



Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE COUNCIL

Thursday, 16 March 2000

Legislative Council

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

VOLUNTARY EUTHANASIA LEGISLATION, SUPPORT

Motion

Resumed from 15 March on the following motion moved by Hon Norm Kelly -

That -

- (1) The Legislative Council supports the need for an appropriate form of voluntary euthanasia legislation to be passed by Parliament, in recognition of the public support for, and use of, forms of voluntary euthanasia currently being practised in Western Australia.
- (2) The text of the Voluntary Euthanasia Bill 1998 be referred to the Legislation Committee for the purpose of determining whether its provisions provide a suitable basis for any change in the law relating to voluntary euthanasia.

HON NORM KELLY (East Metropolitan) [11.04 am]: I was commenting yesterday on the guidelines published by the Health Department for the treatment of patients with HIV-AIDS and the procedures which carers can provide to those patients when they request intervention at the end of their lives. The final point that I listed yesterday was for the carer to share with the palliative care team the patient's situation and to request support and advice from that team. The critical question is: What advice can be given? A number of doctors to whom I have spoken who are opposed to a legal form of voluntary euthanasia believe that it is more beneficial to preserve the laws as they are, so that they can continue their practice without any legal safeguards or restrictions and to maintain that practice between them and their patient. In an ideal situation that has a great deal of merit. However, it limits the ability of some patients to openly access the help and intervention they so desire.

Having talked to a couple of doctors who perform a great deal of work in the area of HIV-AIDS, I am aware that they are very much attuned to the pain and suffering which their patients must endure. We must ensure - this is more for the medical associations to consider - that medical professionals have the required training and expertise to deal with these situations. I agree there is a need for better quality palliative care programs, increased funding, additional support for carers and extra respite options. Unfortunately, although the palliative care field, like some other health fields, receives federal and state funding, it requires private fundraising to provide optimum palliative care. I believe Western Australia is held up as one of the better States in Australia which provides good palliative care to people. A few weeks ago I was pleased to attend the opening of the Crawford Lodge in Nedlands, which is a new facility built so that cancer patients undergoing treatment have good residential facilities where they, and their families if necessary, can be in a supportive environment close to where they are receiving treatment.

Voluntary euthanasia should be regarded as part of the continuum of possible treatment options for pain relief rather than as a mutually exclusive alternative. Although drugs can be effective in a majority of cases to address the physical pain, mental and psychological pain is not only far more difficult to treat but also to quantify. Because of the impossibility of objectively quantifying suffering and pain that a patient experiences as a result of a medical condition, the assessment of the criteria must necessarily be subjective.

In a radio interview yesterday in which I took part, I listened to Peter O'Meara, a member of the Right to Life Association Western Australia, state that palliative care is the answer in all cases and is sufficient to override any concerns about requests for voluntary euthanasia. It appears that this gentleman is out of touch with the palliative care providers who readily identify that, although palliative care can provide adequate respite and relief in the majority of cases, there will always be cases when the best palliative care available is still unable to address the problem.

Experience in the Netherlands has shown that pain is rarely in itself a reason for a patient to request voluntary euthanasia. The Rummelink study found that pain was mentioned in a significant number of cases but was rarely put forward as the sole reason behind the request for voluntary euthanasia. The most frequent reasons given for patients requesting voluntary euthanasia were loss of dignity and debilitation. For a proportion of terminally ill patients pain relief or life-sustaining options address only part of their suffering. That was a finding of the Rummelink study. It is important to realise that it is necessary for the patient himself or herself to determine what is a bearable amount of pain to suffer. That level will vary from person to person and is compounded by that individual's life experiences and belief systems.

Advances in medicine this century provide the medical profession with the tools to prolong life to a far greater extent than was previously possible. However, members of the community must ask whether the ability to prolong life amounts to an improvement in our quality of life. In the search for an answer to this question we must recognise that our actions as part of a society must not override an individual's personal choice and self-determination over his or her own body.

I encourage members to support this motion. For the supporters of a legal form of voluntary euthanasia, I believe the motion provides a sensible and practical way to investigate the issue of a legal form of voluntary euthanasia. The referral to the Standing Committee on Legislation provides scope for that committee to fully investigate not only what is contained

in the Voluntary Euthanasia Bill 1998 but also to examine the issues surrounding voluntary euthanasia. If this motion is successful and that Bill is referred to the Legislation Committee, I would like to see that committee embrace the whole issue of euthanasia. I can foresee a need to call for public and private submissions so all aspects of voluntary euthanasia can be covered. Opponents of a legal form of voluntary euthanasia need to address how they intend to deal with the current practices which are taking place on a regular basis. As I said yesterday, an estimated 200 people die from active voluntary euthanasia each year in this State. Although those 200 deaths are not as obvious as those on the road each year, they represent a comparative number of people.

Hon M.J. Criddle: Too many on the roads.

Hon NORM KELLY: That is for sure. I look forward to informed, rational debate on this issue and to responding to any questions or concerns put forward in the debate. It is disappointing that it has taken two and a half years to get to a point where we can have a debate about this. However, irrespective of support for or opposition to the motion, it is critical that, as representatives of the community, we debate this issue to its fullest extent in order to properly represent the views of our constituents. I encourage all members to support the motion.

HON CHERYL DAVENPORT (South Metropolitan) [11.15 am]: There is no doubt that motions or Bills which deal with moral law reform are some of the most difficult matters that we as legislators must handle. In that way this motion is no different from the Bill I had carriage of in this place almost two years ago. I also fail to understand why it takes us so long to debate a piece of legislation or a motion dealing with a matter such as this. We have known about the motion for the past two and a half to three years; it has been on the Notice Paper for a long time. To be honest, I think we put ourselves through a lot of pain and suffering by not tackling these issues head on when they first come forward. I know how difficult it has been for Hon Norm Kelly to bring this motion before us and I congratulate him. It is high time we had a public debate on this issue because from my personal experience - I will touch on that later in my contribution - this is an issue which needs to be debated. Ways need to be found through the matter so we can deal with the issues because the medical practitioners, nurses and paramedics have, to some extent, taken the law into their own hands to alleviate the suffering of some very critically ill people who were no longer able to control their destiny.

These issues are very difficult. Gay and lesbian law reform has been on the Notice Paper for some time. I know the Attorney General has been trying to bring forward a Bill on de facto property rights. The question of prostitution law reform was half addressed in a Bill we dealt with in this place last year. These are all issues of moral law reform which need to be tackled. The circumstances involved in changing these laws and the fact that conscience votes often prevail when decisions on them are made lead us to be fearful of tackling these things head on. In the case of the abortion law reform which came into this place two years ago, I have no doubt that had there not been a medical imperative within the community for us to deal with that issue, there is no way it would have been debated in this Parliament. I am under no illusion about that. At the time, I had developed an amendment Bill which would not have dealt with a straight repeal. I had my Bill ready to take into my party room prior to the charging of the two doctors in 1998. However, I am not under any illusion - I would have had great difficulty getting that Bill through my party room because it would have been seen as an issue which was too emotive. It would have created too many problems because people have different views. This issue is no different. We all have a conscience vote and it will be our own views which are put forward here rather than those of our parties. Having said that, one drawback of having a conscience vote is it means it takes a long time for the legislation to pass through the parliamentary process.

While I had some positive views in relation to citizen initiated referenda prior to the Acts Amendment (Abortion) Bill going through this place, the way it progressed raised a whole range of questions about the way parliamentary management can deal with legislation that is subject to a conscience vote. Nevertheless, this matter is now before us and we must deal with it.

I have great pleasure in supporting Hon Norm Kelly's motion. It is high time we had a public debate on this issue. The member has brought this matter forward in a responsible way. It can be dealt with firstly by way of this motion, then the relevant Bill can be sent to the Legislation Committee. This subject will certainly draw different views from all sides of the community. I notice Hon Derrick Tomlinson with a smile on his face.

Hon Derrick Tomlinson: I hope you find a substitute committee member for me.

Hon CHERYL DAVENPORT: I doubt that I will be allowed to. I welcome the challenge of inquiring into this matter because this is an important issue for the community at large. For the past three years I have been Labor's spokesperson for seniors. One subject that is quite often raised with me throughout the community when I do my job in that capacity is the question of access to legal voluntary euthanasia. As many members know, our population is ageing. Many of the people I talk to have retired. To some extent, many members of our community do not recognise that older people still have a view. That raises questions for the Parliament because over the next 15 to 20 years one in 25 people in Western Australia will be aged 60 plus.

This is quite a significant issue for them. They need to know that they can be in control of their own destiny. If the occasion arose that they were terminally ill and there was no way that the illness could be reversed, they need to know that they can die legally and with dignity. I have two reasons for believing this ought to be a direction that people are able to take if they so choose. Choice is a very big concern. People ought to have the right to self-determination and not have to make a choice in a clandestine way without putting both the medical profession and their family, to some extent, at risk of coronial proceedings. The argument about choice is very similar to the one I debated two years ago in this place on another issue. If I were to have an incurable illness, I would want to be able to make that choice legally. It is just the same as when

I argued that women ought to be able to make an informed and legal decision about an unwanted pregnancy. I see no difference in the two arguments. I believe the matter must be properly regulated. Currently it is not.

I have lost both my parents from serious terminal illnesses. I lost my father some 30 years ago to terminal cancer that originated in his liver and spread to his stomach and was growing across his esophagus. He was diagnosed some 15 months before he died. During that time, my father, who had been a very extroverted, involved and vibrant man, became an introverted, former shadow of the dominant figure that he was. I watched my mother care for him; fortunately, we were able to care for him at home. We were small business owners and our business virtually went down the tube. I had just turned 21 and I worked in our family business. Thirty years ago people did not talk about death the way we tend to address it now. We were not told that my father was terminally ill. I was intelligent enough to know that things were not going to get better, and in fact were going to get worse. He was not able to deal with his illness and also with the fact that our business was going under. Decisions needed to be made about our business. For a 21-year-old I shouldered some fairly solid responsibilities that I had never had to before. My father's way of coping with being terminally ill was to withdraw from us, in the belief that perhaps he would make the burden of his loss in the future easier for us to cope with. I remember my mother, who was a nurse, saying that she would keep him at home as long as she possibly could. As it turned out, that was to be right until the end. I remember her also saying to me only about a week or 10 days before he died, that I was not to worry, that he would not be allowed to suffer. She and the doctor had spoken and, if the pain became so intense, she and the doctor would see that he did not suffer that pain and that the end would be speedy. In the end, it was not pain that he died from, it was just from sheer wasting away. I remember very well the indignity of that process. I remember to this day the night when he lost the use of his legs. He was going back to his bedroom from the toilet. I can remember him now, his eyes looking at me when his legs just crumbled from under him. My mother and I, both very small women, were left to pick up this very big man and carry him back to his bed. He never left it again. The indignity for him was dreadful. It was pretty tough for the family left caring for him. I for one do not believe anybody should have to live that way if they do not wish to. I do not know what his views were on euthanasia because we never had that discussion.

Subsequently, 10 years ago when my mother died, I did know what her views were. She died from a terminal illness that lasted over six weeks, during the first few months that I was in this Parliament. I can remember going from Parliament at lunchtimes and in the evenings to be with her. She had a rare lung disease from which there was no way she was going to recover. Well do I remember the day I went into her ward at Sir Charles Gairdner Hospital. She was having great difficulty breathing. The look of sheer panic on her face as she was gasping for breath was a process that I will never forget. From the time of diagnosis - it took them a very long time to find out exactly what the disease was - to death was about five to six weeks. She was comfortable for part of that time. It was thought they might be able to stem the tide of the disease, so she was given steroid treatment. However, as the disease was so far advanced before it was diagnosed, the steroid treatment caused her to haemorrhage internally, so it was discontinued. If memory serves me correctly, my mother was in a coma for the best part of two days. My brother, sister and I spent virtually all of that time with her. I remember being called to the hospital at about six o'clock on the morning that she died and being told that it would not be long. She was wearing an oxygen mask and had been moved out of intensive care to a ward. I asked the doctor, "How long will this take and why is she wearing an oxygen mask when we know she is not going to come out of this?" He said that they could not legally remove that treatment, because she had not told them that was what she wanted. My brother, sister and I, who had been with her for so long, made a decision. After the doctor left that room I took the oxygen mask off her face and she died within 20 minutes. I would do that again if I had to. I think that for her dignity, and because she was suffering and would not recover, I made the right decision. I have no regrets about doing that. I know that neither my sister nor my brother has regrets about what I did. I am guilty of having euthanased my mother, and I have no shame about that. I would do it again. They are the sorts of things that families and doctors are forced to do because of the suffering of their loved ones. I make no apology for that. It is why I feel so strongly about this legislation. It needs to be aired and publicly debated. We do not want the situation that occurred with the Northern Territory Bill. It was passed for all of the right reasons but was turned over by the Federal Parliament.

For a long time I have been a strong supporter of voluntary euthanasia. However, it needs to be regulated properly to ensure that unethical things do not occur. I have no doubt that the community fears that unscrupulous people will do the wrong thing, and that needs to be guarded against and regulated. However, in the context of my own experience, I have no doubt that as time passes and the population ages euthanasia will become law. It should occur sooner rather than later and it should occur in the context of proper and well thought through legislative practice. That is why the Legislation Committee is the right place for a Bill of this nature. As Hon Norm Kelly said, euthanasia has been legal in the Netherlands for a long time and euthanasia deaths have decreased rather than increased. That is because it is properly regulated, and people can make the right choice for themselves, and are able to inform the medical professionals of their wishes.

I will relate to members an example of an older person who is terminally ill who did not want to wait until the last moment to make a decision. This anecdote was told to Hon Norm Kelly and me by Dr Philip Nitschke when he was in Western Australia last October. Dr Nitschke met with a Western Australian man who had a terminal illness and was confined to a wheelchair. This man had made a decision that he would wheel his chair off a jetty and drown. Unfortunately, somebody dived in and saved him. He was then forced to lie about his decision to kill himself. He had to say to the person who saved him that he lost control of his wheelchair.

Hon Derrick Tomlinson: Why? He could have said, "You silly fool leave me alone."

Hon CHERYL DAVENPORT: He could, but he did not. I can only guess that he did not know the person and nobody can know how someone will react when, after making a decision and acting on it, somebody saves them. This older man made

the decision to relieve the pressure on his family. People are forced to lie because they are not able to do what they want to do.

Hon Derrick Tomlinson: It is more accurate to say that people choose; they are not forced.

Hon CHERYL DAVENPORT: They are not forced. He was revived. I do not know whether he then chose to use another method.

Hon Derrick Tomlinson: I recommend a bottle of scotch and aspirin.

Hon CHERYL DAVENPORT: I would not choose to do it in that way, neither would I choose to wheel myself off a jetty and drown. They are examples of people who are desperate and who take desperate measures.

I will conclude my remarks by reading a passage from a book by Derek Humphry titled *Let Me Die Before I Wake*. It goes to the matter of judgment. It is the people who are left behind who must make the judgment. We must question whether we have the right to make that judgment about the choices that other people make. I will read a passage which sums up the whole issue of active voluntary euthanasia for me. It reads -

Consideration of active voluntary euthanasia by the terminally ill is a personal statement. It is a statement made when life has lost the significance and is no longer worth living. The unendurable is there: illness, weakness, pain, negative prognoses, no prospects of cure or remission, and no easing of the suffering - all of which rob one's existence of joy and pleasure. The all-important *now* is burdened with efforts to cope and little or no relief. To exist is wearisome and draining. Pain and mind-deadening drugs reduce life to mere survival in an uncomfortable, stupor-like state. It may be time for release; it may be time to accept the advantages and benefits of a rational, voluntary euthanasia.

That sums up the reasons I support this motion. It is incredibly important that we have measured and rational debate. The proper time for that to occur is when we look at the legislation in detail. The Legislation Committee is the place for that to occur, so that everybody who has an interest in this area can make their views known and the legislators on that committee can make up their minds on how they see the legislation coming back into this Parliament. I do not envy anyone that job because it is very difficult and emotive. I recall the attack I came under when I steered the abortion law reform Bill through this place; nonetheless, it is time for this debate. I urge members to think carefully about the ageing of the population and that within 15 to 20 years, one in 25 people in this State will be older than 60. They have the right to know that if they have a terminal illness they can choose to end their lives with dignity.

Polling in the community shows that this issue is no different from the abortion issue about which the community's views were always a long way ahead of the views of the legislators in places like this. Polling shows that between 75 and 80 per cent of people are in favour of euthanasia. Well over 70 per cent favoured abortion law reform.

As I said earlier, these issues of moral law reform are difficult, complex and emotive. As legislators, we fail in our duty as representatives of the rest of the community if we do not debate them. That is what we are elected and paid to do. This is one of the more difficult issues to deal with as legislators and it is important that we tackle it.

I would not want to be placed in a position similar to that which I faced concerning my mother's death. I made a choice and I would do the same again because she had a right to know she had a choice, having told her family that she did not want to suffer pain or the indignity of life as she was doing.

These laws are necessary for our State and our country. In that context I hope that the Standing Committee on Legislation has the opportunity of dealing with this Bill and that it reports back to this place issues and community views on which we can base a decision to either defeat it or make it law.

HON PETER FOSS (East Metropolitan - Attorney General) [11.42 am]: I do not think anyone will challenge the statement that this is a difficult issue. It was a little unfair of Hon Norm Kelly to say that the Leader of the House said we should not be debating these issues. The Leader of the House said that we should not spend all our time debating them. One thing we can say about this Parliament is that it has spent a considerable amount of time dealing with moral law issues. Not only has it debated a wide range of moral issues but also it has spent a considerable amount of time on them. I do not think anyone could say this Parliament has failed to deal with moral issues. However, we could not reasonably require this Parliament to deal with all moral issues that are outstanding and which have occupied the concerns of human beings ever since they have existed. There is a time and a place for this debate to occur. There may well be a majority acceptance within the community that when a person dies, particularly someone who is seriously ill, his or her life may be in some way impacted upon by the medical treatment he or she receives. I think that is what the people in favour of some form of euthanasia are saying. I do not think anyone is keen on the idea of someone being maintained artificially with all their bodily functions being supported by machines when they would have otherwise died naturally. They may be comatose and cease to be functioning as a human being for the inordinate extension of that life. People will not necessarily readily agree that is what they understand to be encompassed by euthanasia.

I was surprised by Hon Cheryl Davenport's example of a person in a wheelchair, although I am not sure whether we got the full story. However, it appears that a person who pushes his wheelchair into the water in order to drown is merely committing suicide. To give it the name active, voluntary euthanasia -

Hon Cheryl Davenport: I did not mean to imply that. I was saying he felt he was forced to commit suicide rather than leave it to the latter stages of his illness to make that choice.

Hon PETER FOSS: It is an example of some of the serious moral problems that exist. I would hate to live in a society in which suicide was thought to be a solution to life.

Hon Cheryl Davenport: So would I.

Hon PETER FOSS: We already live in a society in which suicide is carried out by far too many people, especially young people who see it as a solution to what they see as misery or lack of hope. Some nations have worse suicide records than we do, but interestingly some have a different attitude than we do to the taking of human life. If we are not careful we can send a wrong message to people about death being a solution.

I think that what people see as euthanasia is not taking one's life as a solution to a problem, but the consideration of the point in time when one's life will cease; to what extent one interferes with it ceasing and to what extent one aids it to cease. I am sure that if we asked for members' views in this Chamber we would get different views.

Hon Cheryl Davenport: That is our choice.

Hon PETER FOSS: It is not a matter of our choice. We would find members had different views about what choice they would morally make. The Government considered drafting legislation to deal with - an example was given by Hon Norm Kelly - the issue of a person who had a terminal illness and was being treated medically, not to cure it, but to relieve pain and distress. It is fair to say that doctors in Western Australia regularly give what they think is the appropriate medical treatment. An opiate, a variation on morphine, is usually administered for pain. At the latter stages of a mortal illness when the tendency arises for people to get distressed - it is called terminal distress - valium is administered to alleviate the distress.

