HON G.T. GIFFARD (South Metropolitan) [5.34 pm]: I will speak briefly tonight on the prosecution policy of the Department of Productivity and Labour Relations. I will refer to a matter that was originally brought to the attention of Hon Ljiljanna Ravlich by one of her constituents. I do not propose to go into who the particular employee was, nor do I propose to go into the details of who the employer was. I do not have a grievance or a difficulty with either of the parties. My concern relates to the policy of the Department of Productivity and Labour Relations as it was manifested in this case.

The inquiry by Hon Ljiljanna Ravlich resulted in a letter from the Minister for Labour Relations, which set out the reasons that the department chose the course of action - or lack of action - that it did. Essentially, it was a reasonably straightforward matter whereby an employee had made an allegation of underpayment of wages. On investigation, the department indicated that there probably was an underpayment of wages, but because the employee did not keep any records - an employee is not obliged to - of the time worked or the amounts paid, the department could not prove the breaches. Because the employer failed to keep the time and wages records that under the award it was required to keep, there was no evidence that the department could use in court proceedings to establish the underpayment. Therefore, the department decided that it would not proceed with a prosecution for the underpayment of wages. My serious concern is

why the department did not proceed with a prosecution for a failure to keep time records, as an employer is required to under the award.

The explanation from the department was essentially that DOPLAR was satisfied that the actions of the employer did not constitute a wilful breach of the record-keeping requirements under the award. In her correspondence to Hon Ljiljanna Ravlich, the minister said -

The Department's decision to prosecute is taken on a case by case basis. The factors contributing to a decision to prosecute include the probability of the employer committing further breaches, the nature of and reasons for the breaches, the previous history of the employer with respect to award breaches, and the wider public interest.

On that basis, DOPLAR decided not to proceed. I take the view that many of the considerations that DOPLAR cites as reasons for not wanting to pursue a prosecution are matters that should be rightly put before the court in determining the severity of any penalty the court might impose on an employer, which in this case had clearly breached its obligations under the award.

Earlier, I was thinking about what the criteria might be. I will offer what I think are probably two important considerations that DOPLAR should take into account before it decides whether it will launch a prosecution against an employer or anyone else under the Industrial Relations Act. Those are, first, the likelihood of success of any potential litigation; and, secondly, the seriousness of the offence. I do not propose that every time DOPLAR has some technical or minor breach brought to its attention it should proceed to prosecution. That would be a waste of many people's time and would be a bit of a nonsense. I do not suggest that at any point. However, the failure to keep time and wages records, which is a very serious matter, is not something that comes into that category. I am not the only one who says that. There is a long line of authority in the industrial relations jurisdiction which establishes that. I refer briefly to a matter before the Full Bench of the Western Australian Industrial Relations Commission between Graham McCorry and Bolivia Nominees Pty Ltd trading as Ballajura Tavern. In that matter the Full Bench noted, and cited with approval *Hennessy v Keetleys Tours Pty Ltd* 30 ALR 125 (FC). A decision of the Full Bench of the Western Australian Industrial Relations Commission, which is pertinent to this matter, states -

French J found that there was a serious breach of the law by the respondent company which had failed to keep its employees time and wages records. It was also guilty of underpayments to two employees. For each breach a penalty of \$750 was imposed. That was where there was, in the Court's opinion, an approach taken "in flagrant disregard of its obligations and the rights of its employees".

I agree with the Full Bench's decision in that matter. The failure to keep proper time records is a serious matter. It strikes me as extraordinary that the Department of Productivity and Labour Relations, when it has had detailed before it a clear offence of a serious nature by an employer, would decide to exercise all the discretions that courts should exercise and to not proceed with a matter to prosecution. That is entirely inappropriate and, as I indicated earlier, the department should review its prosecutions policy. The two criteria I mentioned - likelihood of success and seriousness of the offence - are probably two of the primary considerations. Considerations such as whether the employer is likely to re-offend or the extent of the breaches are matters for the court to determine, as is whether it will order a penalty and the severity of that penalty.

A very important point that members must understand is why it is a serious offence. If an employer fails to fulfil its obligations and fails to maintain proper time records, in the event of an underpayment - unfortunately there are far too many underpayments - an employee has very little recourse to recover money owing. Because of the evidentiary burden, if there are no records, an employee cannot prove the extent of the underpayment; one must prove particular breaches in a court. It is, therefore, a very important breach, it is a fundamental duty of an employer and it is potentially damaging to the interests of employees for whom employers have a responsibility.

