

Legislative Council

Wednesday, 13 August 2003

THE PRESIDENT (Hon John Cowdell) took the Chair at 10.00 am, and read prayers.

ECONOMIC REGULATION AUTHORITY BILL 2002

Second Reading

Resumed from 18 March.

HON GEORGE CASH (North Metropolitan) [10.03 am]: The purpose of this Bill is described as follows -

... to establish the Economic Regulation Authority with inquiry, reporting, access regulation, licensing and other functions in respect of certain industries, to make consequential and other amendments to various Acts, and for related purposes.

As to the genesis of the Bill, members will be aware that following the election of the Gallop Labor Government in February 2001, the Government set up a Machinery of Government Taskforce. That task force comprised Stuart Hicks as chairman, and John Langoulant, the Under Treasurer, Ruth Shean, a departmental chief executive officer, and Mal Wauchope, the Director General of the Department of the Premier and Cabinet, as members. The functions of the task force were to review the machinery of government in Western Australia. The task force was required to report on changes that it believed would rationalise bureaucracy and deliver more efficient and effective services by the Government to the community.

Machinery of government task forces are not unique to the ALP Government. The Liberal Government, under Premier Richard Court, implemented a task force to examine potential machinery of government changes. I was a member of that task force for a number of years and I recall both Mr John Langoulant and Mr Mal Wauchope also being members of that task force. The task force produced significant documentation, which I presume was handed on to the new Government. In that regard I am pleased that the current Government, when it was first elected, took some very positive steps in setting up its task force at an early stage to confirm various matters that had been considered and decided before, and to clearly consider other issues that it believed were important.

The Machinery of Government Taskforce, under the chairmanship of Stuart Hicks, reported in June 2001. To be able to consider and report on the various issues that were involved in such a relatively short time was, in itself, quite a feat. The report contained 55 recommendations, which generally recommended changes that would affect most ministerial portfolios. A letter dated 14 June 2001 was sent by the task force chairman to the Premier. It is instructive to note some of the comments in that letter because they tend to set out the basis of thinking of the task force in the carrying out of its functions. The first three paragraphs read -

Dear Premier

Virtually everybody agrees that the time has long come for significant change to the structure of the Western Australian public sector. The smooth workings of the machinery of Government have become hampered by the increasingly confusing arrangement of its parts.

The structural reorganisation of an organism as staggeringly complex as the Western Australian Government has no perfect answer. There are many different ways to organise the efforts of 111,000 employees, and more than 750 departments, commissions, ministries, boards, trusts, authorities, offices, committees and other entities.

The challenge for the Taskforce has been to develop a program to enhance the service delivery of the public sector which will not freeze the workings of Government while it is being introduced. Without doubt, this is a major charge: it has strengthened the resolve of the Taskforce to offer proposals which are both practical and significant. There is no room for dogmatic purity or wasteful tinkering. The "machinery" of government must support, not undermine, the people of government and, through them, the people of Western Australia.

That instructive and incisive feeling clearly pervaded the task force in its duties in respect of the changes it was proposing. Interestingly enough, the Government accepted all the recommendations of the task force. Soon after the recommendations were accepted an interdepartmental committee was convened to guide the creation of the economic regulator. The task force produced a public consultation document that was published in February 2002. The document set out the way in which the Government proposed to establish the Economic Regulation Authority. The document was open to public comment, and submissions closed on Friday, 29 March 2002. It outlined the various proposals that, in due course, became part of the Bill currently considered by the Parliament. I will run through the general proposals because if there is one thing that can be said in respect of this Bill, it is that it has had a significant degree of public consultation. The opportunity has been provided for those with an interest in this area to make submissions to the

Government. Following the closure of submissions in late March 2002, changes were made by the Government. The Government instructed parliamentary counsel to draft the Bill before this House. I suggest that a number of drafts were put out for further consultation. We now see the finished product before us. However, I do not believe the finished product is necessarily perfect. Hon Barry House chaired the committee that examined the Bill. Submissions received by the committee showed clearly that many people in the community had reservations about the legislation. Overall, the argument is clear that the proposed changes will make things better than they are currently. We can deal with that in due course.

The interdepartmental committee made it clear that the Economic Regulation Authority Bill 2002 would establish the authority and provide generic functions and powers; that industry specific legislation would define the role of the authority for each industry; and that the authority would be a statutory authority with at least one commissioner and up to three commissioners, one of whom would be the chairperson. The Bill proposes that the authority will independently oversee the current rail and gas access regimes. A further proposal is that the authority be provided with the capacity to independently issue industrial licences within the legal and policy framework determined by the Government and the relevant industries. It was noted that this would initially involve water licensing. Gas licensing would follow upon the commencement of full retail contestability. Electricity licensing would follow, subject to the Government's response to the Electricity Reform Task Force. We are now at the stage of the Government considering the recommendations of that task force.

In respect of the pricing and inquiry functions, the proposal put out for public consultation indicated that the Government, at a cabinet level, was to retain responsibility for setting retail prices for government monopoly and near-monopoly services with the advice of the authority. The Government will have the last say on pricing but will rely on the authority for advice. The authority will also have the capacity to provide advice on other matters referred to it by the Government. The authority is to be provided with the capacity to recover costs associated with the provision of regulatory services to industry, as currently exists within the gas access legislation and industrial licensing.

The issue of ministerial roles and responsibilities and the regulatory policy steering committee has caused some discussion in the community. Some people argue that it will further bureaucratise the workings of government. It was noted in the proposal that the Treasurer be responsible for overarching regulatory policy in the legislation that establishes the authority; that industry ministers be responsible for industry specific policy development; and that a regulatory policy steering committee be established to support ministers and promote the coherence and continued development of regulatory policy. I understand the theory involved in the establishment of the regulatory policy steering committee. It is the practical workings of that committee that will be interesting to see in operation in due course.

The public consultation document proposed that the gas and retail industries' appeals and arbitration arrangements remain unchanged and that appeals against the authority's water licensing decisions be directed to the planned civil and administrative review tribunal. That is now to be known as the State Administrative Tribunal.

A number of submissions were received in response to the consultation paper. They were considered and, in due course, parliamentary draftsmen were instructed to draft the Bill. The Bill has caused significant community comment on what people believe it to be and what it will do. I will run through the issues raised with the standing committee by me and by others in the community who have an interest in this Bill. The Government states that the rationale for a single independent economic regulator is that it will achieve synergies and consolidation of scarce regulatory expertise. It also states that the Bill in its present form creates independence from government and industry; that is, the Economic Regulation Authority will facilitate competitive utility markets, particularly those in which the Government has an operating interest. The Government claims that the Bill will enhance transparency and accountability and that it will provide an appropriate separation of policy making from regulation. The Bill recognises the potential of a conflict of interest, and separates policy and operations from regulation. The Government also claims that the Bill will improve the information available to government to assist its decision-making processes and provide the ability to respond to change in regulatory needs that might be brought on by such things as competition in electricity and the emergence of multiutilities.

The Bill is intended to create and cause institutional change rather than revise current regulatory policy settings. It is intended to consolidate the administration of existing regulatory functions undertaken by statutory bodies such as the Office of Gas Access Regulation, the WA Independent Rail Access Regulator and public sector officials such as the Coordinator of Energy and the Coordinator of Water Services. The Ministers for Energy, Environment and Heritage will also be affected.

The Economic Regulation Authority Bill also establishes the governing body - that is, the chairman and its membership - and clearly sets out its generic functions and powers. It is to have three members and the capacity to employ staff and transact financial matters in the administration of the authority. There are also powers for requiring information to be provided to the authority, and there is power for references to be made by the authority. It is important to note that existing industry-specific legislation defines the functions for each industry. Clearly, the Government will continue to be responsible for setting the regulatory rules through both legislation and regulation.

It is fair to say that the Bill is about institutional change; that is, bringing together existing regulatory functions spread across a number of regulators into the one body. It is not about amending existing regulatory regimes and changing current regulatory policy settings. It should be noted that any amendments to industry-specific Acts will be a separate process. This Bill does not deal with amending the current regulatory and policy responsibilities for the environment, social welfare or regional development. It also does not deal with amending the current ability of ministers to set regulatory rules and standards. There seems to have been some confusion. It is fair to say that this Bill is all about drawing together existing regulatory requirements and general policy responsibility; it is not about changing them, because that will be done, if required, by a separate process.

I refer to the access functions. The Bill will enable the Economic Regulation Authority to independently regulate access to significant economic infrastructure under industry-specific access regimes. Initially it is intended that the ERA will subsume, without change, the functions of the gas access regime, which are contained in the Gas Pipelines Access (Western Australia) Act 1998, and of the rail access regime, which are contained in the Railways (Access) Act 1998. It should also be noted that although currently the Independent Gas Pipelines Access Regulator and the WA Independent Rail Access Regulator are separate positions, they are administered by the same person. The Bill will also enable the Economic Regulation Authority to involve itself in electricity access functions that are recommended by the Electricity Reform Task Force. Although that authority will be given to the economic regulator, those access functions are still the subject of discussion within government.

The economic regulator will also be empowered to independently grant industrial licences and ensure compliance with licence terms and conditions in respect of water industry licensing, which is in part 3 of the Water Services Coordination Act, in respect of gas licensing functions upon the commencement of full retail contestability - those functions are contained in part 2A of the Energy Coordination Act - and, as I have already indicated, in respect of those electricity industry licensing functions that are accepted by government in due course as a result of the ERTF recommendations.

The Bill also offers enhancements to licensing regimes. The Government argues that the Bill will enhance licensing regimes. In the minister's second reading speech, in the memorandum that accompanied the Bill, and from reading the content of the Bill, there is an argument that that independence is strengthened in so much as it will guard against political and industry capture, noting of course that the appeal process will remain. The enforcement role of ministers is to be provided to the ERA. It is argued that there will be an appropriate separation of policy making from regulation. My comment on the enforcement role of ministers is that certainly some people in the community have said that there appears to be an abdication of ministerial authority in some areas.

Hon Dee Margetts: Accountability?

Hon GEORGE CASH: If there is a diminution in ministerial authority, there is a good chance that there is a diminution in the issue the member just mentioned.

The question of the public interest, in particular in water licensing, was raised in a number of submissions that were received by the standing committee. In fact, public interest is dealt with in the Bill. Clause 93 of the Bill proposes to amend section 19 of the Water Services Coordination Act 1995. In part, the clause states -

The Governor, in determining whether the making of the order would not be contrary to the public interest, may take into account one or more of the following matters -

A number of matters are set out. It is important to recognise that the Bill does in fact set out those matters. For instance, it states -

- (a) environmental considerations;
- (b) social welfare and equity considerations, including community service obligations;
- (c) economic and regional development, including employment and investment growth;

That amendment goes on. There was a suggestion that public interest was not defined. That can be taken up in due course with the minister. However, certainly in respect of the Water Services Coordination Act 1995, there is a clear indication of what public interest is all about.

The Economic Regulation Authority Bill also provides for the inclusion of a public consultation process before a decision is made to grant, renew or transfer a licence. In addition to its regulatory functions, the Bill provides, in part 5, for inquiry and reporting functions. A reading of part 5 indicates that the Government may issue terms of reference for the ERA to independently inquire into and report on matters related to the regulated industries, such as retail prices and pricing policy, quality and reliability, investment and business practices, and cost of compliance with industry laws. The Bill also provides scope for the minister to request the ERA to inquire into and/or report on matters related to non-regulated industries. However, it should be noted that the Government remains responsible for acting on any report recommendations brought forward by the ERA. The Bill makes it clear that the Government is to retain responsibility for setting retail tariffs and charges for regulated industries through regulations and by-laws. In that regard there is no

change to the existing situation. Examples of those regulations and by-laws are contained in the Energy Coordination (Gas Tariffs) Regulations, the Electricity Corporation (Charges) By-laws and the Water Agencies (Charges) By-laws.

The Standing Committee on Public Administration and Finance considered whether it was appropriate for the Economic Regulation Authority to set prices or whether that function should be retained by government. Arguments were put on both sides of that issue, but the Government has said that it wants to retain that function for the time being. The Bill does not use the term "for the time being". We are told that it will be for the time being, which means that in due course the Government may find it convenient to pass that function across to the ERA. Of course, political considerations are involved in price setting. For instance, the Government may not want a newly formed organisation to increase prices six months before an election on the basis that the increase was due and proper. Clearly, a Government may decide that six months before an election is an inappropriate time to set prices. I am reminded of a situation that occurred in Ireland. The Commission for Energy Regulation, a one-person economic regulator, was given the function of setting prices for electricity tariffs. In Ireland, electricity generation is dominated by a company that is owned by the Government of Ireland. It became apparent after the function of price setting had been transferred to the Commission for Energy Regulation that in order to maintain its monopoly position over a period of years, the electricity organisation appeared not to have spent the required amount to maintain its networks in a reasonable state. As a result, it was able to keep prices lower. When the economic regulator came to office he found that on the first two occasions on which price rises were required to be dealt with, he had to raise prices considerably; first, to a point at which there could be an incentive for others to enter the market and, secondly, to raise sufficient revenue so that the network could be maintained in proper order. The Government of the day in Ireland was obviously concerned by the significant price rises that occurred soon after the economic regulator had been given that function. However, all the matters that had occurred prior to his appointment were, in the end, the reason for him to lift prices. I understand why the Government does not want to pass that function across to the Economic Regulation Authority for the time being, although in due course it may find it convenient for an independent body to set prices.

I turn to the funding of the ERA and the proposition for cost recovery. It should be noted that existing gas access funding regulations and gas and water licensing fees are to remain unchanged. The Treasurer currently sets the expenditure limit for the gas access function, and there is a budget process for funding the other functions. The Bill indicates, and the Government has confirmed, that the Government will fund the cost of inquiries and the reporting function of the ERA. However, the cost recovery provisions contained in clause 61(2) and (3) remain the subject of contention. Many industry groups believe that cost recovery could become an unwelcome burden, given that they will have to pick up the cost of the operations of the ERA relative to their particular industry. Significant comment has been made about that.

Concern has been expressed within industry, and it is fair to say that there has also been a fair amount of confusion, about the changes to ministerial roles. The Bill provides that industry ministers will remain responsible for their particular industry - that is, the specific Acts and policy development - and the Treasurer will be responsible for the generic framework and the legislation; that is, the Economic Regulation Authority Bill.

The gas and rail industry appeal and arbitration arrangements will remain unchanged; that is, the Western Australian Gas Review Board covers gas access and gas licensing and the Commercial Arbitration Act 1985 provides for arbitrators and mediators to resolve disputes related to rail access. That is already contained in the respective industry legislation and there is no proposal to change that. The water industry licensing appeal process will also remain unchanged, and persons aggrieved by a licensing decision will be able to appeal to the minister, who may confirm, vary or reverse the decision.

It should also be noted that gas and rail access arrangements in Western Australia are implemented through uniform national agreements, which have been discussed in this Parliament from time to time. The access functions will also provide for third parties to share the use of infrastructure services on reasonable terms and conditions. Again, that matter has been discussed in this House from time to time.

The general background to industrial licensing is that gas and water industry licences provide for continuity of supply and standards of service. The licences require that financial and technical expertise must be demonstrated in order to supply a service, and that asset maintenance plans, operational standards, independent borders of standards, customer service charters and complaints handling processes must be in place.

That is a general overview of the Bill. Report No 3 of the Standing Committee on Public Administration and Finance on the Economic Regulation Authority Bill 2002 is an extremely useful document. The Standing Committee on Public Administration and Finance is chaired by Hon Barry House. The Legislative Council referred this Bill to that committee in April this year. Regrettably, the committee was given a relatively short reporting period. Its first reporting period was to end on 16 May, but that was later extended by the House to 10 June. In my view the committee was not able to do the justice that might have been possible given the importance and impact of this Bill, but it was clear that the Government wanted the matter considered as a matter of urgency. My understanding was - and it was discussed by the committee at the time - that if the Government agreed to the extended inquiry period up to 10 June, to allow the committee to do some additional work, the committee would have been pleased for the Bill to have been

debated in the Parliament soon after 10 June. The committee anticipated that the Bill would be completed and passed by this Parliament prior to 30 June 2003 and that it would come into operation on 1 July 2003. For reasons of its own, the Government decided that other legislation was more important than the Economic Regulation Authority Bill, and, as a result, the Government did not give the Bill the priority that it deserved, resulting in a delay in bringing it to the Parliament. I can only assume that the new commencement date for the authority will be perhaps 1 September of this year, or it may be 1 January of next year. The Government, having made its decision to create the Economic Regulation Authority, having gone through a public consultation process and having received submissions etc, the sooner the authority is put in place, the better, so at least there will be some certainty.

I recommend to anybody who is interested in this Bill to read report No 3 of the Standing Committee on Public Administration and Finance, because, first, it contains significant information about the submissions that were made to the committee about this Bill and, secondly, it refers to the inquiries that were made and the conclusions that were arrived at by the committee. For instance, pages 6 and 7 of the report contain a very convenient summary of what the Bill is all about, and because it is only a few paragraphs I will read what the committee summarised the Bill to be. It states -

By way of summary, the Bill will establish the Authority and provide it with the following roles:

- the regulation of third party access to gas pipelines and railways, which is currently being performed by the Western Australian Independent Gas Pipelines Access Regulator and the Western Australian Independent Rail Access Regulator. If the Government accepts the recent recommendations of the Electricity Reform Task Force, it is anticipated that the Authority will also assume the role of an electricity access regulator;
- industrial gas licensing, which is currently being administered independently by the Coordinator of Energy, and the enforcement of these licences, which is currently performed by the Minister for Energy. It should be noted however, that these functions will only be transferred to the Authority on a future date to be proclaimed. This date is expected to coincide with the commencement of full retail contestability of the gas market, which is scheduled for the second half of 2003 or early 2004;
- industrial water licensing, which is currently being administered by the Coordinator of Water, and the enforcement of these licences, which is currently performed by the Minister for Environment and Heritage;

That was the title of the minister at that stage; it has changed since then. The summary continues -

- if the Government accepts the recent recommendations of the Electricity Reform Task Force, it is anticipated that the Authority will also assume the role of an electricity licensing body; and
- an inquiry and reporting function on matters referred by the Treasurer.

The summary includes significant footnotes confirming the source of the statements that are made.

The committee report also sets out on page 9 the responses it received concerning the establishment of the Economic Regulation Authority. In total, the committee received 28 submissions, and a number of stakeholders expressed support for the Bill in its current format. The committee has listed the reasons for that support. I also note that other matters of concern were raised in the submissions: some related to the inquiry and reporting power of the authority; some related to transparency in referral of those inquiry and reporting powers; and other concerns related to cost recovery funding versus consolidated funding. The submissions contained comments about the situation in other regulated industries. Some submissions dealt with concerns about environmental, social welfare and equity matters, and they are listed in the report. In some submissions it was suggested that the Bill should have an objectives clause so that there was a clear indication that the authority had to concern itself with particular matters; for example, two stakeholders submitted that it would be important to include the encouragement of efficient investment in essential infrastructure and long-term investment as clear objectives of the authority. I mentioned earlier the question of public interest. The definition of public interest is, in part, contained in clause 26(1)(g). The committee certainly received comment about the question of public interest and, as I have already indicated, some submissions specifically raised the question of ministerial responsibilities, independence and licensing, the lack of ability by the authority to set retail prices, and the roles of regulation and assistance in policy making. Other areas of concern involved policy direction, accountability, consumer representation and the review of existing regulatory and licensing regimes, best practice regulatory principles, and an issue was raised about alternate members.

The committee also considered issues relating to the way in which the legislation is framed. In chapter 3 the committee dealt with the question of legislative scrutiny. The report contains some instructive comments in respect of clauses 48(A), (B) and (C) and 52(1) on the question of strict liability and reversal of onus of proof. In respect of clauses 49 and 53 it also referred to the question of the protection of an individual from self-incrimination. Clause 55, dealing with procedural fairness, also came in for comment from some submissions. The committee also considered clause 56, which deals with immunity from negligence. It also considered clauses 57(2)(D), delegation of legislative power, and

61(2) and (3), parliamentary scrutiny of legislative power. The committee raised the issue of fees and charges that are “provided for” rather than “prescribed” in subsidiary legislation. Given the way in which the report is written, I expect the minister will be clear in his mind that the committee intended to make recommendations. Is the Minister for Housing and Works handling this Bill?

Hon Nick Griffiths: Yes.

Hon GEORGE CASH: In that case I will speak directly to the minister. A question was raised about why the words “provided for” rather than “prescribed” have been used in the Bill and what the effect of those words will be. That is a matter that no doubt the minister will cover when he responds, and it is certainly a matter that can be dealt with in Committee. I again indicate that this report is a very useful document in better understanding what the Bill is all about, and, more than that, in better understanding the views of the various industry groups, associations, government agencies and others about this Bill.

I should indicate also that the Department of Treasury and Finance provided briefings to the committee directly and also provided submissions to the committee on various issues that were raised. I compliment Mark Altus and Michael Court from the Department of Treasury and Finance on the way they handled the briefing, and, secondly, on the responses that they provided to questions asked by the committee. The two Treasury submissions are contained in the report. The submissions are lengthy and seek to answer the concerns that were raised by various organisations and other people about certain areas of the Bill. The Treasury responses are well worth reading because in some cases they confirm what the Government has already said about its intentions in this Bill, and also they cut through some of the emotive issues that have been raised by some groups and some of the confusion that has existed in the community about the intended functions of the Economic Regulation Authority.

I said earlier that I do not believe this Bill is a perfect Bill by any stretch of the imagination. We will propose certain amendments to the Bill in Committee, and I understand others will also propose amendments. However, the true effectiveness of the Bill will be known only after the Bill has been in operation for some time. The Bill provides for a review to be conducted every five years. It has been argued that the first review should take place two years after the authority is first created and at five-year intervals thereafter. That is also a matter that can be discussed in Committee.

As is the case with Bills generally, from time to time members receive submissions from various interested parties. I have received a private submission from a particular person, and because the submission is separate from the submissions that were received by the standing committee and is from a person who I believe is very knowledgeable about both industry and industry regulation I will read to the House some of the comments he made. The submission states -

The Bill, in its present form could be passed, but hopefully it will be possible to make amendments to ensure some safeguards against the excesses of bureaucracy, and the zealous pursuits of power by some of those from the public service, who will have responsibility for administering the legislation and advising the Minister.

Notwithstanding the weaknesses in the legislation which some claim will occur due to the role and responsibilities of industry Ministers, it represents an improvement on the present arrangements.

As with most legislation, it is easy to enshrine wording which might mean one specific thing in the mind of the original draftsman and the responsible Minister. But in the hands of departmental officers charged with the administration of the Act, a completely different result might be obtained and officers embark on pursuing policies which were never intended.

An example is the Water Services Coordination Act 1995. This was prepared as a simple and direct Act which gave the Office of Water licensing powers for the Water Corporation and other suppliers, and the power to monitor and report on the performance of suppliers against the conditions of their licence. It also gave the Office of Water responsibility to provide advice to the Minister *if he sought specific advice on a particular matter*. Within a short period, officers in the Office of Water sought to intrude into the management of the Corporation and other bodies; created policy which did not reflect the policies of the Government or the Minister; awarded additional licences in areas already being serviced by the Water Corporation without the approval of the Minister; and other similar initiatives.

In short, because the legislation was not specific enough, officers sought to develop policy and administrative initiatives which were not in line with those of the elected Government. That situation continued towards both the former and present Governments, and was exacerbated by the failure of Ministers to exert adequate control over the actions and decisions of senior officers involved.

It states also -

Therefore, it is worth placing on the record that the spirit of the legislation should be understood and acknowledged, and the Minister as well as industry Ministers involved, should manage their responsibilities with proper and accountable oversight, lest there be both negligence and delays, as well as unforeseen and damaging decisions within the new ERA, as well as the various utilities.

It then makes some specific comments about a level playing field and states -

Because the Government administers [regulates] both publicly owned services as well as private service suppliers, there is a conflict of interest in the manner these are administered. In short, there is not always a "level playing field". There are both publicly and privately owned providers of energy, water, and public services in Western Australia, and the present arrangements and administration leaves much to be desired.

Possibly the most "uneven" situation is with the Department of Justice, which operates gaols and some custodial and transport services, as well as purchasing the same services from a private contractor. While the private contractor is required to adhere to the conditions of service and prescribed penalties within a contract, no such penalties or requirements apply to the DoJ. This matter has been publicly referred to by the regulator, the Inspector of Custodial Services, as being an inequitable and conflicting situation. The DoJ situation is beyond the purview of this legislation, but it should be possible to obtain some statement from the handling Minister on that aspect of management.

Hon Nick Griffiths: Thanks for that!

Hon Peter Foss interjected.

Hon Derrick Tomlinson: I do not think Hansard heard that interjection. Perhaps Hon Peter Foss would repeat it.

The PRESIDENT: Order! Members need not incite other members!