The practice among medical people is to give as much opiate and valium as is necessary to control the pain and distress. There is a time when the distress and pain will be so great that the combination of the two appropriately called-for medicines - the opiate and the valium - is in itself fatal. They cannot keep a person from suffering pain without the dosage of opiate, nor can they keep a person from suffering distress without that degree of valium. It varies from person to person. However, the time comes when there is the onset of coma and then death, usually fairly quickly after that.

When we were considering that situation, we were approached by a large number of doctors not to pass legislation to that effect. They saw the status quo being far preferable to a highly regulated situation. Once we put that situation into law, we must necessarily draw a clear legislative line, unless we say it can be carried out under any circumstances. Although there was a degree of sympathy for the concept of putting the practice in legislation in a manner similar to, but not as extreme as, the concept put forward by Hon Norm Kelly, it was seen as a negative step because whatever line we drew would rely on the judgment of an individual doctor. Judgment in making the decision is based not purely on medical grounds or the patient but also on the individual doctor. Those three variables or matters of judgment are so difficult to specify that enshrining them in legislation would cause problems. The representation made to the Government was that putting the current practice in law would be taking a significant step backwards. The doctors believe the current practice is appropriate, whereby they treat the patient through the correct dosage of medicine. Some patients may die earlier and some may die later; however, they will all die. It is often difficult to determine whether a death is a result of the combination of the medicines administered or the ultimate effect of the illness. To some extent, that is probably a good thing. The community is better off with a rule stipulating that doctors will treat a patient without it also saying the doctor may also kill that patient. When the doctors put it to us in that way, we realised we did not want to have to draft legislation that allowed discretion and judgment to be exercised on the basis of the patient, the individual doctor and the illness in a way that worked as well as the current system.

The Northern Territory approach is markedly different. I do not believe the community is prepared to accept that approach at this stage, which is illustrated by what happened on a federal basis. I was against federal intervention because I believe it is inappropriate for the Federal Government to concern itself with these matters. Even the Australian Democrats voted to overturn the legislation. I would have thought that a person who believed in freedom of choice would certainly believe in the freedom of choice of the Northern Territory Legislature. The Northern Territory Legislature has the right to make its own decision; it is its moral decision and its moral problem. As a State, we have the right to make this decision but I personally do not believe that the legislation contemplated in the Northern Territory would be acceptable here, notwithstanding the polls that have been carried out. I do not believe those polls apply to such extreme legislation. There would be plenty of support for legislation, but it would also cause an immense amount of dispute and difference and considerable moral concern of the people involved, among them members of this Parliament and of the community.

We are all aware of the turmoil our community went through during the abortion debate. That debate not only occupied the time of this Parliament extraordinarily, but the whole community was bound up in it. I congratulate Hon Cheryl Davenport for being able to persuade the Parliament to make the move it did. Had she introduced the Bill earlier, when she first entered the Parliament, she would have failed.

Hon Cheryl Davenport: I would have failed if there had not been a medical imperative at the time.

Hon PETER FOSS: Yes, that is probably so.

This is not the time for such legislation. This Parliament has already torn its guts out sufficiently and has shown an amazing amount of resilience. At this stage, I do not want members to tear the guts out of it again. We seriously impeded the legislative program - and it was important legislation and matters that needed to be dealt with - while we tore its guts out over the abortion legislation. I know it caused pain in this House and that every member approached that legislation with great sincerity. The fact that all members were sincere did not stop it from being a painful and difficult period.

The Government opposes this motion because it does not believe that, at this stage, there is sufficient support for radical euthanasia legislation, nor does it believe it is appropriate to pass non-radical euthanasia legislation. The Government will not support a radical form of euthanasia legislation, nor will it support a middle-of-the-road form of legislation. The representations made to the Government made it clear that such legislation would be counterproductive because it would need to set lines and boundaries in an extremely difficult area. The Government does not believe it would be appropriate to do so.

I am not trying to express all the views; I am merely saying why the Government believes it is inappropriate to deal with the matter at this time. Hon Norm Kelly may try another time, but certainly not now.

Hon Norm Kelly: That is one of the reasons I chose to address the issue through a motion and committee.

Hon PETER FOSS: I understand that, but the Government does not believe it is appropriate at this stage. I understand the sincerity of the beliefs held by Hon Norm Kelly and Hon Cheryl Davenport, but we already have a solution. As the Leader of the House said, we cannot spend our whole time discussing these matters. Hon Norm Kelly may need to have the patience of Hon Cheryl Davenport and wait some time before he raises the matter again. I do not believe a radical form of euthanasia legislation is in any way acceptable and I believe that middle-of-the-road legislation to ratify the current practice is counterproductive. For that reason, the Government opposes the motion.

Question put and a division taken with the following result -

Ayes (11)

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

Hon G.T. Giffard
Helen Hodgson
Hon Norm Kelly

Hon Hon Mark Nevill
Hon J.A. Scott
Hon Ken Travers

Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (18)

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

Hon Peter Foss
Hon N.D. Griffiths
Hon Barry House
Hon N.F. Moore
Hon M.D. Nixon

Hon Simon O'Brien
Hon Ljiljanna Ravlich
Hon B.M. Scott
Hon C. Sharp
Hon Greg Smith

Hon Tom Stephens
Hon Derrick Tomlinson
Hon Muriel Patterson
(*Teller*)

Question thus negatived.

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

Hon M.D. NIXON: I move -

That the report be noted.

This report was tabled before Christmas and has been lying on the Table for quite some time, and this is our first opportunity to debate it. The history of this report goes back to a petition that was presented in 1998. Since then, the committee has spent quite some time discussing this matter, because events have been ongoing in this area. The report states at page 2 that the committee received a letter from the principal petitioner dated 13 May 1998 that states -

"there are little or no services for ADHD sufferers in any Government Services. Children with ADHD are only treated at Western Australia's sole children's hospital if they have a co-existing medical problem which requires attention. A diagnosis of ADHD does not allow services to be made available. Some children are seen at the Child Development Centre (Rheola Street) but the majority of children are served through the private sector, scattered scant regional facilities and the Attention Deficit Society in Mosman Park which is a benevolent society with little or no government funding";

"parents who have ADHD children and who have the financial means will have access to appropriate medical assistance. There is [sic] absolutely no facilities at all for Aboriginal children, many of whom suffer from ADD/ADHD";

"there exists no Government education or direction in the wider community to protect these vulnerable children and their families from the prejudice generated by a misinformed media"; and

"a professional body of appropriately credentialed personnel with a substantial degree of clinical practice could assist Government bodies in being more targeted and as a rule more effective in remediating such tragedies in our community."

The report states also -

In a subsequent letter to the Committee dated July 23 1998 the principal petitioner stated that "one of the tragedies

of our Mental Health System is that ADHD/ADD clients are being diagnosed with an exotic array of psychiatric disorders and are subsequently being "warehoused" at facilities like Graylands Hospital."

As is usually the case, the committee wrote to the principal petitioner and received a submission, some of which I have just quoted. The committee also wrote to the appropriate ministers. In July 1998 the committee received a letter from the Minister for Education that said the department was aware that there were no reliable tests for ADHD and was concerned that some children might be labelled inappropriately. The committee was also 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, and that the Education Department did not support the establishment of a professional advisory board but did support the effective utilisation of existing support agencies such as the Learning and Attentional Disorders Society of Western Australia. The committee was advised that the Education Department policy for prescribed medication states that if a student is required to carry and self-administer prescribed medicine while at school, the parent/guardian/carer must advise the principal of all relevant details such as what form the medication takes, the correct dose and the symptoms associated with misuse, overuse, or under use as indicated by the treating doctor, and that only the quantity of medication for the school day may be brought onto the school premises by the student.

The committee was advised in the submission from the then Minister for Health that in order to understand this condition and its impact in Western Australia, the minister had requested Professor George Lipton, General Manager of the Health Department's Mental Health Division, to establish a small panel of internationally recognised psychiatric experts to address the issues associated with persons suffering from ADHD in Western Australia, and that those eminent experts would visit Perth in August-September of 1998. The committee therefore believed it would be wise to await the outcome of that report before it reported to the Parliament. The minister also advised that there are many issues surrounding the diagnosis and treatment of ADHD that do not lead to a simple resolution, and that the issues are complex and there are divergent views within the community and between professionals. The minister stated that the policy will provide guidelines about those aspects of ADHD diagnosis and treatment that can be best addressed by government and that he anticipated that a draft policy would be available for public consultation in the new year; but of course it took a bit longer than that.

The committee also approached the Minister for Family and Children's Services, who advised the committee that the Department of Family and Children's Services does not provide specific services for families with children who have been diagnosed with ADD or ADHD, and also that where families or carers have a child who is medicated for ADD or ADHD, additional methods of management are essential. In other words, often it is a family problem as well as a condition that can be treated with drugs. The committee was also advised that the department employs a number of specialists who work with families with complex needs, including education officers and psychologists, that management strategies are developed with families to manage the child's behaviour, and that the department will work in cooperation with other agencies and service providers, including medical practitioners, to assist the family.

The panel of international experts to which I referred was an impressive group comprising Professor Bryanne Barnett from the School of Psychiatry at the University of New South Wales; Dr Brian Greenfield from Montreal Children's Hospital in Quebec, Canada; Professor Laurence Greenhill from the New York State Psychiatric Institute; Professor Florence Levy from the School of Psychiatry at the University of New South Wales; Professor Robert McKelvey from Oregon in the United States; and Professor Barry Nurcombe from the School of Psychiatry at the University of Queensland. Clearly, it was a very international and comprehensive group of experts who eventually reported, and that report was considered by our committee. The report stated in part that stimulant medications are clearly recognised as effective and helpful in the treatment of properly diagnosed and managed attention deficit hyperactivity disorder. Nevertheless, the rapid increase in the prescribing of such medication for children, both in Australia and internationally, has led to growing concern. The international panel's report notes that many people in the lay and professional communities are questioning whether all those children who are being medicated have been correctly diagnosed and whether alternative or adjunctive treatments have been properly considered. The report went on to say that a multidisciplinary oversight committee should be established to facilitate and oversee the study. The international panel's report proposed that the committee be called the Treatment of ADHD Standards Committee, or TASC. The Standing Committee on Constitutional Affairs noted the advice from the Minister for Health that the recommendations in the international panel's report, including the recommendation that a multidisciplinary oversight committee be established, be addressed in the process of developing the government policy on ADHD.

When considering the effect of ADHD on children, it is interesting to note that it is thought to affect between 2.3 per cent and 6 per cent of children, and it is characterised by three core behaviours: Inattentiveness, compulsiveness and overactivity which are at a level inappropriate for the child's expected developmental level. The problem is that it is often difficult to diagnose because it can be confused with other things. Some conditions which commonly have symptoms similar to those of ADHD include hearing impairment, intellectual disability, specific learning disability, autism, brain injury, epilepsy, childhood depression and other emotional problems, family dysfunction and, perhaps most difficult of all, normal, active preschooler behaviour.

The background to the report which was organised by the minister came from other reports. As far back as 1990 a technical report was prepared. Therefore, the international report arose from previous work that had been done. It is interesting to note when considering the appropriate management of ADHD - I have mentioned that it often requires family counselling and assistance, not simply medication - that it was found that stimulant medications are known to be effective in 80 per cent of children with carefully diagnosed ADHD. Methylphenidate, which is short acting, and dexamphetamine, which is long acting, are generally considered to be safe, effective and non-addictive, with minimum side effects, when used as

recommended for the treatment of ADHD. The technical report placed a caveat on this, however, by stating that stimulant medications should only be used following a careful assessment and a definitive diagnosis. Once the diagnosis is established and medication commenced, it is most likely that the major difficulty with medication will only be determining the appropriate dosage.

The technical report also stated that the potential adverse effects of stimulant medication appear to be uncommon. In spite of over 50 years of use, however, concerns regarding the long-term effects of stimulant medication have not been allayed, and surveillance and monitoring should continue. Indeed, the American Academy of Pediatrics and the Australian College of Paediatrics have both indicated that the treatment of ADHD is multidisciplinary and that medication should never be used as the single first treatment.

The technical report also stated that consideration should be given to short trial periods off medication, with the gathering of school, home and other relevant information, to determine whether the ongoing use of medication is appropriate. There is a growing awareness of the possibility of a continuing problem for some adults with ADHD, and the extent of this should be subject to further research. It is interesting that at present the prescribing of stimulant medication for those over 18 years of age requires assessment by a psychiatrist. In other words, although it is common for many young children to be on medication, it is most unusual for those of a mature age.

The technical report notes that the main financial issue in treating ADHD is the high cost of the drugs. Dexamphetamine is a much cheaper drug than methylphenidate. There are no convincing general differences between the two drugs for the treatment of ADHD, although individual patients may well respond to one better than the other.

The age criteria guidelines provide that children younger than four years of age are not to commence therapy with stimulants and that adults beyond their eighteenth birthday are not to commence or continue therapy with stimulants. Authority for children younger than four years will be approved only on the recommendation of the stimulants committee. Patients who are 18 years of age or older should be referred at the earliest opportunity to a psychiatrist for assessment for adult attention deficit disorder. The guidelines call for caution to be exercised if tics, dyskinesia, a history of Tourette's disorder or autism are present. Obviously, there is a problem in being specific about whether a case is ADHD alone or whether it is complicated by other matters.

Following the study of the international committee's report, the Standing Committee on Constitutional Affairs conducted a hearing at which experts gave evidence. Professor George Lipton, Chief Psychiatrist and General Manager, Mental Health Division; Dr Hugh Cook, Psychiatrist, Department of Psychiatry, Princess Margaret Hospital for Children; Professor Louis Landau; Dr Stephen Houghton; Dr Kenneth Whiting; and Mrs Sandy Moran, who was the chief petitioner and also a nurse, gave evidence to the committee. At the end of the day it was fairly obvious that there is serious community concern about ADHD and ADD.

The committee is aware of anecdotal evidence that suggests that many of the problems associated with crime in all sectors of the community could in some way be attributable to ADHD. Should further research confirm this anecdotal evidence, early intervention could provide considerable long-term financial savings and benefits to those suffering from ADHD, their families and the community in general.

Some years ago I was in Europe, and I read an article by the controller of the prisons in Sweden. She believed that a very large proportion of the people in the jails there were sufferers of ADD or ADHD. She said that if they undertook a suitable educational program which enabled them to learn to read and write particularly, if they could not already - sometimes that was a common problem - and they were then able to become part of the general community, their re-offending rate was very low. In other words, in Europe this is already recognised as a major cause of crime.

At the end of the day, I suppose it comes back to the key recommendations of the Standing Committee on Constitutional Affairs. The first recommendation is that more research into the diagnosis, management and treatment of ADHD should be conducted and the results reported to Cabinet. The second recommendation is that a professional advisory body be established to formulate guidelines and policies for the diagnosis, management and treatment of ADHD. The report reads -

Such an advisory body should comprise members from the following areas:

- Aboriginal Health;
- The University of Western Australia Graduate School of Education;
- Psychiatry (both adult and child);
- Paediatrics;
- Juvenile Health;
- Princess Margaret Hospital for Children; and
- Community Nursing.

Recommendation 3: That the professional advisory body propose potential policies and guidelines to the Government to overcome apparent existing deficiencies in the diagnosis, management and treatment of people suffering from ADHD and to assist with the co-ordination of information dissemination between government agencies.

Recommendation 4: That a program of public and professional education and awareness be established to assist in the early identification of ADHD and to facilitate the treatment of people affected by the condition.

Hon CHRISTINE SHARP: I have read the report with great interest, and I acknowledge the work of the Standing Committee on Constitutional Affairs in bringing to the Chamber and the Government's attention this important disorder. I have read the report a couple of times, and it contains an enormous amount of information and probably is the best compilation available of information on, not the disorder itself, but how it affects Western Australian society. The committee has performed a very useful task for the community.

Attention deficit disorder and attention deficit and hyperactivity disorder are very perplexing. They are very difficult to describe, although they have certain core behaviours found in all cases of ADD and ADHD, particularly lack of attentiveness and impulsiveness which are characteristics of all sufferers of the disorder. In some cases, hyperactivity is also the key characteristic, and hence we have attention deficit hyperactivity disorder. The other cases are termed attention deficit disorder, and the disorders seem to be linked.

My reading of various authorities indicates that every person who suffers from ADHD or ADD is unique in the expression of the condition. That makes sense: If it is a neurological disorder and relates to how the neurons in the brain transmit information - that relates to how people pay attention to information - the way it affects the brain depends on the interests and personality type of the person involved. Therefore, every person who suffers from ADD has a unique expression of the condition.

I read a very interesting article about ADD a couple of months ago expressing ADD from the perspective of the sufferer. Most references express it from an external observer, be it a psychologist's or parent's point of view. I do not have the paper with me so I cannot quote its title. However, it painted the picture of a mind which is highly attracted to intensity. If the stimulus is not extremely exciting, it is hard for the person to pay attention; therefore, the boring details of life are extremely difficult. A corollary of that intensity is that people with ADD tend to be attracted not necessarily to good intensity. They enjoy extreme pleasure, such as may be found driving a car too fast or other such dysfunctional behaviour, and they enjoy the negative intensity of argument, discord and other such experience. They feel more comfortable in their psyche with a level of chaos around them. Their brain functions better at those times than in situations like the quiet and routine found in the Chamber at the moment. Members must focus the brain to do what they are doing in the Chamber at the moment.

Hon Derrick Tomlinson: Carefully following your comments.

Hon CHRISTINE SHARP: Exactly.

An example of the important information in the report is that attention deficit disorder meets the World Health Organisation's definition of a disability. As the Chairman of the Standing Committee on Constitutional Affairs told us - although I stress it is only an estimate - between 2.3 and 6 per cent of Western Australian children suffer from ADD, and boys are nearly six times more likely to suffer from ADD than are girls. Interesting data in the report comes from rural parts of Western Australia, particularly mining towns, and from the rural paediatric services. For example, case histories treated by the rural paediatric services in WA indicated that 34 per cent of all children's cases in the Pilbara required attention for ADD, and the equivalent figure was 19 per cent in the goldfields. That suggests that diagnosis is different in different areas. I am being highly speculative now: As some information suggests that ADD is genetic, a parent of an ADD child may well have ADD; therefore, the parent would much prefer outdoor, physical work, such as that found in the mining and farming communities. When one or two children and an adult in a family suffer from attention deficit disorder, the family usually suffers from a fairly marked level of dysfunctionality with a high level of chaos in their lives. A lot of anger is associated with that condition, and the children have learning difficulties at school in finding it hard to focus on the routine of maths equations and learning tables. They have trouble slowing the mind down to spell the word properly; that is, they want to get the word out in as few letters as possible so they can grasp it and move onto the next word, which is part of the flow of consciousness involved. Attention deficit disorder is often associated with other disorders, such as dyslexia - the spelling problem - and the more difficult disorders, such as oppositional defiance disorder which often goes with the anger with ADD.

The long and short of it is that families with members who suffer from ADD or ADHD are often feeling very desperate indeed. Those families face many difficulties in receiving treatment. It would seem that inequity exists in how one can receive treatment. To grossly simplify it, if one has plenty of money and lives in the metropolitan area, receiving treatment is not that hard. Adults suffering from ADD who happen to live in rural and regional Western Australia are probably the most under-treated, under-acknowledged sufferers of all. Basically the only treatment adults suffering from ADD can receive is through a psychiatrist, most of whom are in the metropolitan area. They are extremely expensive to visit, and the treatment is very expensive. There is also a difficulty with the staff members at Family and Children's Services who are reluctant to treat teenagers.

Hon GREG SMITH: I will comment on this matter first hand. I have three boys, two of them are prescribed dexamphetamine. I had not heard of attention deficit disorder until my children were diagnosed with it. We lived in the country on a sheep station. They had a lot of room around them and were going to school at Mt Magnet which has a high proportion of Aboriginal students. They were keeping up with the average in their classes. When I came to this Parliament, my family members and I relocated to Perth so that I could see them. When my children went to a metropolitan school, we found they were a long way behind the eight ball in their educational development when put with children of their age who had been in a metropolitan environment.

