Legislative Assembly

Thursday, 5 May 2005

THE SPEAKER (Mr F. Riebeling) took the Chair at 9.00 am, and read prayers.

METROPOLITAN REGION SCHEME AMENDMENT 1057/33

Statement by Minister for Planning and Infrastructure

MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [9.05 am]: I present metropolitan region scheme amendment 1057/33, regional roads, part 6, for the Shire of Kalamunda and the City of Canning.

The amendment consists of five proposals to rationalise the metropolitan region scheme reservation for the following existing roads: Canning Road in the Shire of Kalamunda - two segments examined as separate proposals; Pomeroy Road in the Shire of Kalamunda; Welshpool Road in the Shire of Kalamunda; and Manning Road in the City of Canning. The thrust of the amendment was to remove unnecessary reservation from private property; however, in the concept development process it became apparent that there was a need to increase reservations in some locations.

The Environmental Protection Authority advised that the proposed amendment did not require an environmental impact assessment. The Western Australian Planning Commission has recommended that the amendment be adopted.

The proposed amendments attracted eight valid submissions, two of which resulted in hearings. Objections to the amendments had a single common theme. In both cases these concerned properties where the reservation was increased.

The amendment has been approved by executive council and I now table the report.

[See papers 404 and 405.]

METROPOLITAN REGION SCHEME AMENDMENT 1092/33

Statement by Minister for Planning and Infrastructure

MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [9.06 am]: I present metropolitan region scheme amendment 1092/33 concerning the corner of Nicholson and Armadale Roads, Forrestdale. The purpose of the amendment is to transfer approximately 102 hectares of rural-zoned land at the abovementioned location to the urban zone to allow for residential development. The properties included in the amendment are part lot 2 and lots 21 and 22 Nicholson Road and lot 224 Armadale Road on the north east corner of those roads.

The amendment follows from the Southern River Forrestdale Brookdale Wungong District structure plan 2001. That plan was prepared by the Western Australian Planning Commission and other state government agencies and local governments, in response to increasing pressure for development and the need to address constraints to development in the locality. The amendment is, in effect, an extension of the existing larger north Forrestdale urban area and extends that area to Armadale Road. Structure planning for the areas will be complementary in terms of drainage and water, cycle planning, road planning, open space and community land uses, and activities in general.

The three submissions of objections received were largely premised on the possibility of the new residential development adversely affecting nearby wetlands and water quality and quantity in the locality in general. However, environmental issues were considered by the Environmental Protection Authority prior to the amendment proceeding to public advertising. The EPA decided that there were no "fatal flaws" affecting the amendment and that it did not require a formal environmental assessment. The environmental issues were of a nature that could be dealt with during later stages of the planning process, in particular, during structure planning.

The Water Corporation and the Department of Environment are preparing an integrated urban water management plan for the whole Forrestdale urban area. The plan integrates water-sensitive, urban design-based techniques for residential development, urban waterway-based management techniques in respect of subcatchment drains and easements, and total catchment management-based approaches in respect of the protection of regional waterways and their flood plains. Accordingly, water and drainage issues will be addressed to the satisfaction of the relevant state and local government agencies at a later stage.

The amendment is consistent with district structure planning carried out by the Western Australian Planning Commission, other state government agencies and the Cities of Gosnells and Armadale. The amendment will contribute to ensuring a supply of residential land in that centre of the universe, the south east corridor.

The amendment has been approved by executive council and I now table the report.

[See papers 406 and 407.]

DEPARTMENT OF HOUSING AND WORKS, INDIGENOUS TRAINEESHIP PROGRAM

Statement by Minister for Housing and Works

MR F.M. LOGAN (Cockburn - Minister for Housing and Works) [9.10 am]: Yesterday I had the honour of presenting graduation certificates to 14 young indigenous Western Australians who have completed their indigenous traineeship program with the Department of Housing and Works. This is an important program that provides the invaluable combination of work experience in a government department and a recognised qualification - in this case the nationally accredited Certificate III in Business Administration. This program is particularly important because the Department of Housing and Works is a significant provider of services to indigenous people in Western Australia. The department now employs 99 indigenous officers, which is eight per cent of its total work force. Prior to the traineeship program commencing, only two per cent of the department's total work force was indigenous. It is the department's aim to have 10 per cent of its total work force to be of an indigenous background.

The Department of Housing and Works is committed to improving the skills and training of indigenous Western Australians. I am especially pleased that six of the trainees from yesterday's graduation are now permanent officers with the department and that another five have found contract positions in the department. It is particularly pleasing that a number of the trainees are now working in the works side of the organisation, where they can develop specialist project management and commercial skills that are in high demand in the wider economy.

I take this opportunity to acknowledge each of the trainees who graduated. They are: Lorraine Perich, Jonathon Ayton, Alix Paddon, Raine O'Donnell, Stephanie Ayton, Daneal Buckley, Melanie Gelmi, Leyton Hayden, Sharon Ward, Heath Carpenter, Eleanor Lewis, Felicity Bennell, Mark Merendino and Neil Curran. On behalf of the government I congratulate each of the graduate trainees and wish them all the best in their future careers.

AVON INDUSTRIAL PARK, POWER SUPPLY

Grievance

MR M.W. TRENORDEN (Avon - Leader of the National Party) [9.14 am]: My grievance goes back a long time in history and is a matter of great importance to the central wheatbelt and the Avon electorate, particularly those areas close to Avon such as Northam. I refer to providing power to the Avon Industrial Park. I will outline the history of the Avon Industrial Park.

A previous ALP minister, Mr Gordon Hill, took a trip to the central wheatbelt many years ago. From memory, I think he had five appointments in the central wheatbelt. However, he left after the first three appointments - he cancelled the last two - because he got such a flogging from the local people. Those appointments were about establishing the Avon Industrial Park. In those days it was called Meenar Industrial Park. Another ALP minister, Ian Taylor, a man from Kalgoorlie, did the right thing. He did what Gordon Hill would not do - that is, he established the Avon Industrial Park. The community well and truly recognises that fact and appreciates the fact that he did so. There has been a long history from then to the present time. In short, the Avon area has missed out on a number of business opportunities because there is not enough power on the industrial site to house any more than the two businesses that are there now. From memory, between 18 months and two years ago there was a move to establish a pellet plant at the industrial park. However, that plant was established somewhere else because there was not enough power at Avon Industrial Park to accommodate it. At least one opportunity is lost every year because there is not enough power at the industrial park.