Hon GEORGE CASH: The submission continues -

As certain decisions remain with the Government, [rates and charges etc.], and there is also provision for the Government to act in "the public interest", there should be some protection or clarification of how this will work. I believe the Government retaining this power is not unreasonable, but it should be accountable for how it administers it, and why the "public interest" decision was made.

- **Gathering information:** The ERA will have the power to acquire information from licensed utility suppliers, and this may be important. However, in requiring such information as costs of service supply, rate of financial return. etc., from the government-owned utilities, it needs to have the same powers where private suppliers are concerned. Again, this is an element of ensuring a "level playing field" and it is what exists in similar regulatory regimes in the UK and other Australian States. It seems loose in the wording of the Bill.
- **Cost Recovery:** There is a principle which suggests that it is a conflict of principle if a licenced body such as utility, is required to pay the costs for Governments to exercise management of the licence. This is considered especially obnoxious if the Government regulator involved is not required to account for its own management costs, is not efficient, and does not reveal or report on staff, use of funds etc.. In this instance it appears the it has been agreed that the ERA should collect fees from the utilities, as a precedent has been set in the case of the gas regulatory regime . . . there should be every effort possible made to ensure there is real and detailed accountability where costs are concerned, and how the amounts to be passed on to the utilities are calculated . . .
- **ERA (the Authority):** Cl.6,(1)(b) in Part2, does not make it necessary or a requirement, to appoint members to the Authority other than a Chairman.

The words in the Bill are "such other members, if any", but the person who provided this advice to me believes that it should be a requirement that three members be appointed to the authority. It continues -

- **Negligence:** Experience has shown that the Office of Water [which has the only licencing regime at present to administer], and the gas and environmental regulators and the Water and Rivers Commission, have . . . failed to consider the costs and inconvenience to customers, industry and the community of the excessive delays in making decisions in accord with their responsibilities. Some matters required within certain time frames after the Office of Water was created, have still not been met. Cl. 56 is a good inclusion, but as with other matters it will require the most appropriate method of enforcement. If there is a weak Minister . . . then the Clause will not be as effective in removing negligence as it should be. Does it apply to the Gas Regulator? . . .
- **Industry Minister:** This is a most expensive, overlapping and delaying mechanism, as it removes the responsibility of a Minister for certain matters and doubles the delays involved.

He then comments about particular ministers. Given that those comments are about the efficiency and effectiveness of various ministers, they should be reserved for me - enough said. That will save some of the ministers. The submission continues -

The Government was elected with the promise of removing "red tape," approval delays, and increasing administrative efficiency. It has failed dismally so far in all fields, but the ERA legislation could have been a

real administrative improvement. Instead, it is still bogged down in the academic theory associated with the “industry minister” concept, which only satisfies the power ambitions of certain government ministers and officers. Treasury is also wedded -

Hon Peter Foss: Where are you quoting from?

Hon GEORGE CASH: It is advice that was provided to me by someone who has been involved in both public and government industry and is very knowledgeable about these areas. These are the views of a person whom I very much respect. I am persuaded by some of the arguments put forward and, in due course, we can discuss them during the committee stage. However, I thought it important to read them out because this information was given to me privately and was never submitted to the committee -

Hon Dee Margetts: Then you should not have quoted from it. A member might ask you to reveal your source. It is very unwise of you to quote from that information.

Hon GEORGE CASH: But I said that this person has provided me with some information -

Hon Dee Margetts interjected.

Hon GEORGE CASH: I am happy to discuss it with the member later. I thought it important that another view be put forward and that rather than try to represent the view by summarising what I thought that person had said, it would be more convenient to read the words used by that person. I do it for the record to show that many different views on this Bill exist in the community.

There is no need for me to say more at this stage. I am sure that the committee stage will be an interesting discussion and debate. I am sure that various amendments will be moved to try to improve the Bill in the interests of the Government and the community. With those comments it is with some reservation that I say that the Opposition supports the Bill. However, we are keen to see what the finished Bill looks like.

Debate adjourned, on motion by Hon Nick Griffiths (Minister for Housing and Works).

CANNABIS CONTROL BILL 2003

Second Reading

Resumed from 12 August.

HON DERRICK TOMLINSON (East Metropolitan) [11.08 am]: Before we broke for our evening wassail last night, I had completed my introductory remarks and was moving into some consideration of the content of the Bill. I drew attention to the discretionary authority and to the fact that the Bill allows police officers to decide whether to issue a cannabis infringement notice. Perhaps it would be appropriate at this stage to invite the parliamentary secretary in her response to this second reading to explain whether that discretionary authority is to charge or not to charge; to charge as a simple offence under the Misuse of Drugs Act 1981; to issue a cannabis infringement notice under the Cannabis Control Bill 2003; or to issue a CIN or not issue a CIN - meaning not to charge at all. I am sure the minister’s policy advisers are listening and are probably already scribbling down the answer to that. I would like the answer put on record because it will make a considerable difference to the impact of the Bill. If a police officer is simply given the discretionary authority to issue or not issue a cannabis infringement notice, the signal to the community, as we discussed last night, is that it is okay to possess smoking equipment for cannabis, it is okay to possess up to 30 grams of cannabis at any one time, and it is okay to have one or two cannabis plants on a premises. The discretionary authority then allows police officers to decide whether they will proceed. I think members understand the impact of that.

As I said last night, it is important that police officers have the discretion for the just application of the law. It is, however, a discretion that is subject to abuse. Hon Jim Scott made the point as we were leaving the Chamber last night - I am sure he will not mind me sharing something that was said virtually behind the Chair - that police officers have the discretion whether or not to charge a person for speeding. I said yes, and he said that it was probably likely that a rather attractive blonde would not be charged, whereas he and I would be charged with speeding. I agree with him. I think a 36D cup inside a boob tube has less chance of being charged than someone who smells of stale beer and body odour.

Hon Peter Foss: I don’t think they have to have blonde hair though.

Hon DERRICK TOMLINSON: I see. That digression aside, the discretionary authority of police officers is important in the just application of the law. However, that discretionary authority is available to the police in their jurisdiction. It is not specific in the law. Here we have a proposed law that says that they may or may not issue an infringement notice. What does that mean? When the law defines the limit of acceptable behaviour in a community and then says that a police officer may or may not issue an infringement notice, what signal does that give? What signal does it give to the enforcement officer? What signal does it give to the community? Why not say that we will decriminalise it totally? Why hide behind the obscure, ambiguous language of the Bill? I would like the parliamentary secretary to respond to that in her peroration.

One other matter that I will deal with in the short time available to me is the question of hydroponics versus plants grown in some other medium. The Bill says that it is okay to have two or fewer cannabis plants on the premises, depending on regulations. What does that mean? Does that mean that, for example, Currie Hall, which has 100 or more residents each with a premises, can have 200 pot plants?

Hon Peter Foss: Or maybe even in the garden areas.

Hon DERRICK TOMLINSON: Of course, there would be pot plants in the pots or pot plants in the garden. They would not do this in St George's College because St George's boys do not have these sorts of things.

Hon Kate Doust: They would not have the brains to grow anything like that!

Hon DERRICK TOMLINSON: I was not going to be so crude as to make that distinction, but I thank the member; she has said it for me. What does premises mean?

The next question is, why will it be unlawful under proposed new section 7A of the Misuse of Drugs Act to sell or supply a thing knowing that it will be used for the hydroponic cultivation of a prohibited plant? Why is it that a person may have two pot plants, but he may not have two pot plants grown hydroponically? That means that a person is permitted to have his pot plant in a pot plant that has a medium of soil, vermiculite or sphagnum moss and feed it with a liquid nutrient. However, the person may not grow the plant directly in the liquid nutrient. I presume that the only reason for that is that if the person grows it directly in the liquid nutrient, he will produce a higher quality product. I do not know how the Minister for Agriculture feels about encouraging people to grow inferior products, but how will this be enforced? The plant is hydroponic if it is grown in the liquid nutrient. Is it hydroponic if it is grown in vermiculite and fed with a liquid nutrient? If the plant is in soil, there are no problems because the pot plant is in a pot plant with a soil medium and it can be fed liquids or solids. However, it is not okay if it is in vermiculite or sphagnum moss and is fed regularly with a liquid nutrient; in other words, it must be constantly wet. God bless the regulators, and God bless the regulators when they try to enforce proposed new section 7A, which states -

- (1) A person who sells or supplies, or offers to sell or supply, to another, any thing that the person knows, or reasonably ought to know, will be used to cultivate a prohibited plant contrary to section 7 . . . commits an indictable offence.

Oh, Waldecks nursery! I go to Waldecks regularly. I am constantly buying plants because when I put a plant in the ground it is a death sentence, so every week I replace those poor plants. Every time I go to Waldecks, there, available to me, is a hydroponic outfit. Will Waldecks say to me, "Before we sell this to you, Mr Tomlinson, will you swear on a stack of Bibles that you will not grow a prohibited substance in it?" I will say, "Good grief. Trust me. I am from the Parliament." Once Waldecks has established that, it will be off the hook. Come on, this is a nonsense! I put it to members that this whole piece of legislation is a smoke and mirrors trick. I have listened to the Leader of the House say that the Government is not changing the situation at all and that it will still be illegal.

Hon Sue Ellery: Does he sound like that?

Hon DERRICK TOMLINSON: Yes, he sounds like that, with his big pompous gut. He has said that it will still be illegal.

Hon Sue Ellery: That is unkind.

Hon DERRICK TOMLINSON: Yes, it is. He has said that the Government has not changed the situation at all and that it will still be illegal. However, it will not really enforce the law. This is not transparent government; this is government trying to be translucent. However, we can see through it. It is law not intended to be enforced; it is law that is intentionally unenforceable, because the Government does not have the courage of its convictions to stand before the electorate and say that this is what it is doing. It is changing some of the moral values of our society, and it is doing it by subterfuge. If the Government wants to change the moral values of society, and if it wants to change the social mores, it should be honest about it. However, because the Government is not honest about it, I do not support the Bill.

HON PETER FOSS (East Metropolitan) [11.20 am]: I congratulate Hon Derrick Tomlinson for giving one of the best speeches I have heard on any subject in this House.

Hon Dee Margetts: Including the sexist remarks?

Hon PETER FOSS: I do not know whether Hon Dee Margetts heard Hon Derrick Tomlinson last night. If possible, she should get hold of a video recording of his speech because it was superb. It was not only a good piece of oratory, but also a heartfelt and sincere message that every person who is dealing with this legislation should think about.

The message I want to get across is similar to that of Hon Derrick Tomlinson. I am assuming that everyone in this Chamber wishes to do the right thing for our society. To a large extent, I also agreed with some of the principles enunciated by Hon Jim Scott. I agreed with much of what he had to say about what we wish to achieve in our society. However, I totally disagree with the conclusions that he drew. Hon Derrick Tomlinson was helpful because he drew us back to the central issues; that is, why are we doing this and what do we hope to achieve? We would all agree that we do not want our citizens harmed by drugs that have a capacity to cause harm. We would all agree that we do not want

young people to have a record that will stay with them for the rest of their lives, due to a youthful indiscretion - an indiscretion that most youth commit. Nearly all youths go through some form of rebellion; they rebel against whatever it is that happens to be the norm in society. If we were to make something against which youths currently rebel totally acceptable in society, they would rebel against something else.

The point that Hon Derrick Tomlinson made is that many things in our society are harmful and society's attitude to those things has greatly changed over the years. For example, I refer to alcohol. I can remember when drinking alcohol was not only considered hugely manly, but also people would boast about it. People would boast about the degree to which they got blind drunk. They would also boast about their ability to continue driving while drunk. When I was at university, I drank far too much alcohol and I got blind drunk. We all thought it was terribly jolly. I must confess that I also drank and drove. I am pleased to say that I never drank and drove when I was blind drunk; however, most of my colleagues did.

I can remember one year driving home from the Blackstone Society Ball. I was following a car that I recognised as that of one of my colleagues from St George's College. The ball was held in the South Perth Civic Centre. As we came over the Narrows and went around the cloverleaf, he bounced off either side of the cloverleaf because he was so drunk that he could not negotiate the cloverleaf.

Hon Barry House: A Currie Hall boy would never do that!

Hon PETER FOSS: I do not know about that.

When I got back to the college after dropping off the person I had taken to the ball, I noticed that his car was parked at the college and that the interior lights were on. I decided to turn the lights off. When I opened the door he fell out with a sodden thump. My colleague had managed to get back to the college but had gone to sleep leaning against the door of his car. I managed to summon a tutor and together we picked him up and hauled him off to bed. The only bad thing to come out of that night was that the tutor could not tell the difference between me and my colleague, and the next day he spread the word that he and my colleague had carried me to bed! There was no stigma attached to that incident; in fact, there was a degree of bravado.

When I started practising law, as a junior lawyer, I worked on a lot of Motor Vehicle Insurance Trust cases involving injuries that had occurred on the roads. It became patently obvious to me that every one of the significant cases of serious injury or death involved large consumption of alcohol. Not just some, but all cases. When I saw the misery caused by people drinking and driving the impact was so overwhelming that I decided that I would not drink and drive. To this day, I do not drink and drive. If I drink, I do not drive. If I drive, I do not have one glass, half a glass or a sip. The scientific evidence states that a person's driving is not affected by alcohol until they reach .08 blood alcohol level. I have formed that view for a couple of reasons. First, in those days it was impossible to detect how much alcohol people had in their body unless they died and a blood sample was taken. It was done by observation. The police learned how to do it in the police academy. They would say "I observed the defendant. He was unsteady on his feet, his breath smelt of alcohol and when I spoke to him his speech was slurred. When he was asked to walk along a straight line, he was unable to do so. From that I assumed that the defendant was incapable of driving of a car." That is what we heard all the time; it was rattled out. I also did quite a few cases of guilty pleas for people who had been charged with drink-driving. Guess what? Every one of them told me that they had consumed only two beers. The consequences of drinking only two beers are amazing.

Hon Dee Margetts: They were fibbing.

Hon PETER FOSS: They were. The first consequence of consuming alcohol is that a person's judgment is affected, and that happens well before the motor skills are affected. People say that they can drink and drive because often at the first .02 blood alcohol content, their motor skills are slightly improved. However, their judgment is almost instantly totally interfered with. The consequence is that many people say that they will have only two beers and that is as many as they remember drinking. The other thing about alcohol is that it rather dulls a person's consciousness of the passage of time and recollection of what took place.

Hon Dee Margetts interjected.

Hon PETER FOSS: I do not know. All I know is that in those days there was no point in having only two beers, being involved in a fatal accident and saying that only two beers had been consumed because people would say "Oh yeah", which is what Hon Dee Margetts just did. I have kept to that rule for the rest of my life.

The other rule I had was that I did not drink while I was working. Becoming a minister practically meant the end of any alcohol. I have reached the stage at which, although I like alcohol, I often will not drink it because I have come to resent the dulling of the senses that comes with alcohol, as a result of lack of familiarity with it. I do not have a moral objection to alcohol, although I certainly am aware of the consequences of excessive consumption, but I resent the effect of it. Having reached the resolution that I would not drink and drive, I was in a quandary because in those days it was a regular thing to entertain clients with a few beers after work. It was considered manly and sociable. What was I to do? Having a soda water or water was considered a bit funny for a young lawyer who wished to get on in his profession; it was not done. So I would drink ginger ale shandied with soda. It looked like beer, but it was not. I hate

ginger ale, but ginger ale with soda water is slightly more palatable and looks more like beer. I drank this vile stuff in order to appear sociable and not like some funny wimp who could not be trusted with his clients' legal affairs. I am pleased to say that that societal attitude, which members may find extraordinary now, no longer exists. A big change came when everybody started asking for soda water, because of breathalysers. People feared that if they drank and drove they would be apprehended by the police and, even for an amount of alcohol that did not cause them to be unsteady on their feet or to slur their speech, charged with a serious offence. The penalty for drink-driving was massively increased, with mandatory licence suspension and significant fines that increased for subsequent offences. That societal change took place due to a change in the law and the enforcement of that law. Today there are still people who drink and drive, but they have a serious alcohol dependency, especially those who have several alcohol-related convictions.

We now spurn drinking and driving. It is regarded as socially wrong, not because we were all educated, but because the law was strengthened and enforced. We did not say, back in those days, that it may be harmful, but everybody was doing it and therefore we should stop people getting these terrible offences on their record. However, is that same argument not being used here? It is either right that people be encouraged to do this, or it is wrong, and people are not encouraged to give up the smoking of cannabis by a reduction in penalties. If we, today, change the penalty for drink-driving to a \$100 infringement notice, and allow a person to incur as many infringements as he or she likes without a licence suspension, do members really think that society would not go back to its old ideas? Many people have permanently changed their views about drinking and driving - they have got the message - but a significant part of the population has not. Drinking and driving is dangerous to the population and should be discouraged.

The second area I will touch is that raised by Hon Derrick Tomlinson - smoking. As he said, smoking was considered manly. It was not only accepted; it was encouraged. A man did not look like a man unless he smoked. The novels of that time show how people regarded smoking. Have members noticed the recent *Modesty Blaise* cartoons in *The West Australian*? It is starting from the beginning again - the 1960s.

Hon Derrick Tomlinson: She is smoking and using a gun.

Hon PETER FOSS: She is smoking all the time, but everybody is smoking all the time in *Modesty Blaise*. Attitudes to smoking were totally different. I did not smoke either. At this stage I am probably creating the impression that I am a total wowler, because I did not drink and I did not smoke. I apologise if I am giving that impression. I did not smoke because, as a young child, I found smoking had a very adverse effect on me. I found smoking by anybody anywhere near me highly unpleasant. It was not due to any strength of character on my part, but to the fact that it made me very ill. I have grown out of that to a large extent, but I still find smoking offensive; I have always found it offensive. I tended to get around with people who did not smoke, so none of my friends smoked. We would hang out together.

I did not smoke, but I lived through that time in which the tobacco companies were denying that smoking had any evil effects. Those members who are not on the leading edge of the baby boom might find that extraordinary. How could anybody possibly say that smoking was harmless? Smoking was a manly, sportswomanly, rich and successful person's thing to do. This image was being promoted to us every day through the television. I remember the United States Surgeon General saying that smoking caused cancer. "No," said the cigarette companies, "that is nonsense. There is no evidence. Prove it!" Of course all the evidence at that time was epidemiological, because the effect was long term. However, the epidemiological evidence became clearer and clearer. No matter how many factors were ruled out, there was a clear and distinct relationship between smoking tobacco and cancer. Eventually, the message got through, and as time went on, further things became obvious. Further studies made clear how many other diseases were attributable to smoking, and under which circumstances. I remember people saying fairly early on that women should not smoke during pregnancy because of the impact on the unborn child. That may even have been before the link with cancer was shown. People also began to learn about the impact of passive smoking; that people who took up smoking were most likely to have been exposed to passive smoking. We also learned about the effects on the heart, and about peripheral vascular disease. People began to examine what was in cigarettes, and found hundreds of carcinogens. It is no wonder smoking was causing all these problems. However, for many years the tobacco companies were still denying the ill effects.

The tobacco companies were also saying that tobacco advertising had absolutely no impact on whether people smoked. It is curious then, that they were so keen on maintaining tobacco advertising. What kept smoking going was attitude. People living in Australia probably have no idea of the attitude to smoking in the rest of the world. In China and Indonesia - in fact, anywhere in Asia, apart from Singapore - and in Europe people will be overpowered by smoke. If, like me, they find it offensive, it is rather hard to take. Members will recall the dreadful cold and weather we had recently. I saw a girl who worked in a coffee shop sitting outside the shop in the pouring rain with a cup of coffee and a fag.

Hon Derrick Tomlinson: Did she not even have an umbrella over her fag?

Hon PETER FOSS: No, because she could not handle that, the coffee and the cigarette. The funny thing is that the addiction is so strong -

Hon Frank Hough: She might not have known it was raining.

Hon PETER FOSS: I do not think she could have missed it. It was because her addiction was so heavy. She is a pariah in the modern Australian world. She would not be a pariah in most of the rest of the world, but she is a pariah here. Smoking amongst adults - I say adults - has been stamped out by a change in attitude that is the result of a combination of persuasion, the carrot, and penalties, the stick. There is no doubt that a combination of both those tools must be used if we wish to stop something in our society. There are places in the world in which the consumption of alcohol is successfully prohibited. Sure, some people drink, but there always will be people who drink, just as there will always be people who commit murder. The majority do not. The prohibition of alcohol works in those places. It works in many Muslim countries, but in some it does not. It depends on the societal attitude. We know that to prevent people doing something we need both the carrot and the stick. Neither in itself is sufficient; nor will an approach work without the stick.

The attitude to tobacco is strange. It is fascinating that the Tobacco Control Act and the Cannabis Control Bill have a somewhat similar format. That may be pure coincidence. It may be that parliamentary counsel looked to one as a model for the other. Apart from one aspect I mentioned, the penalties under the Misuse of Drugs Act for the particular offences we are dealing with are less than the penalties for similar offences under the Tobacco Control Act. Those offences are not for smoking but for advertising. The Misuse of Drugs Act provides for a penalty of \$2 000 or two years imprisonment. The imprisonment penalty is a nonsense as I have never known anybody to receive a jail sentence for that offence. The Tobacco Control Act provides a \$5 000 fine for an individual - not a company - for a first offence, and a fine of \$10 000 for a subsequent offence.

Hon Derrick Tomlinson: Is that for advertising?

Hon PETER FOSS: Yes. When the Tobacco Control Bill was introduced into this Parliament, it contained two interesting elements. First, it contained a lesser penalty for the offence of supplying a minor than for the offence of advertising. I was the one who said we should penalise people at least the same amount for supplying tobacco to a minor. I cannot remember the exact amount, but the penalty for supplying a minor was considerably less than the penalty for advertising. The second element was that the Bill proposed to ban Fags, which are pieces of white candy sticks with a little bit of red colour on the end. The Bill did not ban tobacco or cigarettes but it banned Fags. If ever there was a bold gendarme measure, that was it. We were not prepared to take on the smokers because they would revolt if we tried to ban tobacco, so we would ban Fags.

Hon Ed Dermer: They just changed the name.

Hon PETER FOSS: The manufacturers took the little red dot off the end of the candy and changed the name. We did not ban Fags. They have been banned in other parts of Australia, but not here. They are now called Fads, and the candy sticks do not have the red dot on the end.

We must occasionally ask about our legislation and whether we have our priorities and relativities right. The reality of the matter is that we now have a body of people who are ferociously against smoking, and a body of people who are ferociously against alcohol and drink-driving. I ask members who led the charge against these things. There was a major difference in both the penalties and the societal attitudes. The real fans for the charge against alcohol and drink-driving were the police and the doctors. They led that charge for the same reason I stopped drink-driving. They had to deal with the mangled pieces of often innocent human beings that resulted from that combination of drinking and driving. The doctors and the airline pilots led the fight against smoking. Why did Australian airline pilots insist that smoking be banned in planes? Why was Australia the first nation in the world to ban smoking in planes? The reason they gave was this: they saw the air filters when they were removed from the planes, and they dripped tar. The pilots realised that that tar was going through their lungs every day. I understand that through some of the antismoking ads we have all had an opportunity to see what the doctors see. They saw what smoking could do to people.

The attitude towards cannabis has progressed over the years. In the 1960s it was a trendy antisocietal thing to do. I must confess that it was not around me. Somehow Hon Derrick Tomlinson came across a fair bit of cannabis in the 1960s. I did not know about it. It was not done among my group. I never heard of the stuff. I remember that in the 1970s my wife and I went to Europe and stopped in Genoa. We were walking down the back lanes of Genoa and people kept shushing us. We did not know why. Everywhere we went, people would say, "sh", "sh", "sh". We asked each other why they did that. We did not think there was any reason to "sh". They were trying to sell us hashish! We were so innocent that we had never come across the stuff. I remember going to a party with some American and Canadian friends of mine. The Americans smoked cannabis, and I was ready to shoot out the door because I was so horrified at that unlawful behaviour. I must confess that during my seven years as an arts minister, I had to modify my attitude slightly.

The perception of cannabis has changed over the years. Each decade has led to a greater involvement of our society with cannabis. It is becoming more socially acceptable.

Hon Robyn McSweeney interjected.

Hon PETER FOSS: I am pleased to hear that. I also am not. However, the reality of the matter is that the use of cannabis is becoming more socially acceptable. In the 1960s we did not think that smoking cigarettes was unhealthy.

That realisation occurred over some decades. Only now is smoking cannabis seen as deleterious. I suppose when one thinks about it, it should be. Without even looking at the evidence at this stage - the evidence is now coming through quite clearly - one would think that it would be at least as carcinogenic as tobacco. At a fair guess, it is probably six times as carcinogenic. The mere fact that we do not have the evidence does not mean that is not the case. I am sure that time, as it is doing daily, will bring more evidence of the deleterious effects of cannabis. As we find almost by the day more studies showing some of the deleterious effects, I am sure that when we have epidemiological studies, especially over people's lifetimes, with sufficient samples and sufficient control of the multiple factors, in due course we will find more facts about it.