We were fortunate that one teacher telephoned my wife and told her that my son, Jordan, may have ADD. My wife asked her what she meant and how we could determine whether that was the case. The teacher told us of the processes to come to that decision. She said that her daughter - that is quite unusual; normally boys are affected - had been diagnosed with

ADD, and had received treatment through the education system. She came out of that system and could read and write and had gone on to bigger and better things. Currently, two of my children are on the drug administered for ADD which, as Hon Derrick Tomlinson pointed out, is generally known as speed. For people not suffering from ADD, this medication would increase their activity, their level of awareness and alertness and make them hyperactive. It slows down people with ADD. Although I have read a lot on ADD, I have not been able to grasp how it does this.

My middle child, Jordan, has small plastic models at home, comprising about 50 or 60 pieces each, which he won at TimeZone. They sat in the bottom of his toy box for months. He would play with them until they were half assembled and then put them back into the toy box. We went through the process: We saw the psychiatrist, underwent analyses, had the forms at school filled out to establish different behaviour patterns, not only at school but at home, and got medication. The doctor told us that Jordan should start the medication on the weekend so that if there were any side effects, we would know that before he got to school on Monday.

We gave him his first tablets and thought nothing more about it, other than it was a bit quieter around the house without the normal ruckus going on. We walked into his bedroom and, lo and behold, found he had put together all the models that had been in his toy box for six months - every one of them. Jordan had sat in his bedroom for an hour and a half or two hours and had the ability to concentrate long enough to put all of the models together. He was quite proud of himself. He had always had trouble keeping his mind on the job. His report cards would say that Jordan caused disturbances, that he did not finish his work at school and those sorts of things.

When Jordan returned to school, the teacher sent home a letter - the administration of these drugs is monitored very carefully - to say that his work at school had improved 200 per cent, and he was finishing what he was supposed to do. Even his handwriting improved overnight. It seemed that his mind was working faster than his hands. As Hon Christine Sharp pointed out, his words were almost abbreviated to keep up with the speed at which his mind was working.

As I said, we had purchased a house in the metropolitan area, but have since moved back to the country. When we lived on the station, we had involvement with the alternative custody program. All the children sent to us on that program displayed the ADD symptoms. As soon as they came out to the bush, they did activities which I liken to those that adrenalin junkies like to do. On the station, these kids ride a motorbike flat out. For the most part, their mother is absolutely petrified that they will hurt themselves, although they do not. They are always seeking to do things that will give them a burst of adrenalin. They are the first to go bungee jumping, white water rafting, motorbike riding, climbing the highest tree and onto the roof with umbrellas. Some would say that they are just naughty kids. I am not sure whether it is because the brain does not send a correct signal that if they do these things, they might hurt themselves. Even when they do some things that they know they are not allowed to do, it just does not seem to register at the time they are doing it.

Just this week, on Monday, we took my children in to get another prescription filled. The psychiatrist suggested that since it was the start of school year, we should take them off the medication for a week and then get the teacher to fill out the report. On Tuesday afternoon, a very distressed primary school teacher telephoned us and asked us to medicate our son before we sent him to school the next day! Subsequently, my wife telephoned the psychiatrist who told us that that quite often happens. He said that there were no problems and, in that case, we should go ahead with the new medication.

ADD is not a disease; it is a gift. People with ADD end up being super-achievers in some fields. Western Australia seems to be highly over-represented in the number of cases of ADD. My theory is that to some extent it is because Western Australia is a new, young State which has grown by the influx of people who have been ambitious, outgoing and prepared to take more risks. These types of people have come to this State to build it and make it what it is. Western Australia has attracted those sorts of people. People who do not have ADD are very calm and collected, quite happy to get a job in a metropolitan area or a country town where they grew up and to stay there. They are happy that things never change, and life just rolls along for them. It is almost amplified as society progresses. With like being attracted to like, we are getting an increase in the number of people suffering from ADD.

A person without ADD could never keep up with a person who had it, even in a relationship. One person would go flat out all the time and the other would like to relax and take it easy. To some extent, people with ADD are marrying other ADD sufferers, and that is increasing the number of people who are displaying those symptoms. ADD is not that difficult to come to terms with, once we can identify the symptoms. My wife's father definitely shows all the symptoms of ADD in an adult. He goes at 100 miles an hour all the time, but he gets very little done; he is going flat out getting nowhere! I looked at my reports from primary school. They always said, "Gregory is doing this, that and the other, but he tends to be absent-minded."

Hon Derrick Tomlinson: What is the difference now?

Hon GREG SMITH: That is very true.

We must recognise that attention deficit disorder exists. Western Australia should develop schools in the northern suburbs, the southern suburbs and the eastern suburbs to specifically cater for children diagnosed with ADD. It is not that they are incapable of learning. They are good learners; they are incapable of maintaining concentration. Students at these specialist schools could be black, white or brindle. If we put children with ADD together and developed programs that would maintain their interest through an appropriate level of excitement or stimulus while they were learning, we could get them through the education system without drugs. I am not a strong supporter of drugging children. I would love to think that I could send my children to school without drugs.

Hon CHRISTINE SHARP: I am interested to hear the story of the family across the way. Hon Greg Smith has suggested that many people who have this disorder have extremely successful lives and highly successful careers. The most famous sufferer of the past century is Einstein, who was in many ways the absent-minded professor. However, there seems to be a real stigma attached to the disorder. It is curious that achievements and breakthroughs in knowledge of many of the sciences, in engineering and so on, that help us to achieve a certain control over the external nature are greatly lauded and universally accepted in society. However, when we have a breakthrough about controlling inner human nature and understanding human nature better, for some reason society does not seem to be so open to new understandings and breakthroughs in the same way. There have been people with ADD since there were people. What has changed is that we now understand more about human biology and psychology and are able to understand and to treat that.

A stigma is attached to using medication for ADD, although dexamphetamine, for example, has been available and has been widely prescribed for 50 years and has not been associated with any serious or chronic reactions over its long term use in low dosages, such as are prescribed in ADD. A technical report quoted in the committee's report states that in about 80 per cent of cases properly diagnosed medication is helpful. Hon Greg Smith gave a graphic account of that. Nevertheless, there is a stigma still attached to it. I will quote from a letter that I received from the Learning and Attentional Disorders Society of WA. LADS is the support group that helps community and families that are dealing with this problem. That letter refers to medication and the importance of medication. LADS states -

Medication is an essential and very effective part of the treatment of ADHD. This has been recognised in Western Australia for many years which is probably one of the major factors why a greater percentage of children in Western Australia are on medication than in other states. At this moment in time other states are showing catch-up rates, i.e. their rate at which medication prescription is increasing per head of population is higher than Western Australia. Recent work from the United States has confirmed this approach to medication . . .

LADS has provided me with some of those research results. The letter continues -

It now seems clear that in any patient deemed to have a significant disability as a result of the symptoms of ADHD, the combination of medication, behavioural therapy and educational support will produce the best results.

Hon Greg Smith also touched on the fact that parents are reluctant to put children on drugs, particularly drugs which are associated with dangerous recreational uses such as dexamphetamine. I will quote some of the recent research that was sent to me by LADS. A summary of an article published in the journal *Pediatrics* states -

Drug treatment of attention deficit hyperactivity disorder in childhood reduces the risk of substance abuse in adolescence by 85%, according to a study in *Pediatrics* (2 August).

The study also showed three-quarters of boys with untreated ADHD developed substance abuse - six time higher than the rate among unaffected controls.

Professor Bruce Tonge, head of the Monash University centre for developmental psychiatry commented on these results by saying -

Increasing the risk of substance abuse is a great concern of parents and the general population because it seems logical that if you take medication as a child you will think of taking it later.

The article continues -

However, this study showed medication reduced the risk of later substance abuse. One of the likely reasons for the better outcome was the improvement in behavioural problems in young people with ADHD when they are treated. . .

"If they are not treated, their ADHD problems really get in the way of their learning about social interaction, how to control their temper, relate to others, take turns and so on."

Ironically, one of the things that people have to understand about this is that although one's instinct is to question how a stimulant can calm people down, the reality of the functioning of the brain is that is exactly how it does work, and later in life such persons are far less likely to self-medicate with alcohol and marijuana.

Lastly I touch on the implications of this for education in Western Australia. We have a program in our schools at the moment called the Students at Risk program which seeks to identify students who have learning difficulties. If I remember correctly, when I asked the Director General of Education a question in the Estimates Committee hearings last year, she said that the department's initial estimates were that about 20 per cent of students in WA were considered to be students at risk for one reason or another.

Dr Kenneth Whiting, a paediatrician, is one of the people who gave evidence to this committee. He expressed the view to the Constitutional Affairs Committee that attention deficit hyperactivity disorder is the single most common condition which can lead to learning and behavioural difficulties in the classroom. In its report, the committee commented on its concern that despite this kind of professional opinion, the Education Department of WA only has a general program and does not have a specific program which is dealing with this problem. Paragraph 12.4 of the committee's report reads -

The Committee believes that a significant contribution to community concerns about ADHD and a barrier to the effective treatment of ADHD in children and adolescents in Western Australia lies with the Education Department

treating ADHD as one of many disorders which may place a child at educational risk rather than as a separate learning and behaviour category. The Committee believes that children and adolescents with ADHD should be treated for that condition rather than being treated with a diverse group of children considered to be at educational risk, regardless of the cause of that risk.

At the moment teachers receive virtually no specific support to deal with ADD children. If they are very lucky they will be in schools which are sufficiently large to have some remedial teachers who deal with all children at educational risk. However, all that teachers who do not have that luxury are given is a teacher's manual with a couple of pages on how attention deficit disorder manifests and they are told that they are on their own and good luck to them. In many cases that presents huge challenges for their classroom dynamics. I note also in the committee's report that the Education Department did not support the recommendation of the petitioners to establish a professional advisory board to give recommendations to government on this disorder. However, I am pleased to note that it appears to have changed its position and that on Tuesday, Hon Barry House tabled the minister's response.

Hon B.M. SCOTT: This is a very important debate. I congratulate the Standing Committee on Constitutional Affairs for the way it has conducted its inquiry and presented the report. As we have heard from previous speakers, attention deficit disorder and attention deficit hyperactivity disorder syndrome is a phenomenon in our society and prevalent in Western Australia, which has baffled educators, teachers and parents for some time. As a person with a teaching background and some years specialising in remedial reading, I did not see a lot of evidence of this phenomenon. It is a different era now.

I have known the principal petitioner for some time and have done much reading on this syndrome. A number of interesting commentaries have been made about what contributes to the behaviour attributed to attention deficit disorder. One such contribution is our busy way of life, changes in the past 30 years, television and the fast pace of life. When parents talk about the facts of life these days they talk about stranger danger. That was not prevalent when we were growing up. Play in a safe area was more naturally part of our development and life was not the speedy, fast lane that many young families experience now. Social implications have contributed to changing family life.

However, the prevalence of ADD in Western Australia is sufficient to demand that some thorough research be conducted on it. I have said in this Parliament on many occasions that public policy should be driven by sound research. I have received numerous documents on this issue this week. I commend Sandy Moran for the persistent attention she has paid to this task.

Hon Greg Smith: Persistence is an understatement.

Hon B.M. SCOTT: Absolutely. I was one of the women members of Parliament who helped fund her trip to America in 1994 because I felt it was important that she go there because of her interest and her commitment. She was a trained in psychiatric nurse. She is now studying her masters degree at the University of Western Australia. There is much uncertainty about this disorder in the community among educators, the medical world and parents. In the criminal system, young people who have offended often have a high level of illiteracy and a tendency to learning disorders such as ADD and ADHD. It is therefore imperative that we have this debate in the Parliament.

The recommendations of the Constitutional Affairs Committee are significant. I agree that in the first place we, as a Parliament, should promote further research into their diagnosis, management and treatment, which should be reported to Cabinet.

In the preparation of my report on early childhood education we dealt closely with Dr Fiona Stanley regarding special learning areas. We felt it was a very important area and that specific learning difficulties must be confronted. Research must always support public policy. Once we move to a new way of dealing with children in particular, it must be done on the basis that it is sound and the proper direction to take.

It is recommended that a professional advisory body be established to formulate guidelines and policies for the diagnosis, management and treatment of ADHD, such as an advisory body, which should comprise members from the following areas: Aboriginal, Health, the University of Western Australia Graduate School of Education, psychiatry, paediatrics, juvenile health, Princess Margaret Hospital and community nursing.

Some people might say Western Australia has an over proportion of diagnosis of ADD and the incidence of children being on medication. I can relate to the fears, trepidation and anguish of Hon Greg Smith, two of whose children have been diagnosed as sufferers of this syndrome and are on medication. Any parent would be reluctant to give medication to a child unless he was convinced it was the right thing to do and he would not make that decision lightly. It also creates a range of issues at schools, such as duty of care and who will be in charge of medication. I have had a number of teachers call me about this problem. Many issues must be dealt with.

Among the range of learning difficulties and early childhood intervention, this syndrome is certainly part of a scenario in which our children are not reaching their full potential. No parent wants to see his child fail. We want to do the best for our children. People are groping around over this subject. There is so much to be said and so much has been said on it. I support and endorse the remarks already made. I also urge the Parliament to seriously consider sound and proper research being done into this area here in Western Australia where we have a high incidence of children on medication, which is a cause for grave concern among a number of medicos and educationalists. I plead that this report be treated as being of significance to the Parliament. I am pleased the report has been presented here today. We must move on from here.

Hon GREG SMITH: Further to my previous comments, I refer to the Aboriginal and indigenous population and the low

numeracy and literacy skills they achieve as proved by statistics. Since the advancement of neurological studies has improved our ability to understand how the brain works, some interesting information has emerged. Books have recently been written such as *Why Men Don't Listen and Women Can't Read Maps*, and *Men are from Mars and Women are from Venus*. As a result political correctness has broken down to the extent that we can admit that men and women are different.

Statistics show that eight times more boys than girls have ADD. I believe the indigenous population may be more prone to ADD - I do not say this in a disrespectful way - because they are probably further down the civilisation spectrum than Europeans. They are still neurologically more focused on the hunting and gathering process. It appears that boys and girls neurologically work differently.

Debate adjourned, pursuant to standing orders.

Report

Progress reported and the report adopted.

Sitting suspended from 1.00 to 2.00 pm

STANDING ORDERS SUSPENSION

Comments by Hon Greg Smith

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [2.00 pm]: I move, without notice -

That so much of standing orders may be suspended so as to enable me to immediately move the following motion -

That this House dissociates itself from the comments of Hon Greg Smith;

that the House calls on the honourable member to immediately withdraw his comments and apologise for the inevitable offence and hurt that these words will cause Aboriginal people; and

that the question be resolved at this day's sitting.

By way of explanation, at 12.58 pm, during the debate on committee reports, Hon Greg Smith said to the House, in reference to the indigenous population -

. . . they are probably further down the civilisation spectrum than Europeans.

I have an uncorrected version of *Hansard*, which is normally not to be quoted. I acknowledge that it is an uncorrected version. However, I heard the member actually say those words and have checked carefully with other members, who also heard the quote. I hope all members find those remarks offensive. I note that when similar remarks were made in the Federal Parliament by a former member of this Chamber who was elevated to the Senate, he was required by the then Prime Minister to immediately return to the Chamber and apologise for his comments. On this occasion, for whatever reason, the opportunity is now available to this House to dissociate itself from these remarks and to call upon the member to apologise for them at the earliest opportunity. I do not want to go into this in great length as I think the issues are self-explanatory.

The member has now returned to the Chamber and, to ensure he is brought up to speed, I inform him that I have given the House notice of a motion to suspend standing orders to enable me to move the following motion -

That this House dissociates itself from the comments of Hon Greg Smith;

That the House call on the honourable member to immediately withdraw his comments and apologise for the inevitable offence and hurt that these words will cause Aboriginal people; and

That the question be resolved at this day's sitting.

The words I am referring to are, in reference to the indigenous population, that "they are probably further down the civilisation spectrum than Europeans". I hope the member takes the earliest opportunity to allow this House to carry that motion to enable it to dissociate itself from his remarks and to apologise immediately for those offensive remarks.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [2.05 pm]: I do not support the motion on the basis that people say things in this House from time to time that other members do not agree with. It happens all the time. Last night I sat in the Chamber for 45 minutes listening to a diatribe from a new member which breached every tradition. I did not interject at all. I wore a whole heap of stuff that I thought was terrible, unacceptable and wrong, but I sat there and took it and said nothing. I accepted the House's traditions that one does not interject on a new member's speech. I do not agree with what was said, but I did not jump to my feet to move the suspension of standing orders to ask him to withdraw those comments, apologise or get his facts straight. The simple fact of the matter is that the member is entitled to his view, is entitled to say it and Hon Greg Smith is also entitled to his views and entitled to say so.

Hon Ljiljanna Ravlich: Not if those views are insulting or offensive.

Hon N.F. MOORE: Hon Ljiljanna Ravlich says things that I and other people find insulting, yet we do not suspend the standing orders of the House so somebody can take a certain point of view or apologise because someone like Hon Tom Stephens takes offence. If we did that, we would spend all the House's time suspending standing orders for people to receive apologies because they had been offended. There is no need for us to go down this particular path. I do not agree

with Hon Greg Smith's comments, nor did I agree with Hon Ross Lightfoot. However, people are entitled to a point of view and are entitled, in this place of all places, to express that view. It is entirely Hon Greg Smith's business whether he wants to apologise or take another point of view. It is not for Hon Tom Stephens to tell him what he should or should not think.

Hon Tom Stephens: Do his comments reflect government policy?

Hon N.F. MOORE: This is the mentality of the Leader of the Opposition; I just said what I think. I suspect there is a variety of views in the Chamber on this subject, ranging from Hon Tom Stephens' politically correct point of view to a whole range of other points of view. However, Hon Tom Stephens seems to work on the basis that if everybody agrees with him, they have the right idea. If they do not agree with him, there must be something wrong. Not everyone in this country agrees with him on everything. People are entitled to a point of view and they are entitled to express it. The trouble is that these days, too many people are told they cannot express their point of view unless it is politically correct. In many ways, that is what is wrong with this country.

This motion is a waste of time. It is a stunt by the Leader of the Opposition because he knows as well as I do that it will be reported in the Press. The Leader of the Opposition will get all the media attention he wants. I am sure he has been with the media for the past hour trying to get his point of view across. Calling on Hon Greg Smith to get up and do something in the House is a waste of the House's time and ignores the fact that members are entitled to their own point of view, whether anybody agrees with it or not. I urge the House to reject the suspension of standing orders. Hon Greg Smith can deal as he wishes with the media and with what people think about his comments. He is entitled to do so. Let us just get on with the business of the House.

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 N.D. Griffiths
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 (13)

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

Hon Peter Foss
Hon Ray Halligan
Hon Barry House

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

Hon B.M. Scott
Hon Greg Smith
Hon Muriel Patterson (*Teller*)

Pairs

Hon Tom Helm
Hon Mark Nevill
Hon Bob Thomas

Hon Murray Montgomery
Hon W.N. Stretch
Hon Derrick Tomlinson

The PRESIDENT: The motion is not carried because it requires an absolute majority of the House to be passed.

HON GREG SMITH

Withdrawal of Remarks and Apology

HON GREG SMITH (Mining and Pastoral) [2.12 pm]: I withdraw the comments I made prior to lunch and apologise.

GENDER REASSIGNMENT BILL (No. 2) 1997

Second Reading

Resumed from 15 March.

HON HELEN HODGSON (North Metropolitan) [2.14 pm]: A few areas in this Bill are not universally supported by the people we hoped would benefit from it. The difficulty for us, as members of Parliament, is that a number of different perspectives are involved, and although the version before us improves the existing situation, it does not have the universal support of some people who may or may not choose to exercise the procedures in the Bill.