The Avon area is growing strongly. York is growing at a rate of five per cent. Northam is growing at a rate of between two and three per cent. Toodyay is growing at a rate of 10 per cent, and has been doing so for some time. There is a great need in the Avon area to find employment not only for the youth, but also for the young adults. Opportunity after opportunity has been lost. In the lead-up to the last election, I asked permission - I was amazed that I had to ask permission, but the minister will note that I sought permission - to talk with Mr Iannello about this matter. When I was the opposition spokesperson in this area I spoke to Mr Iannello; however, I did not talk to him as the opposition spokesperson. Rather, I wore my Avon hat. There is strong support for this proposal from within Western Power because it understands that that lack of power is a significant impost on the central wheatbelt. Not only Northam wins and loses in this argument, but also the people who travel 30, 40, 50 or 60 kilometres, which is only half an hour to 40 minutes' drive, to a site that provides employment. The Labor Party candidate in the seat of Avon put forward this proposition as part of his election platform. Members should not ask me who he was; I do not want to be rude to him; I have never met him and I do not really know his name. However, this was a major plank in his election campaign. The proposal also had the tick of a person that the minister knows; a fellow called Bill Johnston. Therefore, it was a pledge approved by the ALP; it was not an ALP candidate throwing around an idea. I just make the point that this was a key part of the platform of the Labor candidate for the seat of Avon and he won nearly 25 per cent of the vote. I think the figure was 23 per cent. The commitment was made. The important part of that is not that the Labor Party candidate for Avon put up this proposal as a key plank in his election platform, but that a Labor Party member in the upper house, a little-known person called Hon Kim Chance, is a big advocate for the proposal. I give Hon Kim Chance a tick. He has genuinely been trying to get this process up and running. The Wheatbelt Development Commission and all the people that we would expect to be behind this project are behind it. From my talks with Mr Iannello, I understand that the cost of this project is $1.8 million. It is not a small amount of money. I do not expect the minister to provide me with an

answer to this issue today. I am making this plea not as the member for Avon, but for the people of the central wheatbelt, because it is a critical issue. There was an argument about spending $550 000 to get enough power to the industrial site so that another business could be established. However, Mr Iannello and others are correct when they say that that should not be the process. The site should not receive power in a piecemeal fashion. The argument is that $1.8 million would provide enough power for the site to progress for a decade or so. That is a correct argument and this matter is critically important. It has the support of the Avon Community Development Foundation, a community group just under 50 per cent of which is controlled by the shires, and it has a 90 per cent approval rate within the community. This is a very substantial issue within the community. I do not expect the minister to provide a direct answer today. I am putting it to the minister that this issue is fundamental. Avon needs to progress. Jobs are being lost and economic activity is being curtailed. The natural processes that should be happening are not doing so. A group called Swan River Kaolin Pty Ltd is currently establishing itself on the site and the matter is now critical.

MR A.J. CARPENTER (Willagee - Minister for Energy) [9.18 am]: I respond to this grievance as the Minister for Energy, although it is arguable that it is also a state development issue. I thank the member for Avon for bringing it to my attention and I confess that, until he did so, I knew nothing much about it. I have some recollection of it coming to the fore from time to time and I am grateful that he has brought it to my attention.

The piece of information that I found most useful in the grievance was Western Power's figure of $1.8 million, which would resolve this issue at least in the medium term by supplying enough power to Avon Industrial Park for about 10 years. That is a good piece of information, because the initial feedback I received concerned a much more expensive, private power generation proposal, which would require some support from Western Power and would cost many millions of dollars.

Mr M.W. Trenorden: That is a different argument.

Mr A.J. CARPENTER: That is the information I received in preparation for the grievance. This is a much more manageable size. From what I understand, it is true that the Avon industrial park development has been hampered since its inauguration because of a lack of access to power. The problem in the Avon is not generation capacity but the distribution of power; that is, getting power to the park. There is a need to upgrade distribution.

An issue will be raised very soon in the Parliament about the structure of Western Power. We have had a very brief conversation with the member for Avon about this. There is a need to set aside the networks and distribution arm from the structure of Western Power as part of the four-way disaggregation process. The sole focus of the separate business entity of networks and distribution would be on distributing power around the south west interconnected system. This is a perfect example of the idea that if disaggregation had occurred some years ago, this issue might already have been addressed. That might have been possible. Western Power's general view on these matters historically has been that it does not provide power in a speculative form; that is, it does not run power into a place and hope that people will plug into it. It waits for demand.

Mr M.W. Trenorden: It may have slightly changed its view, because I think there may be a greater demand.

Mr A.J. CARPENTER: It may well have done. The opportunity is arising to split Western Power into generation, retail, distribution networks and regional power corporations to deal in a more focused way with issues such as the one afoot in the Avon. I am meeting this afternoon with the Managing Director of Western Power, Mr Tony Iannello, to whom the member for Avon referred in his remarks. I will raise this issue with him at the meeting. The Labor candidate for the seat of Avon at the last election was Gerry Sturman. I have no reason to doubt that the commitment the member for Avon said Mr Sturman made was given. I know that this is also an issue that Hon Kim Chance, the Minister for Agriculture, who is based in the wheatbelt, would like to be resolved over time. I will raise this matter with Western Power this afternoon and will get it to provide me with the best advice on the current position and on what the position may well be once the organisation is disaggregated into separate retail and networks businesses. Germane to this point is the separate networks and distribution business.

We must take a more global view of what the government is trying to do to stimulate industrial development around Western Australia. Many years ago people from both sides of Parliament, such as Gordon Hill and obviously Ian Taylor, identified that there was an opportunity to stimulate growth in the Avon area and to have an inland industrial development park. That proposition has great merit. That was obviously foreseen years ago.

Mr M.W. Trenorden: I have actually written to you to ask whether the director of the Wheatbelt Development Commission and I can have a meeting with Tony Iannello. That letter is in your office somewhere. When you are ready, I would like to know that I am able to do that.

Mr A.J. CARPENTER: I was going to address that point. The member for Avon raised the issue of whether he could have the opportunity to meet with Mr Iannello. I have absolutely no problem with that, as the member would expect. I will put that to Mr Iannello this afternoon and will respond to the member for Avon in writing.

As I have said in the Parliament before, Western Power historically has not been focused well enough or strongly enough on the networks and distribution arm of its operations, in particular in the broader outer metropolitan area, some of the regional centres, regional areas in general, and obviously outside the south west interconnected system. My view

is that the approach of Western Power has already changed. I think it changed following a change of personnel over the past couple of years and the application of government policy detailing what the government wants Western Power to deliver. Following the last election, I put to Western Power that the disaggregation process was a certainty. I would enjoy getting broad support across the Parliament for this process. There is no point in Western Power maintaining its old mindset any longer; it must move forward and begin to operate as if it is already four disaggregated, separate business units. The member for Avon would appreciate that the current budget process already provides a lot more clarity, and that a lot more accountability is being sought from Western Power about how it spends its money, why it wants money and what it will deliver with that money. I hope that we will get a much better result from this budget.

I thank the member for bringing this matter to my attention. I am meeting with Tony Iannello this afternoon and will raise it with him. I will see what I can do to address this point.

RIDGY DIDGE PORT

Grievance

MS M.M. QUIRK (Girrawheen - Parliamentary Secretary) [9.25 am]: My grievance is directed to the Minister for Indigenous Affairs, and for Consumer and Employment Protection, and relates to the marketing and sale of a product known as Ridgy Didge port. Although I am conscious that the control of the sale of liquor comes within the purview of the Minister for Racing and Gaming, I want to raise some broader issues relating to harm minimisation and the targeting of unsafe products to the indigenous community. Last year a new product was introduced in parts of the Pilbara, Kimberley and Northern Territory known as Ridgy Didge Tawny Port. It comes in a 1.5-litre plastic bottle and retails for about $15. It is normally chilled when sold. The tawny port has an alcohol content of 17.5 per cent per volume. The producer of this port is a small Northern Territory wholesaler known as Ridgy Didge Wines, which is based in Darwin.