Of course, many people smoke cannabis with tobacco. Here we are trying to stop people smoking tobacco when we are almost encouraging people to smoke it as long as they shandy it with a bit of cannabis. I can remember as Minister for Health when we issued a warning about the psychological and psychiatric effects of cannabis. That was in 1993. We have come a long way since then in our knowledge of its effect. At that stage we thought that it only related to schizophrenia and that it appeared to precipitate schizophrenia in those people who had a predisposition to it. Of course, many people have a genetic predisposition to schizophrenia, but that does not result in schizophrenia. However, there is an epidemic of schizophrenia at the moment; it involves not just a small number of people, but it is at the stage where it is an epidemic. It is a terrible disease. People who suffer from schizophrenia are virtually out of the workforce. Some of its worst effects can be controlled with drugs, but it cannot be got rid of. Most people with schizophrenia are unfit for employment.

I suppose when one thinks about it, the effect of cannabis upon depression is logical. As the days go by, I believe that it will show itself as having all the adverse effects of tobacco and all the adverse effects of alcohol plus others. The Minister for Racing and Gaming made a very good speech some years ago about what taking cannabis and alcohol together does to people. It is a lethal combination. People have often said - I have said it as Minister for Health - that more harm is caused in our society by legal drugs than illicit drugs. Does that not make members wonder why there is more harm from legal drugs than from illicit drugs? The reason is that if society makes something socially acceptable, it will be done even if people know that it is stupid. People still smoke, partly because they are hooked on it; they still drink to excess, partly because they are hooked on it. However, a number of people do not get started because of some legal measure that will stop them. If we can prevent kids smoking before they are 18 years of age, there is a much better chance they can give up as adults. The statistics on people who start smoking at the age of 13 years are horrifying. It is almost impossible to give up smoking if someone started smoking at the age of 13 years. Doctors say that alcohol in small amounts is actually good for us. A doctor will tell us to have a glass of wine a day for our cholesterol, but how much misery is caused by excessive consumption of alcohol? Is it caused in those places with prohibition where there is also a social objection to it? No, it is not. Funny that. Is it not obvious that as soon as we make something legal, we are affecting two things; we are affecting those people who are too weak to avoid doing something unless it is against the law -

Hon Christine Sharp: This is not a legalisation Bill.

Hon PETER FOSS: I will deal with that later.

The second thing we do is to send a message to people that it is okay. I want to stop people smoking cannabis. Anybody who does not want to stop people smoking cannabis has rocks in his head. The medical evidence is clear; it is worse than tobacco and alcohol and it is worse than the two combined. Whatever people might have thought about it in the 1960s and 1970s as a soft drug, it is not. Just go over some of the aspects. It has all the harmful effects of tobacco and is often taken with tobacco. It has no safe level of use. It has six times the carcinogenic chemicals of tobacco. Small quantities have a serious impact on driving ability. The problem there is that it cannot be proved. We had that problem with drink driving. We could not prove it until we got breathalysers. A small quantity has serious impacts on work-related accidents. A small quantity has psychological and psychiatric effects. Even a small quantity can precipitate depression and schizophrenia. Large quantities are totally debilitating. I know that because one of my daughter's friends is a pothead. He exhibits all the signs that go with other forms of addiction. He steals from his parents, his neighbours and his grandparents; he is a total waste of time. He does not take drink, just that.

Regular cannabis use is addictive in the same way as that of tobacco. Try giving it up after regular use. I know it is addictive because I have spoken to some people who were alarmed by the impact it was having on them and who found that giving it up was very difficult. To encourage people to smoke is silly. Two things are necessary to stop people - the carrot of education and the stick of penalty. The reason that alcohol and tobacco cause the majority of harm in our community is that there is no penalty for consuming them. Who is opposing this legislation? The one group that has really come out publicly and said that it does not agree with it is the Australian Medical Association, and that is not a coincidence.

I want to deal with the question of whether this legislation is or is not about legalisation. The legislation provides for a cannabis infringement notice for a number of significant offences. There would be no record. We all agree that we do not want to give children records. That is not dealt with in this legislation because it is dealt with under the Young Offenders Act, but when will people start taking responsibility for their actions? We can argue about whether 18 or 21 years is the right age. Hon Jim Scott suggested the age of 25 or 30 years. I thought that dropping the legal age of

responsibility to 18 years was stupid, but the reality of the matter is that we have done it. Many of the people in jail are there because they cannot see that if they do something, consequences follow. People in jail are those with an impaired sense of the consequences of their action. Somewhere along the line people must realise that they should not be smoking cannabis. They cannot go through the whole of their life incurring one offence after another with no penalty. A cannabis infringement notice is not a real record and is of no real consequence. The police will not prosecute offenders under this Bill.

Recently, the police tried to bring an indictable offence against a madam. The Director of Public Prosecutions dropped the charges, not because he did not think there was a case but because he did not think it was in the public interest to prosecute as an indictable offence, what was actually a summary offence. The DPP considered that it was a waste of time prosecuting a summary offence because there was no real penalty for it. It costs the State a huge amount of money and police time to bring that action before the courts. At the end of the trial, a judge could impose only a \$100 fine.

This Bill will lead to exactly the same thing for cannabis offenders. The amount of cannabis that people will be allowed to carry with them is the perfect amount for a pusher. Why would we want to allow pushers to escape prosecution again and again? The Leader of the House said that if the police think a person is a pusher, he could be prosecuted. The fact that the police think someone is a pusher will not wear with the magistrate. The police know that if they get that pusher in front of the magistrate, the magistrate will rule that the police are trying to prosecute a person for having 30 grams of cannabis in little packets, but that is subject to a CIN under the controlled penalty. The magistrate will fine the pusher \$100. Big deal.

Why did people get away with drink-driving? It was because there was no significant penalty. People stopped getting away with it when they were punished and the law was enforced. The laws had to be enforced and people had to be punished. I am not suggesting that we go mad over people and give everybody massive records. I thought the cannabis cautioning system was good. When a person finally got prosecuted, he got prosecuted. There was no way in which the court would know whether he had been cautioned or not. He appeared before the court on an offence, which the court dealt with. Quite rightly, children were dealt with. It is important that children learn the consequences of their actions so that, hopefully, when they become adults, it will not become a problem. If appropriate penalties are not applied to a number of offences, the police will not do anything about them. They will cease to be a police priority.

Members have said that the Bill will not legalise marijuana. However, it will legalise pushing. It will mean that pushing will be turned into a minor offence. I have amendments on the Notice Paper to address that. I want this legislation to at least deal with the issue of pushers. As it stands, it will make it virtually impossible for the police to pick up pushers. I will not repeat what every other member has said. However, pushers are a serious problem in our society. Some people who are addicted to cannabis supply that addiction by pushing it to other people, including children. It is very hard to detect and prosecute. This Bill will make it impossible to prosecute pushers. The police will not bother prosecuting people for those types of offences. At worst, a pusher will come before a magistrate and the magistrate will give the pusher the same penalty that can be applied under the Cannabis Control Act, simply because that is the way the law works.

A child of a friend of mine said the Government has made it okay to grow cannabis in the back garden. The Government can send all the messages it likes, but the message it has clearly sent to the public is that it is okay to grow and smoke cannabis. Kids do not miss the message. If the Government really wants to get a message to the kids and get them to change their attitudes, it must do something to signify that we do not approve of growing or smoking cannabis. We must start doing for cannabis now what was done for smoking, or it will do to the population what smoking has done to the population. That is what will happen. The Government is not only taking away the stick by not imposing criminal convictions or providing a significant penalty, but also it is taking away the carrot. How can anybody now say to people that there is emerging evidence that cannabis is a deleterious substance that is worse than alcohol and smoking, and worse than the two combined, when the Government is wanting to pass legislation that kids have already said means that smoking cannabis is okay?

[Leave granted for the member's time to be extended.]

Hon PETER FOSS: We must get to the nub of this matter. Much of the motivation for this legislation comes from views that were formed in the 1960s. I say this with the utmost respect to the many people involved. I am not unique in having formed many of my views in the 1960s. They were very important times in our lives.

Hon Louise Pratt I did not form any views in the 1960s.

Hon PETER FOSS: I am talking about many members in the Chamber. I am looking at the baby boomers who not only boomed as babies, but many of whom are booming personally these days. We all are suffering the effect of that. I can see a number of baby boomers around the Chamber.

Hon Kim Chance: It has been said that if you can remember the 1960s, you probably did not enjoy yourself enough.

Hon PETER FOSS: I remember the 1960s. I enjoyed myself and I can remember that I enjoyed myself. I did have views that were different from other people's views at that time. I remember how frustrated some people were.

Timothy Leary, the LSD man, advocated LSD and drug freedom altogether. Many people thought he was a hero. Young people often think counter-culture people are heroes. Many people who were smoking pot at that time - the laws were fairly unsympathetic in those days - thought that the law was stupid. Some of those people are probably in this Parliament now. It is very hard for people to get away from the views that they formed in the 1960s at a formative time in their lives. Most of the movers and shakers in our society grew up in the 1960s. However, we should be prepared to understand that, in the words of Bob Dylan, the times are a-changing. It is no longer right to say, as Hon Chrissy Sharp said the last time we debated this Bill, that cannabis is harmless or that it is no worse than tobacco. I know she was unwell yesterday and I regret that she missed some very good speeches, in particular Hon Derrick Tomlinson's. I urge the member to watch the video of it because it was probably the best speech I have heard in this Parliament.

Hon Christine Sharp: Yesterday's?

Hon PETER FOSS: Yes. It was a brilliant speech. Society has changed its views on many things, including smoking, alcohol and cannabis. Society had to change its views on cannabis because evidence has emerged that its effects are worse than was previously thought. Perhaps I could appeal to the member's green principles. If we have a substance with six times the carcinogenic content of tobacco, should we at least on a precautionary principle assume that in time it will lead to at least six times the amount of cancer?

Hon Derrick Tomlinson: To the power of six, not six times.

Hon PETER FOSS: Yes. I am not a great believer in the precautionary principle because it stops far too many things from happening. However, I urge the cautionary principle to be applied to this law. Members opposite are playing with fire. It has been firmly established that cannabis is far more dangerous than people thought even two or three years ago, when we last debated this issue. If the Government has not kept up with that, it is irresponsible. I hope it has and I hope it is aware of the scientific evidence that is emerging, which is just the same as what happened with tobacco in the 1960s. There are denials but grinding epidemiological evidence that the denials are false. It is a dangerous substance and it may turn out to be more dangerous than some of the hard drugs. The fact that we do not have all the evidence is not necessarily proof that it does not exist - the precautionary principle. I was the Minister for Health in 1993 when warnings were first issued - just like those from the Surgeon General in the United States - that cannabis was related to schizophrenia. The trend of medical evidence is inevitable and going in one direction only; that is, that cannabis appears to have all the major problems associated with tobacco but multiplied. Its impact on people is similar to that of alcohol and worse. Yet in one fell swoop, we will remove the indication of public disagreement and any real possibility of penalty. We are not removing it only from young people but also from adults - foolish old people who smoke it. We are removing it for a quantity of cannabis that can be seen only as being suited to pushers.

I urge Hon Chrissy Sharp to look at my amendments on the Notice Paper. If members opposite are determined to go ahead with what I see as a foolish step with a lack of knowledge of the future, they should tighten up the inadequacies in this legislation so that it does not cause only unintended consequences, but also obvious negative consequences. Members opposite should struggle out of their 1960s attitude towards cannabis and look at the evidence that is emerging day by day. Where will it stop? Some people are dissuaded from using cannabis because it is illegal. However, some people use it because it is illegal. There are always different attitudes in response to any law. What will people who want to rebel do? Will they keep using cannabis? They probably will but they will also defy society by doing something else. As I said, I agree with a lot of what Hon Jim Scott said. Young people will do death-defying things. A frightening thing is that, despite all the impact on us middle-aged fatties - I use the term collegiately - the reality is that the percentage of people who smoke has not dropped. Young people and women are being recruited to smoke to make up for older people who have given up or never smoked. It is frightening. I know that the amount of drink-driving has decreased immensely. That did not happen because we gave up and said that was part of society. Some people do not respect alcohol as a dangerous drug. I am part of society. I remember colleagues who boasted of how drunk they were when they drove home successfully. They said they could drive home no matter how pissed they were; they said it did not affect their driving. What self-deception! I remember all the lawyers in my firm drinking all Friday night. It was the same with every firm in Perth; it was the standard thing to do. Everyone drank far in excess of what should be consumed before driving a motor vehicle. Those people then drove home!

Hon Frank Hough: Shame!

Hon PETER FOSS: I am sure the member remembers those days. The reality is that none of them does it now. The first step was to show society's disapproval, the second step was to enforce that disapproval, and the third step was to get the message through that it was totally and utterly irresponsible and socially unacceptable. A minister had to give up part of her portfolio because she was speeding. Speeding used to be socially acceptable. She also had convictions for drink-driving. I remember a former minister who was always drunk.

Hon Robyn McSweeney: From the other side!

Hon PETER FOSS: No. Unfortunately, he was from our side. It happened over a long time.

Hon Nick Griffiths: Only one?

Hon PETER FOSS: I am sure there were others. I remember this one particularly well!

I urge members opposite to look at my amendments, which I hope will make the legislation more acceptable. It is still not acceptable to me but I ask members to do it as a bare minimum. Secondly, I ask members to think seriously about the message we have already sent, the message we are going to send, and whether it is regarded as a serious offence at the moment. I am afraid it is not. It is a summary offence with a small penalty. People say that offenders cannot travel overseas. The country that punishes it more is the United States. Are we going to change our law in this State and risk the possibility of making cannabis even more socially acceptable and make smoking even more likely to occur because of the United States; because people might want to travel to the United States? I do not know how many Western Australians travel to the United States. It is probably not a lot. Will the rest of us be encouraged to smoke cannabis so that a few people can travel to the United States? Since when have we passed laws because the United States has a particular view? I hope we do not do that. As it stands at the moment, in the scheme of statutory arrangements cannabis use is a less serious offence than advertising tobacco. It is less serious than many other offences, such as selling tobacco to a minor. We have managed to make it virtually not worth the bother of enforcement by the police. I know the police attitude towards this sort of offence: it is not worth enforcing and so it will not be. We have sent the worst of all messages to young people in this State.

I oppose this legislation on what I hope is a rational basis. I hope that members can see the role of law in society as well as the roles of Government and Parliament in setting, to some degree, what is approved and disapproved of in our society. I cannot approve of cannabis. Future generations will wonder how we did it. I remember visiting the United States Senate and seeing the spittoons around the floor and thought, "What primitive people!" We laugh at former generations; we laugh at the smoking in *Modesty Blaise*. We laugh at the way people behaved. We will be laughed at too. We will be regarded as idiots. If tobacco had been banned when it was first brought back to England by Sir Walter Raleigh, what a difference it would have made to the world. However, it was not because its effects were not known and the opportunity passed. We now have that opportunity. What will we do with Sir Walter Raleigh? By the sounds of it we will say, "Bring it in Wally; it's fine."

HON CHRISTINE SHARP (South West) [12.19 pm]: It is with pleasure that I support the Government in the passage of the Cannabis Control Bill. It is a pleasure to see a Government meeting its commitments. In particular, it was a pleasure to see the way in which the Government put serious work into the issue of drug law reform through the process of the Community Drug Summit, which took place in this Parliament in August 2001. Seventy-two per cent of the participants of the Drug Summit voted for the recommendation that the Government introduce into this Parliament legislation to decriminalise cannabis. What we are discussing today and have been discussing for some time will not only meet a commitment made by the Government but also deliver one of the major outcomes of the well-supported Drug Summit. In many senses this Bill builds on what the Liberal coalition did when it was in government through the cannabis cautioning scheme. This Bill will add to that scheme by more fully and properly addressing the matter at law by amending the Misuse of Drugs Act.

There were two limitations on the Drug Summit and the way in which it was held, although I must award the whole process a nine out of 10. The Government got two things wrong. First, it excluded discussion of the legal drugs of alcohol and tobacco - I will come back to those later - and, second, it excluded other political parties from being active participants in the summit. Therefore, the summit was politically controlled by the Government, rather than there being a multipartisan approach to the problem. Members such as Hon Simon O'Brien and I, who are the representatives of our respective parties on drug matters, were not participants of the summit. I am offering a lifeline to the Opposition. The exclusion from the Drug Summit of representatives of the Opposition provides some explanation of why the Opposition has chosen to take such an excessively political view of the Cannabis Control Bill.

This afternoon I will attempt to put the Cannabis Control Bill into a broader perspective. To get the decriminalisation of marijuana into perspective, we must be aware of what is happening elsewhere in Australia and the world. A cautioning scheme is in place in Victoria and has been in place at law for some time. Infringement systems are in place in South Australia, the Australian Capital Territory and the Northern Territory. Those systems are slightly different from the Western Australian model, which has explicitly examined those systems in detail and attempted to improve on them. New South Wales also followed the course of holding a drug summit. The New South Wales Government has made an amazing contribution to the resourcing of drug education programs and so on, to the tune of \$178 million over the past four years. Cannabis decriminalisation legislation is currently before the Houses of Parliament in Westminster, which seeks to introduce a warning for a first offence. In Denmark, legislation is already in place for warnings to be given for first offences involving cannabis. In Belgium, warnings are given for the possession of small quantities of cannabis for first and other offences. In Austria, cannabis is permitted for medical use. Eight States of the United States permit, by law, the use of cannabis for medical purposes. It is well known that cannabis has been decriminalised in Holland and that supply is regulated through cannabis cafes. Two years ago the personal use of small quantities of cannabis was legalised, as opposed to decriminalised, in Spain. In Portugal, small quantities of any drug have now been made legal for personal use. The Canadian Senate last year brought down a milestone report recommending the legalisation of cannabis. I understand that the decriminalisation of cannabis is also being progressed in Canada.

Throughout Australia and the western world it is recognised that traditional policy methods for dealing with drugs have been unsuccessful and that the war on drugs has failed. Policymakers throughout the world are seeking better methods

to get across the message of harm minimisation in order to help people accept personal responsibility for their drug intake and to introduce moderation into their activities by understanding the real cost to their health and the other genuine risks from drug use, rather than the inflated risks that have been suggested in political polemic. What we are doing here is not strange and does not go out on a limb. This Bill is in line with policy trends everywhere.

I do not suggest for a moment that the concerns of some members about the potential effects of the decriminalisation of marijuana are not genuine. However, I must point out that a statewide cautioning system was introduced by the current Opposition when it was in government. In many ways there is little difference between that system and this legislation, except that the law will be brought up-to-date. Those who are really concerned about the effects of the decriminalisation of marijuana must get into their heads the fact that cannabis is extraordinarily prevalent. This legislation will not open any floodgates. The floodgates are already open. We know from the figures - a lot of figures were provided in the working group papers from the Drug Summit - that 45 per cent of Western Australians have smoked cannabis at some time in their lives. That is nearly half the population. Seventy-two per cent or nearly three-quarters of Western Australians aged in their 20s have smoked marijuana. More than one-quarter of males in their 20s have smoked cannabis in the past week. Forty per cent of juveniles in Western Australia have tried cannabis. Last year, 320 000 Western Australians smoked marijuana.

Hon Bruce Donaldson: Where are those figures from?

Hon CHRISTINE SHARP: They are from the Government's working party document that accompanies the Bill. The first point I am trying to make is that a lot of people smoke cannabis. Therefore, the issue we have to address is whether the Bill will make more people smoke cannabis. Clearly the law as it stands has not stopped people from smoking cannabis. I would like to challenge those who are concerned about this Bill. We have had an enormous number of figures on this subject - enough to cause any non-expert to become really confused and to grapple with what really are the facts. Can anyone in this place table any proof that decriminalisation will increase the use of marijuana? I have done my best to look at the information that is available worldwide, and I can find absolutely no proof from anywhere in the world that the decriminalisation of marijuana will increase the smoking of cannabis. To take an Australian example, South Australia introduced its infringement system 10 years ago, so it is 10 years ahead of us in the decriminalisation of marijuana. However, the rate of cannabis smoking in South Australia is 37 per cent compared with 45 per cent in Western Australia. Although we have not yet decriminalised the smoking of cannabis in Western Australia, 45 per cent of Western Australians smoke cannabis, yet in South Australia, which has had decriminalisation in place for a decade, 37 per cent of people smoke cannabis. Those figures from the Australian example seem to suggest that decriminalisation, by helping to get some reality and honesty into the debate, may help to reduce the number of people who smoke cannabis.

Hon Paddy Embry: You said earlier that 45 per cent of people had tried cannabis perhaps once. Now you are saying that 45 per cent of people are currently using it.

Hon CHRISTINE SHARP: No. I gave a lot of figures about how many people have smoked cannabis and the different ages and so on. I said that 45 per cent of Western Australians have tried cannabis at some stage in their lives. The comparable figure in South Australia is 37 per cent. That is my point: the figure in South Australia is lower than the figure in Western Australia. Despite the fact that Holland has a notorious libertarian position on cannabis, the number of people who smoke marijuana in the United States of America is higher than in Holland. I am not aware of any evidence anywhere in the world that shows that the decriminalisation of marijuana will increase its use. I say to those members on the other side who disagree with me that we would be very pleased if they would bring into this place figures that suggest that this Bill will lead to an increase in the smoking of marijuana, because the figures that I have been able to ascertain show either that it will have no effect or it will have the opposite effect. That is my point. I do not think the member heard my point. Cannabis is prevalent, and cannabis will be smoked no matter what we may do at law.

Another very important point is the double standard that exists in our society between illegal and legal drugs. For some reason people continually - I do the same thing - differentiate in their language by saying we have alcohol and tobacco, and then we have drugs. Alcohol and tobacco clearly are drugs, yet for some reason we seem to draw an arbitrary line that sets those two very dangerous drugs to one side and puts all the other mind-altering substances into a different category. The basic irrationality and double standard of that stance is one of the most serious factors in undermining harm minimisation messages and methods for young people and other people who take illicit drugs. Sure, cannabis has its harms; no-one is saying that cannabis is harmless. However, cannabis is less harmful than alcohol and tobacco.

I refer to an article that appeared in *The West Australian* a couple of days after the then Minister for Health, Bob Kucera, was replaced, in which he made a final statement about one of the alcohol education and rehabilitation programs. He said that the cost of alcohol addiction to the community was enormous. He then went on to say - this is why I am reading this out today, because it astounded me - that three out of five people who use hospital emergency departments do so because of some link with alcohol. Those are the same emergency departments that are mentioned on every talkback radio program and in the paper every week because they are overloaded and cannot cope with the number of patients, yet three out of five of those patients are there apparently because of some link with alcohol.

Several members interjected.

The DEPUTY PRESIDENT (Hon Simon O'Brien): Order! Hon Chrissy Sharp has the floor.

Hon CHRISTINE SHARP: Thank you, Mr Deputy President. *The West Australian* also published some interesting figures in an article on 18 June this year. The first three paragraphs of the article state -

WA's love affair with alcohol and tobacco is running up hospital bills almost 10 times higher than those caused by other drugs.

Tobacco is the most expensive drain on the health system, costing hospitals an average of \$48.9 million a year from 1995 to 2001.

Alcohol is not far behind with an average annual cost of \$28.9 million.

In contrast, the cost of treating patients with health problems associated with illicit and prescription drugs is \$7.9 million per year.

Hon Robyn McSweeney: What is the combination of drugs they get in there and the treatment for that? It would be about 60 or 70 per cent.

Hon CHRISTINE SHARP: I repeat: no-one is saying that cannabis is harmless. I am just suggesting that people need to get this debate into some perspective. We as a society regularly condone the use of two drugs that cause most of the drug-related deaths and are responsible for 10 times more expense in our health system than illicit drugs; yet for some reason, people get almost hysterical about the idea that we need an evidence-based approach and should consider changing our laws to accommodate the facts.

Of every 100 deaths caused by drugs, 82 are from tobacco, 14 are from alcohol and four are from illicit drugs, but none are from cannabis. In fact, I am led to understand that a person would have to consume 50 kilograms of cannabis for a fatal overdose, which clearly is physically impossible. Therefore, it is physically impossible for a person to kill himself with cannabis. I am being so forceful with these figures because the shocking reality is that Western Australia is the only State in Australia with an increase in alcohol intake.

Hon Bruce Donaldson: How do you account for the fact that it is the burglary capital of Australia? It is drug-related crime.

Hon CHRISTINE SHARP: It has nothing to do with cannabis. The alcohol consumption of our teenagers - that is, members' children and my children - is really scary. At the moment in Western Australia, 71 per cent of teenagers between 14 and 17 years of age drink alcohol in a manner that causes acute short-term harm. That is to say, we live in a society that regularly condones binge drinking and is raising children to think that binge drinking is acceptable.