I therefore ask the Government to review its prosecutions policy as it is clearly inadequate. The Government may say that its policy is serving the public interest; however, it is most certainly not serving the wider public interest.

Question put and passed.

House adjourned at 5.43 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

721. Hon E.R.J. DERMER to the Attorney General representing the minister assisting the Treasurer:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon PETER FOSS replied:

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

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

730. Hon E.R.J. DERMER to the Attorney General representing the Minister for Police:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon PETER FOSS replied:

Please refer to the answer given to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

731. Hon E.R.J. DERMER to the Attorney General representing the Minister for Emergency Services:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon PETER FOSS replied:

Please refer to the answer given to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

739. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Employment and Training:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon N.F. MOORE replied:

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

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

747. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Disability Services:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

748. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Women's Interests:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

755. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Primary Industry:

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

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

- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

756. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Fisheries:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

757. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Local Government:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?

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

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

758. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Family and Children's Services:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14/10/99.

GOVERNMENT DEPARTMENTS AND AGENCIES, YEAR 2000 COMPLIANT

759. Hon E.R.J. DERMER to the Minister for Transport representing the Minister for Seniors:

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

- (1) Which agencies have their mission critical systems Year 2000 computer problem compliant?
- (2) Which agencies do not have their mission critical systems Year 2000 computer problem compliant and by what date is it estimated that each of these agencies will have their mission critical systems Year 2000 computer problem compliant?
- (3) Which agencies have completed inventories of systems and equipment?
- (4) Which agencies have not completed inventories of systems and equipment and by what date is it estimated that each of these agencies will have completed these inventories?
- (5) Which agencies have indicated that their current funding is sufficient for addressing the Year 2000 computer problem?
- (6) Which agencies have indicated that their current funding is insufficient for addressing the Year 2000 computer problem and for each of these agencies what action is being taken to address the funding insufficiency?
- (7) Which agencies have developed appropriate contingency plans for dealing with the Year 2000 computer problem?
- (8) Which agencies have not developed appropriate contingency plans for dealing with the Year 2000 computer problem and by what date is it estimated that each of these agencies will have developed appropriate contingency plans?

Hon M.J. CRIDDLE replied:

Please refer to the answer given to question on notice 732 of 14/10/99.

NURSING POSTS ON ABORIGINAL COMMUNITIES, STAFF CONDITIONS AND REMUNERATION

1318. Hon MARK NEVILL to the Attorney General representing the Minister for Health:

- (1) What annual leave is provided to staff who work at Nursing Posts on Aboriginal communities?
- (2) What is the minimum standard of accommodation provided?
- (3) What annual airfares are provided?
- (4) Is a vehicle provided?
- (5) What relocation expenses are met for nursing staff?

Hon PETER FOSS replied:

- (1) Employees are allowed four weeks annual leave at ordinary rates of pay on completion of each twelve months continuous service. Employees employed in areas north of the 26th parallel of south Latitude are entitled to one week's additional annual leave. A continuous shift employee will receive an additional one week leave for each period of 12 months continuous service as a continuous shift employee.

Ten Public Holidays.

Two weeks in-service training additional to the Study leave provisions, at least one week shall be in a major centre. Employees who wish to undertake further professional or personal development may elect to receive 80% of the wage prescribed over a period of four years, thus ensuring an income (80%) during the year they undertake either professional or personal development.

Nurses who work in localities falling within Group A are entitled to one week's isolation leave after the completion of each twelve weeks in a remote area. Provided that the fourth such week in any year shall be taken in conjunction with a period of annual leave. Remote areas are defined as places which are geographically isolated from public amenities, community services, acute hospital facilities and (usually) medical practitioners.