Since the introduction of this product, local police in some towns have reported an escalation in alcohol-related problems. In one town, the WA Police Service sergeant in charge has observed that if it were not for the fact that people were required to pick up litter while on community-based work orders, the town would be littered with empty plastic port bottles. Anecdotal evidence suggests that Ridgy Didge port has become the product of choice for many indigenous Australians living within these communities. Even people with the most rudimentary knowledge of marketing principles and demographics could not help but draw a certain conclusion upon viewing the product at first-hand; that is, it is clearly packaged and sold in a manner that intends it to be principally consumed by indigenous Australians. In parts of the Kimberley and the Pilbara, the consumption of port is a significant problem. Some high-risk drinkers are mixing port with methylated spirits. Community workers have observed that those drinking port are noticeably sicker and are mainly the established middle-aged drinkers. Incidents have been reported of the hospitalisation of drinkers after sessions on port.

In the interests of balance, I should also note that police have observed that the 1.5-litre plastic bottles do have several advantages. Not only does the container hold a whole half a litre less than the previous two-litre port casks, which have now been banned in many communities, but also when empty the plastic bottles are sometimes used to carry drinking water. Moreover, the increased prevalence of these plastic bottles has led to a decrease in the number of glass-related injuries, which previously had been caused by broken port bottles.

I am aware that the Director of Liquor Licensing has taken action in relation to a number of towns to restrict or limit the sale of port - the hours in which it can be sold or the quantity that can be purchased. The extent to which these controls are effective varies from community to community. In any event, it does not overcome two fundamental problems. The first of these issues is the lack of jurisdictional authority of the Director of Liquor Licensing over interstate wholesalers such as Ridgy Didge Wines. The power of the director over irresponsible wholesalers from other jurisdictions depends to a large extent on the cooperation of and liaison with liquor licensing counterparts in other jurisdictions. Secondly, and more fundamentally, I am concerned about the ability to curb or discourage cynical marketing practices such as those engaged in by Ridgy Didge Wines. Ordinarily when a company cynically engages in marketing a product that is inimical to community cohesion and wellbeing it attracts opprobrium and community outrage. As a consequence, the company suffers commercial loss as consumers transfer their loyalty to a competitor that is a better corporate citizen. However, from the limited information I have uncovered in my research, Ridgy Didge Wines seems to be a small enterprise that has a low profile. A core part of its business seems to be the provision of port, principally within indigenous communities. Accordingly, it is of little commercial impact that the company garners from the general public a less than glowing reputation about its activity.

In this state, it is clear there is an alarming overrepresentation of indigenous people in our prisons. Moreover, extensive data suggests that alcohol abused is often a factor in violent incidents, such as alcohol-caused assault hospitalisations. Alcohol abuse seems strongly linked to indigenous violence - for example, homicide - although it has been stressed that alcohol should not be seen as the single or primary cause of violence.

A recent study published by the Australian Institute of Criminology in its "Trends and Issues in Crime and Criminal Justice" paper of February 2005 by authors Putt, Payne and Milner on indigenous male offending and substance abuse surveyed a large number of male prisoners and police detainees. In the study, the authors found that alcohol

intoxication was directly attributable as the cause of the most recent crimes by many Aboriginal offenders. The authors concluded as follows -

> Situational crime prevention measures that reduce excessive alcohol intoxication, alone or in combination with illicit drugs, should have a significant impact on Indigenous adult male offending. This is suggested by the high number of Indigenous male offenders who attributed their most recent serious crime to intoxication at the time of the offence.

I am not so naive to think that if Ridgy Didge port were removed from the market, other marketed and mainstream wines, beers and spirits would not be readily accessible substitutes, all of which would create the same problems I have described. Rather, I am concerned about the specific targeting and marketing of a product designed to those most vulnerable with which I take issue. Any close examination of the bottle, which I have before me, shows that it is clearly targeted and marketed towards indigenous communities.

I know some might view my concerns as a little paternalistic. Nevertheless, it seems to me there are very well defined issues that we as a community are struggling to address. The conduct of companies like Ridgy Didge Wines seriously undermines the efforts of many to combat the scourge of alcohol abuse in indigenous communities. The action of the company consciously contributes to misery, violence and despair. Although the port may be ridgy didge, the actions of the company that supplies it can best be described as un-Australian. I seek to lay a bottle of the port on the table of the house until the conclusion of today's sitting.

[The bottle was tabled for the information of members.]

MR J.C. KOBELKE (Balcatta - Minister for Consumer and Employment Protection) [9.32 am]: I thank the member for Girrawheen for her grievance on a matter of some considerable concern. People are well aware of the huge harm that alcohol abuse causes throughout our society, and it falls in a particularly harsh way on many indigenous communities. A range of health problems and domestic violence abuses are fuelled by alcohol abuse. The member's concerns about this alcoholic product are well presented. As the member said, these problems cannot be attributed to one product: however, any product that is marketed and targeted in a particular way to a high-risk group causes concern, and we should look at what can be done about it.

The licensing and regulation of the sale of liquor clearly resides with the Minister for Racing and Gaming. I sought advice from the minister regarding what can be done with this product. I am advised that concerns were raised about Ridgy Didge Wines in 2004, particularly with respect to what had been happening with liquor restrictions that had been introduced in July 2003 in places like Newman. It was acknowledged that the type of packaging that the member referred to has benefits in being plastic rather than glass and containing smaller volumes than is the case with other packaging. Nevertheless, they do not counter the harm done by making it readily available and providing it in a way that is attractive. In July 2004, the director wrote to the company, Ridgy Didge Wines of the Northern Territory, raising concerns about the port being marketed in a way that circumvented the liquor restrictions in the various towns in the Pilbara and Kimberley. Members who have been to those towns, as I have, have generally received good reports about the impact of restricting the alcoholic content or volumes that can be purchased or the times of purchase. I remember being with my colleagues in Newman a couple of years ago and deciding at the end of our working day to have a meal and a drink. We had worked late, and I did not realise that it was past the time that we could buy alcohol. That is something the whole community accepts as it leads to positive outcomes in restricting the problems that flow from alcohol abuse.

Communication occurred with the managing director of Ridgy Didge Wines to try to get it to understand the implications of marketing the product in this way. I am advised that under Northern Territory law, a wholesaler does not require a liquor licence - alcohol is regulated only at the retail level. In Western Australia restrictions apply on the sale of port wine in Newman and Halls Creek. In addition, voluntary liquor restrictions limiting the sale of certain quantities of port are in place. For example, a limit of one 750-millilitre bottle a person a day applies in towns such as Port Hedland, Nullagine, Wiluna and Meekatharra. Police in Newman have reported that the restrictions on the sale of port wine in that town have been effective, particularly in reducing the level of hostility that intoxicated people have displayed.