Hon Norman Moore: In what way does it condone it?

Hon CHRISTINE SHARP: Because of our double standards and because we like to pick on other people's drugs but we do not like to look at some of our drug consumption, which comes a little closer home to roost. Not only do the double standards for the common legal drugs and the illicit drugs somewhat skew the information, but also that misinformation has a very significant impact on young people. Young people, from direct experience, know that this is misinformation and that the dangers of cannabis have been blown out of perspective. As a result, they lose respect for all the information and the laws that go with it. The first thing we do is lose the ear of our young people. They are no longer listening. They do not listen to the drug education message when it comes with the moral judgment that it is okay for all of us to have our legal drugs, but that if they smoke cannabis with their friends, they are doing something really dangerous that is undermining all civilised values. That kind of double standard - it is obvious to teenagers that it is a double standard - means that they do not respect all the rest of the valid information they may be hearing from drug education programs and they do not respect the drug laws. They think we are hypocrites. When teenagers think that people are hypocrites, they do not respect their message. In fact, perhaps the real problem is not alcohol and tobacco.

I want to get stuck into alcohol and tobacco only because of the double standards. As the Australia Institute said in its latest issue, Australians are, as the headline reads, "Comfortable, relaxed and drugged to the eye-balls". The subtitle states -

The ABS's National Health Survey released late last year included an astonishing but unremarked fact. Nearly one in five Australian adults reported that in the two weeks prior to the survey they had used medication to improve their mental well-being.

That is, in the past two weeks one in five Australians has used some form of drug to change his or her mental state.

Hon Paddy Embry: You mean intentionally?

Hon CHRISTINE SHARP: Yes. Of the illicit drugs, cannabis is definitely treated the most unfairly. Perhaps the most important thing is the degree of addiction that different drugs bring about. I am looking at the 4 November 2002 issue of *Time* magazine. This is what I mean about the prevalence of marijuana in the United States. The front cover

contains the headline, "Is America going to pot?" In the magazine it is pointed out that the latest figures show that nine per cent of cannabis users become dependent - that is nearly one in 10 - and 15 per cent of drinkers become alcohol dependent.

The DEPUTY PRESIDENT (Hon Simon O'Brien): Members can see the publication, but as the member has just mentioned some parts of the magazine, can she identify the issue of *Time* magazine?

Hon CHRISTINE SHARP: I have already, but it is *Time* magazine of 4 November 2002. Fifteen per cent of drinkers, 23 per cent of heroin users and 33 per cent of tobacco smokers become addicted. Of all the common drugs, cannabis is the least addictive. It is also the least toxic and it does not lead to aggression or criminal behaviour.

Hon Ray Halligan interjected.

Hon CHRISTINE SHARP: If they do, obviously they will severely increase their risk.

Hon Ray Halligan: You have no figures on that. You said that 33 per cent of people who smoke cigarettes become addicted, but you have no figures on those people who smoke both tobacco and cannabis.

Hon CHRISTINE SHARP: Presumably they would already be addicted to tobacco and that is why they would smoke tobacco with the cannabis.

Hon Ray Halligan interjected.

Hon CHRISTINE SHARP: I know of a person who swears that he does not smoke in that he does not smoke tobacco. However, he needs to get real about his behaviour because, instead of that, he must have two or three joints of marijuana every day. I do not think he is addicted to the cannabis; he is really addicted to the nicotine, yet he likes to fool himself that he does not smoke cigarettes. That is a trap he is not alone in falling into. There are a lot of people like that.

I will now discuss a little more what cannabis actually does to people. I will dip liberally into a delightful book entitled *The Botany of Desire* by Michael Pollan. This book looks at four different plants that have been very influential in the history of humankind - the apple, the tulip, the potato and cannabis. It has some very interesting history about the psychoactive effects of cannabis. Members such as Hon Simon O'Brien have also given us a lot of information on this subject. The book states -

In the mid-1960s, an Israeli neuroscientist named Raphael Mechoulam identified the chemical compound responsible for the psychoactive effects of marijuana: delta-9-tetrahydrocannabinol, or THC, a molecule with a structure unlike any found in nature before or since.

. . .

In 1988, Allyn Howlett, a researcher at St. Louis University Medical School, discovered a specific receptor for THC in the brain - a type of nerve cell that THC binds to like a molecular key in a lock, causing it to activate. Receptor cells form part of a neuronal network; the brain systems involving dopamine, serotonin, and the endorphins are three such networks . . .

The cannabinoid receptors Howlett found showed up in vast numbers all over the brain (as well as in the immune and reproductive systems), though they were clustered in regions responsible for the mental processes that marijuana is known to alter: the cerebral cortex (the locus of higher-order thought), the hippocampus (memory), the basal ganglia (movement), and the amygdala (emotions). Curiously, the one neurological address where cannabinoid receptors *didn't* show up was in the brain stem, which regulates involuntary functions such as circulation and respiration. This might explain the remarkably low toxicity of cannabis and the fact that no one is known to have ever died from an overdose.

So now we know what the magic ingredient is and the fact that there are receptors for THC throughout the body, particularly in the higher functions of the brain and in the reproductive system and immune system. The book further states -

In 1992, some thirty years after his discovery of THC, Raphael Mechoulam (working with a collaborator, William Devane) found it: the brain's own endogenous cannabinoid -

That is to say, a natural brain chemical very similar to THC -

He named it anandamide, from the Sanskrit word for 'inner bliss.'

A bit further on, the book states -

When I asked Howlett what the purpose of such a network might be, she began her answer by listing some of the various direct and indirect effects of cannabinoids: pain relief, loss of short-term memory, sedation, and mild cognitive impairment.

We now start to know how THC actually affects our functioning. This would be very familiar to people who have tried marijuana, or who are aware of the evidence - that it brings pain relief, loss of short-term memory, sedation and mild cognitive impairment. The book continues -

The THC in marijuana and the brain's endogenous cannabinoids work in much the same way, but THC is far stronger and more persistent than anandamide, which, like most neurotransmitters, is designed to break down very soon after its release. (Chocolate, of all things, seems to slow this process, which might account for its own subtle mood-altering properties.) What this suggests is that smoking marijuana may overstimulate the brain's built-in forgetting faculty, exaggerating its normal operations.

This is no small thing. Indeed, I would venture that, more than any other single quality, it is the relentless moment-by-moment forgetting, this draining of the pool of sense impressions almost as quickly as it fills, that gives the experience of consciousness under marijuana its peculiar texture. It helps account for the sharpening of sensory perceptions, for the aura of profundity in which cannabis bathes the most ordinary insights, and, perhaps most important of all, for the sense that time has slowed and even stopped.

On the previous page, the book states -

'If we could hear the squirrel's heartbeat, the sound of the grass growing, we should die of that roar,' George Eliot once wrote. Our mental health depends on a mechanism for editing the moment-by-moment ocean of sensory data flowing into our consciousness down to a manageable trickle of the noticed and remembered. The cannabinoid network appears to be part of that mechanism, vigilantly sifting the vast chaff of sense impressions from the kernels of perception we need to remember if we're to get through the day and get done what needs to be done. Much depends on forgetting.

In other words, simulating the brain's natural ability to forget - the short-term memory loss that goes with cannabis smoking is a joke amongst cannabis smokers - is also one of the reasons for the change in perceptions that cannabis brings about. Our consciousness is absolutely bathed and flooded with all of the sense perceptions we are receiving in this room at this moment - the lighting, the sound of my voice and other voices in the background, things we may be reading and many other things our senses are taking on board. At the same time, our minds are operating on remembering what we did before we came into the room, what we did yesterday, who we are, or what we will do tomorrow. The ability of cannabis to help us let go of all of that additional sensory and mental material also gives it the power that has been used in association with spiritual practice in some cultures, because it brings the consciousness into the now.

To move on, there are well-known medicinal benefits, as well as the psychoactive effects of smoking marijuana. They are dealt with in the most recent issue of the *Lancet*, the journal of the British Medical Association. Medical benefits from smoking marijuana include effective treatment of the effects of multiple sclerosis, pain relief and the prevention of epilepsy.

Debate interrupted, pursuant to sessional orders.

Sitting suspended from 1.00 to 2.00 pm

CONVICTED OFFENDERS, CORPORAL PUNISHMENT

Motion

Resumed from 25 June on the following motion moved by Hon Frank Hough -

That the Government take such action to empower the courts with the discretion to impose corporal punishment on convicted offenders in certain circumstances.

HON FRANK HOUGH (Agricultural) [2.00 pm]: I will be quick. I only have three hours and 42 minutes left in which to speak.

Hon Nick Griffiths: Stop beating around the bush then and get on with it!

Hon FRANK HOUGH: Sorry. In the six-week break I was unlucky enough to get some work experience on this matter at my office. Hon John Fischer also received the same work experience. On the first Tuesday of the break his car got smashed into and robbed. I was very sympathetic towards him. On the second Tuesday my car got smashed into and robbed. I suggest that Hon John Fischer was also very sympathetic. On the third Tuesday John's car got smashed into and robbed. We then thought that a pattern was emerging. On the fourth Tuesday my car got smashed into and robbed again. I said to Hon John Fischer, "They are establishing a pattern here, John."

Hon Barbara Scott: Never on Sunday.

Hon FRANK HOUGH: Yes. It appeared to be happening every Tuesday between 9.00 am and 11.00 am as the person headed from the Kings Park bus stop through to the drug clinic to dry out. We had lost three radar detectors. The one salvation was that my stack of Frank Sinatra records were left alone. However, they did take my Sandy Nelson's *Let There Be Drums* that I had ordered from the US and which took three months to get here. I had played it only once and that got taken from the seat.

The work experience was being a victim of crime. On the fifth Tuesday I suggested to the Police Service that a pattern had been established. They agreed and said that they would increase patrols. They did that and I was thrilled. I

suggested that we should go further and because this event took place between 9.00 am and 11.00 am on Tuesdays that perhaps the police would hide there, which they did. The police arrived early on the fifth Tuesday morning for the undercover sting. They wore the normal blue jeans, the police-type boots and the short-sleeved shirt and they had their hair slicked back and wore the wraparound sunnies. There were absolutely inconspicuous; it was a real sting! When I arrived that morning I got out of my car and thought, "My God, this is bullshit!" I could not believe it. As I walked up to the copper he said to me, "Shh! Shh!" I said, "Are you a police officer?" He said, "Yes, but be discreet." I said, "All right, I will, officer." I went upstairs to my office and decided after half an hour or so that there was no way known that a professional crim would walk into that trap - perhaps a kid from kindergarten would have. I thought that the police would have had an old lady there who was really a 20-year-old with a baseball bat or a gentlemen with a brief case pretending to be a doctor. I did not expect to have three guys in jeans, short sleeves and wraparound sunnies holding mobiles. And guess what? Our fine friend did not turn up. He went around the corner to Kings Park Road and knocked off the Polish translator's car.

I tell this story because some members in this Chamber may not have been robbed. I would not say that someone is picking on me because, as members know, I have also been robbed twice in the car park at the front of Parliament House. I do not have a complex about that. I am thinking of leaving the car windows down to save glass; they can then get into the car and go for their life. Perhaps that will help a little but as someone said, I do not think that they are purposely picking on me as my car is the same as everyone else's. I should not have to remove stuff off the back seat of my car when I come into my place of work, that being Parliament House - a place with fairly strong security. I cannot believe that this happens. I know that cars get smashed into periodically. The office of Dale Carnegie, which is situated on the ground floor below our office, experiences a robbery about once a week. If one thinks about it, it all reflects back to happening on a Tuesday. I would have thought that the police officers would have gone to the drug clinic to find out who attends there between 9.00 am and 11.00 am every Tuesday. That is what I would have done. I thought it would have been a reasonably smart thing to do. To help the police I had a description of the little blonde-haired fellow with a spark plug in his hand who smashes car windows and cleans them out. I also had the description of an orange car that he drives and the little girlfriend who picks him up to take him home after he gets off the bus. I made it relatively easy for the police. However, to be robbed is a humiliating experience. The victim feels anger towards that person. If a victim were to catch the robber, what would he do with him? When a person goes home - I am talking about the members on the other side of the House and perhaps this side as well - who have experienced a robbery, I suggest that they go into the bathroom, look into a mirror and counsel themselves. They should ask themselves how they feel about being robbed. The person they will see in the mirror will probably have thin lips and the pupils will be small. They should ask the person in the mirror, "Should I counsel the person who is robbing me all the time?" I doubt it, because the anger that a person in that situation has for the perpetrator of such crimes makes them think further. A person responds by wanting to inflict pain. When a little kids puts their hand on a hot stove and burn it, they usually scream out and take their hand off the stove. They do not put their hand on the stove again because they can remember the pain that was inflicted.

I listened to Hon Peter Foss and Hon Derrick Tomlinson during their contribution to the marijuana debate. During that debate they both said that society has changed. Six or seven weeks ago, I said that what was right yesterday is not right today, what was right yesteryear is not right today and what is right today will not be right tomorrow. People say that corporal punishment is barbaric. That is rubbish. Anyone who says that corporal punishment is barbaric is a pansy.

A government member: I am a pansy then!

Hon FRANK HOUGH: I have one pansy; do I hear two? There are three of them.

Hon Nick Griffiths: I think you're a barbarian; how's that.

Hon FRANK HOUGH: There we go. It is amazing how the wimps come out. They are the people running around who powder puff their faces and they believe in counselling. Counselling is great for someone who continually robs people! We can teach dogs so much; however, when they stop listening and misbehave, we whack them. After that, we usually find that they do what they are told.

Several government members interjected.

Hon FRANK HOUGH: If the members on the other side of the House were footballers, I would say that they had hearts like peas; that is, very small. They must move on and realise that times have changed. We cannot continue down the same path with crime escalating. We cannot continue to pat the perpetrators on the bottom and say "Well done; don't come back" and when they come back the following week give them a third warning. A magistrate cannot continue to say, "My, my" and let offenders off the hook when the clerk of the court produces 16 A4 page of previous convictions. We have to be tough and we have to be serious about crime in this State. At the moment we are not tough, nor are we serious. I appreciate that we have been on a learning curve by considering social and counselling issues to try to rehabilitate people. However, as I said previously, crime rates have moved up a couple of notches and, after listening to the marijuana debate prior to lunch, I am confident that 85 per cent of crime would be solved if drugs were made unaffordable, not in monetary terms but in punishment terms. If we wiped out the drugs, we would probably reduce the Police Force by three-quarters because at least 85 per cent of perpetrators would disappear.

Sergeant Weaver from the sheriff's department in California told me that California's crime rate has diminished substantially because it has taken a tough approach to crime. In 1960, the population of California was 15.5 million and the burglary rate was 910 per 100 000 people. In 1980, the population was 23.5 million and the burglary rate climbed to a humungous 2 316 per 100 000. Several changes were made to toughen up the law and everyone started carrying guns. In 2000, the population of California was 32 million - it has grown by eight million since 1980 - the burglary rate dropped to 656 per 100 000. That is one-quarter of the burglaries that occurred in 1980 and yet there were eight million more people in California. What is the difference? The difference is a deterrent, although it is not the birch. The difference is that every person in America has a gun in their home as standard equipment. As the sheriff said, the rate of break and enters in America is under four per cent of the population. In Perth, Western Australia, the rate of break and enters totals 14.7 per cent of the population. What is the difference between our State and America? Perth is the most beautiful city in the world. It has beautiful facilities, beaches, good roads and is clean. Why is our break and enter rate 14.7 per cent when America has a break and enter rate of under four per cent? If a person breaks into a home in America and is caught, he is shot dead. It is justifiable homicide. Breaking and entering in America is like committing suicide - that is the deterrent. The sheriff said that the few people who are shot as a result of a break and enter are usually on dope. There has to be a message in that.

I live 10 minutes from here in the southern suburbs. My house, which I bought from a Chinese doctor, is similar to Folsom Prison. Most people have shutters over their sliding windows. In my house, the doctor, whose daughter went to university, decided to put shutters or reinforcements over all the windows and doors and alarms have been installed everywhere. A security door was put on the master bedroom and a deadlock was placed on the solid door behind the security door. If there were a fire, my wife Jan and I would be dead. Obviously, I removed the security door; however, my home is like a prison. We lock ourselves in at night time.

Hon Bruce Donaldson: Is that at Ledge Point?

Hon FRANK HOUGH: No, that is my home south of the river. On the other side of the coin, at Ledge Point my keys are left in the car when it is in the driveway or in the garage and anyone could hook up and nick off with my boat, which is at the front of my house. Last Sunday, I took off my wedding ring, my other rings and my Georgio Armani watch and left them on the kitchen table while I was gardening. I pulled the flywire door across and left my cat in charge. Jan and I went into Lancelin, wandered around and came back. I was not for one moment in fear of being intimidated or robbed. When I go to Ledge Point, I get the greatest feeling. It is like a weight off my shoulders. I get out of the car, kick my shoes off and feel relaxed. I can wind down and I am safe. I saw a police car the other day and thought it must have been lost, which was most amusing. It is a safe feeling.

On Monday, during a committee meeting I had a dreadful feeling. It was mid-afternoon, and I knew my laptop computer was on the back seat of my car. I panicked for a moment, but I knew my car, which was at Parliament House, would be relatively safe, even though it had been robbed twice before. There was a 50 per cent chance I would lose my laptop again. I desperately rang security and got Ken Craig to race up to see whether my car had been smashed. He was quite quick, and said that if he did not get back to me in five minutes, my car was safe. I walked back after the committee with Hon Robyn McSweeney, and as I walked across to the car, I could see the sunlight on the side of it. There were hand marks and a face mark on the side window of my car. I told Hon Robyn McSweeney that Ken Craig had been and looked at the car and found it okay, so we walked away. I went to Ken and thanked him for checking the car, but told him he had left his grubby little hands and face marks on it. He said he had not touched the car, and did not go near it. He had looked into it and could see the laptop. Here we go again, I thought. My car was about five metres away from the security bay. It must have been a coincidence. One of the parliamentarians just happened to walk past my car and put his gob against the car and his grubbies on the side windows and looked in, and was probably disturbed! I do not believe that. I was probably very lucky. I had one thing going for me - it was not Tuesday, so I was safe. Hon Robyn McSweeney saw the marks, and I believe that Ken did not touch the car. The only window in the car with hand marks on it faced my little laptop sitting on the backseat. Stupidly, I left it there, which will not happen again.

These are the things we live with in Perth. How do we deter them? We must start being tough. We cannot go on with this airy-fairy punishment we hand out. The offenders do not even get a tap on the bottom. They get work orders, for which they do not even turn up half the time, or small fines. The deterrent for the little boy or girl who touches the hot stove is the memory that it hurt. I am suggesting that if the big man and the big girl do something to us, and they get the cane or the birch, they remember it. If they rob Hon Frank Hough again, they will get the birch. I do not want to stand and watch it, although I would probably like to administer it. We must toughen up. We can reduce the time people spend in jails. The birch is both painful and humiliating. I am not advocating just picking people up indiscriminately and bashing them with a cane or a birch. I will go into that shortly.

The odd person out in Western Australia is the minority. In a telephone poll about the death penalty for Amrozi, 92 per cent of the 3 873 people said he should be put down. People's views change, and times change. We have come full circle and it is time to put our thinking caps on and go back to something that is more beneficial. *The West Australian* on Friday, 8 August shows a picture of Amrozi on the front page. One of the Bali bombing victims, Gary Nash, is quoted as saying -

"It's funny, I was never an advocate of the death sentence, but somehow, now I feel it's a good thing,"

He was never an advocate of the death penalty, and he was probably never an advocate of corporal punishment either, but would probably think that is a good thing for lesser crimes. The Prime Minister and the federal Leader of the Opposition both made similar statements. The Prime Minister said -

The Indonesian court has applied it (the death penalty) and I accept that.

So did Simon Crean. These people are advocates against corporal and capital punishment, but they accept it. They would not want blood on their own hands in this country, and it is rather weak that they accept it in another country. As Hon Derrick Tomlinson and Hon Peter Foss said, society has changed its views.

It is about time society changed its views on what we are talking about. I do not watch *Oprah*. I have seen the program, but I am not a great fan. I am not sure whether members have ever seen her mate, Dr Phillip McGraw. In his 1999 book *Life Strategies*, he states that behaviour is an intrinsic trait of the individual and is very difficult to change through willpower alone. Take a smoker, for instance, who want to quit because he knows it is bad for his health but cannot seem to give it up. He cannot quit because the pay-off for smoking is higher than smoking. Even though he knows smoking is unhealthy, to keep smoking is a rational choice on the smoker's behalf because, like any human being, the smoker only pursues the behaviour that is rewarded with the highest pay-off. Instead, that smoker should try to change the willpower. He needs to invest in a system that will work against, or preclude his bad behaviour. Dr McGraw advises that a smoker should leave his cigarettes at home when he goes out, and never carry enough money in his pocket to buy cigarettes. Then he will give up smoking. The Leader of the House should read Dr McGraw's book, if he needs encouraging. When hanging around people with no cigarettes, and no money, the smoker should not beg cigarettes to get that nicotine buzz. It is a matter of discipline.

If that approach is applied to criminal activity in which bad behaviour equals offending, to prevent crime we need a justice system that will work against or preclude offending. The system needs to be internally consistent and supportive of itself because any weakness will be exploited by the offender. This can be seen continually. This approach includes a justice system that is held up and strengthened by the Police Force and vice versa. It also includes a justice system that not only inflicts punishment but also addresses the needs of the victims. The State does not currently have that system.

I feel sorry for the members of the Police Force. Members will probably be bored because I covered this last time, but I can remember as a kid -

Hon Bruce Donaldson: I can't remember it.

Hon FRANK HOUGH: I will go through it. Sergeant Jack McTaggart caught me in Bunbury with my shanghai in company with a bloke called John Woolgrave. He grabbed us both and gave me an almighty whack behind the ear, which just about dislodged my head. He put us in the back of his van. He took me to the front door of 7 Thomas Street, Bunbury and said to my mother, "Eileen, here's young Frank. I've got his shanghai. What should I do with him?" She told him to give me a whack. The next thing I knew was that I had a whack on the other ear, which rang for about two weeks. However, I do not think I have problems in life; I do not wet the bed and I am not frightened of dark rooms because of the punishment I got when I was a young kid. I know that a lot of members may suffer from it, but they need not worry about it because in America they sell plastic panties. People who say that they copped a hard life as a child are talking absolute rubbish. We all copped a hard life as children. I can remember stealing sixpence or threepence from my mother's purse.

Hon Nick Griffiths: Once a thief, always a thief. Get on with it!

Hon John Fischer: Your Government ought to know.

The DEPUTY PRESIDENT (Hon Adele Farina): Order!

Hon FRANK HOUGH: My father pushed my hand onto the stove and burnt it. I still have the scars. That cured me, but I do not wet the bed and I am not scared of dark rooms. I do not have all the problems of those people who fabricate having a tough childhood. They would not have had it any tougher than I did.

I said that I feel sorry for police officers today. When some members were growing up, they might not have respected police officers, but I did. They stood tall. We listened to them. They spoke sense. Perhaps there were one or two bad officers. Who knows? There are one or two bad people in everything, because the world is not a perfect place and never will be. That is why we have the Labor Party. The police today must work hard when making arrests. They are frightened of manhandling people. Nine times out of 10 they will not issue an infringement notice because there is too much paperwork involved. I have said many times that the police today are not police officers but clerks. I do not know why clerks do not fill in the paperwork or why the person who committed the crime does not fill in the paperwork. The police officers of today have their hands completely tied. They are not able to make decisions on law and order.

I have some very good friends who have a 16-year-old daughter. She has got mixed up with a 16-year-old boy. Her mother is having a devil of a time with her. The daughter told the mother the other day that if she were to touch her, she would go to the police and that she would report her. The mother phoned me on Thursday of last week and asked if

aggravated burglary was a very bad offence. I said that it was. She said that her daughter had just committed an offence of aggravated burglary with the other kid in some old people's home opposite the university in Bentley. She asked what she could do. I said to belt her behind the ear or kick her backside. She said that the daughter would report her and she would probably be in more trouble than the daughter.

The situation is pathetic. Parents are responsible for the behaviour of their kids. Some parents are uncontrollable hitters of kids. Some kids are out of control. However, we are starting to appease three to five per cent of people when the 95 per cent who act properly are being punished, which is totally unfair. I believe that law-breakers should be punished properly so that they remember that crime is unaffordable and that it does not pay. Under our system there is no incentive for offenders not to offend in the first place. Furthermore, once an offence has occurred, punishments and penalties are low even to the point of being ridiculous. If prison were prescribed, offenders would be placed in the best crime schools in the world where they would really learn to do the job properly. When they get thrown in the can, they come out as really good professionals.