One concern relates to the use of the assessment board. I appreciate that there are differing views, and the proposal is thought to be a way of ensuring that a person has completed a gender reassignment procedure. However, there is a view that it is an intrusion into the person's life that may not be warranted. Medical evidence and records will be available to substantiate that a person has undergone a gender reassignment procedure. Some people in the community are not comfortable with the requirement for a board or panel to assess that. However, the proposal is certainly better than the lack of any procedure in place at the moment.

A couple of technical issues have been brought to my attention. One relates to the requirement that before applying for a gender reassignment certificate, a person must dissolve any marriage he or she is currently in. It was suggested that this

goes beyond the requirements of the federal marriage Act because the tests for gender are quite different in the two jurisdictions, and it cannot be required under this legislation. I can understand why it is included for technical reasons, but I raise this concern which has been brought to my attention.

A further concern has been raised about involvement in sporting activities, and whether a person whose gender has been reassigned has a significant performance advantage. This is a fairly subjective test. How does one determine whether a person in a particular sport will have a significant performance advantage? It has been raised with me as a matter of some concern that people might use this as a subtle form of discrimination. In many cases a gender reassignment procedure has effects on the physiology of the person undergoing that procedure which make that person less suitable for some forms of sport than other people. For example, hormones can have a long term effect on people's physiology and bone structure. It is hard to understand how this question of significant performance advantage will be determined in particular cases.

This Bill does not go far enough. It does not have universal support among the people affected by it, and it has been put to me that some people will choose not to go through the process of obtaining the appropriate certification simply because they feel the processes to be followed are too intrusive. They would rather continue to live the lifestyle to which they have become accustomed.

I raise a further issue which requires clarification. The provisions in respect of birth certificates ensure that a person can obtain a copy of his or her birth certificate, and that any future extracts will reflect the assigned gender rather than the birth gender. However, the original birth certificate will remain for the purpose of maintaining the integrity of the State's records. If a person seeks a copy of an original document, will that show the reassigned gender or the birth gender? My understanding of the intention is that from now on any document issued under this legislation will show the assigned gender. I would appreciate confirmation of that on the record because that issue has been raised with me and it would set people's minds at rest to know that the archived record will be exactly that - an archived record - and that it will not be accessed for any purpose.

I am pleased about the issues relating to trade certificates. I have a constituent who has been in that situation and who has been unable to get her trade qualifications from another country translated into her assigned gender because the interrelationship of federal and state legislation provides that any documentation must contain her birth gender and name rather than her reassigned gender and name. That has caused my constituent many difficulties. I am pleased that this measure is now in place.

On the whole, this is a step forward. However, we will need a shakedown period to establish whether the concerns that I have raised are justified. The Australian Democrats will support the Bill because it is better than the present situation.

HON PETER FOSS (East Metropolitan - Attorney General) [2.22 pm]: I draw the member's attention to clause 18, which deals with the point she raised. The original document is held by the registrar and people are issued with extracts of the registry. The extract shows a person's assigned gender until otherwise requested. A person may request a document showing his or her birth gender.

Hon Helen Hodgson: Will that be provided if they ask for it, but in no other circumstances?

Hon PETER FOSS: Yes.

There is one other difficulty with the Bill that I do not intend to alter because of the length of time that it has taken to complete the passage of this legislation. The registrar general is now called the registrar and his Act is now a 1999 Act. I do not intend to move to amend that anomaly. The references are intended to refer to the successor of the registrar general - that is, the registrar - and the succeeding Act. I will formally move an amendment to achieve those changes through the omnibus legislation. I do not wish to send the Bill back to the other place because it has been passed between the two Houses too often. I will ask for it to be passed notwithstanding the anachronism, and I will add an amendment to the omnibus Bill that will be debated shortly. I thank members for their support.

Question put and passed.

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

CRIMES AT SEA BILL 1999

Committee

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

Clauses 1 to 9 put and passed.

Clause 10: Transitional and savings -

Hon PETER FOSS: I ask the Committee to vote against this clause, and I have provided briefing notes detailing the reason. This clause has been revised to make it clear that the legislation is prospective in its application. The new clause also covers the situation in which the exact date of the offence is not known and it is alleged that the offence occurred between two dates, one falling at one side of the commencement date and the other on the other side of that date. Subclause (4) provides that in such a case the offence is alleged to have taken place before the commencement date. The Victorian parliamentary counsel requested this amendment.

Hon N.D. GRIFFITHS: The Australian Labor Party will support the Government's stance. I am not placing the blame for this at the feet of the Government. However, landing this and some following amendments on us at such short notice is not a good cooperative process when we are dealing with other jurisdictions. Some of these last-minute amendments have no significance whatsoever, and in this Parliament would have been the subject of clerk's amendments.

Clause put and negatived.

New clause 10 -

Hon PETER FOSS: I move -

Page 4, after line 21 - To insert the following new clause -

10. Application of repeal and amendments

- (1) In this section -
“commencement day” means the day on which sections 8 and 9 come into operation.
- (2) Although section 8 repeals the *Crimes (Offences at Sea) Act 1979*, that Act continues to apply, in relation to acts and omissions that took place before the commencement day, as if the repeal had not happened.
- (3) The amendments referred to in section 9 apply to acts and omissions that take place on or after the commencement day.
- (4) For the purposes of this section, if an act or omission is alleged to have taken place between two dates, one before and one on or after the commencement day, the act or omission is alleged to have taken place before the commencement day.

New clause put and passed.

Schedule 1 -

Hon PETER FOSS: Does Hon Nick Griffiths wish me to move the amendments seriatim?

Hon N.D. Griffiths: It is reasonable to deal with them as a whole. Can the Attorney General explain the significance of Norfolk Island and why it is pulling out of a scheme involving Australia and its Territories? Who are its residents and why do they not pay any tax?

The CHAIRMAN: It appears to be the wish of the Committee that the amendments to schedule 1 be moved en bloc.

Hon PETER FOSS: I move -

Page 6, after line 18 - To insert the following definition -

“**“indictable offence”** means an offence for which a charge may be laid by indictment or an equivalent process (whether that is the only, or an optional, way to lay a charge of the offence);

Page 8, line 4 - To delete the following words -

“and Norfolk Island”.

Page 10, line 22 - To insert after the word “sentence” the following words -

“or trial”.

Page 11, lines 31 and 32 - To delete the words “constitutional principle stated in” and substitute the following words -

“Commonwealth Constitution — see”.

Page 12, line 16 - To delete the “subclause (2)(b)” and substitute the following -

“paragraph (b) of subclause (2)”.

Page 15, line 6 - To insert after the word “regulations” the following words -

“prescribing matters -

- (a) required or permitted by this scheme to be prescribed; or
- (b) necessary or convenient to be prescribed”.

Page 16, line 6 - To delete “section 5A(7)” and substitute the following -

“subsection (7) of section 5A”.

Page 16, line 29 - To delete “section 5A(3)” and substitute the following -

“subsection (3) of section 5A”.

Page 17, lines 3 to 9 - To delete the lines.

Page 17, line 13 - To delete the following words -

“ (other than Norfolk Island) ”.

Page 17, lines 17 and 18 - To delete the lines.

Page 17, after line 18 - To insert the following new clause -

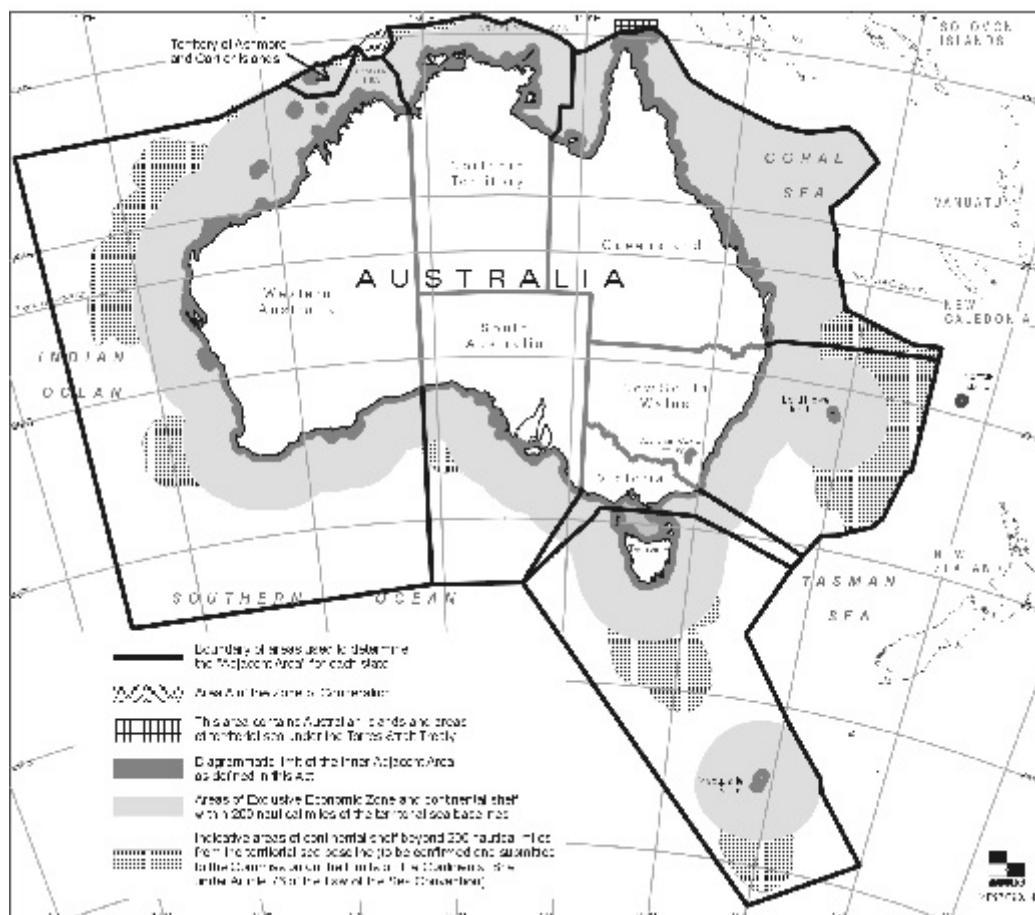
“ **16. Indicative map**

- (1) A map showing the various areas that are relevant to this scheme appears in Appendix 1 to this scheme.
- (2) The map is intended to be indicative only. The provisions of this scheme and of the body of this Act prevail over the map if there is any inconsistency. ”.

Appendix 1

Page 18, lines 1 to 5 - To delete the Appendix and substitute the following Appendix -

Appendix 1 — Indicative map



I will refer briefly to some of the amendments. A definition of "indictable offence" has been inserted which caters for the different ways in which offences of this nature may be initiated in various jurisdictions. The other amendments deal mainly with the reason that Norfolk Island has withdrawn from the scheme. As Hon Nick Griffiths suggested, it is not a matter of enormous moment, although an interesting aspect is that in the early days the residents of Norfolk Island had a bit to do with crimes at sea.

Hon N.D. Griffiths: You mean their ancestors?

Hon PETER FOSS: Their ancestors were the mutineers on *HMS Bounty*.

The words "or trial" are inserted because in some States, notably Victoria, a person pleading guilty at a committal proceeding is committed for trial, not just for sentence. The sixth amendment is for greater clarity and to negate any suggestion that the judgment in *Cheatle v The Queen* stands for some immutable constitutional principle. The seventh amendment is a style change which, as Hon Nick Griffiths indicated, is not of great import. The eighth amendment is for greater clarity. The ninth and tenth amendments are merely style changes. The eleventh, twelfth and thirteenth amendments

relate to the withdrawal of Norfolk Island from the scheme. The fourteenth amendment is to clarify that the map is indicative only. The fifteenth amendment, the new map, reflects Norfolk Island's withdrawal from the scheme. I had not looked carefully at the old map to see whether I could see Norfolk Island on it.

Amendments put and passed.

Schedule, as amended, put and passed.

Schedule 2 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

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

CORONERS AMENDMENT BILL 1999

Standing Orders Suspension

Resumed from 15 March after the following motion had been moved by Hon Peter Foss (Attorney General) -

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

HON N.D. GRIFFITHS (East Metropolitan) [2.34 pm]: I note what the Attorney wants to achieve and the objective is reasonable. I do not believe the mechanism is appropriate, but it is his call. The Australian Labor Party proposes to support the suspension of standing orders.

Question put and passed with an absolute majority.

Committee

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

Clauses 1 to 8 put and passed.

New clause 5 -

Hon PETER FOSS: I move -

Page 3, after line 26 - To insert the following new clause -

5. Section 21 amended

Section 21(2) is amended by inserting after "that death" -

" or a direction to make such findings as are possible under section 25(1) in relation to that death by a day specified in the direction ".

I have circulated an explanatory note on this clause for the benefit of members. Hon Nick Griffiths asked about the wording of the clause. The direction will be "to make such findings as are possible" rather than to make a particular finding. It is a precise direction in relation to a death and the findings must be made "by a date to be specified". It is for the State Coroner to decide what length of time is required. The coroner has already given a number of general directions about what he expects in terms of compliance with reasonable time limits for doing things, but this will allow him to give a direction for a finding by a particular day. The actual date is at the discretion of the State Coroner. However, the direction will be to "make such findings as are possible under section 25(1)" rather than a direction of what those findings will be. Under the wording of the Act the coroner will make such findings as are possible. Hon Nick Griffiths raised that matter and I wanted to direct myself to his comment.

Hon N.D. GRIFFITHS: I understand and agree with what is sought to be achieved. However, I do not think it is appropriate for legislation to be as prescriptive as this. I note what the Attorney General said, but the difficulties that can arise are better left to be resolved by administrative means. Notwithstanding that comment, this is a government measure and given its resources the Government has an obligation to call it as it sees it. This is not a die in the ditches issue and I will not be opposing the new clause.

New clause put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

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

ACTS AMENDMENT (EVIDENCE) BILL 1999*Second Reading*

Resumed from 14 September 1999.

HON N.D. GRIFFITHS (East Metropolitan) [2.44 pm]: The Acts Amendment (Evidence) Bill 1999 has the support of the Australian Labor Party. It is not a contentious measure although it contains many worthwhile matters. As has been the case with a number of measures which have come before the House yesterday and today, this Bill is a non-partisan measure in its nature. It is the sort of measure which Governments quite properly introduce from time to time, whether they be Labor or Liberal Governments.

I propose to deal with some of the specifics of this Bill and outline generally what the Bill contains. The Bill seeks to facilitate the admission of documentary and foreign evidence in trials involving complex commercial crime; to allow for the admission of documentary evidence created using modern information technology; to permit child and other vulnerable witnesses to give evidence on videotape to save them the trauma of giving evidence in open court; to remove what are considered to be inappropriate requirements for the tendering of the statements of child witnesses in the early stages of the prosecution process; and to allow the use of witness statements in prosecutions for crimes in the Children's Court and where there is an ex officio indictment, or where a witness has died, is too ill to go to court or simply cannot be found before the trial.

The Bill seeks to restore what is considered to be an element of fairness when an accused person makes unsubstantiated allegations against the character of a deceased victim of a crime; to expand the provisions of the Evidence Act to the prosecution of offences where the offender has been charged with repealed Criminal Code sections; and to allow a complainant in a sexual offence to authorise the publication or communication of his or her name without being held to be committing a crime. These matters and the policy they represent taken together are worthwhile measures and as such I trust will be supported without opposition.

HON HELEN HODGSON (North Metropolitan) [2.47 pm]: I have been caught on the run with this Bill because of the rate at which we have gotten through our business in the past two days. The fax header on the final submission I have received on this matter shows it was received at 1.12 pm this afternoon. I would like to raise a couple of issues, but at this time I am not in a position to recommend any amendments. The Australian Democrats have had a look at the Bill and generally agree with the thrust of it - it is moving towards the streamlining of evidence and the way it is used in our courts. We think some parts of the Bill are of assistance. As a person who used to teach case law to students I appreciate how much easier it is to do so when one can refer to charts, diagrams and the like as is referred to in one clause of the Bill. I note that in some of the tax judgments I had cause to refer to in my previous life the judges attached a diagrammatic representation of dealings in the case so people could work out the money flows. This Bill is trying to address that sort of situation. However, the submission I received an hour ago points out that there are some concerns with this Bill. The Bill is modifying the best evidence rule in a number of situations. The comments I have from the Criminal Lawyers Association suggest that proposed new sections 27A and 27B go too far in modifying the extent to which diagrams, charts and other forms of information should be used in a case.

One of the comments is that aids are often used under current legislation where the parties and judges agree and that aids should not have the status of real evidence or be able to be used in substitution of real evidence. This legislation is modifying what is known as the best evidence rule, which says that one always goes to the primary source and that to substitute secondary source documents means a lesser degree of evidence. I appreciate the use of and need for aids, and the fact that it will facilitate processes if one can summarise and collate some of the information but - and this is a big but - they should always remain secondary to the original documents. If a situation arises where one needs to be able to present documents in evidence, original documents must be preferred over and above any charts, diagrams and ancillary aids. Proposed section 27A addresses that ability, but proposed section 27B goes further and reads -

If a court is satisfied that particular evidence that a party to a proceeding proposes to adduce is so voluminous or complex that it would be difficult to assess or comprehend it if it were adduced in narrative form, the court may direct the party to adduce the evidence in another form . . .

I would be very concerned that that in fact detracts from the original evidence and the validity of it. The information I have been given is that many of the concerns identified in the second reading speech that have led to these changes can be overcome by making the proving of documents easier. It is not necessary or desirable to go beyond the original documents to present them in a modified form. If one can have the proof and introduction of the documents made easier, one does not necessarily need to go that extra step. The same sort of comments apply to proposed section 73A, which again deals with the best evidence rule. We have some serious concerns about the admissibility of reproductions and the ability to bring in forgeries or documents that may not be totally accurate through the use of reproductions instead of obtaining an original document. That is probably the key area.

Another area where there are some concerns is video evidence. This is a difficult area because if one talks to people who work with children and with people who need protection in the courts, there is a firm view that children need to be able to give evidence from another room and that video evidence is the way to go. It protects the children and puts them in a situation where they are not confronted with the offender. However, anecdotal evidence from people working in criminal

law suggests that it has a downside; that is, that juries are far less likely to believe evidence from a videotaped interview than they are if the child is there. Those are the two issues. On balance I favour the use of video evidence because it protects the child, but there is a danger that these amendments could allow a situation where police officers or social workers video the interview of a complainant and then the prosecution simply plays the tape to the court as the evidence of the complainant along with pre-recorded cross-examination. That would limit the ability of the accused's lawyer to test the evidence. Given that we are working towards a system where justice, which is the ability to examine both sides, is important, it is a very hard balance to find in this case. I would be very concerned if this extends to the point where we find that the video evidence is taken untested and untried as being the only evidence available.

The third point is a relatively minor one but it is worth raising. It is the ability for complainants to indicate that they agree to having their identity published. I do not have any difficulty with that in practice. If people are willing to come forward and comment, that is their right. However, the legislation before us simply refers to authorisation of the publication or broadcasting of the matter. Situations arise where people involved in a criminal matter may become very emotional and overwrought and it is very easy for them to misunderstand their rights on a certain issue. I would prefer to see a small protection built into the legislation so that the authorisation would have to be in writing. That at least means that people have seen something and have a written document. If there is any dispute in the future over whether they did or did not consent to publication of their name and details, there is a release there. It not only protects the complainant but also the media organisation which could be accused of exploiting that sort of person. That is a relatively minor point and probably the only one on which I am in a position to put forward an amendment on the run. The other issues require a little more thought.

I will be interested to hear the Attorney General's comments on the issues that have been raised. We will see where it goes from there. However, we support the Bill in principle. We think there are a lot of good things in it. It is a question of whether it goes too far in some cases and whether the effect on the best evidence rule will have a negative effect on the way justice is made available in this State.

HON PETER FOSS (East Metropolitan - Attorney General) [2.56 pm]: I find the best evidence rule is very antique and not one that I would ever defend. It goes back to the days when it was very difficult to preserve the integrity of a document. Documents were privately kept and proved by public facts. For example, a man would prove his ownership of land by showing a root of title by a series of documents that showed he bought it from somebody else, who bought it from somebody else and so on. He would go back a certain number of years to show that each of those people had resided on the land and that there was a document showing that he had title from people who had occupied the land.