The member has raised concerns in a very appropriate and timely way: the restrictions that applied in Newman ceased on 22 April; therefore, the process will be pursued by the Director of Liquor Licensing regarding whether the restrictions will be applied in the same way or in some other way. Action is also being taken in the health area. A range of strategies are in place. Draft documents are being circulated from the WA Drug and Alcohol Authority. I refer to the draft releases of "WA Drug and Alcohol Strategy 2005-09", "WA Aboriginal Alcohol and Drug Plan 2005-09", "Drug and Alcohol Office Strategy Plan 2005-09" and "WA Alcohol Plan - Government Action Plan 2005-09". A lot of work is being done in this area, but it is a matter of applying it across government. The liquor licensing, health and alcohol strategy aspects are all involved in dealing with drug abuse.

A range of things are being done within the Department of Indigenous Affairs, such as the street patrols throughout Western Australia to assist people and to provide accommodation. This is a valuable service that has been rolled out across many centres and towns in Western Australia. By-laws apply at particular Aboriginal communities.

Departmental reviews and updates are taking place. I was in Bidyadanga last year, the first community to have community by-laws, which have been rewritten, and the community has declared itself to be alcohol free. Many communities are doing the same. People are illegally bringing alcohol into the communities. Therefore, a Sly Groggin' hotline has been established. This is a phone number applying across the state so police can gather intelligence about people bringing alcohol into these communities. This ensures that communities also take action to try to prevent the provision of alcohol. Ashley Sampi, a well-known West Coast Eagles footballer, has been used to present the hotline as he is well known in the Pilbara and Kimberley. The hotline has had considerable success. One person recently pleaded guilty to a charge of selling liquor without a licence, and was fined $6 000.

The entire issue of community involvement is important. The Tjurabalan and Kutjungka communities came together and held a drug and justice summit in September 2004 as part of the Council of Australian Governments site project in the south eastern part of the Kimberley. That summit identified a number of strategies that can be implemented to reduce alcohol abuse in Aboriginal communities. Department of Indigenous Affairs regional managers continue to work with communities to try to find solutions to these problems. Clearly, government, through a range of agencies, needs to take action. Wines such as Ridgy Didge port are not a help. We hope the port will be taken out of the market.

STEVES NEDLANDS PARK HOTEL

Grievance

MS S.E. WALKER (Nedlands) [9.40 am]: My grievance is to the Minister for Planning and Infrastructure on behalf of my Nedlands residents in the immediate locality of what is known as Steve's hotel, and which is formally known as town planning scheme amendment No 152 to the City of Nedlands town planning scheme No 2, Steves Nedlands Park Hotel. My residents have asked me to ask the minister whether she can explain the basis upon which she made her recent decision regarding the rezoning of Steves hotel. In particular, can the minister please advise this Parliament whether she spoke directly with the owner about the process of this application while the application was under way in the minister's office, and whether it is usual for a minister to do that when making these types of decisions.

My constituents would like to know why the matter was given priority in the minister's office and they want the minister to explain the inconsistencies contained in two letters sent by Mr Rob Giles, the minister's chief of staff, to two different constituents. The letter to the minister of 4 May 2005 from Mr Colin Muller, who lives in Broadway, Crawley states -

> Dear minister,
>
> My wife (Joan Wardrop) and I have received a letter from your office, dated 27 April and signed by Rob Giles, informing us of matters relating to the application by the City of Nedlands for the rezoning of a Nedlands Park Hotel site. As courtesy, I informed a neighbourhood resident who has been acting on behalf of the community on this matter of this letter. I was surprised when she informed me of a fax she had received on 7 April, also signed by Rob Giles, in which Mr Giles contradicted what he told us.
>
> The relevant parts of the letter and fax are:
>
> Letter to Joan Wardrop from Colin Muller of 27 April: -
>
> ". . . at such time as the amendment is placed before the Minister for final determination, full consideration will be given to your comments."
>
> Fax to Caroline and John Woodhouse of 7 April:
>
> "The Minister's decision has been accepted by the Council and will therefore will not be revisited".

I have a copy of that letter and a copy of Mr Muller's letter. In the minister's letter of April 2005 to me, the minister said she took into account the views expressed "by the community". She said also that she believed the majority of people were in favour of the rezoning in the amendment that was put by the council. In fact, there are a total of 550 letters of objection and signatures to a petition from residents who live in the immediate vicinity of the hotel. They are concerned that the minister has not properly considered their views, mainly because the matter passed through her department in fewer than three months, which included the Christmas period and the state election. Naturally, they do not believe that the minister has either properly addressed or listened to the matters that concern them. For instance, the height of the building is not supported by an independent expert. In reference to the no-parking study, it was understood that the minister would not make a decision until she had been provided with a comprehensive traffic and policy study report. Those reports have never been done.

Is the minister aware that residential design codes will not apply to the site and that none of the usual provisions that protect residents from inappropriate development will be complied with? What was the minister's view when she made the decision about the parking setback, which could mean a walk of some two or 2.5 metres and which would enclose the parking at the site boundary? I refer in particular to the letter from Caroline Woodhouse to the minister in which Caroline Woodhouse sought a meeting with the minister. The proposed rezoning that the minister has allowed does not make it clear that parking for the site will not be accommodated from a relaxation of street parking in the immediate vicinity.

With reference to the community concerns of the residents of Nedlands around that area, Roger Cohn and policy officer Jackie Holm from the minister's office stated that the minister has significant regard for the local council's views on rezoning. Notwithstanding that residents spoke of some of the infighting that has gone on and despite a vote of no confidence in the mayor, Laurie Taylor, and despite an extensive letter written to the minister asking for a hearing, the minister's decision was processed very quickly.

Will the minister explain why this process was rushed through her office, what she meant when she said she took into account community views while her office said the minister had significant regard for the council's view, which appears to be at odds with the views of the community? Did the minister have direct dialogue on the telephone or by other means with the owner of the hotel when the process was under way in the minister's office?

MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [9.43 am]: I thank the member for the grievance. I have had one meeting with the owner of the site, Mr Murray McHenry.

Ms S.E. Walker interjected.

The SPEAKER: Order!

Ms A.J.G. MacTIERNAN: As far as I can recall, that is the only discussion I have had with Mr McHenry regarding this matter. That is not at all unusual. Obviously proponents often want to put their view about a development.

Ms S.E. Walker interjected.

Ms A.J.G. MacTIERNAN: I do not know how many times and in how many different ways I can express that to the member. I do not recall having any telephone conversations with Mr McHenry. I did have one meeting with him during which he sought a variety of changes to the proposal. I listened to his arguments, just as I listened to the council and all the other people that made representations.

Ms S.E. Walker interjected.

The SPEAKER: Order!

Ms A.J.G. MacTIERNAN: I deal with some 300 of these amendments each year. I am not sure how much time the member for Nedlands believes I should spend on each of them.

Ms S.E. Walker: You did not speak to a community rep.