We must address these problems, as the wording of my motion says. I adopt a flaccid approach because the reply from the Government will be so flaccid. I believe there are some good, decent people on the government benches, even though everyone else thinks that there are not, who wish that they could vote with me and wish that the Government would take action to enable the courts to impose corporal punishment on convicted offenders in certain circumstances. I can see one of the ministers smiling. He is probably one of those who wants to support this motion but does not have the courage because his colleagues will tell him he is tough and that he should not let the public see him as tough but continue to be a little wimpy burger. The minister might try to be tough, but we will never see it.

If we cannot alter the system so that it can change bad behaviour to good behaviour, we need a system that will work against or preclude bad behaviour. It is the same scenario as the smoker who wants to quit. Pain is one of those universally understood phenomena that are enough to check behaviour. When caning was practised in schools, it took an almightily boisterous student to push the envelope. Some teachers in the Chamber might love to bring back caning in schools, although they might have been those who did not have the courage to whack kids when they played up. Judicious corporal punishment was implemented and there was the threat of pain for bad behaviour. The police, the justice system and the correction system should all work together to reinforce the fact that criminal activity equals corporal punishment. It is like the foolproof system that a smoker tries to build around himself to stop his own bad habit. If we operate under a system of judicial corporal punishment, even the dumbest criminals will know what to expect. They will know that pain will be inflicted if they break the law. There is no question that it will be a general deterrent. If the laws are flaccid, people run amok. Why would someone be frightened of breaking the law in Western Australia? If someone were caught and convicted, he would be sentenced to go into the can for 12 months and be out in three months. He would probably spend the majority of the three months having a great time operating a computer and watching colour television.

A fellow rang me the other day from Nyabing. He also sent me a letter. I will not say who it is. When he became aware of the motion for the courts to impose corporal punishment, he dropped me a note indicating that he supported me. Given that he lives in Nyabing I thought I would ring and speak with him. The Treasurer comes from Nyabing. The gentleman to whom I spoke knows the Treasurer and thinks he is a good fellow. People can be wrong! I said that I appreciated his support for my motion. He said that he supported me because several years ago his daughter was coming home from her place of work, which was in a bar at a golf club. Her car conked out on Canning Highway. She was 30 years of age and had previously worked as an Ansett Airways hostess. A nice couple picked her up in a car! We know the story: she was murdered. The nice couple were Birney and his partner. We do not have to be very smart to work out who the woman was. The gentleman from Nyabing is 82 and broke down while he was talking to me. He said it would have made him happy if their punishment had been addressed properly, and would probably have eased the pain of losing his daughter. I should probably not bore members with the details of the horrific death she suffered. I know a little more about it but I will not describe it in this Parliament because I do not want to make people sick. The offender I am talking about is in jail where he enjoys colour television and use of the Internet. What concerns me more than anything is the potential for social groups who counsel him to say in 10 years time, when he is around 55 - he is 40-odd now - that he has had an impeccable record while serving his time and can do incredible things on the Internet, so we should let him out because he will not reoffend. That worries me. The victims of crime suffer because of our judicial system, and that is why we should be tough on crime.

We hear the argument that violence begets violence. A lot of good citizens and bleeding hearts seem to forget that the law is adhered to only to maintain peace, and the ever-looming threat of violence should be quelled by law-abiding citizens. This is why I am saying that corporal punishment is necessary. I said earlier that corporal punishment is not barbaric. I dispute any disagreement with that because we should consider the fact that the aim of all forms of punishment is to make offenders suffer to some degree. That is what it is all about. Punishment is not to make people happy; it is to make people suffer by causing them a level of unpleasantness. Criminals in Western Australia may have to spend a long period in jail or pay a fine. If people have the money, fines are not a deterrent. Long periods in jail are not a deterrent because if an offender has a good behaviour record he can get out early. They do not have the same deterrent effect as corporal punishment.

My argument in support of using the birch as a form of punishment is based upon a utilitarian, retributive argument. The effect of applying the birch to offenders is to modify behaviour in two ways: to deter some people from offending and others from reoffending. Birching offenders may be seen as retributive because, first, offenders have consciously broken the law and deserve the punishment; and, secondly, the punishment should be at least equal to the amount of harm done to the victim. I do not see a problem with giving perpetrators the same amount of pain as their victims received.

Hon Nick Griffiths interjected.

Hon FRANK HOUGH: The minister should not be afraid of being a wimp or he will go through life in a flaccid way, floating around! Corporal punishment is not out of step with the role of the modern State. In 1651 Thomas Hobbes pointed out that human beings are nasty, vindictive and selfish by nature. That sounds like most members of the Labor Party.

Hon Nick Griffiths: You have a very uncharitable view of human beings.

Hon FRANK HOUGH: If the minister had been listening correctly he would have heard me say that Thomas Hobbes stated that in 1651. I am reading what Thomas Hobbes stated. Why does the minister not listen?

Hon Nick Griffiths: I have been listening to your speech and I stand by what I said.

Hon FRANK HOUGH: If the minister had been listening properly, he would have heard me say "Thomas Hobbes stated in 1651". I am reading what Thomas Hobbes stated. Why does the minister not listen?

Hon Nick Griffiths: I have been listening to your speech and I stand by what I said.

Hon FRANK HOUGH: I will say it again in case the minister missed it. Human beings are nasty -

Hon Nick Griffiths: You have a very uncharitable view.

Hon FRANK HOUGH: I can hear one. Thomas Hobbes said that human beings are vindictive and selfish by nature.

It is a wonder the minister did not butt in and comment on the whole three points. However, he said that they band together and give credence to the State as the only body that can exercise violence legitimately to protect the life and limb of its citizens.

Hon Giz Watson interjected.

Hon FRANK HOUGH: The Lord's Prayer was said in 1600 and is still being said today. Other forms of rehabilitation and punishment have not worked. We have tried fines, detention, imprisonment, rehabilitation and making offenders face their victims; yet the crime rate has increased. It has also diversified, mainly as a result of the softly, softly approach in the justice system today. This has resulted in offenders, specifically juveniles, who begin their criminal careers by learning how to use the system. Our prisons are detention facilities that are turning into crime schools. There is no question about that. When offenders go to prison they learn how to become hardened criminals. Meanwhile, the crime rate is going through the roof.

I do not know whether I mentioned this, but I recall using the system in Geraldton. Young kids are running amok and causing tens of thousands of dollars worth of damage to shops and private and public property. They know they cannot be touched, and so do the local police. I have spoken to the police about it. Recently, groups of people were in the middle of Abraham Street at 2.00 am having family feuds. I was there the following morning. Some people were using bad language and some were throwing rocks. Someone said that a house had all its windows broken. Kids as young as four were throwing tombolas around the place. This is the year 2003 and we live in a lawful society. However, that was not a demonstration of a lawful society.

I refer to popular justice. Judge Kate O'Brien is the biggest user of this system. On a number of occasions, the judge decided that offences for which offenders were before her did not warrant a strike under the three-strike legislation, so the offenders were freed to re-offend. In May 2002, Judge Kate O'Brien allowed a 13-year-old girl in Broome to be freed and ignored calls from the prosecution to lock up the repeat offender after the fifth strike. Instead, the girl was placed on a conditional release order. The girl returned to Broome and recommenced her burglary spree.

In Esperance recently, a 13-year-old boy was caught coming out of an elderly person's home with a video recorder under one arm and a camera under the other. The police took those items from him. However, they made a mistake. Although it was two o'clock in the morning and the boy was on premises unauthorised, the police officer forgot to ask whether the boy knew he was breaking the law. Subsequently, the boy was released on that technicality. However, it did not matter in that case, because the boy was caught robbing another property the next night, which was his fourteenth birthday. He was probably shopping for a birthday present. The police did not forget to ask him whether he knew he was breaking the law. Because the boy had turned 14, he was subject to a different law. It must have been soul crunching for the police to release the boy on the first occasion only to re-offend immediately upon his release. That is an absolute joke.

Prisons are crime schools today. The International Centre For Criminal Law Reform And Criminal Justice Policy in Vancouver, Canada issued a background report that sets out a physiological approach to punishment. It shows how

vague and arbitrary are many of the assumptions and definitions in this generally confused and difficult debate. Interestingly, it suggests that the present liberal conventional wisdom of bodies such as the United Nations on subjects of corporal punishment for young offenders, which is to condemn it out of hand on humanitarian grounds, does not stand up to rigorous analysis. The report poses an interesting question. It asks whether instead of judicial corporal punishment it is better to impose custodial sentences, when the mental anguish and gradual deterioration of an incarcerated inmate is more difficult to observe and much easier to overlook. Furthermore, the report asks whether the State is a fit custodian in the first place and whether any benefit can be gained by sending youth back into a system that is literally a crime school. I agree with that.

If young offenders were birched for their crimes before being let out onto the street, they would not get amongst known criminals and they would probably learn very quickly. The rate of recidivism among prisoners in Australia is high. Among males it is 61 per cent. According to the Australian Bureau of Statistics, more than 60 per cent of offenders in prison at the time of the 1994 prison census had been in prison previously. It found that almost 40 per cent returned to the prison system within two years of their release. I believe the birch would go a long way towards reducing that rate.

If judicial corporal punishment were used as a remedy for repeat crimes, it would reduce the time offenders spend in jail. It would free up the jails, the police and the judicial system. A benefit to society would be the reduction of ongoing economic costs of incarcerating offenders. Use of the birch would have to be rigidly controlled under special conditions. It is not for me to suggest, but I suggest that the birch should be applied at an indiscriminate time, but only after a session of counselling. In case there was any doubt in the mind of the offender about the connection of the crime and punishment -

Hon Nick Griffiths: I thought you were opposed to counselling.

Hon FRANK HOUGH: I am talking about how to administer the birch, not about telling people they have been a bad boy before they run out onto the street and do it again. I am talking about the process that offenders would go through to get whacked. They would be counselled to ensure that they knew the link between their actions and society's unwillingness to accept antisocial behaviour, and the punishment. In extreme cases, the use of the birch might stop offenders from committing further offences to only a minor degree; it could prove to be only a minor deterrent to other offenders. However, it would go a long way towards making victims feel that the offenders had been punished. Equilibrium will be restored in the justice system when victims are brought back into the equation.

What would people be birched for? They would be birched for breaking and entering, sexual assault, armed robbery, drug trafficking, deprivation of liberty, assault, stealing, kidnapping, paedophilia, arson, mistreatment of animals, illegal actions linked to gang activity, misappropriation of funds and fraudulent activities that deprive investors of their capital -

Hon Nick Griffiths: Is this for all cases involving those offences?

Hon FRANK HOUGH: There would be a scale ranging from low to high.

Hon Nick Griffiths: Let us deal with assault. Are you suggesting that a person -

Hon FRANK HOUGH: I am talking about when grievous bodily harm is involved. Under the Criminal Code -

Hon Nick Griffiths: I know what the Criminal Code says, but you have said assaults. I want you to clarify whether you are suggesting that every person who is found guilty of assaulting another person should face the birch. Perhaps you should make clear precisely what you intend.

Hon FRANK HOUGH: If the minister is prepared to agree to the motion, I will then go through every single item and prepare it for the Government to make it easier for the Attorney General.

Hon Nick Griffiths: You should state clearly what you propose by this motion rather than deal with matters in general.

Hon FRANK HOUGH: These are the areas that I believe should be covered by the use of the birch. The birch could be used for drug offenders. Drugs are particularly vicious and are a blight on our society and the economy. I would have no problem -

Hon Nick Griffiths: Would the birch be used on all drug offenders?

Hon FRANK HOUGH: No, I am talking about major drug offenders.

Hon Nick Griffiths: Could you be precise about what you mean when you say that so that we can understand what you are driving at?

Hon FRANK HOUGH: I am talking about dealers.

Hon Giz Watson interjected.

Hon FRANK HOUGH: I think I know a lot more than Hon Giz Watson does. The drug offences would be for dealers. I do not think there are small or large dealers. A dealer who deals in drugs is a dealer. Offenders who perpetrate sex crimes against young people should also be birched. The Australian Institute of Criminology states that in 2001-02

male and females aged 10 to 14 years were most at risk of being sexually assaulted. In every age group females were most at risk from sexual assault. The number of female victims increased by nine per cent in 2001-02. Under our present system a person can rape a girl who is a relative on her eighteenth birthday and receive a maximum of only three years imprisonment. A male offender who indecently deals with a juvenile male or procures a juvenile male for sex may be imprisoned for up to four years. If the offender continues his behaviour a summary conviction will cost him a fine of only \$2 000 or two years imprisonment. Is that justice? A host of crimes are contained in the Criminal Code for which summary convictions receive only a fine or a ridiculously small term of imprisonment. Furthermore, we all know there is no truth in sentencing. A two-year term is never served in full unless a prisoner reoffends in prison. A person sentenced to two years imprisonment is generally released after one year.

In conducting my research I looked at the situation in Singapore. It is necessary to make an objective comparison with countries that use corporal punishment. The precedent of caning offenders for breaking and entering, armed robbery, theft, assault and sexual assault has already been set by Singapore. Singapore uses the cane or rattan with jail sentences and/or fines for a number of offences against persons and property. The rattan is prescribed as a mandatory punishment for 40 offences and a discretionary punishment for many others. The rattan has been an effective deterrent in Singapore. There is no question about that; just look at the statistics. Singaporean society is not crime free and no society will ever be. However, the incidence of crime against persons and property is extremely low. That has been the situation in Singapore for many years. Because of the way statistics were compiled on available data, it is necessary to compare the rate of violent crime in Australia and Singapore for 1991. Comparative crime statistics for selected violent offences including homicide, manslaughter, rape, assault and robbery in Singapore was 80.5 per 100 000 people. For the same list of offences in Western Australia the rate was 710 per 100 000 people. Which society has got it right? The figures come from the Singaporean Department of Statistics. In respect of housebreaking, burglary and theft, Singapore had a total of 1 191 incidents per 100 000 people. The figure for burglary alone in Western Australia was 1 803 per 100 000 people. The figures speak for themselves.

Hon Derrick Tomlinson: What about the comparative figures for the resolution rate of burglaries?

Hon FRANK HOUGH: I do not have them but I have the figures for California.

Hon Nick Griffiths: What is the situation in California with respect to these matters? What about the death penalty?

Hon FRANK HOUGH: It has the death penalty.

Hon Nick Griffiths: What are California's crime rates like? How is it going as a State?

Hon FRANK HOUGH: I am glad the minister asked me that because, believe it or not, California was a big surprise. California has 34 million people. The rate of murder in 2000 was 0.0061 per cent per 100 000 people. That rate is half what it was in 1980. The rate of robbery and assault is 408 per 100 000 people. That rate is even less than Singapore. I was surprised at the statistics I obtained from California. The rate of crime in California increased markedly from 1960 to 1980. From an extreme high in the 1980s it has consistently decreased even though it has an increasing population.

Hon Nick Griffiths: What is the member's explanation of that?

Hon FRANK HOUGH: It is because everyone carries a gun. Why would someone bash an old lady over the head if she is going to turn around with a .45 calibre hand gun and blow his head off?

Hon Nick Griffiths: Didn't people carry guns in the 1960s, 1970s and 1980s?

Hon FRANK HOUGH: Not to the extent they do now. It was not until the 1980s and the extreme crime rates. The figures surprised me. In the 1960s, people were encouraged not to carry guns. When crime escalated in the 1980s, almost everyone bought a gun. Women carried them in their purse or the glove box of their car. My father has 28 firearms in his home in El Dorado. He has machine guns, a shotgun and .45 calibre hand guns. I have already told the House that I received a Smith and Wesson .357 long barrelled magnum for my fifty-ninth birthday. I received it on a committee trip to the United States. Unfortunately I was not able to bring it back to Australia. It was quite sad.

Hon Nick Griffiths: You are making my day!

Hon FRANK HOUGH: Yes.

Hon Giz Watson: What is the rate of accidental homicide and gun deaths in the home?

Hon FRANK HOUGH: I do not have the statistics.

Hon Derrick Tomlinson interjected.

Hon FRANK HOUGH: I am glad Hon Derrick Tomlinson brought that up. The Californian figures are reducing dramatically. A town in Arizona has made it mandatory to carry a side-arm. In fact, people are fined if they do not. I cannot remember the name of the town.

Hon Derrick Tomlinson: Tombstone!

Hon FRANK HOUGH: It is not that! Crime in that Arizona town is extremely low. The crime rate in Switzerland is also very low. At the moment, once people turn 18 they are given an AK47, because they are all part of the armed

services. They are volunteers. I wish I had brought the figures for Switzerland with me, because in every home there is an AK47. The crime rate in Switzerland is very low, because people know that if they break into homes in that country, an AK47 will leave a reasonably big hole in them.

Hon Simon O'Brien: Whatever happened to a chicken in every pot and a car in every garage!

Several members interjected.

Hon FRANK HOUGH: They are the figures. It is popularly assumed that the British introduced caning in Singapore as part of its colonial policy. However, caning was a traditional punishment under the Chinese legal system. The earliest fully preserved law code in China is the seventh century Tang code, upon which the legal codes of the Song, Ming and Qing dynasties were based. That code was also adopted in Korea and Japan. In Singapore, the High Court may pass any sentence authorised by law, provided that in no case shall the punishment of imprisonment, a fine and caning be imposed on any person for the same offence. A District Court may pass any of the following sentences: imprisonment for a term not exceeding seven years; a fine not exceeding \$10 000; caning of up to 12 strokes; or a combination of those sentences which it is authorised to pass. If someone breaks the law in Singapore, he knows that he could get 12 strokes of the cane. I would not like to get through 12 strokes of the cane. Members may recall the young American guy who was caned some years ago after scratching cars at one of the shopping centres in Singapore. He was given either six or 10 lashes and he lasted for only half of them. They interviewed him some years later. That punishment had cured him of scratching cars. He said it was humiliating, painful and something that he would never forget. That is good. A person may walk down the street with a screwdriver and gouge every car as he goes past. I have been through that pain with my wife. I bought her a new, red Ford Capri convertible. She was so thrilled about it. She parked it at Southlands Shopping Centre. It had just been polished and painted. It was done up and looking Mickey Mouse, as they say in the car trade. She found it hard to comprehend the four-letter f-word that had been scratched in huge writing on the bonnet of her car with a screwdriver or a similar tool. It broke her heart. It did not break mine. I was absolutely mad. If somebody had been standing there with a screwdriver that had a bit of red paint on the end of it, I would have taken it off him. That type of behaviour is incomprehensible. The young American man I mentioned earlier will certainly remember what he copped in Singapore.

In Singapore, a Magistrates Court may pass any of the following sentences: imprisonment for a term not exceeding two years; a fine not exceeding \$2 000; caning of up to six strokes; or any combination of those sentences which it is authorised to pass. I will outline the average sentences prescribed in Singapore for six specific crimes, which will probably help the minister, and will compare them with the maximum sentences meted out in Australia for the same circumstances. The penalty in Singapore for robbery in homes, lifts or in the street is a jail term of between two and four years plus caning of not fewer than 12 strokes. That would make a person think before robbing someone in a lift. In Australia, burglary attracts a sentence of up to 18 years, whereas the perpetrator of a robbery in the street may be liable for imprisonment of up to three years. In Singapore, robbery with hurt, which we would call robbery with grievous bodily harm, receives a jail term of between five and 20 years plus caning of not fewer than 12 strokes. An offender in Australia who assaulted and robbed a person in that person's home could be imprisoned for up to 18 years. We all know that no-one who robs a home in Perth gets 18 years in prison. The guy who knocked off my place twice is still out on probation.

Hon Derrick Tomlinson: Is that a maximum penalty plus the strokes?

Hon FRANK HOUGH: It is the maximum penalty.

Hon Derrick Tomlinson: So it is optional up to 18 years plus the strokes?

Hon FRANK HOUGH: A jail term of between five and 20 years plus caning of not fewer than 12 strokes. They can go up to 24 strokes.

Hon Derrick Tomlinson: So the 12 strokes is mandatory?

Hon FRANK HOUGH: It is mandatory. The minimum sentence a person can receive for assault with grievous bodily harm in Singapore is five years and 12 strokes. Theft with assault or criminal force attracts a jail term of between one and seven years and caning at the discretion of the court. In Australia, assault with intent to commit robbery might attract a sentence of up to 10 years, but I do not recall such a sentence being given for an assault, even for one of the nasty assaults that occurred in Northbridge; those offenders got two or three years. In Singapore, the crime of outrage of modesty, which is indecent assault, attracts a prison term of up to two years or a fine or caning or a combination of the penalties. In Australia, the comparable sentence is a jail term of up to five years. Summary offences could entail two years imprisonment or a fine of \$8 000. In Singapore, molestation attracts a jail term of two years plus a fine and/or caning. For example, a pastor who inappropriately touched a woman while she was waiting in Orchard Road for her husband was sentenced to nine months jail and three strokes of the cane in December 2001. That was tough. It would certainly make a person not touch a woman in Orchard Road. We are lucky in Australia because we do not have an Orchard Road. There is no law specifically regarding molestation in Australia, but a person who indecently assaults someone can be liable for imprisonment of up to five years. A person who chooses to reoffend can get off with a fine of \$8 000. If he were extremely unlucky, he could get a prison term of up to two years. This next figure is interesting.

The crime of illegally entering Singapore or overstaying a visa automatically attracts three strokes of the cane. That would make a person remember when his visa expired. In November 2001 a 44-year-old man was sentenced to 15 years jail and 12 strokes of the cane for the assault of a 55-year-old man, which left the man brain damaged and in a state of semiconsciousness.

Hon Derrick Tomlinson: Is it prescribed where and how the cane will be administered?

Hon FRANK HOUGH: Yes, someone administers the cane and a medical practitioner is on stand-by. It does not just occur within the jail system. It is administered under supervision.

Hon Derrick Tomlinson: On the back, the buttocks or the hand?

Hon FRANK HOUGH: On the back.

The latest available figures indicate that more than 3 200 individuals were caned in Singapore in 1993. A small portion of those caned were foreigners, including Europeans. A typical sentence usually includes three to four strokes of the cane. Singapore defacement or destruction of public or private property -

Hon Simon O'Brien interjected.

Hon FRANK HOUGH: No, that is a bonus.

Hon Nick Griffiths: That is a statistic with regard to a year. Therefore, 3 200 people in Singapore received the cane as part of their punishment in 1993. What have the figures been like over time? Has crime decreased or increased? Are more people receiving the cane -

Hon FRANK HOUGH: I should have brought in the Singaporean figures - I have the American ones. The Singaporean figures are down by about one-quarter of our figures, and they are declining.

Hon Nick Griffiths: But we do not cane anybody. I want to know how many people are getting the cane every year and how you correlate that with the crime figures?

Hon FRANK HOUGH: Well, the crime statistics must be taken into consideration insofar as percentages go -

Hon Nick Griffiths: I understand that but I would like to know what the figures are. You have done the research. I want to know whether fewer people are getting the cane in Singapore as a result of these policies that you are putting forward.

Hon FRANK HOUGH: Fewer people are committing crimes. I can furnish those figures for the minister if he likes.

In Singapore vandalism, sexual assault, breaking and entering and the possession of offensive weapons can also be punished by jail sentences in addition to caning. In Australia, criminal damage, if not perpetrated through fire, might entail a jail term of up to 10 years. If a person is caught with a dangerous or offensive weapon or instrument, and if it can be shown that he intended to commit the crime with the weapon, then he is sentenced for up to three years. In Australia, the rape of a relative under the age of 16 receives a maximum term of 20 years. Even when multiple offences of this nature are carried out on a child, it would be difficult to find any perpetrator who has been penalised to the extent of the law. By contrast, in November 2001 in Singapore a 40-year-old man was jailed for a total of 24 years and given 24 strokes of the cane for raping his 14-year-old daughter 43 times over two years.

Singapore and, ironically enough, many other countries in the world still administer corporal punishment. When the minister says that caning is barbaric he should perhaps button his lip because we open our doors to good immigrants from many countries that still use this form of punishment. These people understand what it is all about; it is not unusual for them. America has now gone from having 32 States to 37 States that have capital punishment or the death sentence, and there will probably be an additional five or six States included on that list by the end of next year due to changes in government. These States are going back to the death sentence and capital punishment because the figures show they are working. Singapore is not the only country to implement corporal punishment at the judicial or institutional level such as in schools. A large number of Islamic societies allow corporal punishment while our society compensates and sometimes rewards offenders for their crimes. In Australia, offenders are given legal representation if they cannot afford a lawyer. When found guilty, they may serve a term of rehabilitation or incarceration at the taxpayer's expense. The victim, the victim's family and society must, through their taxes, pay to rehabilitate, feed, clothe, amuse, retrain, educate, counsel, house and medically treat the offender.