Group A:

- Coonana
- Gibb River Mobile
- Kalumburu
- Lombadina
- Looma
- Noonkenbah
- Nullagine
- One Arm Point
- Oombulgurri
- Tjuntjunjarra
- Wangkatjunka
- Warmun
- Yandeyarra

- (2) The employer will provide suitable furnished accommodation for any employee appointed to a site where it is impracticable for these employees to return to their usual place of abode each day. All reasonable attempts will be made by the employer to ensure that each employee's privacy is preserved and except where it is impracticable or where the employee otherwise agrees, shared accommodation will be avoided.
- (3) Employees stationed above the 26° South Latitude are entitled to a travel concession, the amount payable must not exceed the cost of a return economy flight to Perth for persons for whom the concession is payable, regardless of the mode of travel used or the employee's destination.
- (4) Yes.
- (5) On employment the Employer will negotiate relocation expenses that may include but not be confined to:
 - Airfare
 - Family relocation
 - Travel expenses
 - Transporting personal effects
 - Return costs

Where an employee is recruited from interstate or overseas, the costs of air travel and freight on personal effects will only be met by the Employer where the employee enters a bond to remain for a fixed period.

ABORTION, BREAST CANCER RISK

1401. Hon E.R.J. DERMER to the Attorney General representing the Minister for Health:

- (1) Will the Minister for Health acknowledge that the Health Department of Western Australia 1998 publication entitled "*Medical Risk of Induced Abortion and Carrying a Pregnancy to Term - Information for General Practitioners*" states with reference to "Melbye M, Wohlfahrt J, Olsen J, et al. Induced abortion and the risk of breast cancer. *The New England Journal of Medicine*; 336, 81-85 (1997)" that "In a landmark study of 1.5m

Danish women, information derived from registries showed no increased risk of breast cancer in women who had undergone induced abortions.”?

- (2) Will the Minister acknowledge that the paper “Melbye M, Wohlfahrt J, Olsen J., et al. Induced abortion and the risk of breast cancer. *The New England Journal of Medicine*; 336, 81-85 (1997)” found a statistically significant increase in risk of breast cancer among women with a history of second-trimester abortion?

Hon PETER FOSS replied:

- (1) The study by Melbye M, Wohlfahrt J, Olsen J.H, et al entitled *Induced Abortion and the Risk of Breast Cancer* concludes “Induced abortions have no overall effect on the risk of breast cancer.”
- (2) It is recognised that the Health Department of Western Australia presents a summary of the *Melbye et al* article and as such does not expressly reflect this specific finding of the study. The authors expressly advise that these findings be interpreted with caution. *Melbye et al* conclude that induced abortions have no overall effect on the risk of breast cancer.

LOCAL GOVERNMENT, RATES FOR RETIREMENT VILLAGE UNITS

1413. Hon CHERYL DAVENPORT to the Minister for Transport representing the Minister for Local Government:

- (1) Are local government authorities able to charge rates for retirement village units that are owned by or vested in charitable institutions?
- (2) If so, what is the historical reason for this circumstance?

Hon M.J. CRIDDLE replied:

- (1) Under section 6.26 (2) (g) of the *Local Government Act 1995* land is not rateable if it is used exclusively for charitable purposes. Local governments assess each property on its merits on the use of the land and whether or not it is used exclusively for charitable purposes.
- (2) This exemption follows the long held practice that charitable operations should be exempt from rates.

QUESTIONS WITHOUT NOTICE

GOODS AND SERVICES TAX, STATE MODELLING ESTIMATE

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

I refer to the \$50m in savings the Commonwealth believes the State Government will enjoy as a result of the goods and services tax and a claim made by the Premier last October in the Parliament that, while this figure was based on commonwealth modelling, the Government has gone to a consultant for the state modelling and should have that done by Christmas", and ask -

- (1) What does the state modelling estimate the impact of the GST on government costs to be?
- (2) Will the Leader of the House table the expected impact for each department; and, if not, why not?
- (3) Will the Leader of the House table any analysis undertaken; and, if not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The GST will have no impact on agency input costs, because like business, they will claim credits from the Australian Tax Office. The Western Australian Treasury has contacted Econtech, a highly regarded economic modelling consultant which is also assisting the Australian Competition and Consumer Commission and all other States and Territories to work with WA general government agencies to estimate the cost reductions expected from lower fuel taxation and from suppliers passing on savings of wholesale sales tax. This will help agencies and Western Australian taxpayers fully reap the benefits of tax reform.
- (2) Initial modelling work has been completed but the estimates are now being finetuned in current budget discussions with agencies. The results of this assessment of the impact of the goods and services tax and associated reform measures on agency budgets will be reflected in the state budget to be tabled in May.
- (3) See answers (1) and (2).