Ms A.J.G. MacTIERNAN: My staff have counted at least 20 phone calls they took from community representatives. Many of those phone calls took up to an hour at a time. I consider that the council's views must be given some weight.

Ms S.E. Walker: What about the community? You did not meet with them at all.

The SPEAKER: Order, member for Nedlands!

Ms A.J.G. MacTIERNAN: The council's views must be given some weight. The council is elected by the local residents and its members are elected, at least some extent, to represent the views of the community. It is important to understand that this town planning scheme amendment was initiated by the City of Nedlands. It was not initiated by the state government, but by members of the council who had been elected by the Nedlands community. Of course this matter has been the subject of some controversy. Many people, including me, who regard Steves hotel fondly were rather disappointed that because of the environment in which Steves has tried to operate over many years and the community hostility to the operation of the hotel, that -

Ms S.E. Walker: They like the hotel.

Ms A.J.G. MacTIERNAN: They just do not like the people who go there. A proposal to redevelop around the hotel was presented. The council considered the matter, and it was the subject of a great deal of discussion and debate within the council. The council then presented an amendment, which went to advertising. It is interesting to note the figures. The amendment received 139 objections, which is 27 per cent of the submissions; 370 submissions supported the development, which is 72 per cent; and five general comments were made. When the member for Nedlands talks about "the community" - I have often tried to communicate this to the member for Alfred Cove - "the community" does not speak with one voice; the community is a many splendid thing. One of our jobs is to weave through the various alternatives and propositions of "the community".

After having initiated the town planning scheme, the council then presented an amendment that was considered by the Western Australian Planning Commission. The Planning Commission wanted to make one change to delete the limit of 60 dwellings on the site. The commission's argument was that a variety of dwelling sizes needed to be provided to accommodate different lifestyle needs, in accordance with the state government's policy. The other development standards, including plot ratio, site cover and building heights, will ensure that overdevelopment does not occur. The planning scheme does not allow any greater bulk of building; it simply allows smaller apartments to be built. I am sure that the member for Nedlands is well aware of the need to accommodate people with different lifestyles. The people of Nedlands need a range of people to serve in the hotels, clean the houses and I dare say even act as governesses! Appropriate accommodation must be made available to them throughout the metropolitan area. The commission made

that recommendation, and I accepted it. Fundamentally, the proposal was as approved and put forward by the council. There was an amendment by the WA Planning Commission that related to the number of dwellings that were permitted. It was really just a matter of the size of the units that would be permitted. I then made a further change, and that was about the height.

One issue has been somewhat controversial and of concern. Those of us who love and respect the beautiful building that Steves Nedlands Park Hotel is were concerned about the overpowering of that building. The proposal was to have a five-storey limit on the Broadway frontage. I made the decision, after a representation from Mr McHenry, to change that to make it an average of five-storeys, so that the structure could be brought down to four storeys directly next to the hotel. Therefore, there would be a stepped development of six storeys on one level, going down to five. We have produced some photographs. Directly opposite the corner where we have allowed a six-storey structure, there is already a six-storey structure. Therefore, we are not changing the fabric of that area.

BUS SHELTERS

Grievance

MR J.N. HYDE (Perth) [9.51 am]: My grievance is to the Minister for Planning and Infrastructure and is about the need for more shade and sustainable bus shelters in built-up areas. Global warming is a reality. Even the most irrational of economic rationalists are realising that depleted old-growth forests, fossil fuel burning acceleration and a hotter planet are driving up costs of production, as well as impacting on the future health of planet Earth and those of us left twirling on its mortal coil. Therefore, what can we, living in what is sometimes the world's third most livable city, with a caring, environmentally aware and nurturing state government, do to improve our planet?

When I was Mayor of the Town of Vincent, we created awareness of greenways and urban forests, and actually boosted the new planting of trees in the borough. Does it make a difference? In the United States, a Sacramento county urban forest project led to city canopy cover going from 17 to 45 per cent. This saved the city three percent in energy costs at peak times, and saved residents, on average, $20 each in heating and cooling costs annually. United States long-term research indicates that each percentage of canopy cover increase results in a 0.04 to 0.2 degree Centigrade reduction in temperature. They are April 2005 figures. On St Georges Terrace or other major thoroughfares in my electorate, such as William Street, there are not too many trees. When the sun shines, as it does frequently in Western Australia, all the bitumen, pavement, concrete, bricks, glass and steel create heat and move it around like a roll of alfoil in a microwave.

In Western Australia we have an excellent bus shelter grants scheme, under which local councils are subsidised to build shelters. It has been in only recent years that the mainstream housing and construction industry has become more aware of the benefits of passive solar design and other techniques to help the sustainable bottom line. I want the minister to consider that sustainable, organic and beautiful sturdy vine shelters should be eligible for subsidies under this scheme. I will lay on the table for today's sitting some photographs of such vine shelters that protect bus travellers and help the urban environment in the Thailand capital.

[The paper was tabled for the information of members.]

Ms A.J.G. MacTiernan: Can you table the elephant as well?

Mr J.N. HYDE: The elephant Chang Mak-mak will be tabled for the minister! As an aside, I will say that for many years the minister and I have had a debate on the merits of topiary - art work with hedges. The minister has a firm view against -

Ms A.J.G. MacTiernan: No, no, no!

Mr J.N. HYDE: All right.

Ms A.J.G. MacTiernan: I miss that kangaroo out at the airport. The thing I used to love about it was that topiary kangaroo.

Mr J.N. HYDE: Very good. These vine shelters provide well-spaced shelter on many Thai streets, even outside ministry offices. Similar to Western Australia, Thailand is experiencing a pronounced long-term drought and an increasingly hotter climate. These bus shelters are pleasant and inviting, and they make people feel good about public transport. Occasional rain, particularly the lighter rain that Perth gets, is also kept at bay by a good foliage cover. Yes, Perth does occasionally get 50 millimetres of rain in one day, but we are spending dollars and building infrastructure to cater for 300-kilometre-an-hour cyclone impact shelters for 365 days a year. Our major weather impact in Perth is sun, and skin cancer kills more Western Australians than do the sniffles from being caught out in a sudden shower. More expansive natural canopy is needed, rather than fewer, smaller steel-glass bomb shelters.

WA's existing shelters consume much energy when they are built. They often attract vandalism, and require expensive and sometimes harmful cleaning fluids and paint to be used in their maintenance. I am sure that builders and others will try to give a notional building cost for these shelters, but we should use a triple-bottom-line life-cycle cost for infrastructure. I would argue that natural shelters that need water, but not cleaning chemicals, deter physical vandalism and, more importantly, the urge to vandalise. Importantly, they can increase the canopy cover in an urban environment and lower energy costs. Given the breadth of our state's flora, I am sure that there are local plants, vines and trees that

could be used as part of Western Australia fostering more dynamic and landscaped shelters. It is not rocket science. I remember as a kid, on those scorching 40-degree summer days on the farm in Moulyinning in the wheatbelt, that we would let some dam water into a small paddle pool set up beneath the shade house, which was covered in vines at the side of the farmhouse, to keep cool. My own house in the inner city of Perth has no awnings on its substantial west-facing windows. However, I have three grapevines supported by 2 x 1 recycled jarrah battens that provide natural awnings in spring, summer and autumn, and help keep my home cooler.