Many of the things done in Islamic society seem sensible. If a person belts up someone, he must then look after the victim. In Islamic society, it is the victim and/or the victim's family that can request compensation from the offender for the grief and injury the offender's crime has caused. Predominantly, Islamic countries that have considered, used in the past, or presently use judicial corporal punishment include Afghanistan, Bangladesh, Brunei, Egypt, Iran, Libya, Malaysia, Nigeria, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Uganda, the United Arab Emirates, Yemen, Zambia and Zimbabwe. Many Australian immigrants come from those countries where corporal punishment is used. In Turkey, physical punishment in the home is culturally and legally accepted and only excessive punishment resulting in physical injury is prohibited under the penal code. In Turkey, corporal punishment is used in schools and other institutions. Furthermore, paddling is an accepted form of corporal punishment in schools in Lebanon. Until recently,

Fijian law provided for judicial corporal punishment as a criminal penalty but it was rarely used and has subsequently been abolished. Interestingly, the major birthplaces for Australian Muslims are Lebanon, Turkey, Afghanistan, Bosnia and Herzegovina, Pakistan, Iraq, Bangladesh, Iran and Fiji. Australian Muslims have a higher proportion of young people between the ages of five and 35 than non-Muslims. Therefore, it would be fair to say that if any of these Australians were guilty of a crime, I would prescribe the birch as punishment. Those offenders would then receive a punishment that is accepted and understood by their own culture. People of that nationality who have immigrated to Australia are already au fait with corporal punishment. It would not be new to them. In the younger society a major proportion of those immigrants already understand that system of punishment.

I read an interesting article in *The Observer* of 18 May 2003. Its political editor, Kamal Ahmed, said in effect that immigrants were seemingly behind the new crime wave in Britain. The article referred to Britain's top cop, the President of the Association of Chief Police Officers, Mr Chris Fox, who said that the mass movement of people around the world, including a number of asylum seekers, had produced new levels of organised crime in Britain, which included drug dealing, gun offences, prostitution and kidnapping. That same phenomenon is already being experienced in Australia. More specifically, Britain has experienced a new type of crime from the Nigerian fraudsters, the European drug and prostitution racketeers and the Jamaican drug lords. All of this is happening in addition to the home-grown thugs, vandals, football hooligans and thieves that exist.

I must agree on the issue of Nigerian fraudsters. They are also attacking Western Australia. One fellow from Melbourne who I am in business with - he is quite a wealthy businessman and I thought he was quite a smart one too - has lost \$250 000 on a scam. I could not believe it. The documentation - all members have probably received a letter - is impeccable. I received one letter. I thought it was rather funny and faxed back. They wanted me to put up \$25 000 because there was \$US50 million sitting in a bank that should have come to them. They were going to get the money transferred and I would wind up with \$US25 million. I thought that they must have thought that I was thickheaded. This went on. I faxed them back and played out the scenario. In the end, I told them that they should take my \$25 000 out of the \$50 million and transfer me the remainder. I did not hear from them again. That was the end of the scam. When I spoke to Jeff Lincoln about it in Melbourne, he went rather quiet. He said that he was heading over there and was looking for \$250 000. He is a Jewish fellow and they are the hardest people in the world to rob. He lost \$250 000 to the Nigerian fraudsters. This is a new crime in this country and one that we must address.

Crime in Western Australia should be addressed by the use of the birch because it would help to reduce prison terms and make people more conscious of breaking the law. We must look at what happened in the past; it was not barbaric. The Labor Party should come up to speed with 2003, get with the current conditions and stop living in the past with counselling and soft penalties. It must toughen up. It should also allow police officers more freedom. They should not have to be conscious of being open to litigation or suspension while administering the law. There are rough people in every society and some people get carried away with their power. However, as I said earlier, 98 per cent of people are genuinely good and decent and want to do the right thing.

I was encouraged by the results of a survey undertaken by *Sunrise* on Channel 7 in which 93 per cent of the 3 700 people who answered the question about the death penalty totally agreed with it. Corporal punishment, which is not very harsh, would have scored 100 per cent. I know society has become softer and that we believe in counselling people. However, we must not abrogate our responsibility to the victim. The victim is the most important person in any crime. We must be aware of the reason that we take the victim's side. Further, we must be aware that we have to punish the perpetrators - we must make them understand. I again refer to the little kid who touches the hot stove, burns his or her fingers, knows that the stove is hot and does not touch it again. That is what we have to do. Caning or birching is the only way to get rid of the soft touch and to attack our escalating crime rate. I would like members to give this matter serious thought. Some members on the other side of the House would love to support this motion; however, they will be told by the Attorney General or Caucus not to support it. If there were a conscience vote on this motion, it would be passed by 98 per cent of members and the other two per cent of wimps would be shown up quickly. That is my case for corporal punishment.

HON JOHN FISCHER (Mining and Pastoral) [3.35 pm]: I support the remarks of Hon Frank Hough on the motion that the Government take action to empower the courts with the discretion to impose corporal punishment on convicted offenders in certain circumstances. Like many members of Parliament and many of my constituents, I too have distasteful tales to tell about the lawlessness of our youth and the often horrific consequences faced by the recipients of these senseless acts. It is extremely disturbing that, as Hon Frank Hough pointed out, the increasing trend towards crime comes from the 20 to 25-year-old age group; that is, those who were born around the time that the cane was banned from schools. As they have grown up and reached their teenage years, the penalties imposed by our courts have decreased. However, from my experience, and certainly from listening to constituents' complaints, it is obvious that juveniles are fully aware of their rights and blatantly expose the shortcomings of the system every day and night of the week. Quite frankly, that is a direct result of what comes from political correctness and a judiciary system that has self-interest in mind.

For some time, juvenile delinquency has been a problem in many towns in my electorate. The police have not been able to resolve that concern because their hands are tied, in the main, by the weak sentencing handed down by our judiciary.

The problems and possible solutions have been the subject of many public meetings over the past few years. Before going on, I must say that all the meetings have, in one way or another, identified the total lack of respect for authority as the primary problem with juvenile delinquents. Respect for authority is the cornerstone of any State or society. As I have said, this problem emanates from a lack of parental control and guidance, and the breakdown of the family unit. This is enhanced in many different ways, not least of all by some of the legislation that has been passed in this House since the last election. Unfortunately, this lack of respect extends to all facets of life including parents and community elders and leaders. It also extends to the property of others, including community assets such as youth centres, and to teachers, the law, police officers and the like. As members will appreciate, Governments are active parties to this situation. That was identified by Gary Johns in his article "Look for Strength in the Mainstream", which appeared in *The Australian* on 22 November 2001. Gary Johns was a former minister in the Keating Labor Government. His article reads -

Government largesse has destroyed self-respect. With that comes drug abuse, and violence to women and children.

As I will show later, government largesse is reflected in much of the legislation being passed through this House, especially since the last election. The only current redeeming feature of the juvenile delinquency problem is that the perpetrators amount to only a small percentage of the community. Without the ongoing commitment of this Government to address the issue in a positive way, I and the great majority of constituents in my region are of the opinion that this percentage will rapidly increase. There is no light at the end of the tunnel that some control will be imposed on the problem. The situation in some towns in my electorate has become so bad that people in the towns have resorted to taking action themselves in an attempt to stem the tide. As an example, in quite a few towns - which will remain nameless to protect them from the do-gooders and bleeding hearts - business owners do not serve any school-age child during school hours. This action is improving the situation. It is working, but one of the problems is that, once these actions begin to work -

The DEPUTY PRESIDENT (Hon Adele Farina): Order members! There is a bit too much background noise.

Hon JOHN FISCHER: These actions are working, but they are not solving the problem totally. It creates a dangerous situation, because we certainly do not want vigilante groups to enter into the fray, which will lead only to anarchy. With the court systems at the moment, often the wrong people are punished.

One of the basic problems revolves around children not attending school during school hours. I have previously drawn the attention of the Parliament to the number of children in Roebourne who do not regularly attend school. This problem is endemic in most towns in the north west, and can be attributed to the lack of truancy officers. We often hear complaints directed to the Police Force in these regions, but there can be no blame on police officers in the north west for this situation because they already work many unpaid hours. It is not uncommon for police officers in small isolated towns to work in excess of 45 hours each week and be paid for only 37 and a half hours. On the other hand, as we all know, the Government has had the opportunity to properly resource truancy officers in the north west through the budget process, but it has opted for the easy way out, as on so many other occasions, and has chosen to ignore the situation.

On 16 June this year I attended the Mt Magnet youth crime prevention forum, chaired by the local police sergeant. The meeting was called to address the juvenile delinquency problem, and was a very responsible action to take. An invitation to attend was extended to all residents of the local area. The leaflet calling the meeting reads -

It is apparent that within our community we are seeing an emerging trend of crime and anti-social behaviour. These trends are not desirable and it is imperative that crime and anti-social behaviour is targeted before it is too late. A community forum is being established to ensure that a range of issues can be discussed and a longer-term approach can be taken to crime prevention.

The *Mt Magnet Leader* of June 2003 states -

Crime went crazy this week with many break-ins and vandalism and damage incidents. This appears still to be the work of a minority and 3 kids were in court this morning. There are still 5 arrests/summons to be issued and whilst the police have a good idea of who is responsible they need to get sufficient evidence before they can take action.

Sitting suspended from 3.45 to 4.00 pm

Hon JOHN FISCHER: I will continue reading the article from the *Mt Magnet Leader* that I started before the afternoon tea suspension. It reads -

Sister Gerri -

It does not explain exactly her position -

also raised the issue of a lack of any counselling or help with 'Anger Management' within Mt Magnet. Many of the kids have serious problems to contend with and this can result in angry and frustrated behaviour. There seems to be no one they can really turn to for help.

That behaviour is endemic in regional areas in Western Australia. No-one is available to offer adequate help for problems in delinquency.

Hon Nick Griffiths: Is this about dealing with anger management? How does one deal with anger management problems? What sorts of programs should be in place and what sorts of people do we use to do that?

Hon JOHN FISCHER: What about the Department of Community Development? Its function should be to help those people. The article lists crime statistics in Mt Magnet for the month of March, which total 41 for that one month. Stealing offences and burglary offences top the list. Assault offences were high and threatening behaviour and drug offences are listed. Of the 41 offences, 21 were cleared and 31 charges were laid. The *Mt Magnet Leader* states further on -

Neil apologized that there was no May edition of the *Mt Magnet Leader*. Initially Neil had his house broken into and some camera equipment stolen and this put him off track with the issue, then he had to move and there wasn't time to get the *Leader* done.

This crime rate is affecting not only Mt Magnet but also other small towns within the region. More than 40 people in that small town attended the youth crime prevention forum in Mt Magnet to which I referred previously. People came from all walks of life and there was an almost equal representation of Caucasian and Aboriginal populations. That clearly shows that there is a serious problem and that the residents of Mt Magnet and the surrounding region are serious about addressing it. It is also obvious that they do not get enough help from government departments that have been allocated these jobs. It is apparent that the majority of problems are caused by a small element of juveniles in the town. It is also evident from the meeting that there is a significant alcohol and drug problem and that this is having a profound effect on the attitudes and needs of the town's juveniles. There are obviously many sides to this issue. Everyone at that meeting accepted that something had to be done but concluded that a term of imprisonment - if the weak courts would impose one - would not necessarily be the best solution for everyone, even though it would provide satisfaction for the victims. Although it is acknowledged that the cost of incarceration these days is a deterrent to imposing a period in jail, such an issue should not come into consideration during sentencing. The only issue in sentencing is whether the person has broken the law. If the answer is yes, the person should be sentenced accordingly. If the offence is the third strike, the full weight of the law must be brought to bear, not the little copouts that the Children's and Juvenile Courts have practised recently. Many options were canvassed at the meeting in Mt Magnet. A one-on-one program operated by the Police and Citizens Youth Club in Geraldton was one option. A further suggestion was a camp in the bush at which Aboriginal children could be taught their culture and the social aspects of society. The third suggestion was that a committee of concerned citizens could attempt to counsel those likely to incur the wrath of the law. The meeting decided to adopt the latter recommendation and I wished the participants every success in their endeavours. As I said, it is obvious that the concern in these regional towns is extremely strong and is reflected by the attitude and commitment of the residents to try to do something about it, often when the police have been restricted in their ability to impose a deterrent on some delinquents.

Another option suggested to me before the meeting was to publicly embarrass the individuals concerned. I reflect that it was not too long ago that the leader of the Liberal Party in this State, Colin Barnett, raised this matter. In my view, the media unfairly ridiculed him for what I thought was a commonsense approach to a very serious problem. Members in this Chamber might know that the idea of publicly embarrassing individuals has been remarkably successful on the Isle of White in combating problems experienced on school buses. There is scope to have a sensible look at imposing some of these conditions in Western Australia.

I am not proposing the return of the use of the stocks or anything like that. I have no doubt that the Greens (WA), the Labor Party and the bulk of social workers and general lefties would probably throw up their hands in despair at that suggestion. However, I believe that after a flogging with the birch - in the case of juveniles, their parents would be present - offenders would contemplate their actions.

A major issue identified at the Mt Magnet meeting was that parents who are supposedly fully responsible for their children - including most of the parents whose children are involved in juvenile delinquency in Mt Magnet and, I suggest, throughout Australia - were not aware of their children's whereabouts most of the time. A solution to that problem was offered at the meeting. The committee formed at that meeting would identify parents who were not aware of their children's whereabouts and the parents would undertake parenting programs. This is an essential step in addressing some of the problems we have. There is no doubt that a generation of children is growing up that has no social interaction skills whatsoever.

An article from a 1997 journal of the American Medical Association indicated that the health and wellbeing of adolescents still rests in that strong feeling of being cared for by parents. Surely that emphasises the importance of a functional family unit. Unfortunately, dysfunctional families are very often the root cause of problems throughout regional Western Australia. The article claims that the community would benefit by supporting parents through this very difficult stage of parenting and ensuring that parents have the necessary skills to help their children. It also said that spending money supporting pro-social behaviours is money well spent.

There is an absolute vacuum of responsibility in the areas of truancy officers and social workers in regional Western Australia. I subscribe to the view of supporting family values. Parenting skills are extremely important in helping juveniles through problematic stages. I subscribe to the view that providing parenting programs in country towns and communities would provide a far greater effective return for money than the cost of implementing the Cannabis Control Bill, with its subsequent further erosion of community and family values and standards. Unfortunately, this current Government once again turns a blind eye to those values and standards.

As I have mentioned, the principle of reintroducing the birch should be taken one step further by ensuring that parents of juveniles attended the flogging. I believe that this would bring home to those parents the message that they are responsible for their children. The embarrassment caused would be an effective deterrent for both parties from future appearances. It would also teach the parents and the offenders respect for themselves and each other as well as to encompass their community and their community's standards of behaviour.

Members may be aware of a case reported in *The West Australian* on Tuesday, 17 June 2003, in which charges against a man were dropped after the court saw a video of the arrest of the man who was wanted on a bench warrant. That was an example of the typical flagrant treatment of police officers by the media, which is concerned only with sensationalism. We do not often see positive reports about police in the media. It is not often that I stand up and go in to bat for the Police Force. We do not hear about the uniformed police officers in the bush who regularly have to face bottles being thrown at them and brawlers turning on them etc. The article in *The West Australian* on 17 June was written by Amanda Banks and referred to the violent arrest of a 30-year-old homeless man in Forrest Place, which was captured on video surveillance and led to a disciplinary charge against the police officer. The article states -

... the nature of the arrest led Magistrate Jeremy Packington to dismiss a separate charge of assaulting a police officer relating to an allegation Mr Carleton spat at an officer as he was being taken to hospital.

Describing the arrest as rough and robust, Mr Packington said he had some doubt whether the force used was reasonable.

I saw that video on a television program. I think Mr Packington's response is absolutely despicable. The article further states -

Aboriginal Legal Service defence counsel Ben Tyers described the arrest as grossly and unnecessarily violent, submitting that members of minority groups such as Mr Carleton needed the court's protection.

The fact is that Mr Carleton was fighting in the mall prior to his arrest and he threw a punch at the police officer. A police spokesman said that a bench warrant had been issued for Mr Carleton. She said also that an internal investigation had led to an officer being charged under disciplinary regulations with using excessive force during the arrest. The disciplinary charge was yet to be dealt with and the officer could not be identified. As I said, I saw that video footage on television. Frankly, the young officer should have been taken out the back and given a pay rise. It is certain that the people who are bellyaching and wimping about the force that was used would have a very different story if they were being protected by the police officer or if it were their mother who had been assaulted by a drunk in a mall. It is absolutely disgusting that issues such as that should be used to undermine the Police Force in general, especially at the lower echelon, which does a pretty good job considering the lack of funds and support it receives from this wimpish Government.

Without depreciating the value of the police officers on the beat in the bush, perhaps it is time for the higher-ranking officers who sit in their cosy and safe confines to get out there and charge hardened criminals. Many people are asking whether those officers are there only to direct the officers on the beat to focus on speeding and traffic violations while major crimes and assaults go unsolved - and go unsolved they do, which is indicated by the figures.

Members may also have seen an article in *The West Australian* on 14 June 2003 written by Pam Casellas. She wrote a letter to the Assistant Police Commissioner, Tim Atherton, who has taken up a new burglary portfolio. Although it was gratifying to see someone else speak out on the subject and to see the support received in subsequent letters to the editor, it was disturbing to note the figures and trends that she quoted. The article by Pam Casellas states -

Enough of living with the fear of a break-in, enough of wondering whether the house will be safe if we go away, if the car will be intact at the end of the day, whether the insurance bill has been paid, how much the excess will be on the latest claim.

The ramifications of what is happening in this State is putting a huge impost on general residents. The article further states -

Last week the window of my car was smashed at the beach. I saw the perpetrators drive off (in an old, cream/white Falcon station wagon) having fearlessly and remorselessly ruined my day, and made me absolutely furious.

I agree totally with those sentiments. Growing up among us is a raft of predominantly young people who do not accept the concept of individual rights and responsibilities who are perfectly willing to damage the lives and welfare of strangers without a twinge of conscience. There were many letters to the editor that emphasised the mood and feeling of Pam Casellas's letter. There were enough to make the Government take heed of the feeling of the general public. It

is clear that it is always the victim of crime who pays. He or she pays for a long time after the traumatic event through continuing mental anguish and increased insurance premiums. This is not right and it is certainly not justice.

I have previously touched on the attitudes of the courts to effective juvenile justice. Mike Dean of the Police Union (WA) has spoken out on this issue strongly for some time. His words seem to be falling on deaf ears and are presented to blind eyes. Mike Dean's views are supported by One Nation. He said that the Police Service is concerned at the lack of penalties and restitution imposed by the courts. In other words, the system is not focused on outcomes positive to victims. It merely ensures there is a revolving door for our misguided youth.

Earlier in this debate while my colleague was speaking, I watched the facial expressions and listened to members opposite interject. What do those members really think? Superintendent John Watson of the great southern police district -

Hon Robyn McSweeney: A good man!

Hon JOHN FISCHER: Absolutely. I have not had the good fortune to make his acquaintance but I know several people who have. They emphasise the comment made by the member. He has spent his life in the Police Service and has got to the top of the tree. I will quote from a letter he sent to *The West Australian*, which was published on Friday, 6 June 2003. He states, in part -

These young repeat offenders think the judiciary system is a joke and when they are released back on the streets they believe they have been rewarded for their crime spree.

Police are in the recycling business and I can tell you from the community point of view, it's not environmentally friendly. The only time we will be able to reduce crime is when it is just as dangerous to be a criminal as it is to be a victim of crime.

I wonder about the support given to the Police Service by this Government and, in particular, by the minister who was interjecting when my colleague Hon Frank Hough was speaking. If the Government will not take any notice of someone who has gone through the mill and ended up at the top of the Police Service - someone who is aware of the offences and the trauma and heartache offences cause - who is the Government going to take any notice of? It is time the Government started listening to the people of this State.

Hon Kim Chance: The member should look at the increase in resources that the Government has supplied to the police in this term. It has been a spectacular increase matched by a fall in crime rates.

Hon JOHN FISCHER: I cannot agree with the Leader of the House.

Hon Nick Griffiths: You do not agree because it does not match your rhetoric!

Hon JOHN FISCHER: Here we go - the Minister for Housing and Works jumps up and down! It is amazing. There will be another shuffle on the front bench shortly. This Government's front bench is becoming like a lotto draw.

Several members interjected.

The PRESIDENT: Order, members! I thank members other than Hon John Fischer for their contributions but they are not recognised at this stage. They are just confusing Hansard.

Hon JOHN FISCHER: In an article dated Wednesday, 30 July 2003 in the *North West Telegraph*, the Minister for Police and Emergency Services stated -

"We can't just go on giving young offenders a slap on the wrist and letting them move on", . . .

"There is a perception of that happening at the moment, but in some cases it is a reality.

I mark those comments at about six and a half or seven out of 10. Although what she is saying essentially is correct it is more than just some cases. Anyone who does not understand or appreciate the problem that regional Australia is having with juvenile delinquency is closing his eyes to the problem that in 20 years will be virtually uncontrollable and insurmountable. We have a generation of people who are in many cases affected by foetal alcoholic dependency. They have limited attention spans. Many are having children at an early age for all the wrong reasons. Something must be done but it will not be an easy task. I do not put all the blame on the current Government. However, they are the people in power. I fail to see any definite moves made by this Government to correct the situation.

Hon Kim Chance: We have built nine new police stations in remote areas, provided a huge increase in the police budget and lowered crime rates. What else does the member want us to do?

Hon JOHN FISCHER: Maintaining the revolving door is endemic. The justice system is a cash cow industry for the social engineers determined to bring this great country to its knees. In many cases, but not all, we have a money hungry legal profession, other charitable organisations and various hangers-on who are determined to protect their slice of the pie at all costs. It is time we replaced these experts with people with commonsense. A commonsense qualification lets out the politically correct and left-wing social manipulators. In protecting the cash cow, these so-called experts are effectively creating a future in which there will be more violent adult criminals. We cannot afford that under any terms. There is no doubt that we review government and private sector arrangements with the Children's Court and support organisations to see whether we can arrest the misdirected sentencing trend of that court as soon as possible. The public

is extremely concerned about sentencing in the justice system. That is evidenced every day in newspapers across this State. I have copies of several letters that are absolute classics of concern from people across the State. I do not believe that there is a bigger problem that is more readily identified by our constituents than juvenile delinquency, break-ins and other so-called minor crimes; that is, crimes other than serious assault and murder. I know of four break-ins that occurred in West Perth in the space of a fortnight. I live in what I consider to be an attractive and good neighbourhood, yet, off the top of my head, I know of three houses that were broken into in the past month, probably within 200 or 300 yards of where I live. I do not believe that I am in exceptional circumstances.

As I have said, I have several articles with me. I will not read them out for the simple reason that all members should have read those articles. I am sure everyone is aware of the type of articles that are being written, not only in the metropolitan area but also regional Western Australia. They bring home the concerns and fears that many good, honest citizens are being subjected to. It is apparent that these social problems are widespread throughout Western Australia. It is absolutely astounding that we, as the law-makers of this State, have allowed this situation to arise. We have allowed a small minority of bleeding hearts and obscure social workers to dictate social standards. In so doing, they have tragically derailed the lives of many people in the method that has just been stated. It is up to this Parliament to take the first step to regain that respect. This can be easily achieved by each member being aware of those who suffer these consequences; in other words, by members being accountable to their constituents and not to a political party, and having the courage to make changes and implement judicial improvements so that there is a deterrent. By agreeing to the return of the birch, thereby denying the politically correct agenda of a very small but vocal minority, we will make an improvement.

I have no doubt that members on the other side of the House will not support this motion. In not supporting it, they will show their absolute disrespect for and lack of accountability to the people who put them where they are. If a poll were taken, members opposite would find out that without a doubt a very large percentage of the constituents of this State, in any region, are concerned about these issues and the lettuce leaf actions of the judiciary in sentencing these people. We have a strong chance to make a difference. Although I look at the members on the other side of this House and realise that it is highly unlikely that they will have the courage to make a decent decision, I will still perhaps waste my breath and urge them to take this opportunity in both hands. They should ignore party differences to ensure that this State is protected for future generations. With all sincerity, I commend the motion to the House.

HON PADDY EMBRY (South West) [4.33 pm]: There is no doubt that there is grave concern in the community about the sort of things and occurrences that Hon Frank Hough and Hon John Fischer have spoken about. All members know that. It would concern any reasonable person, whether that person or his or her family had suffered as a result of sections of the community having no respect for other people or their property. The old story that one's home is one's castle is very sacred to Australians. Australia is a country in which very few people, if any, if they are prepared to help themselves a little, need resort to stealing or crime of any kind. We live in a lucky country. We have adequate social welfare. There is absolutely no need for people to resort to the sort of activities that they do for survival. This is one subject that it would be reasonable to take to a referendum in this State. We talk about governing for the people and about times changing and the expectations of people changing. There is no doubt that when harsher penalties fell by the wayside, generally speaking people felt that it was time for that to happen. Perhaps the best way to test what the population really feels is through a referendum. That is simplifying the whole problem.