CYCLONE STEVE, FINANCIAL ASSISTANCE TO TRUCK DRIVERS

868. Hon TOM STEPHENS to the Minister for Transport:

Further to the question asked last week regarding financial assistance to truck drivers affected by cyclone Steve, can the

minister advise the outcome of the meetings between his ministerial staff and the Premier's office last week, and what level of financial assistance the State Government is proposing to provide to the truck drivers?

Hon M.J. CRIDDLE replied:

Meetings were held last week. This is a complicated area because if one starts singling out and giving compensation to one group as opposed to another, there could be some ramifications well into the future. The member knows that in the Kimberley there may be considerable ramifications right throughout the area for businesses as well as for truck drivers. We have not come to a final resolution on that issue and consideration is still being given to it.

CARNARVON, PERSONAL DISTRESS AND RELIEF PACKAGE

869. Hon KIM CHANCE to the Leader of the House representing the Premier:

I refer to a question of which notice was given in question without notice 821. I ask the Leader of the House if he is now able to answer the question which I asked yesterday? For the guidance of the Leader of the House, I ask the following -

- (1) Can the Premier confirm that, while standing on the front verandah of Mr David Dicks' house, where clearly water did not pass through the house, he told Mr Dicks that he would be eligible for personal distress and relief package assistance?
- (2) In the light of the Premier's answer the day before yesterday, can the Premier guarantee that Mr Dicks will receive this assistance; and, if not, why not?
- (3) If it was never the Premier's intention that that household would receive assistance, why did he say that it would?
- (4) Will the Government now clarify its intention in relation to this program, particularly in the light of the Premier's answer the day before yesterday? Specifically, is assistance available to those householders where floodwaters have not actually entered houses, but where floodwaters have caused significant and costly damage to grounds, gardens, fences etc, and left buildings and yards in a dangerous and unsafe condition?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

I apologise for yesterday but I simply did not have an answer. The member spent some time in the adjournment debate telling me that I had misled him and I was not prepared to answer questions. The member did not ask me the question, he asked the Premier. There was obviously an error in the process and I now have an answer for the member which I am sorry is a day late.

- (1)-(4) The Premier met many people in Carnarvon when he visited the area last Wednesday and discussed the problems caused by the flooding. He made no specific promises to individuals other than that the Government would be providing a range of relief measures for those eligible to receive assistance. The Premier explained to many people he met that a local recovery committee would be established to manage the overall recovery processes and that it would be responsible for setting criteria based on well-established natural disaster relief arrangements and assessing what assistance should be provided. Mr Dicks has been allocated \$2 600 to assist in the restoration of his property.

NORTH FREMANTLE GRAIN SILOS

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

Further to the minister's answer to my question without notice of 21 March regarding the North Fremantle grain silos -

- (1) Did any studies specifically examine land use based on the retention of the grain silos?
- (2) Will the minister table these studies? If not, why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1)-(2) As part of the inner harbour port development plan conducted by recognised international and national consultants, the lack of container storage space was recognised as a constraint on the inner harbour port operations reaching optimal capacity. Work undertaken as part of a heritage assessment of the Co-operative Bulk Handling grain silos confirmed that with completion of the export facilities in Kwinana in 1976, the silos have not been used for the export of grain from the inner harbour since 1979. Alternative uses which involve public access are not possible given the location of the silos in and adjacent to port operational areas which handle hazardous cargo. Therefore, the Fremantle Port Authority did not conduct any studies which examined land use based on the retention of the silos.

A case study done in Fremantle indicated quite clearly that the growth in the requirement for containers since 1990-91 has been something like 11 per cent a year. About \$12b worth of trade goes through the Fremantle complex every year and 5 700 jobs are provided as a result of port activities.

Hon Tom Helm: Containers don't, do they?

Hon M.J. CRIDDLE: Members would understand that container trade is growing rapidly throughout the world. Another 1 200 went out each month earlier this year principally because of the grain facility at Kewdale; a lot of grain is going into containers there for export. I emphasise the importance of the Fremantle port to Western Australia. Those figures serve as recognition of that point.