I have mentioned that the Town of Vincent intends to carry out a massive upgrade of William Street, from Brisbane Street down through the East Perth Redevelopment Authority demilitarised zone of Newcastle Street, and into the Tigers country of the City of Perth. The Deputy Mayor of the progressive City of Perth, Councillor Tudori, rang me last night and spoke effusively of the good things that the minister is doing, and of her relationship with the council. The council much appreciated the minister's visit to the City of Perth. The progressive City of Perth is also looking at eventual street enhancement to garnish the magnificent William Street gateway into the new underground railway line's piazza. Local businesses, residents, much of the Town of Vincent council and the local member would like to see a modern streetscape that acknowledges the local multicultural influences of those who have worked, lived and gathered in William Street. Given the sustainability credentials of the Town of Vincent and of the minister's ministry, perhaps the town could consider natural, sustainable bus shelters as part of the upgrade.

I was going to mention that the reason I was under the bus shelter in Bangkok was that I attended a meeting in January at which we looked at the $90 million increase in gold exports to Thailand. I think it is a fair swap. We are getting $6 million more in stamp duty in WA from gold exports. It would be a fair return for us to import a sustainable idea from Thailand.

The SPEAKER: I know that the fact that the member has been speaking at the table is a new measure. However, he should still address his comments through the chair. The member should not have his back to me. He must learn to address his comments through me when he stands at the table.

MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [9.59 am]: I thank the member for this grievance. The member will well know that my philosophy is: let a thousand flowers bloom. We certainly want to encourage that in many senses. We want the creativity of our members to be given as much leeway as it can possibly be given. If we get a greener city in that process, that will be fantastic.

I share the member's deep concern about the operation of cities as heat sinks. Some of the research around the world shows that large cities, particularly some United States cities, are up to 10 degrees hotter than their surrounding areas. That has a very real impact on the liveability of a city. It has a very real impact on the consumption of electricity. As we in Western Australia know only too well, the massive growth in the use of airconditioning during the summer peak periods has become a real problem for the community. Certainly, we are expending an enormous amount of greenhouse gas in what is arguably not a terribly sustainable way of dealing with the problem. We have to do a lot to address the issue of how to lessen the heat sink. I am pleased that the member said that when he was the Mayor of Vincent, the town had a greenways project. I wonder whether the member for Perth could help me in my campaign to get rid of those hideous prunus trees, which are not green but red and which seem to dominant landscaping in the public areas in the Town of Vincent.

More seriously, we need to address this issue. Rooftop gardens on high-rise and medium-density buildings will have to be one of the techniques that we embrace to deliver the sorts of savings in the consumption of electricity to which the member has referred. I certainly share his belief in the overall principle. Obviously bus shelters are one way in which we might start dealing with the issue. As the member has pointed out, this would offer an option for getting some greenery into those otherwise denatured environments, particularly in highly built-up areas where there is very little road reserve left for the planting of trees. There is an opportunity to at least trial the idea and see whether we can get a suitable species that will work in the Western Australian environment. Obviously, we do not have quite the same tropical environment as that in Bangkok, so the rate of growth cannot be expected to be as quick. However, there are some varieties of creepers that grow pretty rapidly, even in a Western Australian environment. I have made it clear to the Public Transport Authority that we want to support a trial of this idea. We would be happy for either the East Perth Redevelopment Authority or the Town of Vincent to be involved in it.

I am glad that the member also made reference to the bus shelter scheme, one of my pet projects. It is a policy that I devised when I was the opposition spokesperson on transport, and we put it into our election platform in 2001. Since then, we have delivered $500 000 a year for bus shelters. There had been no state government funding of bus shelters since 1994. Since that time, we have put some $2 million into the provision of bus shelters. Some very attractive bus shelters have been built throughout the metropolitan area. I am pleased to say that the current round is out for application, and we expect to make decisions on those applications in June. I have made it clear that we want to accommodate a trial of this new proposal within that.

I commend the member for Perth, who is always thinking about sustainability issues. When he travels, he is always very eager to bring back ideas and new technologies; indeed, that is as it should be. I am glad that he makes his trips work for the state. I hope that we can make this idea work, because we have to address the issues of not only getting

great liveability by bringing back some nature to our cities, but also solving that profound underlying problem of cities acting as heat sinks. This might be one small step.

I think the elephant is interesting. I am holding up the picture of the topiary elephant for the benefit of those members who have not seen it. I am quite happy to have topiary kangaroos, koalas, numbats and platypi dotted throughout the municipality. It takes all types. I thank the member for Perth for this very interesting idea. As I say, let a thousand flowers bloom, and we will do our best to fertilise them.

ELECTRICITY CORPORATIONS BILL 2005

Introduction and First Reading

Bill introduced, on motion by **Mr A.J. Carpenter (Minister for Energy)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR A.J. CARPENTER (Willagee - Minister for Energy) [10.07 am]: I move -

> That the bill be now read a second time.

The Electricity Corporations Bill 2005 provides for the restructure of Western Power Corporation and associated matters. The restructure of Western Power into four separate successor entities is a core component of the government's reform agenda for the state's electricity sector. The development of a competitive electricity market is essential to deliver better electricity services to Western Australians. The government's reform initiatives, already significantly advanced, pave the way for a more efficient electricity industry with sustainable improvements to reliability of supply, increased private sector investment in electricity infrastructure and downward pressure on electricity prices. Western Power is the dominant market player. If a competitive market is to be achieved in the south west interconnected system, it is essential that Western Power be restructured to create a more level playing field to facilitate new entry into the industry. Subject to the Parliament's endorsement of the Electricity Corporations Bill 2005, it is proposed that the restructure of Western Power take effect no later than 31 March 2006.

In October 2003 the government introduced a package of legislation to provide for its electricity reform agenda. This legislation consisted of the Electricity Industry Act 2004, the Electricity Corporations Bill 2003 and the Electricity Legislation (Amendments and Transitional Provisions) Bill 2003. This legislation reflected the government's commitment to deliver a competitive electricity market by comprehensively addressing -

> Western Australia's relatively high electricity prices and fuel input costs;
>
> the limited ability for new generators and retailers to enter the state's electricity market due to Western Power's vertically integrated structure;
>
> the absence of independent regulatory oversight of access to Western Power's networks;
>
> the need for a separate corporation focused on the safety, security and reliability of network services;
>
> the need for a separate corporation focused solely on regional service delivery;
>
> the need for a separate market operator responsible for, among other matters, ensuring adequate generation capacity;
>
> the need to encourage and facilitate the entry of renewable energy projects; and
>
> the need to greater protect the interests of small-use customers in the retail and distribution of electricity.