In the days of yore, when there was full employment and people were expected to work, people were not bored. We now have a situation in which people receive social security and have too much time on their hands. That is not a good recipe for good social behaviour. The onus is on the State and federal Governments to do far more to ensure much fuller employment than there is now. Some people in the Peel region are in the third generation of families who have not seen their fathers go to work. That is an appalling situation. If it were the second generation, it would still be appalling. I am told that it is the third generation. A generation of children in certain areas and suburbs have not seen their fathers do an honest day's work to provide for their family. That is a thing of the past. Society generally is responsible for that situation.

Hon Kim Chance: Acknowledging that, the unemployment rate is currently below six per cent. We have a very low rate of unemployment. There is probably no reason for anyone not to have a job.

Hon PADDY EMBRY: With all due respect, the minister knows the figures as well as I. I think they are federal figures. If a person has an hour's employment - I am not sure whether that is over a week or a fortnight - he is considered to be employed. Those with commonsense would be well aware that someone needs considerably more than one hour of employment a week to anywhere near provide for himself or his family. Governments of all persuasions like the figures to look good for them. Retraining is another favourite option. Some people who undergo retraining do so for good reason, but may be of an age when retraining will not help them. When undergoing retraining programs, people receive exactly the same amount of social security that they would be paid if they were unemployed; however, they are not shown as being unemployed. In all fairness if the true figures on unemployment were genuine, commonsense unemployment figures, they would be considerably higher. Society is partly responsible for why people get involved in crime and drugs. The two are usually combined and there is a strong relationship between them particularly with violent crime. When people have a habit that needs to be supported, they will go to almost any length

to procure the money to support the habit. Society needs to provide alternatives. There is a raft of attempts to cure some of the social ills.

One of my sisters-in-law was a teacher in Canada and used to come back to Australia every couple of years. When she returned she would give a talk to the children at the school my wife was teaching in at Wellstead. My sister-in-law is a much travelled lady. She has always been single and never owned a motor car. As a result, she has had a lot of money to spend on travelling overseas. She is also a very good teacher and the children used to look forward to her talks every couple of years. On this particular occasion, her recent trip had been to Papua New Guinea. Very early in her lesson she had told the children that Port Moresby was the capital of Papua New Guinea. Towards the end of her talk she had her back to the children and was facing the blackboard and said, "Who knows the capital of Papua New Guinea?" There was not a sound. Her reaction was that they were dumb country children. However, she looked around to see that every child in that classroom had their hand up and she realised that she was the one who had made the mistake. For many years she had not taught in a school where commonsense and good manners applied. Every single child from grade 4 to 7 knew the answer. She had taught in schools where the language had been less than desirable. I do not propose to report some of the language that is used to schoolteachers in some of these classrooms today. It is all part of a lack of respect for other people and for a person's position. I have previously said that possibly the worst Prime Minister this country has ever seen was Paul Keating. If I had been introduced to him at the time he held office, I would still have been respectful to his position and called him Mr Prime Minister. There is a difference. We are seeing a little sign of a lack of respect that has resulted in the crimes that we have today. There is no doubt that many countries have the figures to substantiate a relationship between the penalty and the offender. As a boy who spent 10 years in boarding schools, I certainly assessed the position in those days of whether the punishment outweighed the fun of committing the crime. Kids in those days learnt that the eleventh commandment was the strongest of all - thou shalt not get caught! I mean it to be funny but it was a reality, which is a part of growing up and learning.

A friend of mine used to be a policeman in Albany. In those days it was expected that when they were called out they would go in pairs. However, he was the only one available to attend the call on this particular occasion. A man had left his car to go into a bottle shop for obvious reasons. He had left his girlfriend asleep in the front of the car and his keys in the ignition. A lout passing by saw this and he opened the car door, hopped in, started the car and bashed it into the car in front. The girlfriend woke up to ask what was going on only to get a smack around the mouth. The lout then reversed into the car behind. It is some years ago and I cannot remember the amount of money required to repair a number of cars that this fellow damaged. However, my friend was called out because several minutes later the girlfriend, after being hit several times, had managed to pull on the steering wheel forcing the car into a ditch on the side of the road. While the lout was trying to get it out of the ditch she managed to get out of the car and was lucky enough that someone happened to be in the nearest house where she made a phone call to the police. My friend was called out to attend the incident. He was certainly not one of the old-fashioned north-west policemen. He was quite solid but of the smaller stature. Apparently, the lout was built more like the traditional north-west policeman. My friend managed to arrest this guy. When the case came before a court, the lout was represented by a lawyer but my friend, who was just a junior policeman, had to represent the Crown's case. That was an injustice for a start; it was ridiculous. However, the punishment this guy got was a good behaviour bond! He had been released from jail two weeks before on an assault charge but his punishment was to be put on a good behaviour bond! That is unrealistic and an instance when the punishment did not fit the crime. Society expects us to be a bit more realistic and to apply punishments that fit the crime. My friend did not risk his life but he certainly risked fairly serious injury. After that he felt that working in the Police Force was not the career for him and within a few weeks he had resigned. He felt that he had no support from the judicial system and no support presenting the case in court even though the Crown provided a lawyer to represent the lout. This is not justice; this is ridiculous. We have placed too much of an emphasis on making sure that the criminal has every possible legal assistance and we forget the other side of the coin. Depending on the crime, for some people the birch would be a good deterrent.

I am sure the Leader of the House's father would have told him the story of a Christian Arab who took both our fathers to a meeting in Dubai. As our fathers got out of the car, my father noticed that the Christian Arab had left the keys in the ignition of his car. As they were crossing the street, my dad asked him whether he realised that he had left the keys in the ignition. The Arab replied that a car had never been stolen in Dubai. Possibly that is not so any more as this was many years ago. The Arab gave a little smile and said that, with the first offence, the right hand comes off. I am not suggesting that we need to go to those lengths. However, in many cases it is equally ridiculous to think that a relationship does not exist between punishment and deterrents. Of course, we have all read the horror stories of the punishment that was meted out 200 years ago. That really is a false argument; in the world today there are many examples of deterrents that have a significant and varying effect. Our court system, and life generally, must reflect the fact that individuals have to be more responsible for their actions. It is nonsense to say that people cannot be held responsible for their actions because their father was a drunkard or their mother did not breastfeed them long enough. That is nonsensical rubbish. Perhaps there is a disadvantage in not being breastfed for a certain amount of time. I am not experienced enough in that area to comment. It may have a slight effect; however, that does not mean that individuals who have suffered the terrible business of not being breastfed long enough cannot be held responsible for their actions. I was interested in the story told by Hon Frank Hough about the constituent who rang from Katanning -

Hon Nick Griffiths: It was Nyabing.

Hon PADDY EMBRY: That is not very far from Katanning; however, I stand corrected. For the sake of accuracy, I am very happy to be corrected.

I too know the father of another victim - although not very well - of that infamous couple. He is a surgeon, but has not been able to operate since. He was sent letters written in his daughter's blood. He was also sent a tape of his daughter screaming under torture. I am talking about an extreme case. I do not know whether the father or mother of that victim would necessarily feel any better if the Birnies had been executed. I suppose we will never know. However, there are not too many situations in which the punishment fits the crime.

This matter goes back to the early days when people were inclined to blame schoolteachers. However, much of a child's upbringing is well and truly inculcated in him or her before he or she starts school. We cannot expect schoolteachers to miraculously cure the behaviour of a child who has not been taught the difference between right and wrong at home. I refer to a true story involving the late Field Marshall Montgomery. A national serviceman returned home after only a few weeks in the army. The boy's mother was not impressed with his behaviour. She wrote to Field Marshall Montgomery and asked why his short period in the army had not cured her son of his bad behaviour. Field Marshall Montgomery replied that she could not expect the army to do in six weeks what she failed to do in 18 years. That is very true.

Our family structure is breaking down. The way we are heading these days, the saying that it is a wise man who knows his father will sadly be only too true. All these things add up. Society is partly responsible for people's bad behaviour. Correspondingly, it is our job as legislators to try to improve the situation more realistically than we are at the moment.

I have read articles in which people discount what happens in Singapore because of its different culture. Those people are still human beings who have feelings. There are many similarities between the Chinese in Singapore and the Chinese who live in Australia. Most of the Chinese who live in Australia refer to China as home and want to be buried there.

There are many ways in which to explore how we should deal with serious crime, and the people in the community have every right to be involved in the decision making. In some countries, the families of victims of crime - I think this also happens in America, although I do not necessarily believe that what goes on in America is a good recommendation - are involved in the legal procedure that determines and hands down the punishment. That is not a good idea, because those people are too close to the situation. However, it is an indication that in an uninvolved way, and with every justification, the population must be involved in some of the decisions. I believe that a state referendum would be the way to bring that about. A referendum would probably clear the air. If, for example, the outcome of a referendum was a strong no, I am sure Hon Frank Hough would accept that as the will of the people. Correspondingly, if the outcome of a referendum was a strong yes, the Government and politicians of the day of all persuasions would have to remember that they are elected primarily to represent the interests and views of the people who elect them. Sometimes it is easy to sit in a high and mighty position and think that we know best. I would hate to see a situation in which Western Australian law required us to carry a Colt .45 or an AK rifle. That certainly would not appeal to me. As I said to Hon Nick Griffiths, it probably would not be too long before I was thrown in jail because I had accidentally left it somewhere. We have only recently passed laws stipulating how firearms are to be kept. It would be way over the top to make it obligatory for people over a certain age to carry a firearm. Although I have not asked him, I am sure that Hon Frank Hough was not advocating that that is what people should do. I suspect he used that as an example of what is done in another parts of the world.

There has been a lot of laughter and joking during this debate. In some ways it is good to lighten the atmosphere; however, this is a serious subject and I hope that people look beyond the jokes and concentrate on what is a real and serious problem. There is a lot of truth in what Hon Frank Hough said when he referred to Hon Derrick Tomlinson's comment that society's expectations change over time. He gave a personal example in his family to do with smoking. I commend the honourable member for speaking about his father in such a way, which must not have been easy. I am sure even the hardest-thinking members among us have emotions and fond memories, particularly of our families. I commend the member for his bravery and frankness.

Debate interrupted, pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

MAUDS LANDING DEVELOPMENT, REJECTION DECISION

1081. Hon NORMAN MOORE to the Leader of the House representing the Premier:

- (1) When did the Premier receive the appeal convenor's report on the proposed development at Mauds Landing?
- (2) When did the Premier make his decision to reject the proposal?
- (3) Why did the Premier not refer the matter to Cabinet for its consideration?
- (4) When did the Premier decide to go to Coral Bay for the announcement?

Hon KIM CHANCE replied:

I thank the member for some notice of this question.

- (1) On Wednesday, 2 July 2003.
- (2) On Thursday, 3 July 2003.
- (3) There was no requirement to do so as the Premier had the delegated power to make the decision.
- (4) It was finally determined to make the announcement at Coral Bay after the Premier had made his decision.

NINGALOO ADVERTISING CAMPAIGN

1082. Hon NORMAN MOORE to the Leader of the House representing the Premier:

I refer to the engagement of Marketforce Ltd to undertake the Ningaloo advertising campaign.

- (1) Were tenders called for the contract?
- (2) If so, when were they called and how many applications were received?
- (3) When did the Government approve Marketforce's proposed advertising campaign?

Hon KIM CHANCE replied:

I thank the member for some notice of this question.

- (1) No; Marketforce was appointed under a provision in the master media agency contract that allows a department without an appointed creative agency - in this instance the Department of the Premier and Cabinet - to access creative resources via Media Decisions, the holder of the master media agency contract, which is a division of Marketforce Ltd. The agency's brief was to prepare a press and television campaign advising the public of the release of the "Future Directions" discussion paper for the Ningaloo coast and inviting public submissions.
- (2) Not applicable.
- (3) The approval of the whale shark press was given on 7 July 2003, the revision on 9 July; approval of the coral press on 10 July 2003; and approval of television on 17 July 2003.

MR NIC DUNLOP, FUNDING

1083. Hon NORMAN MOORE to the Minister for Agriculture, Forestry and Fisheries:

- (1) Is it correct that Nic Dunlop is employed by, contracted to, or in receipt of any remuneration or grants from the Department of Fisheries?
- (2) If so, does he receive any State Government funding with respect to any involvement he may have with the Australian Marine Conservation Society; and, if so, what are the details of that funding?

Hon KIM CHANCE replied:

I thank the member for some notice of this question.

- (1) No; the Department of Fisheries makes an annual grant to the Conservation Council of Western Australia to enable appropriate levels of input on fisheries related matters. Any employment arrangement between the Conservation Council and Dr Dunlop would be matters between those two parties.
- (2) Not applicable.

TAXIS, RELEASE OF ADDITIONAL PLATES

1084. Hon PETER FOSS to the parliamentary secretary representing the Minister for Planning and Infrastructure:

I refer to the minister's press release of 9 July 2003 in which she outlined the release of 50 new plates for lease across a number of taxi categories - conventional taxis, 32 plates; multipurpose taxis four plates; and peak-period taxis, 12.

What considerations were given to increasing each of the various categories of plates and in particular -

- (a) with whom did the minister consult;
- (b) what feedback has the minister received and from whom;
- (c) what financial implications will this have for current owners; and
- (d) what monitoring will the minister be conducting to ensure that the supply stays within the market demand?

Hon KEN TRAVERS replied:

The Government is of the view that increases in taxi plate numbers should reflect changes in the level of demand for taxis as well as the performance of the industry in ensuring that taxi customers are able to access a taxi. The release of additional plates reflects this approach. There has not been a release of a conventional taxi plate for 14 years. Multipurpose taxis, and peak-period taxis in particular, are often the subject of complaints from the public about their availability and service levels to the public.

- (a) There was broad consultation with the industry and specific taxi consumer groups as part of the recent taxi industry review;
- (b) the feedback received is too voluminous to list here. However, I refer the honourable member to the public reports available on the Department for Planning and Infrastructure web site;
- (c) the interests of taxi owners are safeguarded by having a strong, viable taxi industry, where taxi customers receive good service. Central to this is the ability to get a taxi when one is requested, and that high standards of service are offered so that repeat custom is built up. The decision to release additional taxis clearly, therefore, meets the needs of owners;
- (d) Ongoing, independent monitoring of the industry is done through the Department for Planning and Infrastructure on a quarterly basis.

NELSON LOCATIONS 12889 AND 12890

1085. Hon BARRY HOUSE to the minister representing the Minister for the Environment:

- (1) Will Nelson locations 12889 and 12890 be included in the Hilliger National Park or a forest conservation area?
- (2) If the two lots are placed in a forest conservation area, can they be used for agriculture in the future?
- (3) If so, what is the process that must be followed, and the time frame involved, to make them available for agriculture if they are placed in the conservation estate?
- (4) If not, why not?

Hon TOM STEPHENS replied:

- (1) Nelson location 12889 and parts of location 12890 are proposed to be set aside as state forest and classified as a forest conservation area.
- (2) No.
- (3) Not applicable.
- (4) Agriculture is not a purpose applicable to state forest.

ECOSCAPE (AUSTRALIA) PTY LTD, ALBION TOWN DEVELOPMENT ENVIRONMENTAL ASSESSMENT

1086. Hon DERRICK TOMLINSON to the Minister for Housing and Works:

I must apologise that this question left my office addressed to the parliamentary secretary representing the Minister for Indigenous Affairs, so if the Minister for Housing and Works does not have an answer I will accept the blame.

- (1) Did the Department of Housing and Works engage environmental consultants Ecoscape (Australia) Pty Ltd to undertake an environmental assessment for the Albion town development? If so, did the contract specify a date for the finalisation and presentation of the environmental assessment report?
- (2) Has the report been received? If so, has it been submitted to the City of Swan and the several landowners involved in the Albion town development?

Hon NICK GRIFFITHS replied:

I thank the member for some notice of this question. I know of his interest in the subject, so I wanted to make sure there was an answer to this question.

I am advised that -

- (1) Yes. The Department of Housing and Works initially engaged Ecoscape (Australia) Pty Ltd in late 1996 when it commenced progressing site investigation, planning, engineering and environmental studies for the project area. At the time of contract there was limited knowledge on the environmental issues, including their level of complexity. For this reason the time required to investigate and report on these issues could not be ascertained.
- (2) No. The report is currently being finalised by Ecoscape.

CONSERVATION ESTATE, GRAZING IMPACTS

1087. Hon ROBIN CHAPPLE to the minister representing the Minister for the Environment:

I refer to the occurrence of stock from pastoral stations straying into nature reserves and national parks in Western Australia.

- (1) Can the minister outline which legislation is relevant to the regulation of grazing impacts within the conservation estate?
- (2) Which agencies are responsible for the administration of this legislation?
- (3) What penalties exist for pastoralists who allow stock to enter a nature reserve?
- (4) Do any of the agencies listed in (2) have guidelines or policies for enforcement and/or prosecution of pastoralists or pastoral companies that allow stock to enter nature reserves?
- (5) If yes to (4), can the minister table such guidelines or policies?
- (6) Does the Government have a policy on the interactions between the pastoral industry and the conservation estate?

Hon TOM STEPHENS replied:

- (1) The Conservation and Land Management Act 1984 and regulations, Dividing Fences Act 1961, Local Government Act 1995, Land Administration Act 1997 and Stock (Identification and Movement) Act 1970.
- (2) The Department of Conservation and Land Management in relation to stock on conservation reserves, Pastoral Lands Board/Department for Planning and Infrastructure in relation to pastoral leases.
- (3) Under section 106(a) of the Conservation and Land Management Act 1984, the penalty for depasturing cattle on Department of Conservation and Land Management land - including nature reserves - is \$4 000 and imprisonment for six months.

Under regulation 15(b) of the Conservation and Land Management Regulations 2002, the penalty for allowing an animal to enter or remain on CALM land - including a nature reserve - is \$500, or if dealt with by way of an infringement notice, a modified penalty of \$50.

I do not know who would be fined for the herd of about 50 camels I saw in the middle of the Rudall River National Park over the weekend, but I suppose the authorities can work out to whom to send the bill.

Hon Peter Foss: They are probably yours.

Hon John Fischer: Are you claiming ownership.

Hon TOM STEPHENS: I am not.

Hon SIMON O'BRIEN: Are they all enrolled?

Hon Kim Chance: They are now!

Hon TOM STEPHENS: There may be some ancient Afghan.

Pursuant to section 108B of the Conservation and Land Management Act 1984, and section 484 of the Local Government (Miscellaneous Provisions) Act 1960, an owner of cattle who permits the cattle to stray, be at large, be tethered or be depastured in a street or other public place, commits an offence and is liable to a penalty of \$200.

- (4) The Department of Conservation and Land Management has no specific policies or guidelines for enforcement and/or prosecution of pastoralists or pastoral companies that allow stock to enter nature reserves. The department has a general prosecution policy and guidelines applicable to offences under legislation it administers.
- (5) A copy of the Department of Conservation and Land Management prosecution policy and guidelines is tabled. [See paper No 1294.]
- (6) No such specific policy exists.

GERALDTON PORT, SEDIMENT PLUME

1088. Hon DEE MARGETTS to the minister representing the Minister for the Environment:

I hope the minister has the answer today.

Hon Tom Stephens: I do. In fact, you do not need to ask the question; I can simply give you the answer.

Hon DEE MARGETTS: This is a new question. I am hoping to break my drought.

Hon Tom Stephens: If you ask me yesterday's question, I could give you an answer.

Hon DEE MARGETTS: I am hoping that I can ask a similar question to that which I asked in June and for which I have not yet had an answer.

I refer to the extensive dredged sediment plume associated with attempts to deepen the Geraldton port.

Hon Tom Stephens: Do you want the bad news now or at the end of your six-part question?

The PRESIDENT: If the minister is suggesting that the member might like to ask another question, she could get onto that now. Is the minister suggesting that?

Hon TOM STEPHENS: Yes. There is no answer to this question.

The PRESIDENT: Does the member want to ask another question or sit down?

Hon DEE MARGETTS: There is not much choice.

Hon Peter Foss: It is called Hobson's.

The PRESIDENT: There are always options.

Hon DEE MARGETTS: May I clarify -

The PRESIDENT: No.

BURRUP PENINSULA, NATIVE TITLE AGREEMENT

1089. Hon GEORGE CASH to the minister representing the Deputy Premier:

I refer to the minister's statement of 12 November 2002 in which he claimed an agreement between the Government and the Ngarluma Injibandi and Yaburarra Mardudhunera groups had been reached on the Burrup Peninsula.

- (1) Will the minister identify the specific land to which native title clearance has been obtained in accordance with the agreement within the Shire of Roebourne and the reasons that particular land within the town boundaries of Karratha, Roebourne and Wickham was not granted clearance by the beneficiaries of the Government's agreement?
- (2) Given the direct social, environmental and economic impact on the local authority, were officers or councillors of the Shire of Roebourne involved in concluding the agreement; and, if so, what was the nature of the involvement; and, if not, why not?

Hon TOM STEPHENS replied:

- (1) The agreement contains a series of maps that identify the specific land to which native title clearance has been obtained in accordance with the agreement - see schedules 2 through 9B. The agreement was struck to secure the compulsory acquisition of land at Burrup and in Karratha necessary to establish the land estates at Burrup and Maitland. Land within the town of Karratha linked to this development was also included in the agreement. It is not clear what particular land within Wickham and Roebourne is being referred to in the question asked. However, no land in Wickham or Roebourne was identified as necessary to the industrial development.
- (2) The Shire of Roebourne was involved in planning studies that identified the land requirements and priorities within the Shire of Roebourne for this development. These studies include: the Burrup Peninsula land use plan and management strategy, Karratha area development strategy and the Shire of Roebourne town planning scheme No 8. The State Government carried out negotiations regarding the agreement using the results of these studies.

WILLIAM STREET BRIDGE

1090. Hon MURRAY CRIDDLE to the parliamentary secretary representing the Minister for Planning and Infrastructure:

I refer to the Minister for Planning and Infrastructure's media release of 16 July 2003 that the William Street bridge is to be demolished next year.

- (1) What is the current asset value of the bridge?
- (2) What is the estimated cost of demolition?
- (3) What is the estimated cost to replace the bridge with a major new intersection on Riverside Drive?

Hon KEN TRAVERS replied:

I thank the member for some notice of this question.

- (1) The current Main Roads Western Australia asset value for the bridge is \$5.6 million.
- (2) \$1.3 million. There are significant urban planning, access and amenity benefits from the replacement of the traffic bridge with an at-grade intersection.

- (3) \$500 000. Note that this estimate includes roadworks costs that would have been incurred even if the bridge was to be retained, accounting for the major part - approximately 70 per cent - of the estimate. Savings in roadworks and traffic management costs are achieved in other areas as a result of the bridge's replacement with an at-grade intersection. Overall, there is no addition to project cost due to removal of the bridge.

EGG MARKET, DEREGULATION

1091. Hon PADDY EMBRY to the Minister for Agriculture:

An article in today's edition of *The West Australian* reported that Cabinet had given in-principle support to deregulation of the egg market.

- (1) Is the report correct?
 (2) If yes, has the decision been reached on public interest principles?

Hon KIM CHANCE replied:

I thank Hon Paddy Embry for the question, albeit, without notice.

- (1) Yes, the report is substantially correct. Cabinet has made an in-principle decision that will result ultimately in the deregulation of the egg industry in Western Australia.
 (2) Yes. The decision has been made in the context of the public interest test. The process of the National Competition Policy decision is that the minister in charge of the Act being reviewed is required to identify and compare developments within that legislation and, upon identification of anticompetitive elements, identify whether it provides a substantive public benefit, which then becomes the basis of the argument for retention, if that is indicated.

The case for retention of regulation of the egg industry is not strong. Similarly, the case for a quantifiable public benefit is not strong. However, the detail of the issue is more important than the in-principle decision. The detail of the decision around the deregulation of this industry is still a matter for cabinet deliberation. Members can anticipate that deregulation will occur over a period. Questions surround the distribution of the industry's assets, which will be central to whether it has industry support.

YABURARRA AND MARDUDHUNERA NATIVE TITLE CLAIM

1092. Hon JOHN FISCHER to the minister representing the Minister for Indigenous Affairs:

- (1) Is the minister aware of findings in the matter of Daniel v State of Western Australia 2003 FCA 666 by Nicholson J and published in the draft determination on 3 July 2003 in which Nicholson J states that the second applicants - being Yaburarra and Mardudhenera - do not hold any native title rights and interest in the determination area?
 (2) If this is the case, why are they being paid from the public purse as heritage consultants prior to developments in an area over which Nicholson J determined they had no claim?

Hon TOM STEPHENS replied:

- (1)-(2) Consultations under the Aboriginal Heritage Act 1972 are separate and distinct from matters concerning the federal Native Title Act 1993. A finding that a group does not hold native title in no way suggests that that group does not have traditional associations with that area. It means that that group was unable to meet the onerous legal requirements necessary to establish native title. Indigenous people employed as consultants for heritage surveys are those with a known or claimed association with the development area.