One of the ways they used to make certain that all these documents were not forged is that there would be what is called an indenture. An indenture was a document written more than once on a piece of parchment. It was then cut through the middle in a zigzag line so that people could tell the two fitted together and they were therefore the original and duplicate. One can understand, when there was not the Torrens system and when claims were subject to defeat by equitable titles, that it was pretty important that people had some way of preserving against fake documents and that they were able to show that it was an original document rather than merely a transcription. Of course, because they were original documents they had a tendency to be kept fairly safe. When people were exchanging information and so forth they exchanged it by copies of those documents, so often there were copies around. When people were making those transcriptions by hand, often errors occurred. So it was quite possible that a critical point could be lost in the transcription.

The best evidence rule generally applied to the proof of documents. At the time when it was brought into existence, there was considerable justification for it. Nowadays it is a little bit hard to justify. My recollection is that the Law Reform Commission report that was recently tabled also had some things to say about the best evidence rule. I have always found it one of the most frustrating rules. I certainly agree that the way people prove documents could be a lot better if they did not have to call somebody, but the fact is that if somebody really wants to delay a case, the use of the best evidence rule and proof of individual documents is probably one of the best ways of spinning out the time and taking an incredible amount by way of costs. I do not have a lot of sympathy for the best evidence rule. This does not prevent it becoming a real issue when it is raised by way of query and when considerable doubt is thrown upon any evidence. Proposed section 27A states -

- (1) Evidence may be given in the form of a chart, summary or other explanatory document if it appears to the court that the document would be likely to aid comprehension . . .

It leaves it to the judges. It might be seen as unusual for me to suggest that it be left to the discretion of judges to decide whether that is a better way of doing things; however, whether it would aid understanding is an appropriate decision to be made by the judges. This method was used in some cases in which I was involved. The document does not become evidence; it just becomes an aid to understanding the evidence. If it is to be an aid to understanding the evidence, I cannot understand why it should not also be accepted in evidence; nor does the Bill state that all the other documents cannot be tendered. Nothing under proposed section 27A states that the documents on which the aid was based may not be tendered; it just says that the aid may be received as evidence. That would be useful in the event of an appeal. It would then go to the appellate court as part of the evidence, not merely as a transaction which took place by which people understood the evidence. We are seeing the reality of what is happening in the courts. In no way are we undermining that rule. Although it has its advantages, it also has enormous disadvantages; it is not hallowed. It owes more to the old indenture and the need to prove title by original documents than it does to any real theory. My recollection is that a number of other common law jurisdictions have removed it. I do not think the civil law has it at all. Proposed section 27A is just commonsense. It is in line with what is happening, but regularises it.

Proposed section 27B is also very important. It gives the court the power to require people to get evidence in an understandable form. Some people do not want it in an understandable form; some people do not have the competency to put it in an understandable form. However, a tremendous amount of judicial resource goes into understanding large and complex cases. I do not think there has been a successful fraud case of any substance for many years, partly because of the difficulty in understanding the evidence. There is no doubt that there are circumstances in which it is extremely hard to put the vast quantity of paper going through into some form in which it can be understood. I will give members an example of a case I was involved in years ago, and things have changed since then. It was an engineering case which was seven years in the building. Every document that was created had an enormous circulation list. When we had to do discovery on it, every copy of every memorandum had to be looked at just in case somebody had written something on it to alter it; therefore, it would have become a separate document. There were acres of documents. Trends and matters needed to be understood in the course of that documentation. It would have considerably assisted the court if it could have asked us about the trend of the documents. The supporting documents could have been put behind the essence of it, which is what the court would have wanted. It goes beyond the court asking that the evidence be produced in that form. It is a worthwhile amendment and anyone who has been in a case of any length would realise that. There is no reason why short cases should be not made shorter and easier. The big problem we have identified is the incredible cost of litigation. Counsel must do it for their understanding, but if they must take the judge through the same lengthy understanding process - it can be done more quickly this way - the time in court will not be considerably reduced.

I have heard anecdotal evidence from both sides on video evidence. Video recorded evidence has a different impact on juries than that of evidence from live video cross, but that is a decision that people must make. One of the difficulties is that often children must go through the process again and again. We may have to deal with the matter of committal proceedings, although we do not have many committal proceedings now as many people ask for a handout. The committal proceeding can re-victimise the victim. The whole court process re-victimises victims. A victim must go through the whole experience in the first place, then he or she must go through it for the police and then go through it again for the committal proceedings. Then the victim must go through it again for the trial, which may be two or more years later. It is totally traumatic for victims who are trying to get on with their lives. It has been suggested that the conviction rate may not have been as high with non-live video evidence as it was with live video evidence. It is important not to continue to traumatise the victim, particularly children. Two years after the fact is a long time for an adult victim, but two years for a child may seem like half their lifetime has passed and then the child must go through the horrific experience again. We must balance the interests of justice and of the public in securing the conviction. It is probably a small reduction in the capacity to make an impact, but I do not think it is that vital that we need to over-victimise those children.

I draw the attention of members to proposed section 106T(3), which provides that the judge can order the witness to come before the court for further clarification of the witness' evidence. It purposely does not say cross-examination because the further clarification is likely to be arranged by the judge so the person concerned with the victim's evidence can then indicate the concerns. It will then be up to the judge to ensure that the further clarification of the evidence is appropriately produced by the witness. Again, one of the problems we have with this is the matter of the child's evidence. Only last year we dealt with a different way of handling children's evidence.

Another question raised by the member is whether the matter of the defence should require authorisation in writing. That is a valid point and could benefit everybody. However, it would mean that people would be chased for written authorisation. They might just sign it and then they are stuck with it because they have signed it. There are disadvantages as well, but I take the member's point. One of the big problems we must face is the re-victimisation of victims by the pursuit of the Press. It is very worrying. I introduced the privacy agreement Bill into this House on a couple of occasions because often there is scant respect for victims when they have been subject to an horrific crime. The classic example was the terrible front page photograph in *The West Australian*, which I am sure we all felt was entirely in bad taste. It had the capacity to re-victimise that woman's relatives and family to see her in that condition on the front page of *The West Australian*. I totally sympathise with the point the member has made. There is some merit in making that alteration, but I do not think it is a total solution to the problem. It is probably worth a try and we will see whether it results in the further pursuit of those people. I accept the point that the member has made. I thank members for their support of the Bill.

Question put and passed.

Bill read a second time.

Committee

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

Clauses 1 to 8 put and passed.

Clause 9: Section 26C amended -

Hon HELEN HODGSON: As foreshadowed in the second reading debate, I move -

Page 7, line 20 - To insert the words "in writing" following the word "authorized".

Hon PETER FOSS: The interesting aspect of this amendment is how it would work in practice. It would not allow that person to ring a talkback show, say he was the person in that case and wanted to say certain things about it. He could walk out of the court and do an interview with a media group but it could not be published until written authorisation had been given. It might mean that the victim must authorise the publication of that interview by the media. That person could

authorise them all at the same time in writing, although they would not all necessarily have a copy of the written authorisation. It would not be reasonable to expect the person to sign 10 authorisations and hand them to the media. It poses practical problems but it is not a bad thing. The advantage is that it would not happen inadvertently. It will place a severe limitation on the capacity to do anything about this, but that may be a good thing because it would happen only when that person had had time to think about it and do it advisedly. It will be a significant dissuasion to giving that authorisation but it can be done if the person wishes to publish something, although he may have to wait for some later opportunity and it could not be done immediately. If that is the result the member seeks to secure, the amendment would be justified. I do not have a strong feeling either way.

Amendment put and passed.

Hon PETER FOSS: One of the other problems is that it may be very difficult to secure any prosecution on this if it becomes an exception rather than a defence they must raise. It may make it almost impossible unless the legislation provides that the broadcaster must prove it has the authorisation rather than the Crown prove that it does not have it. Proving that the broadcaster does not have it may be a lengthy process.

I will move a further amendment. I suggest we proceed through to the end of the Committee, and I will not move for the adoption of the report at that time. I will move for it to be adopted at a subsequent sitting. If in the meantime we have considered the amendment and are happy with it, we can leave it; if we are not happy with the amendment after further consideration, the clause can be recommitted. I move -

Page 7, after line 28 - To insert the following -

proof of which lies on the publisher or broadcaster.

This will govern paragraphs (a) and (b). The idea is that rather than leave it to the prosecution to prove all the negatives, the person who wishes to use this as a defence must prove it. That will make it more effective generally. I commend the amendment to the Committee, and I will not move for the adoption of the report at this stage but will ask for it to be rescheduled for another day's sitting.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 10 to 43 put and passed.

Title put and passed.

Bill reported, with amendments.

COURTS LEGISLATION AMENDMENT BILL 1999

Second Reading

Resumed from 10 November 1999.

HON N.D. GRIFFITHS (East Metropolitan) [3.20 pm]: The Courts Legislation Amendment Bill has the support of the Australian Labor Party. This Bill seeks to introduce a number of worthwhile measures, not of a partisan nature, but measures which could have been introduced by a Labor Government or a Liberal Government. It is an appropriate Bill, which the Labor Government would have dealt with speedily at any time, and we propose to deal with it speedily this afternoon. I propose to comment briefly on some of the matters contained in the Bill.

First, it provides a statutory basis for the mediation practice which has developed in the Supreme Court over the past seven years. It deals with the review of fees in the courts. Currently in the lower courts the fees are dealt with by the executive, and in the higher courts it is a process in which the judges are involved. The Bill seeks to make the executive process common to all courts, and thus remove the judges from the process. That is very appropriate.

The role of the Joint Standing Committee on Delegated Legislation is envisaged to remain. The status of judicial support staff in the higher courts is dealt with. The appointment of commissioners to the District Court and their qualifications is dealt with.

The role of the Liquor Licensing Court is a matter of great interest to the liquor industry. It has long been my view that the Liquor Licensing Court should be a division of the District Court. This will take place under the provisions of the Bill. I note that one of the pillars of judicial independence is not interfered with in that the judge currently presiding over the court will remain in that position until his tenure has expired.

The payment of judgment debts in the Local Court is dealt with in an appropriate way in that the Bill will allow for payments in full or by instalment to be made directly to a judgment creditor or the judgment creditor's solicitor. These are worthwhile measures and I have no difficulty supporting them on behalf of the Australian Labor Party.

HON HELEN HODGSON (North Metropolitan) [3.23 pm]: The Australian Democrats support this legislation. It does not appear to contain anything controversial. It deals with the conditions of the District Court, and the Supreme Court Act. The mediation facilities in the Supreme Court are a good idea and the appointment of staff to judges and so on are matters that needed to be addressed.

I asked the Attorney General a question and I have received an e-mail response from his advisers, but I would like it on the record. The provisions governing the appointment of a Liquor Licensing Court judge will be removed and he will henceforth be one of the judges of the District Court. I am concerned that, given the workload in the District Court, we might end up with a reduction in the number of judges available to preside over District Court matters because one has been appointed to the Liquor Licensing Court. I understand that that is not the case, but I would like it confirmed on the record. With that proviso, the Australian Democrats support the Bill.

HON GIZ WATSON (North Metropolitan) [3.26 pm]: The Greens also support this Bill. We do not see anything controversial in it. I encourage the efforts to improve the efficiency and effectiveness of the court system.

HON PETER FOSS (East Metropolitan - Attorney General) [3.27 pm]: In response to the question asked by Hon Helen Hodgson, I point out that the Liquor Licensing Court judge has not had enough to do. We were using him as a commissioner in the District Court to boost its resources. He then raised a difficult point as to whether he could be a commissioner in view of the fact that he was not then a legal practitioner because he was a judge of the Liquor Licensing Court. The Liquor Licensing Act provides that a judge of the Liquor Licensing Court cannot practice as a legal practitioner. He pointed out that, if he cannot not practice as a legal practitioner, he cannot be a legal practitioner. Another amendment deals with that issue, and will allow him to be appointed as a commissioner of the District Court. As a result of this amendment we will have more "judge power" in the District Court as opposed to less.

Obviously this duty will be part of the overall burden of the District Court when this judge retires and we have to appoint another judge from that court. However, when he does retire we will have another judicial salary available to appoint another judge. Resourcing the court is no small task. It costs a little over \$1m a year to maintain a judge, which is a considerable expense. I am mindful of that and of the burden on the District Court. However, the principal burden on the District Court is not coming from the Liquor Licensing Court but, rather, from other areas. This Bill will assist rather than detract from that.

Question put and passed.

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

HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) BILL 1999

Second Reading

Resumed from 23 November 1999.

HON N.D. GRIFFITHS (East Metropolitan) [3.29 pm]: I am not the Opposition's lead speaker on this Bill but I note the contents of the Attorney General's second reading speech. What the Bill proposes is worthwhile.

Hon J.A. Cowdell: Which particular aspects?

Hon N.D. GRIFFITHS: From clause 1 until the end of the Bill! The Australian Labor Party strongly endorses the Bill. It is pleased that, once again, the Government is proposing to expedite the legislation in this manner. It will be beneficial for the State and Australia. Having dealt with the generalities of the Bill on behalf of the Australian Labor Party, a more athletic colleague than me - because it has something to do with an athletic event - will now deal with the detail.

HON KIM CHANCE (Agricultural) [3.31 pm]: I thank my colleague, the Deputy Leader of the Opposition, for outlining the general principles of the Opposition's position on this Bill. He reminded me of a couple of important components of the Bill that I would otherwise have missed.

This is an important Bill, particularly from the point of view of the Leader of the House in his other life as the Minister for Tourism. It addresses a difficult situation whereby sporting and some cultural groups, such as ballet companies, bring their own medical practitioners into the country. The means by which that is handled is cumbersome and ineffective, with one significant historical exception. Present procedures require that foreign doctors accompanying sporting teams must be registered with Australian health registration boards, which is cumbersome and unnecessary. It is difficult to see the public benefit in requiring a doctor accompanying a team or corps to meet Western Australian standards since that doctor will never be called upon to deliver health services to Western Australians. The doctor's efforts will be confined entirely to that team.

This Bill has a precedent, although it was in a different form and for a somewhat different function. This is where the legislation is relevant to the Minister for Tourism. The precedent is the Acts Amendment (America's Cup Defence and Special Events) Bill 1985. It differed from the Health Professionals (Special Events Exemption) Bill in that the intention was for the Bill to lapse, as it did, in or around 1987, once the America's Cup defence was completed. Another significant difference is that the Acts Amendment (America's Cup Defence and Special Events) Bill was not specifically designed to cater for overseas medical practitioners. Other issues were dealt with on a higher priority, including exemptions relating to gambling laws and liquor licensing laws. By contrast, the Health Professionals (Special Events Exemption) Bill relates specifically to the issue of medical practitioners and is intended to be ongoing. It contains a requirement for the Minister for Health to be notified when a significant sporting event is about to take place so that the minister is always aware when the Act is in force.

The Bill has the support of the key stakeholders. The only areas of concern I am aware of were issues raised by the Pharmacy Guild of Australia which were dealt with in the other place to everybody's satisfaction. I believe the Pharmacy

Guild's concerns have been alleviated with the requirement of separate authorisation under the Poisons Act for overseas doctors prescribing certain preparations while they are in Western Australia. I understand the Bill is modelled closely on legislation already enacted in New South Wales, Queensland and Tasmania. Overseas doctors who enter Western Australia under this legislation and are confined to their corps will be briefed on the areas of practice permitted. Similarly, they will be advised on the definitions which apply in the legislation.

The Opposition is pleased to support the Bill. It is a small but important Bill. With the number of years that significant sporting events have been held in this State and in which doctors travelled with teams, I am surprised this legislation was not required earlier. The 1985 precedent indicates this legislation has been needed for a long time. I have not read the debate of the passage of the Acts Amendment (America's Cup Defence and Special Events) Bill but it would be interesting to know whether there was any argument about whether it ought to be an ongoing issue. Western Australia has been hosting major international tennis and motor racing events for 20 or 30 years, or perhaps even longer, so it is surprising the need for this kind of legislation has not emerged earlier.

My only question, from what I have been able to derive from my reading of the Bill and extrinsic material, is whether issues arise in other, related health areas. I note that in the past couple of years the Parliament has passed legislation regarding physiotherapists, which is restrictive in terms of people covered by that. I do not know whether the scope of this Bill extends into the provision of physiotherapy services. I am aware physiotherapists commonly travel with sporting teams.

Hon Peter Foss: They are covered by the legislation.

Hon KIM CHANCE: I am sorry; I did not pick that up. I thought it was limited to medical practitioners.

Hon Peter Foss: It covers a range of things. They can even make false teeth while they are here!

Hon KIM CHANCE: I am pleased that scope has been covered. I am happy to advise the House of the Australian Labor Party's support for the legislation.

HON NORM KELLY (East Metropolitan) [3.40 pm]: I appreciate the willingness of the Government to introduce and expedite these matters which relate to the powers that medical practitioners can have over their patients, in this case in relation to medical practitioners visiting from overseas or interstate. The Bill covers a broad range of medical practitioners, not simply doctors and physiotherapists, but, as can be seen from the interpretation clause, it includes osteopaths, pharmacists, podiatrists and psychologists and, of course, sports psychology is an increasing field of expertise.

The Australian Democrats support this Bill. In discussions with officers of the Health Department some of my concerns have been satisfied, although those concerns need to be expressed in this place in relation to this legislation. The Bill proposes a more efficient system than that which we have now and visiting medical professionals will not need to register in this State. Currently I understand that, when medical practitioners are visiting this State, sometimes for only a week or two, for the sake of expediency, that requirement is simply overlooked. Because these medical practitioners are treating only the people involved with the team or group with which they are working, and, therefore, they are not giving attention to Western Australians, these requirements for registration can be overlooked. Although that practice cannot be condoned, I believe the Government is putting forward a far neater, more efficient way to deal with regular visits by overseas professionals. As Hon Kim Chance mentioned, it relates back to the legislation which was put in place for the America's Cup.

An increasing number of special events are taking place in this State. Hopefully the Minister for Tourism will make sure that the Heineken Classic is replaced by another big event. Special sporting and cultural events, including those associated with the Festival of Perth, are taking place in Perth on a more regular basis. Some of the teams competing in the Sydney Olympics this year will use Perth as a base. I understand that the Greek Olympic team will base itself in Western Australia prior to the Olympics. For those reasons it is good that we will have this legislation.

I have raised a couple of concerns privately with officers of the Health Department one of which relates to an emergency which may occur at a sporting or cultural event as a result of which a visiting doctor may give assistance. For instance, someone in the crowd may have an accident or fall ill or the like. If it is convenient, a visiting doctor who is present could give assistance. Under this Bill, that would not be allowed to occur. The Bill requires that the visiting professional can provide professional assistance only to people within his or her team or group. The professional is not to provide services to members of the Western Australian public. However, I understand that this is not a common law situation. It is a situation where a professional visiting from overseas would be liable to any actions taken against him in the same way as actions could be taken against any other unregistered person within this State. A member of the public who wanted to give assistance could be liable to the same actions as is a professional visiting from overseas.

We would not like to see the position arise where people decline to give assistance in emergency situations simply because of the fear of litigation. I am glad we have not gone down that road as rapidly as the United States of America where an extremely litigious situation exists. Often when giving assistance in emergency situations doctors will not even identify themselves for fear of being sued for malpractice or the like.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon NORM KELLY: Another concern about this Bill relates to clause 13, which deals with visiting health professionals. The clause provides that no disciplinary action may be taken against a visiting health professional. Although these visiting

professionals are in attendance to assist a sporting team, cultural group or the like, they may be indulging in practices that are not acceptable according to medical standards in this State. This Bill will condone those unacceptable practices simply because these visiting professionals are conducting such procedures on their own clients.