In 2003 the proposed restructure of Western Power was to be addressed by the Electricity Corporations Bill 2003. The government, however, was forced to suspend that bill and the Electricity Legislation (Amendments and Transitional Provisions) Bill 2003 owing to a lack of support for the restructure of Western Power from the coalition and Independent members. Although the restructure of Western Power has been delayed, I am pleased to advise this house of the government's substantial progress in achieving other key electricity reforms. These include the following -

> The passage of the Electricity Industry Act 2004 and the Electricity Legislation Amendment Act 2004 to provide a statutory basis for the new market arrangements and to provide a smooth transition from the old electricity market arrangements to the new.
>
> The establishment of the new Electricity Networks Access Code 2004 in November 2004, which encourages new electricity generators and retailers to enter the market by providing for access to the electricity network owned by Western Power on fair and reasonable terms and conditions. This code, developed in collaboration with stakeholders, overcomes the considerable industry frustration regarding network access in the past by providing for independent regulatory oversight and determination by the Economic Regulation Authority.
>
> The creation of a Western Australian customer service code in December 2004 which specifies acceptable and unacceptable behaviour by an electricity marketer, distributor and retailer. The code addresses such matters as

hardship policies to assist customers who experience financial difficulties; and payments to customers for service standard breaches, such as wrongful disconnection or failure to respond to a customer query. For the first time, residential customers are afforded extensive service standard protections which have been determined by government and enforced by the Economic Regulation Authority.

The introduction of a top up and spill electricity market in June 2004 as an interim step to the establishment of the wholesale electricity market, which enables generators, specifically renewable generators, to purchase and sell electricity at predetermined prices. These arrangements will be absorbed into the future wholesale electricity market arrangements. The top up and spill arrangements have provided a basic facility for new entrants, prior to the restructure of Western Power and the establishment of the full wholesale electricity market arrangements.

Extensive progress towards the establishment of a wholesale electricity market, including the establishment of an independent market operator and wholesale market rules. These initiatives will allow the planned commencement of the new market by the second half of 2006.

The deregulation of the electricity market by enabling more than 12 500 customers to have the electricity supplier of their choice from 1 January 2005. The Electricity Industry Customer Transfer Code 2004 was established by the government to support the efficient transfer of customers from one retailer to another.

The establishment of an energy ombudsman in the second half of 2005 who, for the first time, will have determination powers to making binding decisions, including monetary payments, in favour of electricity customers.

In renewable energy, the design of the new wholesale electricity market is intended to remove impediments to renewable energy generators and to ensure they are able to participate in the market in an effective manner. In addition, the government is committed to the establishment of a renewable energy target of six per cent on the south west interconnected system by 2010.

The reform of the state's electricity industry has progressed substantially since the introduction of the original legislation in October 2003 and the subsequent passage of the Electricity Industry Act 2004. However, one essential element remains incomplete: the restructure of Western Power. The Electricity Corporations Bill 2005 before the house gives effect to the restructure of Western Power by creating four new government-owned corporations in the form of a generation corporation, responsible for power generation within the south west interconnected system; a networks corporation, responsible for the transport of electricity within the SWIS; a retail corporation responsible for the sale of electricity within the SWIS; and a regional power corporation responsible for the generation, transport and sale of electricity in all areas of the state outside of the SWIS.

It is government policy that none of the successor entities to Western Power be privatised. The government is committed to retaining ownership of the four new corporations and is strongly opposed to the sale of any significant assets of the new corporations. Consistent with the Electricity Corporations Bill 2003, the new bill before the house contains a provision for maximum protection against the corporations being sold off by a future government, by requiring the approval of both houses of Parliament prior to the sale of major assets.

There is no doubt that electricity prices in Western Australia are too expensive in comparative terms. It is also very difficult for new entrants to enter the electricity market in Western Australia. The Western Power structure is currently rather cumbersome and does not lend itself to an open and competitive market. The restructure of Western Power is necessary to promote new private sector investment in generation and to deliver the competition necessary to put downward pressure on electricity prices. Without the vertical separation of Western Power's businesses, which control approximately 90 per cent of the wholesale and retail markets, there is limited potential to achieve the goals of new market entry, long-term price benefits to customers and improved network reliability. New players are simply not prepared to enter a market in which a single entity overwhelmingly dominates in both the retail and generation sectors. The separation of Western Power's retail and generation businesses is essential to encourage active wholesale and retail electricity market trading in the SWIS and will improve diversity, security and reliability of supply through the introduction of new market participants.

In order to place downward pressure on electricity prices and attract new generation investment, the retail corporation must have clear commercial incentives to obtain the lowest-cost generation, which will encourage wholesale market competition. Similarly, a separate generation corporation will have an incentive to deal with new entrants on a competitively neutral basis, using its spare capacity for spot market sales or to meet hedge contracts. By contrast, a combined generation and retail entity could frustrate retail and wholesale market competition, as it would have strong commercial incentives to protect its generation market share. If the incumbent retail and generation businesses are "stapled", the retail division will always take supply from its own generator while it has spare plant capacity. The retail business can use its customer base of 850 000 to shield the generation business from competition, rather than being a tough commercial negotiator with the generation business. Under the government's model, the creation of independent generation and retail corporations will establish competitive neutrality by removing incentives to contract only with each other to maximise aggregate returns. All generators and retailers will be treated equally, with the lowest cost

sources of generation being encouraged. The impact of separating electricity retail and generation functions should not be overlooked in terms of increasing the opportunities for renewable generators. A separate retail corporation will be free to source its renewable energy requirements from alternative suppliers and not be constrained by the current Western Power renewable generation portfolio.

Industry has long argued to successive governments that vertical integration of the electricity supply chain in a dominant utility is inconsistent with a competitive market. Such a structure deters competitive entry and private investment, and thwarts efficient service delivery and lower priced power to consumers. Accordingly, the original bill, and now this bill, enables the vertical separation of the networks, generation and retail businesses and establishes mechanisms for controlling their behaviour in the transition to a competitive electricity market in the SWIS. At the same time, the bill allows the new corporations to compete effectively and continue as successful state-owned businesses. Some people have noted, and may continue to note, that new entrants may enter the Western Australian electricity market in a vertically integrated business structure and, in other jurisdictions, there has recently been some vertical integration. However, this is not an argument to leave Western Power vertically integrated and such a comparison would be misleading. Vertical integration is unlikely to threaten market competition when the players are not in a dominant position of market power. However, at the birth of a competitive electricity market, it is vital that the incumbent retail and generation business be split, particularly when each has a 90 per cent market share. It would be practically impossible to establish a truly competitive market while Western Power's retail and generation businesses remain vertically integrated.

The house should also note that the generation and retail corporations will be allowed to generate and sell electricity respectively, but only after a period of time specified in the bill. This is a temporary limitation designed to encourage new private investment in the generation, wholesale and retail of electricity in the transition to a more mature market. The new corporations will be able to diversify their businesses at some future time but only when the government is satisfied that the market is sufficiently developed.

Prior to the events of February 2004, the government and the opposition were in general agreement that the structure of Western Power needed to be addressed. It is fair to say that the opposition supported the government's proposal to establish a separate networks corporation and a separate Regional Power Corporation. However, not all opposition members supported the proposal to create separate retail and generation corporations. It is also fair to say that one opposition concern was the commercial future of the retail and generation corporations.