PROSTITUTION, POLICE USE OF ROAD TRAFFIC ACT

871. Hon HELEN HODGSON to the Minister for Transport:

Does the minister support the proposed use of the Road Traffic Act for the policing of street prostitution in the East Perth area by way of random vehicle searches?

Hon M.J. CRIDDLE replied:

I have not researched that element. It falls into the area in which the Minister for Police might have some interest. I need to give some consideration to whether we include that in the budget.

WEEDS AND FERAL ANIMALS, LAND TRANSFER TO ABORIGINAL LANDS TRUST

872. Hon MURIEL PATTERSON to the minister representing the Minister for Primary Industry:

Can the minister outline who ultimately takes responsibility for problems such as an exotic weed outbreak and feral animal control on lands transferred to Aboriginal organisations such as the Aboriginal Lands Trust?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question. The Agriculture and Related Resources Protection Act 1976 provides for control of the regulated/declared plants and animals in Western Australia. For private land, it is the responsibility of the occupier of any land to make all reasonable attempts to control declared plants or animals on that property. For public land, the responsibility to control regulated/declared plants and animals rests with the relevant state or local government authority which controls that land. As a government statutory authority, the Aboriginal Lands Trust is responsible for the control of declared plants and animals on all freehold, leased and reserved land within its control.

POLICE SERVICE, COMMERCIAL CRIME UNIT

873. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Police:

I refer to the need for increased expertise in the Western Australia Police Service commercial crime unit which was reported to have been identified by Assistant Commissioner Tim Atherton in December last year. What action has the Minister for Police subsequently taken to meet this need?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The responsibility for tackling computer and e-crime lies with the computer crime investigators within the commercial crime division of the Western Australia Police Service. The Police Service is acutely aware of the role and importance of a credible and robust information economy to the economic growth of Western Australia and the region. It recognises the vital role of law enforcement in ensuring the integrity of government and business processes and community safety and security. In recognition of the real potential for criminal exploitation of new and emerging technologies and cross-jurisdictional differences, it has been resolved to establish an electronic crime steering committee comprising several commissioners, including Commissioner Matthews, which will take direct responsibility for this critical and urgent issue. The steering committee is to develop a draft Australasian law enforcement electronic crime strategy by June 2000. In addition, the issue of e-crime and the law enforcement response will soon be considered by the Australasian Police Ministers Council.

In relation to resourcing, the computer crimes investigations section is made up of staff with relevant qualifications in computer science. In addition, two technical experts have recently been added to assist with e-crime investigations. The Government and the Police Service are committed to combating computer and electronic crime. In June 1997, the Government specifically targeted white collar crime by allocating \$1.65m over four years for the purchase of equipment and ongoing computer training.

ABORIGINAL HERITAGE SITES, BURRUP PENINSULA

874. Hon TOM STEPHENS to the Leader of the House representing the Minister for the Arts:

I refer to this week's ABC *Four Corners* program and the reference to the apparent disruption and destruction of Aboriginal rock carvings on the Burrup Peninsula during the construction of Woodside Energy's North West Shelf project.

- (1) Will the minister table a copy of the agreement which was struck around 1980 between Woodside Energy and the Western Australian Museum in relation to the disruption and destruction of Aboriginal heritage sites on the Burrup Peninsula?
- (2) If not, why not?

- (3) What steps has the State Government taken to ensure that this cultural heritage is properly catalogued, that the catalogues are secure, and that the rock carvings are appropriately protected?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1)-(2) Woodside Energy's applications under the Aboriginal Heritage Act 1972 to disturb Aboriginal sites on the Burrup Peninsula were processed through the Aboriginal Cultural Materials Committee under the Minister for Aboriginal Affairs at the time. These files were transferred to the Aboriginal Affairs Department in 1994 when the Aboriginal sites department ceased to be part of the museum.
- (3) A detailed cataloguing program was carried out by salvage archeologists in the early 1980s. The protection of Aboriginal sites lies within the jurisdiction of the Aboriginal Affairs Department and the Minister for Aboriginal Affairs.