I appreciate the competing interests of trying to encourage people to visit and to have these events organised and staged in this State, and this Bill assists that purpose. However, in doing so, we may be allowing practices that we would not allow resident medical professionals to perform. Resident health professionals may be aware of or observe practices about which they would normally lodge a complaint, but they are limited by this legislation.

Hon Peter Foss: There are no third-party complaints under that legislation.

Hon NORM KELLY: I have not studied all the health registration legislation.

Hon Peter Foss: The health service conciliation review does not allow third-party complaints.

Hon NORM KELLY: I am more concerned with the relevant health registration legislation.

However, in my discussion with parliamentary officers, I have been assured that, if a visitor is admitted to a hospital, the visiting doctor is not necessarily allowed to treat the patient in the hospital. The hospital would have a duty of care for that patient and he or she would have been admitted by the local admitting doctor, not the visiting professional. Those safeguards exist, but I wanted to raise those concerns because, as much as the Australian Democrats support the Bill, these issues must be taken into consideration when the legislation is enacted.

The Australian Democrats have the standard small amendment relating to the review of Acts, which is party policy. It has previously been accepted, and I understand the Government will accept it again. The Australian Democrats support the Bill.

HON GIZ WATSON (North Metropolitan) [4.42 pm]: The Greens (WA) support the Bill. I had questions regarding some of the issues raised by Hon Norm Kelly. It is interesting when one drafts legislation for special events. This is an exemption for sporting events, but it is perhaps not limited to them. There might be a visiting group of tourists who wish to bring their own health care professionals with them. Would this set a precedent for similar requests from other groups? It is interesting that, although we have standards for local health care professionals, we are providing an exemption for professionals from other countries to practice outside those standards, albeit on their own clients. What ethical questions does that raise in terms of the practices being carried out? I also tried to envisage what would happen with a fully-imported construction team working on a local project and not complying with our occupational health and safety laws. Would that be acceptable?

On balance, the provisions of the Bill make this exemption acceptable. However, I am interested in any comments the Attorney General might care to make about whether this will set precedents for other visiting groups. Will this open up an area of law that it was not intended to open up? The Greens (WA) will support the Bill.

HON PETER FOSS (East Metropolitan - Attorney General) [4.45 pm]: There is an area of the law called private international law or conflicts of law. It is an interesting area because over the years, the courts have shown a remarkable variation in attitude, from the extremely narrow-minded to the quite broad-minded. The judges who have studied conflict of law or private international law tend to know the principles of law and apply them with an intent to recognise that no-one has the real gift of knowledge about what is the right way to do things - no-one's law or method of doing things is particularly correct. Observing the appropriate comity of nations, one respects other ways of doing things.

On the other hand, some have never studied conflict of law. Common law judges in England come to mind. They make rude remarks about how the French do not know what proper law is all about and suggest that the new fangled or strange continental way of dealing with the law is anathema to a good solid Englishman who eats only roast beef and Yorkshire pudding and who believes that one should always apply English law. There is always the concern that we believe that the way we do things is the only way and the right way to do them and that we should be suspicious and dismissive of other people's ways of disciplining and controlling their own professionals.

I am sure these professionals having been coming to Western Australia regularly and that it was not only in 1985 that they came. There has been a continuing situation with physiotherapists, occupational therapists and so on coming here and theoretically lending themselves to prosecution under the various registration Acts. I do not think it is very likely that a prosecution against a visiting physiotherapist would be successful because he or she would be here for such a limited period. The reality of the situation is that it is unsatisfactory for such professionals to be theoretically breaking the law when international comity would ask why we would not allow these clients to use the services of the professionals they normally use. If a professional is operating appropriately within the jurisdiction of his or her own country, and it would be extremely disturbing for the client to rely upon an unfamiliar professional - keeping in mind the importance of the relationship between professionals in the health care industry and their clients and the trust that is built up - it would be extremely rude, intolerant and lacking in comity if the client were not able to be accompanied by that professional.

There are two aspects to this matter. One is to allow that comity to be extended. The other aspect relates to another area which becomes fairly important when there is at least a possibility of an inability to operate or a real likelihood of prosecution. That relates to exemptions covered in clause 9 where there would be an obstruction to them being able to carry out their normal functions because we would not give them the recognition necessary for them to be able to prescribe, be in possession of or supply drugs. It is appropriate that we do that. Members will note that a separate order and authorisation

is required for that so that there will be proper scrutiny to ensure that it is carried out appropriately. However, we would be a remarkably narrow-minded nation if we were to not recognise those people as having that professional capacity. I must confess that we would have a bit of a problem if we started getting too sticky about which nations we recognise and which we do not. It would be most unfortunate if we were to start saying that we recognise the French or the Americans as they are civilised people but we do not like people from other countries, of whom we may take a slightly more disdainful view. We should definitely apply conditions and controls but I would hate to see us taking a superior attitude on the basis of what we believe is the appropriate standard. It may be that our standards are better but we must accept that some countries standards are different and we should respect the athletes from those countries. It is not for us to impose our views on them in that respect. After all, they have come from a country which has a particular service, they will be going back to that country and to that particular service and, no doubt, that is the regime they have become used to.

The other matter raised by Hon Norm Kelly was the question of complaints. Again, it is inappropriate for us to deal with those complaints. Having extended this form of recognition to health professionals, and having got off the method which we currently have of ignoring the facts and doing nothing about them, we will allow them to function. The question then arises: To what extent are we taking them into our bosom and how much responsibility are we taking over? Given the regime that will be set up, it is inappropriate for a complaints regime to be added to it. These people will not become our professionals and will not fit within our general provision for the protection of people providing health services. We are saying that we are allowing a small island to be created around these people when they come to Western Australia. They are bringing their country with them, they are bringing their athletes with them and they are bringing their professionals with them. We are allowing them to operate in isolation from our community; we are preventing them from being prosecuted and allowing them to reach out when necessary for things, such as drugs under the Poisons Act. However, generally speaking, we are respecting them almost like people coming to our country as either cultural or sporting ambassadors and giving them a bit of diplomatic immunity and the ability also to reach out into our community when necessary in order to carry out their functions. However, in general, we are treating them as if they were in their own country, and comity requires us to do that.

This is a very mature Bill. I know I am a states' righter, always insisting on the rights of the State. However, I sometimes surprise people because I believe there are areas in which we must take a national attitude and areas in which we must take an international attitude. We must put aside our own narrow-minded attitudes and say, "We respect your position."

Hon Mark Nevill: Except for mandatory sentencing.

Hon PETER FOSS: I am a states' righter on that one and I believe we are entitled to our views on that matter.

Hon Kim Chance: You have bilateral support on that.

Hon PETER FOSS: Yes, and I am glad I do, too. However, it is a matter of discrimination and distinction to say, "I will stand up for my State" or "I will think of it as a nation" or "We will think of ourselves as a family of nations." In this case it is, "We will think of ourselves as a family of nations." I believe this is an excellent piece of legislation showing a mature, international approach and I welcome the support that it received.

Question put and passed.

Bill read a second time.

[Resolved, that the House continue to sit beyond 5.00 pm.]

Committee

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

Clauses 1 to 6 put and passed.

Clause 7: Provision of health care services by visiting health professionals authorized -

Hon KIM CHANCE: A thought occurred to me while Hon Norm Kelly was speaking relating to the circumstances in which care may be provided by a doctor enabled under this Bill to a person other than a team member. I ask the Attorney General a question as a lawyer, as much as the minister representing the Minister for Health. Consider the hypothetical situation suggested by Hon Norm Kelly that on a training day when a discus goes astray and injures a member of the crowd and the only doctor present at the sporting field is an English team doctor and that doctor is confronted with no other medical personnel present and a person obviously requires stabilisation. What limitations may apply to a doctor who is enabled by this legislation in circumstances such as those?

Hon PETER FOSS: The situation would remain the same whether the person was a foreign doctor, a doctor from other than Western Australia or a person who is not a doctor: Any person would be entitled to use such skills as he or she has in an emergency. That person would not be practising medicine in the ordinary sense of the word but would be rendering emergency aid to somebody in a serious condition. However, if an English doctor were there and somebody said, "I have a bit of a stomach ache. What do you reckon I should be taking for that?" and he wrote out a prescription, that would not be appropriate because that would be practising medicine as opposed to dealing with an emergency.

Clause put and passed.

Clause 8 put and passed.

Clause 9: Issue of prescriptions and supply of certain substances authorized -

Hon NORM KELLY: If a pharmacist is concerned that a visiting doctor, perhaps the doctor for the Chinese swimming team or similar, is over-prescribing drugs, what actions could the pharmacist take to raise his or her quite viable concerns?

Hon PETER FOSS: The situation does not vary, even if the doctor is a local doctor. There have been occasions when doctors have over-prescribed opiates or well-known drugs of addiction. A chemist raises the matter with the authorities when he or she thinks a person is prescribing unsuitable amounts. Clause 6 is needed because it allows exceptions to the general right to practice. It says a doctor may prescribe only if he or she has authority under that clause. Clause 6 allows for a significant number of conditions and circumstances. I will not say what the authorities will do. However, it is within the capacity of the Health Department to develop protocols and an appropriate set of conditions that will apply. Some conditions are set out in the Bill. If a foreign doctor came here and ordered 10 tonnes of opiates as a prescription for his team, the pharmacist would make a small inquiry as to whether it was appropriate. Appropriate inquiries would be made and something could be done about it. However, if the prescription appears to be within reasonable prescribing practice, the same procedure, as for local doctors, would be followed. Similarly, if a local doctor ordered 10 tonnes of opiates, an inquiry would be made to the Health Department. That does not mean there cannot be abuse by either Australian or overseas doctors.

Hon NORM KELLY: Is the Attorney General referring to the Health Department or a similar body when he says that pharmacists would be able to raise concerns with the authorities? What is the chain of command, so that it is clear who is the authority?

Hon PETER FOSS: The current authority to whom these matters are referred is the public health division of the Health Department.

Clause put and passed.

Clauses 10 to 16 put and passed.

Clause 17: Review of Act -

Hon NORM KELLY: I move -

Page 13, line 6 - To insert after the word "prepared" the following words -

(and in any event not more than 12 months after the expiration of the 5 year period referred to in subsection (1))

This is standard Australian Democrats policy and negates the possibility of excessive delay in the tabling of reports.

Hon PETER FOSS: I am aware that this is a standard Australian Democrats amendment. It is not one for which I have any great sympathy as I think it is over-prescribed. However, the minister in charge of the Bill in the other place has advised me that he is happy to accept the amendment, and I will accord with his wish.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

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

ACTS AMENDMENT (CONTINUING LOTTERIES) BILL 1999

Receipt and First Reading

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

Second Reading

HON N.F. MOORE (Mining and Pastoral - Minister for Racing and Gaming) [5.06 pm]: I move -

That the Bill be now read a second time.

The main purpose of the Acts Amendment (Continuing Lotteries) Bill 1999 is to make the Gaming Commission of Western Australia the sole agency responsible for the licensing and regulation of continuing lotteries in Western Australia. A continuing lottery, or what is generally known as break-open bingo tickets, is a lottery in which the holders of tickets expose concealed pictures, figures, letters or other symbols to ascertain whether a prize has been won.

The Gaming Commission issues permits to charitable and sporting organisations to conduct continuing lotteries. However, while the Gaming Commission Act 1987 provides for the licensing of suppliers of bingo, standard lottery tickets, table

games and video lottery terminals, it is the Stamp Act 1921 that provides for the licensing of suppliers of continuing lottery tickets and prescribes the maximum number of tickets in a lottery series. Consequently, suppliers of continuing lottery tickets are required to deal with two government agencies and to be licensed under two separate Acts of Parliament. When this Bill comes into operation, only the Gaming Commission of Western Australia will be responsible for the licensing and regulation of continuing lotteries in Western Australia.

The Bill repeals the continuing lottery provisions in the Stamp Act and amends the Gaming Commission Act to provide for the licensing of suppliers; the termination of licences; the cancellation or suspension of a licence in certain circumstances; appeals to the minister when a licence is cancelled or suspended; the lodgement of returns; the payment of the continuing lottery levy; and offence provisions.

Section 111B of the Stamp Act, which presently authorises the collection of the 5 per cent stamp duty on the face value of continuing lottery tickets, will be repealed by clause 5 of this Bill. However, the Gaming Commission (Continuing Lotteries Levy) Bill 1999, which complements this Bill, provides for a prescribed levy to be imposed on continuing lottery tickets.

Clause 15 of this Bill provides for the allocation of the proposed levy between the consolidated fund and the Gaming Commission of Western Australia. The proposed levy will be sufficient to compensate for the 5 per cent stamp duty that is currently collected under the Stamp Act, and will meet the Gaming Commission's costs of licensing and regulating continuing lotteries.

The opportunity has also been taken in the Bill to clarify and strengthen the provisions of the Gaming Commission Act that relate to trade promotion lotteries and the prohibition on the possession and playing of gaming machines. The Bill amends the definition of "lottery" and "trade promotion lottery" to ensure that the Gaming Commission regulates game shows and competitions that require persons to register in order to have a chance of participating in a game show or competition that offers participants the chance to win prizes. The proposed amendments will enable the Gaming Commission to regulate the cost of telephone calls made to participate in a game show or competition.

The Bill extends the definition of a trade promotion lottery to include a lottery conducted to promote the sale of goods or the use of services, in which every participant takes part by reason of the purchase of goods or the use of services, the cost of which is no more than the maximum total cost per entry as stipulated in a permit issued by the Gaming Commission. The Bill also amends sections 102 and 104 of the Gaming Commission Act to clarify the Gaming Commission's authority to allow trade promotion lotteries to be conducted without the necessity of having to obtain a permit if all prescribed conditions are met. This amendment will ensure that the many trade promotion lotteries conducted in Western Australia which comply with the prescribed conditions can continue to do so without first having to obtain a permit from the Gaming Commission.

In relation to the prohibition on the possession and playing of gaming machines, the Crown Solicitor's Office is of the view that reference in paragraph (a) in section 85(1) of the Gaming Commission Act to any gaming machine "used, at any public place to which the public have or are permitted to have access, for the playing of a game" could limit the ability of the Gaming Commission to achieve a successful prosecution for the possession of a gaming machine in, for example, a club which is not a place to which the public has access. Accordingly, the Bill proposes to delete the "public place" references in section 85(1)(a) so as to make the possession and/or use of a gaming machine, whether or not in a public place, illegal. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

GAMING COMMISSION (CONTINUING LOTTERIES LEVY) BILL 1999

Receipt and First Reading

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

Second Reading

HON N.F. MOORE (Mining and Pastoral - Minister for Racing and Gaming) [5.11 pm]: I move -

That the Bill be now read a second time.

This Bill complements the Acts Amendment (Continuing Lotteries) Bill 1999, which will transfer responsibility for the licensing and regulation of suppliers of continuing lottery tickets from the Commissioner of State Revenue to the Gaming Commission so that only one government agency is responsible for the licensing and regulation of continuing lotteries in Western Australia.

Under the Stamp Act, the Commissioner for State Revenue presently collects 5 per cent in stamp duty on the face value of continuing lottery tickets. However, as the Acts Amendment (Continuing Lotteries) Bill repeals section 111B of the Stamp Act which authorises the collection of the 5 per cent stamp duty, this Bill provides for a prescribed levy to be imposed on continuing lottery tickets. The proposed levy will be sufficient to compensate for the 5 per cent in stamp duty which is currently collected under the Stamp Act, plus meet the Gaming Commission's costs of licensing and regulating continuing lotteries. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.R.J. Dermer.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.13 pm]: I move -

That the House do now adjourn.

Department of Productivity and Labour Relations - Adjournment Debate

HON LJILJANNA RAVLICH (East Metropolitan) [5.13 pm]: I bring to the attention of the House the fairly shabby treatment of one of my constituents by the Department of Productivity and Labour Relations. It concerns a young gentleman in his early twenties named Mate Barbarich. Mate and his family are known to me. He is a plumber and gas fitter by trade and was an employee of Mr P. Tilli of Queens Park. Mr Barbarich attended my office with a grievance regarding pay arrangements and being underpaid for leave loading and salary. He also had difficulty with superannuation. We fixed up the superannuation matter, but the underpayment and leave loading matters are ongoing.

I wrote to Mr Tilli expressing my concerns about the situation. On 19 October 1998 I wrote to the Department of Productivity and Labour Relations expressing my concern at the way that employer had treated Mr Barbarich. The department wrote back to me on 29 October advising that one of its roles is to "investigate alleged breaches of state and federal industrial awards, orders and agreements". I had confidence the department would attend to the matter. It informed me that Mr Barbarich should also put his case in writing to the department, and that it would investigate on his behalf. Surprise, surprise; the department found that a number of clauses had been breached by the employer concerning rates of pay, hours of pay, overtime payments and annual leave loading, and it calculated that \$4 310 was owing to Mr Barbarich. What really surprised me is when the Department of Productivity and Labour Relations wrote to Mr Barbarich it advised him that if he wanted to recover this money he should do so through the Small Claims Tribunal. DOPLAR outlined this as a better way to go because this path is a much quicker, cheaper and simpler court proceeding. Quicker, cheaper and simpler for whom? Certainly not for Mr Barbarich and after all what is the Department of Productivity and Labour Relations there for if not to protect workers who have been poorly treated in terms of their wages and conditions?

Hon Kim Chance: And to enforce its own Act.

Hon LJILJANNA RAVLICH: Exactly. The department also advised Mr Barbarich that neither party could be represented legally at the Small Claims Tribunal unless the court allowed it. DOPLAR went on to say that small claims matters are decided on the basis of requiring a lower level of proof than a normal court proceeding. Mr Barbarich was told he should go to the Small Claims Tribunal rather than the District Court or the Supreme Court or whatever and that that is where his matter would be heard. The department told him that not only was it suggesting that but it was also producing a small kit on how to conduct one's own defence. That would be of enormous assistance to Mr Barbarich because DOPLAR washed its hands of the matter. It was "Here is your kit. Off you go and represent yourself in the Small Claims Tribunal."

I was aghast at this because I could not believe DOPLAR was abrogating its responsibilities under the Act. I would have thought that this matter should have been dealt with at the Industrial Magistrates Court as the Act provides. This Government has gone to extreme lengths with its third wave legislation to prohibit the access to workplaces of union organisers wanting to check the payment records of union and non-union workers and to ensure that employers are doing the right thing. The Government has taken away the rights of unions to do that and told workers not to worry about it as the Government would look after and protect them. However, here we have the case of a 20-odd-year-old gentleman who has had a tough life and this is the way this Government looks after him. This is the way he has been treated.

I wrote to the Minister for Labour Relations outlining my concerns about this matter. I will refer to the letter I received today which is dated 15 March 2000. It states -

I refer to your letter dated 29 February, 2000 in which you question whether DOPLAR intends to take further action to recover the alleged underpayment of wages of Mr Mate Barbarich under the federal *Plumbing Industry (QLD and WA) Award 1979*.

In July 1998 DOPLAR's compliance role was extended, through an agreement with the Federal Department of Employment Workplace Relations and Small Business (DEWRSB), to include the entitlement protection of employees covered by federal awards.

I want to get my hands on this award because it sells short all Western Australian workers. The letter continues -

Under the terms of this agreement DOPLAR must investigate alleged breaches of federal awards and pursue rectification of award breaches in line with federal process. This process is facilitated by Section 179 of the *Workplace Relations Act 1996*, and provides that a small claims procedure apply to any matter under \$10,000.

Therefore, if one has a matter which is over \$10 000, one has Buckley's chance of having it heard in the Industrial Magistrates Court. Basically workers have been sold down the gurgler by this Government; they have to go to the Small Claims Tribunal and fund that cost themselves. That is an appalling state of affairs and this has been done through some agreement which has not been made public.

Hon Kim Chance: It is also an impossibility because the Small Claims Tribunal is a consent tribunal.

Hon LJILJANNA RAVLICH: Exactly and if Mr Tilli intended to consent, he would have already paid Mr Barbarich the money. Of course, Mr Tilli will not consent and why should he when he can walk away \$4 500 richer. I am sure it is not a lot of money to Mr Tilli but it would make a hell of a difference to Mr Barbarich. Quite frankly, it is not good enough.