KIDS HELP LINE, FUNDING

1093. Hon BARBARA SCOTT to the parliamentary secretary representing the Minister for Community Development, Women's Interests, Seniors and Youth:

The Kids Help Line, a national 24-hour service, does not have enough funds to answer the thousands of calls it receives from young Western Australians. The organisation had hoped to raise \$750 000 to enable it to provide the service required.

- (1) How much has the Western Australian Government allocated to the Kids Help Line in 2002-03?
 (2) Will the Government consider increasing the amount allocated?
 (3) If not, why not?

Hon LJILJANNA RAVLICH replied:

I thank the member for some notice of this question.

- (1) \$30 000. I am proud to add that the Gallop Government is the first Western Australian Government to allocate funding to the service.

- (2) No.
- (3) The Kids Help Line receives \$30 000 annual funding through a service agreement with the Office for Children and Young People's Policy. The agreement is from 1 July 2002 to 30 June 2005.

CITY OF STIRLING, DOMESTIC WASTE CONTRACT

1094. Hon JIM SCOTT to the Minister for Local Government and Regional Development:

- (1) Is the minister aware that the City of Stirling may offer a new contract to the Atlas Group without going through the tender process, despite Atlas having the lowest recycling level in Australia?
- (2) Is it usual practice for local government to sidestep the tender process?
- (3) Does the minister support the City of Stirling awarding a new contract to Atlas without going through the tender process?

Hon TOM STEPHENS replied:

- (1) The City of Stirling advises that it has advertised for tenders for the recycling of domestic waste. Tenders have closed and are being evaluated for submission to council.
- (2)-(3) Not applicable.

A note on the bottom of the answer indicates that the City of Stirling has now advised that one tender was received, which was from the Atlas Group. The Atlas Group tender was subsequently accepted by the city. It looks as though this answer has been drafted in two phases - one historic and one contemporary.

WUBIN RAIL LINE

1095. Hon FRANK HOUGH to the parliamentary secretary representing the Minister for Planning and Infrastructure:

I lost my original question without notice, but I have recalled it to the best of my ability and rewritten it, so it will not be as accurate as it should be.

I was recently contacted by a constituent from Wubin regarding the rail station there, although it has been closed for a number of years. A group of Wubin senior citizens were told by a rail employee that they should not drive over the rails or park close to the tracks or near the station because a train might return to the area. Is there any foundation to this rumour?

Hon KEN TRAVERS replied:

I thank the member for some notice of this question.

As you know, Mr President, the Government will not answer questions that are based purely on rumour!

The rail line through Wubin is close to the rail operations. The Australian Railroad Group Pty Ltd, which has responsibility for operations on the line, advises that there are no plans to open the line or to operate regular train movements. The line through Wubin is used occasionally by ARG track inspection and repair vehicles accessing the operational line 30 kilometres north of Wubin. For the safety of residents, it is strongly recommended that vehicles are not parked on or near the tracks.

MS JEAN THORNTON, LETTER TO THE PREMIER

1096. Hon ROBYN McSWEENEY to the Leader of the House representing the Premier:

I refer to the letter from Ms Jean Thornton to the Premier tabled in the Legislative Assembly on 4 August 2003 and his reply. The letter refers to another letter from Ms Thornton to the Premier sent shortly after the 2001 election and a subsequent reply from the Premier.

- (1) Will the Premier table the initial letter he received from Ms Thornton and his reply?
- (2) If not, why not?

Hon KIM CHANCE replied:

I thank the member for some notice of this question.

I have an answer for Hon Robyn McSweeney, which somewhat surprised me because I have read the letter.

- (1)-(2) Yes. I table the correspondence.

[See paper No 1295.]

Hon Norman Moore: Why are you surprised?

Hon KIM CHANCE: Because of the nature of the letter and its contents.

NORTHBRIDGE CURFEW

1097. Hon GIZ WATSON to the Minister for Housing and Works:

I refer to the Northbridge curfew.

- (1) Are police officers approaching young people and preventing them from catching the train in the late evening on suspicion that those young people wish to travel into Northbridge?
- (2) Are police officers keeping a record each time they stop a young person they suspect is in breach of the curfew?
- (3) Have the police received complaints about the Northbridge curfew apprehensions that subsequently proved unwarranted?

Hon NICK GRIFFITHS replied:

The Minister for Police and Emergency Services has provided the following response -

The Western Australia Police Service advises -

- (1) No.
- (2) Yes.
- (3) No.

The PRESIDENT: Is Hon Simon O'Brien seeking the call today?

Hon Simon O'Brien: There has been an indication that some questions from Hon Dee Margetts are still in the pipeline.

HOMESWEST, RENTAL HOMES FOR ABORIGINES

1098. Hon DERRICK TOMLINSON to the Minister for Housing and Works:

- (1) How many rental homes beyond the mainstream program are provided for Aboriginal people by Homeswest?
- (2) Of those rental homes, how many are located in the Perth metropolitan region and how many in each of the non-metropolitan Aboriginal and Torres Strait Islander Commission regions?
- (3) Of the total number of rental homes, how many require major repairs, how many require replacement and what is the estimated cost of those repairs and replacements?
- (4) How many more rental homes are needed to meet the known demands for housing for Aboriginal people?

Hon NICK GRIFFITHS replied:

I thank the member for some notice of this question.

I have been advised that -

- (1) There are 7 019 properties provided for Aboriginal people by the Department of Housing and Works. There are 2 509 Aboriginal properties, 1 115 remote Aboriginal villages and there are an estimated 3 395 Aboriginal tenants in mainstream housing.
- (2) The Department of Housing and Works is unable to provide a breakdown of this information by ATSI regions without considerable effort. The honourable member may wish to put that question on notice, or I can correspond with him when that information is provided, if he wishes to pursue it.
- (3) The Department of Housing and Works has a comprehensive maintenance program that includes the day-to-day vacated planning program and improvement programs. To complement these programs, the department's properties are also upgraded, replaced or refurbished through the stock replacement, refurbishment or new living programs. Designated Aboriginal housing properties are included in all of these programs.
- (4) There are currently 13 528 applicants on the waiting list, of which 1 882 had declared themselves to be of Aboriginal or Torres Strait Islander descent. The overall program for 2003-04 is 1 709 commencements.

QUESTION WITHOUT NOTICE 1079, ANSWER ADVICE

Hon TOM STEPHENS (Minister for Housing and Works): I have an answer for a question that Hon Dee Margetts asked yesterday. I apologise for not answering the question yesterday. The answer was inadvertently left in another section of my folder.

- (1) None. However, the environmental enforcement unit considered the proposed time lines. Dates in the environmental management plan appeared neither binding nor enforceable.
- (2) Answered by (1).
- (3) No, answered by (1).
- (4) 11 October 2002.

- (5) The department is now in a process of implementing changes to monitoring and management arrangements to ensure greater protection of the seagrass, particularly if dredging is to continue into the next seagrass growing period.

MEMBERS' STATEMENTS

Tourism Planning Task Force Report

HON ADELE FARINA (South West) [5.33 pm]: I am pleased to inform members that this morning I had the pleasure of attending the release of the tourism planning task force report by the Minister for Planning and Infrastructure, Hon Alannah MacTiernan. The task force recommendations provide for the protection of strategic tourist sites and for genuine tourism purposes and guarantees variety of tourism product, including affordable tourism accommodation. The minister established the task force in September 2002. It was chaired by me and included representatives from private industry with expertise in planning, land development, the property market and tourism, and also relevant state and local government bodies.

The task force was established in response to recent trends in the development tourism industry whereby developers are seeking a residential component as a permitted use within a tourist zone. The residential component requests often range from 30 per cent to as high as 100 per cent. In some cases, the request sought by developers is for a mix of tourism and residential use on a tourist zoning. Developers argue that financial reasons are the main justification in support of their applications. They argue that the financial institutions will not finance tourist developments, particularly in regional areas. They argue also that the use of strata title schemes and incorporation of a permanent residential component facilitates presales and thereby provides the security required by the financial institutions.

The task force was given specific terms of reference relating to the impacts of combining tourist and residential use in the same development on tourist-zoned land, and the assessment of impact of strata titling and land tax on various aspects of tourist development. The task force considered a number of matters of concern arising from these recent trends, including the loss of prime tourist land and the implications this may have on the growth of tourism and future needs; the retention of high-value strategic tourist sites for tourist purposes, including government-managed and crown land; the potential for land use conflict between tourists and residential uses detracting from tourist values and tourist experience; accessibility of the general public to prime recreation and holiday sites, particularly along the coast; provision and retention of a variety of tourist accommodation products; the impact of the use of strata schemes for tourism developments on the ongoing operation of such developments as tourist facilities; and the absence of a policy framework within which decision makers were being asked to consider such applications.

The task force has made 26 recommendations, which include protection of strategic tourist sites for tourism purposes only; providing for future growth of the tourism industry and protecting these sites for tourism purposes for future generations; permitting in non-strategic tourist sites a permanent residential component of up to 20 per cent to facilitate early development and predevelopment of the non-strategic sites; a requirement that all units of accommodation within the mixed tourist and permanent residential development be designed primarily for tourism occupation and part of an integrated complex incorporating facilities normally associated with tourist accommodation developments; the requirement that strata developments have an on-site manager; that all accommodation units form part of a rental pool and be available for tourists' use; mandatory development of a refurbishment reserve to be established by the manager; and, finally, the introduction of a range of tourist zonings to differentiate between the basic categories of caravan park and camping grounds, cabin and chalet and tourist resorts to address the issue of the impact of land tax on the sustainable operation of a range of regional tourist accommodation facilities, in particular caravan parks and camping grounds.

The report details the legislative and planning mechanisms for implementation of the report's recommendations. This is to be achieved through the development of local tourist strategies in liaison with the Department for Planning and Infrastructure and the Western Australian Tourism Commission, changes to the model scheme text, use of special control areas and the preparation of a statement of planning policy.

The report also establishes an interim policy position and identifies a number of related matters requiring further investigation. The report has been released today for public comment. The submission period closes on 26 September. I recommend that members take the time to read the report.

In concluding, I place on the record my sincere appreciation to the task force members for their hard work and commitment to the task. It was a pleasure to chair the task force. Each member tackled the task with a high degree of professionalism. I thank the members for giving their time freely. I particularly thank Nigel Bancroft, the executive officer to the task force. Nigel has substantial planning expertise and very high professional standards. He volunteered many hours of his own time to work with the committee, without which the completion of the report would not have been possible.

I seek leave of the House to table the task force report.

Leave granted. [See paper No 1296.]

Lancelin Defence Training Area

HON FRANK HOUGH (Agricultural) [5.39 pm]: In early July I was made aware of a brochure that was being circulated in Lancelin by the Greens (WA), which was titled "Depleted Uranium: The Silent Killer". I listened to the Liam Bartlett show on the radio and heard people say that their property values had halved because the Americans were using bombs with uranium tips in Lancelin, which would contaminate the water. I obtained a copy of the brochure issued by Hon Dee Margetts. It states that Dr Doug Rokke, a United States expert on depleted uranium, visited Lancelin on 6 July 2003. It also states, in part -

Dr Rokke was a major in the US Army and former head of the Pentagon's Depleted Uranium Project, responsible for training US personnel in preparation for Gulf War I in terms of their exposure to environmental hazards including radiation. Dr Rokke holds a PhD in Philosophy and a Master of Science.

I was rather annoyed when I read that. It was obviously based on information the member received and not from either Senator Robert Hill or the United States Consul General in Perth, Oscar De Soto. I took the time to write to Oscar De Soto and Senator Robert Hill. My letter to the Consul General states, in part -

I am writing to seek the Consulates assurance that the United States of America has not used and will not use Depleted Uranium (DU) munitions at the Lancelin Defence Training Area (LTDA) in Western Australia.

I received a reply from the Consul General this morning. It states -

Thank you for your letter dated July 17 regarding Depleted Uranium . . .

Firstly, let me make clear that the United States, as a matter of policy and practicality, does not use DU munitions at the Australian Lancelin Defence Forces range. DU munitions are seldom used in training anywhere because they are too costly to expend for training. Furthermore, the U.S. military uses the Lancelin Range only infrequently, and only by invitation of the Australian Government. When U.S. forces use the range, it is always jointly with Australia and in compliance with all Australian laws and environmental rules. The U.S. military utilizes Australian environmentalist planners on each and every use.

Secondly, Dr. Doug Rokke has made exaggerated and untrue claims during his visit to Australia. Dr. Rokke has exaggerated his background. He is not, and has never been "the foremost U.S. military expert on DU," as he was described in the June 18th Canberra Times. He is not a medical doctor. His Ph.D is in education. He earned a Ph.D in Science/Technology Education from the University of Illinois, Urbana in 1992.

If he was finishing his PhD in 1992 he was certainly not, as Hon Dee Margetts claims, running the Gulf War as a major in 1991. He was still at university. The letter continues -

Dr. Rokke did not join the U.S. as a medical officer in 1967, as reported in the Canberra Times. He joined as an airman, an avionics technician. According to the Department of Defense, Dr. Rokke was not "in charge of cleaning up radioactive waste" after the 1991 Gulf War, as was described in a June 18th ABC broadcast. As a First Lieutenant, Dr. Rokke was assigned to the 12th Preventative Medical Detachment of the 330th Medical Brigade prior to and during the war. There were 66 people assigned to the unit; he was the most junior of 14 officers.

He was one level from being a gopher! He was a junior lieutenant. That is a long way from being a major. They have different pips. He may not have been able to distinguish them! The letter continues -

Initially, he was responsible for conducting nuclear, biological and chemical training.

Hon Peter Foss: He sounds like a fraud.

Hon FRANK HOUGH: He does. Others sell snake oil. They get carried away. What is worse is that they get mixed up with the Greens (WA) and try to pull the wool over our eyes. I know I could go to America and become Surgeon General and an honorary brigadier and take people for a ride. The people in Lancelin should not be subject to charlatans who tell them their water is full of depleted uranium. The letter from the Consul General concludes -

In closing, let me reiterate that the U.S. military does not use DU munitions in Lancelin. I urge you to share this information with your constituents and other Members of Parliament.

. . .

Yours sincerely
Oscar De Soto
Consul General of the
United States of America

I spoke to the consulate office this morning and I was guaranteed the information is very accurate. The consulate probably has a system linked with the Central Intelligence Agency to pull the records. The details of the letter were not made up overnight. The Consul General took three and a half weeks to research the situation. He was quite clear in determining the facts. Another part of the letter states -

While Dr. Rokke presents himself as an expert, this does not make it so. His role in the 1991 Gulf War, at the US Army Chemical School, and his educational background do not qualify him as an expert on the purported health effects of depleted uranium. . . . It is important to make a clear-cut distinction between Dr. Rokke's technical qualifications and those of certified medical health physicists who are qualified to assess the medical implications of radiation exposures.

The member should apologise to the people of Lancelin. She has been badly misinformed and badly misinformed them. She should write to the Consul General and apologise sincerely for having a go at the US Navy. We have enough problems with trying to establish relationships with other countries without having to deal with this type of rubbish. If she is not prepared to do that, she should enjoy life as something other than a parliamentarian. She is abdicating her responsibilities by putting out this type of rubbish and putting fear in the hearts of people who live in the broader community. This is one of the ploys that people work through. Another part of the letter states -

Regarding allegations in the pamphlet that the U.S. Navy plans to establish a permanent base at Cockburn Sound in Western Australia as part of the Sea Swap program, I can confirm the United States has no plans to establish a base in Western Australia or anywhere else in Australia. The Australian Marine Complex at Cockburn Sound is a Western Australian public-private commercial project. If the U.S. Navy uses the Complex for maintenance, it will be on the same terms as any other customer. That Dr. Rokke's baseless claims regarding DU are associated with the U.S. Navy's activities in Western Australia appear aimed at provoking anxiety and perpetuating disinformation in the community.

I am extremely annoyed. I think I have contained myself very well. I have been rather humble and subtle in this because this type of rubbish has got to cease. People must not go to the broader community rumour mongering and making up stories for the betterment of their own. I often see the fairy-floss dancers on the sand hills at Lancelin at night dropping petals. I have people ringing me saying their house at Lancelin has halved in value. These are the people they appeal to. I hope my house at Lancelin has not halved in value, because I know who I will be chasing for the other half of the value. I believe the member might be getting a pay rise!

HON DEE MARGETTS (Agricultural) [5.49 pm]: I have risen to speak about answers to questions on the Geraldton Port Authority, but, given that I am on my feet, I will first point out that I have sighted Dr Rokke's citations and can assume only that the member who has just spoken has not. In my estimation, the louder, stronger and harder the United States military attacks Dr Rokke, the more it indicates to me that it is worried that people will actually find out more about the impacts of depleted uranium. The people of Okinawa were not told by the United States military about the use of depleted uranium in Okinawa for more than a year. It would be extremely useful if the Western Australian Government were to call for a base study of the Lancelin defence training area and bombing range, and I would be extremely relieved if it were found that depleted uranium has not yet been used there. There are lots of contaminants in conventional armaments. The people of that area and I will be extremely relieved if depleted uranium has not yet contaminated that bombing range. However, we need the base-level studies. The very least those people deserve is to find out what is the base level of contamination. That is what people in the United States are able to find out from bombing ranges. Unfortunately, the United States military has no record of cleaning up its mess or of retracing and finding unexploded ordinances. It has left a mess in just about every part of the world that it has used for bombing ranges. The people of the Puerto Rican island of Vieques are very relieved that they will no longer be bombarded with contaminants from conventional or other armaments by the United States military.

The people of Lancelin are very concerned about being the ongoing target of military bombing on a regular basis, including from United States destroyers and frigates, if Western Australia is to regularly host sea swap ships. The number of destroyers and frigates in the US fleet means that Western Australia will virtually have US ships in its harbour permanently. In effect, there will be permanent sea swap operations. That is only the tip of the iceberg. So far aircraft carriers have used that training area, which I believe is worse than its being used by destroyers or frigates. The US military really wanted access to the bombing range and training area. That is the impact of the approach by the Western Australian Government to the US for it to pick Western Australia and hopefully use Cockburn Sound -

Hon Frank Hough interjected.

Hon DEE MARGETTS: I have nothing to apologise for.

Geraldton Port Expansion

Hon DEE MARGETTS: I will now talk about what I actually wished to speak about. Today we found out in an answer to a question that the environmental enforcement unit of the Department of Environmental Protection considers that the time lines and dates in an environmental management plan of a port authority - an arm of government - are not binding or enforceable. This is extremely serious, because it means that everybody involved in consultancy and environmental assessment will have to think very carefully about the way in which any statements are written in the future. Every community group will find it difficult to believe any statement that a body gives. They will find it difficult to believe that if there are problems in the operation of a particular proposal, an environmental management plan will deal with it. If what this says is, "Don't worry, what you write in an environmental management plan is unenforceable, even if a monitoring plan, time lines and dredging plans were required under the ministerial conditions", then this is a very

serious issue. The lawyers are probably having a field day. The whole process of environmental management and assessment will change as a result of this statement.

I went to a briefing organised by the Environmental Protection Authority on the port authority expansion. The main consultant was Ian LeProvost, who is a member of the EPA. He was providing advice to the EPA but was not exempting himself from debate within the EPA on this approval. At no stage during that presentation was any indication given that more than 145 hectares of seagrass would be at risk. An unknown level of damage has occurred so far and will continue to occur in the future as a result of this project. The plume is so large that it can be seen from a satellite in space. We do not know the impact on marine creatures such as microfauna and invertebrates because, as far as I know, studies have not been done. We do not know the impacts on any coralline communities in the vicinity. As far as I know, it was not expected that the plume would be so large, so monitoring was not set up. We do not know how bad this problem is. However, we know that it is continuing and getting bigger and bigger by the day. The dredge was out of action for a couple weeks but it is starting again. I was in Geraldton on the weekend and the plume was very obvious from Sunset Beach. At that stage the main dredge, the *Leonardo da Vinci*, had not been operating for about two weeks. The particles are so fine that they are staying in suspension for a very long time. That has incredible implications for the seagrass meadows. Seagrass cannot just recover once it is killed. That is very clear from the damage caused in Cockburn Sound. However, the concern is the impact on not just the seagrass but also the ecosystem and marine environment that this area supports. We do not really know what impact it is having. Major damage is being done.

It appears that instead of spending from May when I asked the original questions and a report was commissioned trying to work out how to reduce the harm, those weeks were spent putting lawyers to work to try to find out how the Geraldton Port Authority and the Government could avoid their commitments, responsibilities and promises. The Geraldton Port Authority wrote its own management plan. It was required to do so as a ministerial condition. It appears that it has spent weeks with lawyers trying to work out how it can get out of those commitments. That is an outrage from a Government. If this were a private company, it would be headline news, and rightly so. People would be baying for blood and talking about prosecution and throwing people in jail. A pollution abatement notice has not been issued. One has not been served on the Geraldton Port Authority, even though a Department of Fisheries report got action in the first place. It took until February, when this project had started in October, for any action to occur. That action was taken because a Department of Fisheries report asked what was going on. That is not good enough. It was found that the plume was much more extensive than it was thought it would be. There are all sorts of stories, including one from Minister Alannah MacTiernan who has said that the Government always knew that there would be a problem. If the Government always knew there would be a problem, why did that alert and action plan not occur? I still have not seen the primary data. A lot more questions need to be asked on this issue. It is pivotal to the way in which we stand up and are seen on environment management in Western Australia.

Legislative Council Chamber, Front-Bench Desks

HON PETER FOSS (East Metropolitan) [5.59 pm]: I feel almost reticent to raise a matter of housekeeping, but I feel that I should. For quite some time I have been complaining that it is very difficult to sit behind the front-bench desks. It is hard to get in and out with the tight position that they create and members are unable to fully stretch their legs. How on earth Hon Ken Travers does not end up with the sourest of tempers from sitting with this knees underneath his chin I do not know. However, I have not discerned any change in his character at all. I have raised this matter on a number of occasions and when we first moved into this Chamber we did not have a desk in front of us, which was a sensible way to operate. If we spoke we moved to the microphone on the centre table. I realise that the two leaders were not too happy about that arrangement and so this huge table has now been put in place surrounded on either side by the front-bench desks. I have suggested that the biggest problem is the size of the table in front of us; it is far too large. It might look very nice to have all the Acts of Parliament sitting on the middle of the table but we hardly use them and the table is really far too wide. It would be quite possible to replace this table with either a much thinner one and take those books away, or with a smaller table for Hansard staff at one end and another table for committees at the other. We could then shift our desks further forward, which would enable us to stretch our legs and to pass more easily to and from our seats. I have made this suggestion but it seems to be falling on deaf ears. Perhaps by putting it on record in *Hansard* it might just happen.

Hon Ken Travers: What do we do when we go back to the downstairs Chamber?

Hon PETER FOSS: We might have to think similarly about that Chamber also. One of the things we have learnt while in this Chamber is that the other Chamber is an impossible place in which to work. If WorkSafe were able to deal with Parliament it would have cleared out and refitted the Hansard area considerably earlier. However, it has been fixed up and I congratulate the then Presiding Officers on the job, which was, I think, to the satisfaction of Hansard. It is certainly a lot better than it used to be. However, if WorkSafe were involved we might have had something done about the abominable conditions that exist in the primary Chamber. Despite how beautiful the leather chairs might look from the gallery, they are a work hazard. Three members now sit on wooden boards because the chairs are bad for their backs. Nearly everybody has to have a very wide cushion behind their back to allow their knee bend to line up with the edge of the seat. Trying to use a computer is impossible at these desks because the only way we can get it even vaguely

aligned is by putting it on a drawer that pulls out, which further restricts our capacity to move. If we have to suddenly rise to our feet, all sorts of dangerous things might occur to the nether regions. I am sure Hon Ken Travers would lose his knees if he had to rise rapidly to his feet!

Hon Ken Travers: Not to mention getting giddy.

Hon PETER FOSS: Yes. He obviously has not been built with the compensating mechanisms that a giraffe has.

The reality of the matter is that we have now tasted a small moment of liberty where we can breathe and see the light. We can see that outside this Chamber there is the ability to work in reasonable conditions. I cannot see why we should sit here for two more months, stuck behind this desk, when the only thing that is keeping us here is this table full of books that we do not use, and a table itself which we seldom use. I have no idea why this table should gain such prominence and priority over the members using the Chamber. I appeal to the Leader of the House and the Leader of the Opposition, and anybody else I have to appeal to who has some influence, to get rid of that table and move these desks forward. The members sitting behind us might like some adjustment to their leg room as well. This place can be considerably improved. This is a wonderful Chamber but the only thing spoiling it is the unnecessary arrangements that have been made in the middle of it.

The DEPUTY PRESIDENT (Hon George Cash): I will refer Hon Peter Foss's comments to the President, who I am sure will take some action and who may, within a short time, indicate when we can return to the primary Legislative Council Chamber.

House adjourned at 6.05 pm