SUBCONTRACTORS, PAYMENT BY HEAD CONTRACTORS

875. Hon LJILJANNA RAVLICH to the Minister representing the Minister for Works:

- (1) Does the Government have a responsibility to ensure that subcontractors working on government projects are paid by the head contractor?
- (2) If yes, will the Government introduce a system whereby the statutory declarations submitted by head contractors can be checked to ensure that subcontractors are paid?
- (3) If no to (2), why not?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) No. The Government, as the principal to works contracts, has a direct contractual responsibility to pay the head contractor. The head contractor may have various contractual arrangements with its subcontractors, including payment arrangements such as advanced payment or deposits, to which the principal is not a party, and it is not required to enforce such arrangements under the terms of government works contracts.
- (2)-(3) Not applicable.

STUDENT POPULATIONS AND TEACHER NUMBERS

876. Hon J.A. COWDELL to the parliamentary secretary representing the Minister for Education:

- (1) Will the parliamentary secretary table the student population and number of teachers employed at each of the following schools for the years 1999 and 2000 -

Mandurah Senior High School;
 Coodanup Senior High School;
 Pinjarra Senior High School;
 Mandurah Primary School;
 North Mandurah Primary School;
 Dudley Park Primary School;
 Falcon Primary School;
 Glencoe Primary School;
 Greenfields Primary School; and
 Halls Head Primary School?

Hon BARRY HOUSE replied:

I thank the member for some notice of this question.

Students	Semester 1, 1999	Semester 1, 2000
Mandurah Senior High School	1 411	1 496
Coodanup Senior High School	852	806
Pinjarra Senior High School	614	624
Mandurah Primary School	294	274
North Mandurah Primary School	589	622
Dudley Park Primary School	726	662
Falcon Primary School	787	825
Glencoe Primary School	718	710
Greenfields Primary School	564	605
Halls Head Primary School	437	579

Note: Student numbers for semester 1, 2000, are provisional and still to be validated.

Teachers	Semester 1, 1999	Semester 1, 2000
Mandurah Senior High School	93.40 FTE	100.08 FTE
Coodanup Senior High School	60.64 FTE	57.03 FTE

Pinjarra Senior High School	44.84 FTE	45.36 FTE
Mandurah Primary School	15.20 FTE	15.08 FTE
North Mandurah Primary School	26.48 FTE	26.60 FTE
Dudley Park Primary School	31.73 FTE	28.37 FTE
Falcon Primary School	33.94 FTE	35.58 FTE
Glencoe Primary School	29.80 FTE	30.37 FTE
Greenfields Primary School	24.04 FTE	23.69 FTE
Halls Head Primary School	21.97 FTE	24.26 FTE

CYCLING VELOWAY, COMPLETION

877. Hon GIZ WATSON to the Minister for Transport:

With regard to the promised cycling veloway -

- (1) Will the minister indicate what moneys have been allocated for completion of the veloway?
- (2) When is work expected to be completed?
- (3) Is this completion date according to schedule?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) An amount of \$9.2m has been allocated to the construction of the principal shared paths - formerly veloways - within the metropolitan area. This allocation is within the \$25.5m stage 1 of the Perth bicycle network program.
- (2) Stage 1 of the principal shared paths will deliver 26.7 kilometres of off-road paths linked by low traffic streets to form 64 kilometres of routes from Perth city to Fremantle, Armadale and Midland. The existing path serves Joondalup. Stages 2 and 3 of the Perth bicycle network will deliver continuous paths along the metropolitan passenger rail reserves. Work on stage 1 is expected to be completed by December 2001.
- (3) The Perth bicycle network stage 1 is progressing according to schedule, being some 70 per cent completed as at March 2000. A total of 5.56 kilometres of principal shared path is completed, with an additional 14.1 kilometres under design and construction, scheduled for completion in December 2000.

MOTOR VEHICLES, POWERS TO SEARCH

878. Hon NORM KELLY to the Leader of the House representing the Minister for Police:

Further to the minister's response to question without notice 852 asked yesterday -