I also put on record the fact that the minister also referred to the small claims kit which is being prepared by DOPLAR. That kit has not been prepared and in the event that Mr Barbarich wanted to go to the Small Claims Tribunal - and he does not - the bottom line is that that kit is not ready.

It is an absolute disgrace that this agreement means that any employers who want to rip off any worker in this State for a sum up \$10 000 can; they can and they will. What a hopeless situation has been created by this Government for the protection of Western Australian workers. Workers can each count themselves \$10 000 a year worse off because the Government has given the right to every employer to rip them off for a sum of up to \$10 000. If employers want to rip off a Western Australian worker for \$9 999, they can. If the workers are not happy with it, they can go to the Small Claims Tribunal where they will have Buckley's chance of getting it back. What an absolutely disgraceful situation.

It is ironic that one of the performance measures of the Department of Productivity and Labour Relations is the extent to which it can settle disputes without going to prosecution, because obviously prosecution means some financial outlay. This policy is clearly governed by that. The department is not interested in prosecuting. It is basically getting the monkey off its back and saying that it is somebody else's problem. I challenge the minister because I do not think that is legally right and that there is a legal obligation under the relevant Act that should protect all Western Australian workers. I put on record that anyone who is in this situation in this State can contact me, because this is a terrible situation. Mr Barbarich's case is really only the tip of the iceberg.

Shark Bay Solar Salt Agreement Act - Adjournment Debate

HON MARK NEVILL (Mining and Pastoral) [5.22 pm]: During the adjournment debate last night, Hon Giz Watson made one of her predictable attacks on the mining industry in Shark Bay. In the process, she ran a lot of the specious criticism and arguments which the Greens (WA) do from time to time. She said that the ballast water from ships docking at the Shark Bay salt jetty was a threat to the World Heritage area. Under Australian conventions, ships must exchange ballast water in oceanic waters. The demands of this company are well ahead of Australian standards. If the Greens want to complain about ships going through World Heritage areas, there are probably more ship movements through the Great Barrier Reef than anywhere in Australia. Are the Greens intending to stop that traffic as well? Hon Giz Watson also said that one of the vessels ran aground. It did. One vessel has run aground since 1967. That was on a sandbar in an area in which there are no waves but very still water, and no damage was done. No-one knows of any damage from shipping in that area.

The company is not seeking an excision from the World Heritage area, as Hon Giz Watson claimed. It is seeking a mining lease, the application for which went in in 1989, 11 years ago. It has been on the drawing board since then. The area it is seeking poses no threat to World Heritage values. The company is helping to manage and maintain World Heritage values. She talked about fish losses. In fact, fish numbers build up in the early evaporation ponds. The fish numbers are multiples of what they normally are simply because of the higher number of brine shrimps. In those ponds one can find tailor, whiting and all sorts of fish. Hon Giz Watson said she had a letter from David Ritter, a white lawyer from the Yamatji Barna Baba Maaja Aboriginal Corporation, which related to Aboriginal objections to that area. There has been not one objection or complaint from Aboriginal people about the Shark Bay salt project; in fact, the project happens to employ a number of Aboriginal people.

Currently the area being sought is used to run sheep and, as I said, it has no value relating to World Heritage. It has been grazed for over 40 years. Without a lease the company has no legal basis on which to do the environmental studies and get the required approvals which will be necessary before anything can be done on this lease of the extra land it wants, and it will be 10 years before some of the land will be used. We can guarantee the environmental conditions will be much more stringent. The operation is a benign one. In fact, this little company, which is 70 per cent Australian owned, positively contributes to the World Heritage values in the area.

Over 20 years ago, the western third of that pastoral lease - the Carrarang Station - was destocked. The company has employed a ranger there for 14 years - it might even be 18 years - to clean up rubbish and it has been responsible for rehabilitating that area. The company pays \$50 000 a year to keep the ranger there to clean up after the 3 000 campers who come to the popular area in Steep Point. He lives in the house, and is the person somebody asked the Attorney General today about getting the house removed. When rangers are in national parks, they need houses in which to live, so I do not see any point in changing this situation.

The salt ponds attract a lot of the bird life into the area. They do not get rid of it. The brine shrimp sustains the life on all the salt lakes in Western Australia when it rains, and that actually attracts more fauna into the area. As I said, this little company was an Australia first in introducing endangered species from the isolated island populations, bringing them to the mainland and developing techniques so they live there. Heirisson Prong is one of the pieces of land that project north-south in Shark Bay. Heirisson Prong has been fenced off with a very sophisticated fence for about 20 years. All the foxes in that area have been wiped out. Ground and aerial baiting continues, and a number of species which have been introduced into the area are thriving in great numbers. The techniques of building up those populations, which are reflected in the Western Shield project, were developed in the Heirisson Prong.

Hon Giz Watson did not mention one positive thing that these companies are doing. There is no pollution in the area. As I said, it is an absolutely benign project. On the Heirisson Prong, the western barred bandicoot, the burrowing bettongs and the pale field rat have been re-established. It is the only arid area population of that rat in Australia. In recent times the greater stick rat, which became extinct on the mainland in the 1930s, has been reintroduced. The stick rat came from Salutation Island in Shark Bay and has been re-established on the peninsula. Cats are still being trapped on that peninsula. They have not been wiped out, but that is not surprising given that we know a couple of moggies are still on the tip of

Rottneest Island. If the cats cannot be wiped out on Rottneest Island, there is not much hope of wiping them all out up there. Cats continue to be trapped on the peninsula and around the rubbish tip.

This small Australian-owned company has been working with the local community, the local school, the Commonwealth Scientific and Industrial Research Organisation, the Federal Government and the Department of Conservation and Land Management, which members of the Greens (WA) bad mouth day in, day out. They never acknowledge one good thing CALM does. Have members ever heard any? I will get up and applaud as soon as I hear one. They absolutely bad mouth everything that it does. All we hear from them is negative, negative, negative.

The Greens (WA) have got what they want. Members opposite caved in and gave them most of what little forest was set aside for logging. I do not think there is much left to give them now. It is interesting that volunteers from an international group, the Earthwatch Institute, visit the area and do a lot of work there. They help to maintain the fence which quickly corrodes in the highly saline environment. A lot of work has been done on researching the diets of endangered mammals, so that when they are introduced on the mainland they can survive. Work has been done on the western and barred bandicoots, the banded rufous and hare wallabies and on the sandhill frog. None of that would have been done if there was not a damn salt operation in that area! The fauna would have been marauded by foxes and cats. It galls me that the Greens cannot see anything positive in what Shark Bay Salt has done. The Greens should start to take a slightly more balanced view of the world. That little operation produces one million tonnes of salt a year. The company wants to expand into an area that is flooded with saline water from time to time. It will use only the low-lying areas. I am sure that in 100 years time when the area is no longer used it will be able to be restored probably to a very healthy condition.

The Greens (WA) completely undervalue man-made structures. We might end up with a far better man-made structure than what exists there now that will sustain a lot more life - flora and endangered species. That company needs a pat on the back and some credit. It will not get it from the Greens(WA).

Athletica - Adjournment Debate

HON N.F. MOORE (Mining and Pastoral - Minister for Sport and Recreation) [5.31 pm]: I want to respond to a statement made today by the member for Rockingham. Today he said that the Minister for Sport and Recreation has stacked the Athletica organisation with close Liberal Party mates. Athletica is the organisation that runs athletics in Western Australia. The board of Athletica elects its own chairman and appoints its own chief executive officer. It has nothing whatever to do with the Minister for Sport and Recreation. I take strong exception to the allegations made by the member for Rockingham. Both Mr Peter Bacich, who is the chairman, and Mr Chilla Porter, who is the CEO, were appointed or elected, whichever is the case, by the Athletica board. That had nothing whatever to do with the Minister for Sport and Recreation, and there is no more argument about that matter. The member for Rockingham has also suggested that somehow rorts are occurring. He needs to try to prove that. He is carrying on and saying that the money provided by the Ministry of Sport and Recreation is not going to Little Athletics. He is quite right, and I am in the process of finding out why.

As with all sports in Western Australia, the Ministry of Sport and Recreation funds the overarching umbrella body for a sport, rather than individual parts of a sport. If we did not do that, we would have 10 000 funding recipients in sport in Western Australia. It has always been not only our policy but also that of our predecessors to fund the parent body of a sport in Western Australia, and it distributes the funds to the sports that come within its jurisdiction. Athletica is the overarching body for athletics in Western Australia. The Government provides Athletica with \$213 000 a year, which is the second highest grant to sport in this State following Australian Rules football. The fact that it does not distribute the funds in the way the member for Rockingham thinks it should has nothing to do with the Ministry of Sport and Recreation. For that matter, it has nothing to do with the member, unless he wants to become involved in the organisation and seek to arrange that the money be spent differently. To suggest, as he has in recent days, that somehow the Minister for Sport and Recreation has appointed Liberal Party mates to run athletics so it can give all the money to Athletica and none to Little Athletics is beyond comprehension.

I have not known the member for Rockingham for a long time, and when I first met him I thought he was a charming chap and very competent. However, he has lost the plot now. When one reads his press releases now one would think he is living in the world of hysteria. He has ongoing conspiracy theories that he churns out every week. He has gone feral. He has lost the plot completely. I suggest that, instead of making these sorts of statements in Parliament, the member should say to the media that the Minister for Sport and Recreation has appointed these people and that he is condoning rorts. I would love him to do that because then we could talk about it in court. However, as I have explained to the House, I have nothing to do with the appointments of people to Athletica, just as I have nothing to do with the appointments of people to the commissions for football, tennis or table tennis - it is none of my business. The Ministry of Sport and Recreation provides money to athletics. It is for athletics to decide how it is spent. We are not happy that Little Athletics appears to be getting very little, if any, of the money that goes to athletics. Interestingly, last week there was a meeting between the Ministry of Sport and Recreation and Little Athletics to sort it out. The comments of the member for Rockingham are not helpful, and I suggest that he do his best to make his remarks vaguely accurate. It would be helpful from the point of view of the debate.

Question put and passed.

House adjourned at 5.35 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

REGIONAL AIRPORTS DEVELOPMENT SCHEME

1027. Hon TOM STEPHENS to the Minister for Transport:

- (1) Can the Minister confirm that the Regional Airports Development Scheme is still operational?
- (2) If yes, can the Minister explain why a community leader from Bidyadanga was advised by the Transport Department that the scheme had been cancelled “three months ago”?
- (3) Can the Minister table the communities and amount of funding received through the RADS scheme in 1998/99 and to date in 1999/00?

Hon M.J. CRIDDLE replied:

Yes, the Regional Airport Development Scheme is operational until the end of the 1999-2000 financial year.

To the best of my knowledge, no Transport official or individual representing Transport has said to the Bidyadanga community that the Scheme was cancelled “three months ago”. However, applications for funding under the scheme closed on 30 April 1999 and this may be the source of any misunderstanding.

(3) RADS 1999-2000 Project List:

No	Proponent	Airport	Project	Grant
1	Shire of Leonora	Leonora	Extend main runway	\$150 000
2	Town of Port Hedland	Port Hedland	Resurface apron bays	
3	Shire of Katanning	Katanning	Construct turning nodes – runway	\$275 000
4	Mr Ken Norton	Sandfire Roadhouse	Apron sealing and flood lighting	\$ 13 000
5	Shire of Morawa	Morawa	Resheet runway	\$ 50 000
6	Shire of Laverton	Tjukayirla	Sealing runway	\$ 30 000
			Royal Flying Doctor Service (RFDS) emergency strip at Tjukayirla	\$ 75 000
7	Shire of Three Springs	Three Springs	Upgrade Pilot Activated Lighting (PAL)	\$ 20 000
8	Shire of Wagin	Wagin	Upgrade to surface of airstrip and \$ 20 000 runway	
9	Shire of Lake Grace	Lake Grace	Installation of PAL	\$ 25 000
10	Shire of Jerramungup	Bremer Bay	Upgrade existing airstrip to RFDS standards	\$134 000
11	Shire of Augusta-Margaret River	Margaret River	Apron sealing, runway widening	\$ 48 500
12	Eco Beach Resort	Eco Beach	Construct new airstrip	\$ 50 000
13	Shire of Collie	Collie	Sealing sections of the runway	\$ 13 000
14	Shire of Upper Gascoyne	Gascoyne Junction	Sheeting surface of runway and apron area	\$150 000
15	Shire of Mount Magnet	Mount Magnet	Installation of Beep Back radio unit	\$ 20 000
16	Royal Aero Club	Murrayfield	Re-seal apron	
			Provision of lighting and second seal on main runway	\$200 000
17	Town and Shire of Narrogin	Narrogin	Main runway to be sealed	\$ 46 000
18	Shire of Greenough and Northampton	Kalbarri	Construction of new airport	\$750 000
19	South Province Projects Group	Southern Province Navigational Aids	Installation of navigational aids	\$200 000

RADS 1998-1999 Project List:

1	Shire of Cunderdin	Cunderdin	Pilot Activated Lighting (PAL)	\$ 10 000
2	Shire of Mullewa	Mullewa	Re-sheet runway	
			Drainage	\$ 15 000
			Markings	
3	Shire of Laverton	Laverton	PAL	
4	Shire of Augusta	Augusta	Apron extension	\$ 30 000
5	Margaret River		Widen taxiway	\$ 6 000
6	Shire of Wongan-Ballidu	Wongan Hills	PAL	\$ 7 400
7	Shire of Gnowangerup	Gnowangerup	Seal apron	\$ 4 500
	Shire of Ravensthorpe	Ravensthorpe	PAL	
			Extend and re-sheet runway	\$ 40 000
8	Fayburn Pty Ltd	Forrest Airport	Lighting	
9	Shire of Exmouth	Learmonth	Apron construction	\$ 40 000
			Power generators	
10	Shire of Dalwallinu	Nugadong	Learmonth Apron/taxiway upgrade and extension	\$500 000
11	Ministry of Housing	Lombadina	Second stage runway seal	\$ 27 000
12	Shire of Ashburton	Onslow	Seal airstrip	\$250 000
			Lighting	\$ 60 000
13	Shire of Wyndham-East Kimberley	Wyndham	Upgrade of runway	
			Upgrade and seal runway	\$100 000

14	Shire of Kojonup	Kojonup	Seal runway approach, taxiway and hardstand	\$ 14 080
15	City of Bunbury	Bunbury	Runway seal on remaining 500 metres	\$ 40 000
16	Shire of Greenough	Geraldton	Re-seal runway	\$500 000

QUESTIONS WITHOUT NOTICE

CAPITAL PUNISHMENT, REINTRODUCTION

808. Hon TOM STEPHENS to the Attorney General:

- (1) Has the Attorney General's department, the Crown Law department or the Ministry of Justice commissioned, received, or are they aware of, any advice, reports or any other document showing that capital punishment is an effective deterrent?
- (2) Does the Attorney General support the reintroduction of capital punishment?

Hon PETER FOSS replied:

- (1)-(2) If the Leader of the Opposition wants to me to do a complete search of the literature on the subject, I will need to take the question on notice. If the Leader of the Opposition genuinely wants to know what the literature says -

Hon Tom Stephens: I want to know whether reviews have been commissioned within your department.

Hon PETER FOSS: I would need to find that out. I do not necessarily know what my department has been doing on this. If the Leader of the Opposition wanted me to ask all those agencies what they have done - and it could go back many, many years - I would need to take the question on notice. It might be that the search would be too large. My personal opinion of whether there should be capital punishment is not relevant.

Hon Tom Stephens: Not your personal one - I want the Attorney General's opinion.

Hon PETER FOSS: Of what?

Hon Tom Stephens: Of whether you will reintroduce capital punishment.

Hon PETER FOSS: I am not aware of any such suggestion. The Premier made a statement seven years ago and has repeated it since. It is a statement which I regularly include in replies to people who write to me about capital punishment, as many people do. It has all always been the Premier's position that if there were a sufficient swell of opinion, we would hold a referendum. It is totally incomprehensible how seven-year-old news can be on the front page of *The West Australian*. As far as I am concerned, nothing has changed in seven years and I am not sure why the Leader of the Opposition should regard the matter as being any different to what it has been for the past seven years. I do not understand the Leader of the Opposition's question. It seems that the question is based on his reading *The West Australian* and not being aware of what the Premier's position has been for the past seven years.

GOVERNMENT BUS PURCHASE, TIME OF ORDER

809. Hon TOM STEPHENS to the Minister for Transport:

In April 1998 the Government pledged that it would purchase five gas buses and that it would do so in the first round of the bus contract. Can the minister explain why these buses were not ordered until January 2000?

Hon M.J. CRIDDLE replied:

The Parliament will be well aware that we have conducted a review which was chaired by Brian Bult. That review concluded that operationally, environmentally and economically our current fleet was our best option at present and that we should proceed with it until 2003. The Government has recently decided to run trials of gas buses and those trials will commence very soon; as I told the House yesterday, the engines are not all that far away. However, we need conclusive opinion on this issue in Western Australia before we go into a gas bus option. Members can talk to people around the world and find that they have difficulties with gas buses. The buses run hot and in summer in Western Australia there would probably be a requirement for them to have bigger radiators.

Hon J.A. Scott: That is the old buses.

Hon M.J. CRIDDLE: Well, we are checking those things in this environment. As some people will know, the Western Australian environment gets very hot in summertime. If we are running vehicles which have problems in the heat and with overheating, we may run into problems unless we put the extra radiators into vehicles. In Western Australia we must have a very reliable transport system or I would be making an irresponsible decision. We have made the decision to carry out these trials over the next couple of years. They will be comprehensive trials to determine what the alternatives are. In the meantime we have the hydrogen bus and we are looking at other alternatives. If members of this Parliament would like to be here next Tuesday between 2.15 pm and 4.00 pm, they will be able to have a look at the new bus in the parliamentary precinct. I urge members to do that.

Hon Kim Chance: Do we get to drive it?

Hon M.J. CRIDDLE: We will try to arrange a ride for people.

Hon Tom Stephens: My question was why you took so long between the announcement and the ordering.

Hon M.J. CRIDDLE: I have just explained all that in detail and the Leader of the Opposition should understand the detail.

I hope Hon Kim Chance will have the opportunity to have a ride; he will find it to be very comfortable and very quiet and an excellent product.

PYRTON PRISON

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

I refer to the minister's decision to establish a prison at the Pyrtton site.

- (1) Has the minister or the minister's office issued a direction or request to the Ministry of Justice to have prisoners placed in the proposed Pyrtton prison by a nominated date?
- (2) If so, by what date has the minister or his office decreed that prisoners must be at the Pyrtton prison?
- (3) Will the minister table any such written direction or request within one sitting day?
- (4) If not, why not?
- (5) Is it true that the minister wants prisoners at Pyrtton by June 2000 and that he has directed or requested the Ministry of Justice to have prisoners placed in the new prison by that time?

Hon PETER FOSS replied:

- (1)-(5) I first instructed the Ministry of Justice to have prisoners in Pyrtton in early 1998. I must confess that I believe the ministry has been somewhat slow in getting on with that job and I have now directed the ministry to ensure that the matter is completed by the end of June. After two years I do not think it is unreasonable for me to tell the department that enough is enough, to get on with it and ensure that the task is given enough resources so it is done by that time. That does not mean that the ministry does not need to do all the things which are necessary to have the prison established. I still want it to do that work but I want the ministry to understand that I want the required resources put into the task to enable it to happen. Obviously, if there is some outstanding legal obstacle it cannot happen, but I do not want the ministry to have any misunderstanding about how long I expect it to take in getting the prison established after these two years.