- (1) Will the minister list the relevant sections of the Road Traffic Act and Police Act and/or the regulations of these Acts that provide powers regarded as being adequate to stop and search vehicles where certain circumstances exist?
- (2) Will the minister explain the "certain circumstances" to which he referred in yesterday's answer?
- (3) What sections of the Local Government Act would be utilised to allow for the establishment of roadblocks and random searches of private vehicles?
- (4) Will the use of the above powers be regarded as a trial to ascertain whether they are sufficient to deal with the street-working issue in East Perth?
- (5) If so, will the minister report the results of the trial to Parliament?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Section 66(1), Road Traffic Act;
Section 53(1)(b), Road Traffic Act;
Regulation 202, Road Traffic Code;
Regulation 205, Road Traffic Code; and
Regulation 109, Vehicle Standard Regulations.
- (2) Section 66 of the Road Traffic Act empowers police to stop any vehicle and require the driver to provide a sample of his breath for a preliminary test. Section 53(1)(b) of the Road Traffic Act requires a driver to stop his vehicle when called upon to do so by police. Regulation 202 of the Road Traffic Code requires a driver to obey a hand signal or reasonable oral direction given by police. Regulation 205 of the Road Traffic Code requires a driver not to obstruct any member of the Police Force who is exercising any of the powers vested in him or performing any of the duties imposed upon him under the provisions of the Act or of these regulations or of any bylaws under the Act.

Hon Ljiljanna Ravlich: Table it.

Hon N.F. MOORE: I did not ask the question; I am just trying to provide the answer.

Regulation 109 of the Vehicle Standards Regulations empowers police to examine and test drive a vehicle and

requires the driver not to obstruct the examination or test. Section 49 of the Police Act empowers police to stop, search and detain any vehicle upon which there shall be reason to suspect anything stolen or unlawfully obtained may be found.

- (3) Section 3.50(1) of the Local Government Act empowers the local authority to wholly or partially close a thoroughfare to the passage of vehicles. It does not provide any power to search.
- (4) This is but one strategy being considered and the results will be evaluated on an ongoing basis.
- (5) No. It is not a trial but a strategy being considered to address community concerns in relation to its safety and security.

KIMBERLEY COLLEGE OF TAFE, ENROLMENTS

879. Hon GREG SMITH to the Leader of the House representing the Minister for Employment and Training:

Will the minister provide details of -

- (1) The total number of students enrolled on a full-time basis in the Kimberley College of TAFE;
- (2) The level of student satisfaction with this college; and
- (3) The percentage of graduates who found employment compared with the state average?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) In 1999, a total of 3 053 students were enrolled, of whom 321 were full-time students.
- (2) The overall student satisfaction with the college's courses was 87.17 per cent.
- (3) Seventy-seven per cent of the college's graduates were employed subsequent to full-time study compared with a state average of 71 per cent.

ROTTNEST ISLAND AUTHORITY, PRINTING TENDER

880. Hon TOM HELM to the Minister for Tourism:

I refer to a tender called for the provision of printing services to the Rottnest Island Authority in February-March 1999 which had a closing date of 11 March 1999, and ask -

- (1) Were all the bids non-conforming?
- (2) If not, why was the tender not let to any of the bidding companies after the tender had been called?
- (3) What is the name of the company or companies presently doing printing services for the Rottnest Island Authority and why has the authority or the Government continued to use its services after deciding earlier to call tenders for that work?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) No.
- (2) The bids received came from a wide range of service providers and offered an equally wide range of service options and prices indicating that the industry may require further detail on the Rottnest Island Authority's requirements. It was not possible to draw a fair comparison between the bids.
- (3) The Rottnest Island Authority's printing needs are currently met by -

Creative Page
E M Complete Printers
Worldwide Online Printing
Hawthorn Press
Frank Daniels
Precise Printing
HWA Printing
Boss Complete
Datanet
Swanweb
M & M Print
Picton Press
Snap Printing

The Rottnest Island Authority has undertaken a process of reviewing its corporate image and publications and finalising its printing needs. The authority expects to return to the market in the middle of this year to satisfy its printing needs for the next three years.

YABURARRA NATIVE TITLE CLAIM

881. Hon TOM STEPHENS to the Minister for Mines:

- (1) Will the minister table the following information in respect of the Yaburarra claimants -
- (i) Which exploration and mining tenement applications or other Mining Act 1978 applications have been subject to Native Title Act right-to-negotiate procedures?
 - (ii) For each of these applications, what is the name of the mining company involved?
 - (iii) In each case, who has negotiated on behalf of the claimants?
 - (iv) For which of these applications have right-to-negotiate procedures concluded?
 - (v) In which specific negotiations with the claimants were Department of Minerals and Energy officers involved?
 - (vi) What were the dates of this involvement and the names of the departmental officers involved?
 - (vii) If the department was not involved, why not?
- (2) Given that the issue is a matter of public controversy, why did the minister fail to brief himself properly so that he would be in a position to answer questions without notice on this issue yesterday?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) (i)-(ii) The member should refer to paper No 811.
- (iii) The claimant's representative, according to the National Native Title Tribunal register extract, has been and was still listed as at 4 February 2000 as Mr David Johnston for the legal firm of Macdonald Rudder.
- (iv) Mining Lease 47/407 - Ms Joyce Drummond - granted as a result of section 34 NTA agreement.
- (v) See comments in paper No 811.
- (vi) I see no need to name departmental officers who are going about their normal duties for the department. I refer the member to paper No 811.
- (vii) Not applicable.
- (2) When this matter was recently highlighted in the media I was informed by the department that, in respect of my responsibilities under the Mines portfolio, it saw no need for me to be given a special briefing on any of the issues that had been raised. There have been no actions involving the Mining Act or Native Title Act procedures for which the department is responsible that it considers irregular. There has also been no evidence that the department felt required investigating or reporting to me as a concern. Regarding Mineralogy Pty Ltd, the mining leases containing its resource were granted prior to the right to negotiate in the Native Title Act coming into operation and, as a consequence, there is no basis for the innuendo connecting native title claims to the grant of the company's resource leases. I seek leave to table the documents.

[See paper No 811.]

FOREST PROTESTERS

882. Hon CHRISTINE SHARP to the Attorney General representing the Minister for Police:

Can the minister please table the new policy guidelines for dealing with forest protesters developed by the police in conjunction with the Department of Conservation and Land Management?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. There has been only one initial meeting between the Department of Conservation and Land Management, the new Ministry for Forest Products and the police, and firm policy guidelines are still being developed. In the meantime, district and local police will continue to enforce the law with the same degree of fairness and impartiality that has so far been the hallmark of this dispute. District police have finite resources and these are deployed by the district superintendent on a priority needs basis. Where there is a requirement or need for police to attend any incident involving the logging issue, they will attend; however, their other duties and policing commitment to their local community must also be taken into consideration.

KIMBERLEY DIAMOND COMPANY, DISPUTE WITH ARGYLE DIAMOND COMPANY

883. Hon MARK NEVILL to the Leader of the House:

What involvement has the Leader of the House had in his capacity as Minister for Mines in the dispute between Kimberley Diamond Company and Argyle Diamond Company over Argyle Diamond leases, or has it been left entirely to the Minister for Resources Development; and, if so, why?

Hon N.F. MOORE replied:

The issues to which the member refers relate to state agreement Act matters. As a consequence, most of the decisions that have been made in those issues are made by the Minister for Resources Development who has responsibility for the state agreement Act. A decision on the Ellendale leases was made by the Minister for Resources Development pursuant to the state agreement Act that Argyle Diamonds had met its obligations under the Act and, therefore, in his view it was entitled to be granted mining leases over what was previously a mineral claim, if my memory serves me right. There were a number of minerals claims, and this company was seeking to have them converted to mining leases. As the person responsible, the Minister for Resources Development concluded that Argyle Diamonds had met its obligation under the state agreement Act. In my view, it was not for me to take a different point of view, and I subsequently granted the mining leases over the Ellendale area to Argyle Diamonds as I felt it had met its obligations under the state agreement Act and, therefore, was entitled to have the tenements granted.

PRIME MINISTER, VISIT TO CHAMBER OF COMMERCE AND INDUSTRY BUILDING**884. Hon G.T. GIFFARD to the Attorney General representing the Minister for Police:**

- (1) Can the minister advise when the investigation by Superintendent Dick Lane into the police response to the visit of the Prime Minister to the Chamber of Commerce and Industry of Western Australia building was completed?
- (2) Given that only the key recommendations of this investigation have been made public, will the minister table a copy of Superintendent Lane's full report?
- (3) If not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) It was on 3 March 2000.
 - (2) No.
 - (3) As mentioned in the media release, for operational reasons, the commissioner did not intend to outline exact details of deployment during the police response. For similar reasons, the report will not be made public; however, the commissioner would be happy to arrange a confidential briefing for the member. I do not have with me the media release; however, I will provide it to the member in due course.
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