Some years ago I also directed the ministry to use section 94 prisoners in that area because it seems that the use of section 94 prisoners is an important part of helping people understand the role of minimum security prisoners. We have a large number of section 94 prisoners in the metropolitan area. I have indicated that I would like to see prisoners do some work on those premises. Money is currently being spent on maintenance and general good order at the site. That costs the Government, although not necessarily the Ministry of Justice, money and it seems unacceptable to spend taxpayers' money on this site when we could be using prison labour. I have directed that that happen. I do not know if I have put it in writing but I believe the Ministry of Justice should be using the resources within its command to ensure that the taxpayers' burden is kept to a minimum while that site is being preserved and maintained.

KWINANA MOTORPLEX, PREMIER'S ROLE

811. Hon J.A. SCOTT to the Leader of the House representing the Premier:

- (1) What role did the Premier play in the decision to help locate Con Migro in the proposed Kwinana motorplex?
- (2) What role did the Premier play in the decision to give Con Migro an operating licence for the motorplex?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) The Minister for Planning chaired the implementation committee which recommended the Kwinana site. Cabinet subsequently endorsed this site as the preferred location for the proposed motorplex.
- (2) No licence for the motorplex has been issued.

ALINTAGAS SALE, GOVERNMENT COSTS

812. Hon HELEN HODGSON to the Leader of the House representing the Minister for Energy:

In respect of the sale of AlintaGas -

- (1) Will the Government be liable for any further costs in reaching agreement with current AlintaGas employees on the transfer of the AlintaGas business to the successful purchaser?

- (2) Are there any liabilities, actual or contingent, to which the Government will be exposed because they are not transferable to the successful purchaser?
- (3) Will the minister table the details of the \$5.34m spent by AlintaGas between December 1998 and October 1999 in preparation for the sale, specifying -
 - (a) the extent to which the cost was generated within AlintaGas;
 - (b) in respect of external costs the name of each contractor, the purpose of the contract and the amount paid to each contractor?
- (4) Are there any other costs of the sale of AlintaGas that the minister has not yet made public?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Employee transitional costs will be met by the Gas Corporation. If the employee transitional costs are higher than currently contemplated, ultimately lower proceeds would be paid to Government.
- (2) Yes, some existing liabilities of the Gas Corporation are better managed by the Government beyond the point of sale than by the new privately owned AlintaGas Limited.
- (3) The initial report provided to question on notice 1017 included certain accruals which have been subsequently adjusted. The actual sale costs for the period of December 1998 to October 1999 were \$5.098m. All these costs were paid by AlintaGas.

The break-up of these costs is as follows -

ASSC secretariat costs	\$0.710m
Financial accounting and taxation advice	\$1.929m
Legal and regulatory advice	\$2.192m
Engineering and environmental advice	\$0.267m
Total	\$5.098m

The Government does not intend to release specific details as to amounts paid to individual contractors.

- (4) Costs of the sale have continued to be incurred beyond that reported in (3).

AGRICULTURAL CHEMICAL DRUMS, DISPOSAL

813. Hon MURIEL PATTERSON to the Attorney General representing the Minister for the Environment:

- (1) What are the current regulations dealing with the disposal of empty agricultural chemical drums?
- (2) Are there any registered chemical dumps close to the City of Albany?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) Empty "triple rinsed" containers are regarded as being inert and can be disposed of to landfill, subject to approval by the landfill licensee.
- (2) There are no landfills close to the City of Albany which are registered to take chemicals or containers contaminated with chemicals, outside landfill criteria. However, there are several landfills able to accept inert chemical containers.

NURSING HOME, SHIRE OF HARVEY

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

- (1) Has a 30-bed nursing home or hostel been approved for construction within the Shire of Harvey?
- (2) If so, was Moran Health Care Group (WA) the successful tenderer?
- (3) If not, who was the successful tenderer?
- (4) When is the facility due to be completed and operational?
- (5) Will this facility affect the operations of the permanent care section, that is the 28-bed, two respite beds facility which is currently funded by the State Health Department and is part of the Collie Hospital?
- (6) If not, is the Government planning to close this facility in Collie?

Hon PETER FOSS replied:

I have answers for all of the questions that were asked. As will emerge from the answers, I do not know that they were appropriately addressed to any minister in this Government. However, I will give the answers.

- (1) The Commonwealth has approved in principle 30 new high-care beds to the Harvey area.
- (2) The Commonwealth has issued "in principle approval" to Moran Health Care Group (WA) for the establishment of a high-care facility in Harvey.
- (3) Not applicable.
- (4) The construction and operation of the new high-care facility is dependent on the time lines established by the successful applicant.
- (5) The new facility proposed for Harvey by the Moran Health Care Group (WA) - the successful applicant - may have an impact on future admissions to the permanent care unit on the basis of personal choice by the ingoing person or his or her family. The current operation of the permanent care unit will continue at the current bed numbers subject to clients and their families' choice.
- (6) Not applicable.

TRUCK DRIVERS, FINANCIAL ASSISTANCE

815. Hon KIM CHANCE to the Minister for Transport:

I note the severe economic hardship which is being suffered by 100 long-distance truck owner-drivers who have been stranded by high water for up to 18 days because of cyclone Steve and the associated flooding. These people have not only lost income but are also required to continue to make ongoing payments for leasing purposes and insurance. Will the Government consider the claims for financial assistance which have been made on behalf of these owners along similar lines to the financial assistance that is being provided to property owners; and, if not, why not?

Hon M.J. CRIDDLE replied:

It is a very pertinent question at this time. Earlier this afternoon or currently discussions have been or are taking place between people from my office and the Premier's office on this point. I understand the difficulty of truck owners who are stranded and suffering a penalty. Any small business would suffer the same penalty. We are attempting to address the issue. I have some ideas which I put to my people for them to make suggestions. The outcome will obviously be announced by the Premier in the near future.

GAS SUPPLIES, WEST KIMBERLEY

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

In view of the road closures that have effectively cut off west Kimberley towns from road access for extended periods in recent weeks and, therefore, potentially from gas supplies for any future gas-fired power stations -

- (1) Is it correct that the gas-fired power station option is based on a minimum of three trucks delivering gas supplies each week?
- (2) Does the option have built into it any capacity for bulk storage of gas in the communities of Derby and Fitzroy Crossing or for shipping gas supplies to the port of Derby?
- (3) If not, does the Minister for Energy now accept that his preferred gas-fired power station option is seriously flawed?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) In each location the bidder is to provide sufficient fuel storage to meet reliability of supply requirements.
- (3) Not applicable.

STEEP POINT PENINSULA, HOUSE CONSTRUCTION

817. Hon GIZ WATSON to the Attorney General representing the Minister for the Environment:

In respect of the answers to question on notice 1173 regarding the building of a house at Steep Point and the report in *The West Australian* newspaper of Wednesday, 15 March -

- (1) Will the house be removed once the Steep Point peninsula becomes a national park?
- (2) Who owns the house?
- (3) When will the negotiations for the purchase of the western portion of the Carrarang pastoral lease be complete?

Hon PETER FOSS replied:

- (1) If and when the land on which the house is located becomes part of the national park, the management planning process, involving public consultation, will determine future uses of infrastructure and facilities in the park.

- (2) It is understood that the pastoral lessee owns the house.
- (3) When the parties reach final agreement.

CYCLISTS, NARROWS BRIDGE

818. Hon NORM KELLY to the Minister for Transport:

- (1) Does the Department of Transport conduct surveys of the number of cyclists travelling across the Narrows Bridge?
- (2) If so, what are the most recent average daily crossings?
- (3) How does this figure compare with surveys conducted in the early 1990s?
- (4) How many cyclist head injuries were recorded in 1998-99?
- (5) How many cyclist head injuries were recorded in 1991-92 and 1994-95?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) Main Roads undertakes the surveys.
- (2) Average weekday cycling traffic for 1998-99 was 810.
- (3) Average weekday cycling traffic for 1992-93 was 920.
- (4)-(5) I notice the question refers to 1991-92. It would take some considerable research to answer these questions within the given time frame, and therefore, I will provide the relevant information next week if that is acceptable.

INDUSTRIAL RELATIONS SYSTEM

819. Hon RAY HALLIGAN to the Attorney General representing the Minister for Labour Relations:

Does the minister agree with the sentiments of Hon G.T. Giffard that the current industrial relations system is regressive and is wreaking havoc on working men and women in Western Australia?

Hon PETER FOSS replied:

I thank the member for some notice of this question. No, I do not agree that the labour relations system in Western Australia is regressive and wreaking havoc on working men and women. It is hardly regressive to provide a statutory minimum set of conditions for almost every worker in Western Australia - a first for any Australian State. The 2000 increase in the adult minimum wage of \$21.30 -

Point of Order

Hon KIM CHANCE: I believe the question seeks an opinion from the minister representing the Minister for Labour Relations.

The PRESIDENT: I am happy to look at the question. That was not the only point that needed to be raised, because it could also have been said to be argumentative. However, I am happy to look at the question and test that because the member may be correct, but I must read the question. I will read the question and if I believe a point of order can be sustained, I will let the House know.

Questions without Notice Resumed

DEPARTMENT OF TRAINING, GST CONSULTANTS

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

- (1) How much has been spent by the Western Australian Department of Training in the past 12 months on consultants on matters relating to the goods and services tax?
- (2) Has the Department of Training employed consultants to conduct a full impact analysis on identified areas of exposure to determine the impact of the GST on the Western Australian Department of Training?
- (3) If so, who were the consultants and how much did the department pay?
- (4) Will the minister table the impact analysis and, if not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) \$197 249.70.
- (2) Yes, as part of a total GST readiness project consisting of four stages. Stage 1 of the project was concerned with

activities associated with the initiation of the project. Stage 1 also included high-level analysis activities to identify and prioritise GST exposures for the department. Stage 2 consisted of a detailed business requirements analysis of the identified areas of exposure in relation to the GST and resulted in the development of a detailed implementation plan to address the exposures identified. Stage 3 of the project is concerned with all activities associated with addressing the GST issues identified in stages 1 and 2, including the provision of transitional arrangements, changes to information systems and business processes, amendments to contracts, etc. Training activities for staff are also included in this stage. Stage 4 is concerned with the post-implementation review of the initiatives that have been implemented and makes provision for any finetuning that may be required to address any remaining requirements. Stages 1 and 2 have been finalised and stage 3 has just commenced.

- (3) Deakin Consulting Consortium. The Department of Training has paid \$197 249.70 to date.
- (4) The impact analysis is not yet complete.

EDUCATION DEPARTMENT, RM AUSTRALASIA PTY LTD CONTRACT REVIEW

821. Hon E.R.J. DERMER to the Parliamentary Secretary representing the Minister for Education:

For what reason was the performance review of the Western Australian Education Department's contract with RM Australasia Pty Ltd, which was scheduled for the end of the fourth term in 1999, postponed?

Hon BARRY HOUSE replied:

I thank the member for some notice of this question. In response to the member's question of 27 October 1999, the minister advised that the review of the pilot of the school information project, including an ongoing review of the performance of RM Australasia Pty Ltd, would commence in term 4, 1999. There is no single summative performance review of RM Australasia Pty Ltd; rather it is part of the overall monitoring and reviewing of the ongoing pilot process. During semester 2, 2000 the Education Department will analyse and evaluate the experiences of the pilot phases to inform the ongoing development of the implementation strategy. This process will include a review of the performance of RM Australasia Pty Ltd.

DEPARTMENT OF TRANSPORT AND MAIN ROADS WA, GST CONSULTANTS

822. Hon G.T. GIFFARD to the Minister for Transport:

- (1) Will the minister table the estimated amount the Department of Transport and Main Roads Western Australia is paying the consultants to advise on the implementation of the GST?
- (2) Will the minister table the estimated GST that will be payable on the fees paid to the consultants?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

Department of Transport

- (1) The estimated amount the Department of Transport has paid consultants on the GST is \$78 000.
- (2) I assume that the member is referring to part (1). It is estimated that there will be no GST component payable.

Main Roads Western Australia

- (1) \$50 000.
- (2) \$2 500.

COLLEGE ROW SCHOOL, OCCUPATIONAL THERAPY AND SPEECH PATHOLOGY SERVICES

823. Hon BOB THOMAS to the minister representing the Minister for Disability Services:

Further to question without notice 787 of 14 March 2000 -

- (1) In part (2), what additional occupational therapy and speech pathology resources will be made available to the College Row School students in both dollar amount and contact time?
- (2) When did or will those additional resources become available to the school, bearing in mind the commitment to provide the services from the beginning of the 2000 school year?
- (3) In terms of contact hours per student, how do those levels of service compare with those available to the education support schools in the metropolitan area?
- (4) With reference to part (3), on what does the minister base his claim that the new level of occupational therapy and speech pathology services are adequate?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) The occupational therapy resource available to College Row School is \$8 778 per annum, which equates to 7.5 hours per week. The speech therapy resource available to the school is \$13 166, which equates to 11.25 hours per week. A total of \$39 444 per annum is now available for physiotherapy, occupational therapy and speech pathology services at College Row School.
- (2) These additional resources became available to the school in March 2000. Steps are currently being taken by the Disability Services Commission to identify appropriate therapists to commence work in College Row School.
- (3) In terms of contact hours per student and therapy-client ratio, the therapy resources available to College Row School are equivalent to education support schools in the metropolitan area.
- (4) The level of therapy resources which are now available to students in College Row School is deemed to be adequate on the basis of comparison with the level of therapy provision available to students in education support schools in the metropolitan area.

HOME AND COMMUNITY CARE PROGRAM, FUNDING

824. Hon CHERYL DAVENPORT to the Attorney General representing the Minister for Health:

I refer to the funding available for the home and community care program for Western Australia in the 1999-2000 budget.

- (1) What is the total amount available?
- (2) What is the Commonwealth's estimate for HACC in the 1999-2000 budget?
- (3) How much funding has been allocated in the State's 1999-2000 estimates for HACC?
- (4) How many organisations received funding?
- (5) Will the minister provide a detailed breakdown of the funding to each of the organisations?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) An amount of \$83.259m, which is made up of the final commonwealth offer and the state matched funds.
- (2) An amount of \$52m, which is the figure in the commonwealth budget estimates.
- (3) An amount of \$33.681m, which is the figure in the state budget estimates.
- (4) 295.
- (5) Yes. I seek leave to table the breakdown.

Leave granted. [See paper No 788.]

ALBANY HIGHWAY, BEDFORDALE HILL PROJECT

825. Hon KEN TRAVERS to the Minister for Transport:

- (1) What is the total cost to date of all works undertaken in relation to the Bedfordale Hill-Albany Highway project since the road was officially opened in June 1999?
- (2) Has any work not been completed on the project?
- (3) Has any contractor to Main Roads WA accepted liability in respect of any of these costs?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

- (1) The total cost from 1 July 1999 to 29 February 2000 is \$2 432 184. Of this amount, the expenditure related to the repair of pavement failures is: Traffic management, \$283 860; pavement repairs, \$69 059; for a total of \$352 919.
- (2) No.
- (3) Not at this time. This is a contractual matter and is still the subject of discussions between Main Roads and the contractor.

GOODS AND SERVICES TAX, TOURISM

826. Hon TOM STEPHENS to the Minister for Tourism:

I refer to questions asked of the minister last year as to whether he had read the federal Treasury report indicating that the goods and services tax will result in tourism prices increasing by an aggregate of 6.7 per cent.

- (1) Has the minister yet read the federal Treasury report; and if not, why not?
- (2) Will the minister table any analysis of the impact of the GST on the Western Australian tourism industry that has been provided to him; and if not, why not?
- (3) What impact will the GST have on small tourism operators such as bed and breakfast operators, who already have difficulty paying the Western Australian Tourism Commission's charges for its computerised booking system which, presumably, will increase as a result of the GST?

Hon N.F. MOORE replied:

Before answering the question, I want to make a point about the asking of questions. At 4.30 pm I would normally seek to terminate question time. The Leader of the Opposition got to his feet before the minister had answered the previous question and got the call. That means we will go beyond the time allocated for questions, and that is his intention. He would like to extend question time ad nauseam. We should have a close look at that.

- (1)-(3) The member has asked a long question about a range of issues in respect of the GST. I have read a summary of the document referred to. As members know, there will be a GST impact on the tourism industry, and many other industries, but that is part of a total restructure of the taxation system in Australia. I am sorry that the tax system has been modified in the Senate, so that some products will be subject to the GST and others will not, because the original system would have been far easier than the final version. A new taxation system will be introduced on 1 July, and the Labor Party has yet to say it would get rid of that. I suspect it will be happy to keep it going so that it gets the money from it. That is how the Labor Party operates; it has always operated in that way. It has talked about rolling back the GST.

It is important to find out where the Labor Party stands on this matter. At a meeting of Labor Party leaders in Hobart it was said that the States will be no worse off when a Labor Government rolls back the GST. As the Leader of the Opposition is such an important person in the Labor Party, he should tell us and the people of Western Australia where the money will come from to pay the States when the GST is rolled back. Does it mean the Labor Party will allow the tourism industry to be exempt? How will a Labor Government roll back the GST? Labor members whinge, whine and carry on, and make these grandiose statements through their federal and state leaders that they will wind back the GST. At the same time, so as not to upset Dr Gallop, a Labor Government will maintain the States' share of commonwealth revenue. Where will the money come from? Will a Labor Government increase other taxes or income tax?

Hon Kim Chance: Will you answer the question?

Hon N.F. MOORE: I am answering the question, which is all about the GST. The Labor Party will not get rid of it, so why keep on about it in this place. Members opposite ask questions about the GST, and it is an issue a day campaign. They want to cause everybody a problem, and today will upset the tourism industry. They cannot seem to understand that industry generally in Australia is supportive of the GST tax reform package, because it knows that this country desperately needs reform to its taxation system. Of course, there are some ups and downs, and I suggest the Leader of the Opposition may benefit from this because he will get a big tax cut. Perhaps he will give that to a few bed and breakfast operators. There are some ups and downs, and some people will pay more and others will pay less. However, the general view of industry - not that of the Labor Party - is that the new taxation system will be beneficial for Australia. I will read the member's question, because I cannot remember it all, and decide whether to provide that information in due course.

STATEMENT BY THE PRESIDENT

Period for Questions Without Notice

THE PRESIDENT (Hon George Cash): I have a couple of issues to deal with. Firstly, the Leader of the House raised the manner in which the Leader of the Opposition stood at about 4.30 pm, and suggested he stood before an answer had been completed in order to get the call. The bottom line is that the President decides who gets the call at any time and, if any member of this House thinks that because of his actions he is either intimidating me or tricking me into giving him the call, that member is sadly mistaken. I am very aware of the practice of the Leader of the Opposition to try to gain that "last question" at about 4.30 pm, but I remind the House that the period for questions without notice is at the discretion of the Leader of the House. No doubt if that practice by the Leader of the Opposition continues, the Leader of the House will exercise his discretion by rising at an appropriate time. Having said that, I remind members that my job is to try to accommodate every member who wants to ask a question, and I do that as best I can without showing any favour.

Question Without Notice, Ruled Out of Order

THE PRESIDENT (Hon George Cash): In respect of the second matter, Hon Ray Halligan asked the Attorney General a question, on which Hon Kim Chance raised a point of order. Hon Kim Chance sought my advice on whether the question asked for an opinion. I refer members, as I have in the past, to Standing Order No 140 - Rules governing questions. I have read the question and it certainly does not seek a legal opinion. However, it does invite a minister in another place to enter into debate on a speech made in this place. I raise this issue because Standing Order No 140(a)(ii)(1) provides that questions shall be concise and not contain arguments. The question was couched in a manner that would encourage argumentative debate.

If I uphold this point of order, I assume members understand and accept that if other members raise the same point of order I will be bound to uphold their point of order if it is on the same point. A question commencing, "Does the minister agree . . .", especially when it relates to a minister in another House, might have been framed in such a way as to ask "Is it a fact . . .", "Is the member correct . . ." or similar words. In my view the question in its present form does not seek a legal opinion. However, it is argumentative and, under Standing Order 140, I intend to rule it out of order. Any other member who rises on the same point will understand that if I rule the question out of order, it will be because of the interpretation I am applying to Standing Order 140. One thing I have learnt in this place, as I learnt in the other place, is that what goes around comes around. That is one of the interesting things about politics.