It is important to remember that these entities will inherit significant competitive advantages that will place them in a strong commercial position. The generation business will have a diverse plant portfolio of 3 000 megawatts in locations throughout the SWIS, including the widest array of peaking, intermediate and base-load plant available in the market. The retail business will have a broad customer base that will provide it with the competitive advantages of an incumbent retailer and an exclusive right to supply 850 000 customers who are not contestable. However, these entities are entering a market that will become competitive over time and the restructure of Western Power will ensure a smooth transition to this new environment by establishing vesting contracts at the time of restructure.

Under the bill, the vesting contracts will specify the terms and conditions under which the retail corporation will purchase electricity from the generation corporation. The vesting arrangements are important not only for managing the commercial transition of the new entities but also for ensuring that the price of electricity traded between the two corporations is not a barrier to entry for new market participants. These vesting contracts will gradually expose the generation and retail businesses to competitive sourcing opportunities.

While facilitating new market entry, the vesting arrangements will provide revenue and price stability as market competition is developing and allow Western Power's existing arrangements, such as fuel contracts, to be managed.

The government acknowledges that there are problems with reliability of electricity supply and has implemented a number of strategies to address this issue. The creation of an independent Regional Power Corporation and an Electricity Networks Corporation is fundamental to delivering a better electricity supply to Western Australians. A $1.8 billion program will be undertaken to maintain and upgrade the network over the four-year period to 2007-08.

The restructure of Western Power provides opportunities for increased investment in network infrastructure through the creation of an independent networks corporation. This entity will be able to focus the use of its revenue from regulated access charges on the efficient operation of its existing systems and necessary capital upgrades to cater for future load growth. This will benefit those areas of the SWIS that currently suffer from reliability problems. Additionally, the government's rural power improvement program is currently delivering strategic programs that improve reliability and quality of power supply in regional and remote areas of the SWIS. The state government and Western Power are contributing equally to the $48 million program over four years.

Similarly, the Regional Power Corporation will provide a new corporate focus dedicated to improving the electricity supply to customers outside the SWIS. The viability of the corporation will be maintained through the tariff equalisation fund. The new Regional Power Corporation and the new networks corporation will be subject to technical and safety regulations to ensure adequate reliability, quality and security of supply in regional areas.

Currently, allocation of funds for delivery of power to regional areas, both within and outside the SWIS, has to compete with other Western Power priorities. One key aim of the restructure reforms is to provide opportunity for private sector investment in generation plant in the SWIS. This will free up government capital funding for upgrading the network to address reliability problems. Through the passage of the Electricity Industry Act 2004, Parliament endorsed the creation of a wholesale electricity market. One of the key benefits of the new wholesale electricity market is that it establishes for the first time an independent market operator responsible for ensuring that adequate generation capacity is available within the SWIS.

The uniform tariff will be maintained for residential and business customers in regional areas, ensuring that regional consumers pay the same as tariff customers in the SWIS. As the cost of supply to many areas outside the SWIS is greater than revenue received, the bill establishes a tariff equalisation fund. That fund will fund regional losses and enable the regional corporation to maintain tariff protection in its areas of operation.

Strengthening of customer protection mechanisms has been a key aspect of the electricity industry reform. Enhanced measures include establishment of a Customer Service Code, a Network Quality and Reliability Code, an Energy Ombudsman scheme, the implementation of an electricity licensing regime and a supplier of last resort scheme. Compliance with these arrangements will be administered by the independent Economic Regulation Authority, backed by significant penalties for non-compliance.

The government's new customer reliability payment scheme is intended to make Western Power more accountable for the reliability of its electricity supply and to provide an incentive to focus upon areas with poor reliability. The payment scheme will apply to both the new regional power and networks corporations. The scheme is to supplement and not replace the compensation process currently available to Western Power customers who suffer damages as a result of power outages.

The bill before the house provides for the continuation of the current power procurement process to supply the new retail corporation. This process involves the competitive procurement of a base-load power station of 300 to 330 megawatts to be in service by December 2008 to boost capacity in the SWIS. However, beyond the current power procurement process, schedule 7 of the Electricity Corporation Act 1994 will be replaced by market-based mechanisms undertaken by the independent market operator.

The Electricity Corporations Bill 2005, before the house, is essentially a consolidation of the Electricity Corporations Bill 2003 and the Electricity Legislation (Amendments and Transitional Provisions) Bill 2003, which were introduced into Parliament in October 2003. The vast majority of the provisions contained within the new bill are identical to those introduced in 2003. The bill essentially consists of three key components -

> Parts 1 to 6 and schedules 1 to 4 establish the four successor entities to Western Power and, to a very large extent, replicate the existing provisions under the Electricity Corporation Act 1994, which presently apply to Western Power.
>
> Part 7 deals with the transitional provisions for succession from Western Power to the new corporations and establishes a Transfer Order mechanism to provide for the transfer of assets, rights and liabilities to the successor entities. The mechanism has been based on the mechanism that was successfully used to restructure the State Energy Commission of Western Australia - SECWA - into Western Power and AlintaGas in 1994.
>
> Schedule 5 provides for consequential amendments to existing Acts to reflect the restructure of Western Power. I will elaborate on this matter shortly.

The four new corporations will have responsibility for undertaking Western Power's existing activities in their respective sectors of the electricity industry and will continue to be required to act in accordance with commercial principles and endeavour to make a profit consistent with maximising long-term value.

In general, the majority of provisions apply universally to the new corporations. This includes provisions relating to the creation of the corporations, responsibility of directors, accountability, financial issues and ministerial direction. However, the bill also sets out the specific functions of each corporation. To provide appropriate flexibility, the functions have been defined to encompass the range of activities that may be performed by each corporation.

It was apparent during the passage of the Electricity Industry Act 2004 and the Electricity Legislation Amendment Act 2004 that industry and a number of members were concerned about the government's ability to exert effective control over Western Power. The government was pleased to receive bipartisan support to amend the Electricity Corporation Act 1994 in 2004 in order to insert enhanced ministerial powers of direction including an explicit ability to issue directions to control its market behaviour. These powers have been incorporated into the new bill and have been strongly supported by industry.

I stress, however, that those enhanced direction powers alone will not deliver competitive market outcomes. The retail and generation corporations must be restructured in order to provide a real incentive for the retail corporation to purchase electricity from the lowest cost generation source and for the generation corporation to sell its output to parties other than the retail corporation.

Whilst the implementation of the reforms represents change for Western Power employees, in many ways it will be business as usual following the restructure. Western Power has been operating as distinct divisions for a number of years. The creation of the new entities gives formal acknowledgement to this structure; current jobs will transition in a seamless manner.

As was the case in 2003, this government remains committed to ensuring that the restructure of Western Power does not adversely impact on Western Power employees. A major initiative in this respect is the requirement for the new entities to develop a job transfer policy. This policy reflects the government's desire that Western Power employees continue to have enhanced career prospects and provides for employment, training, exchange or secondment opportunities between the four new corporations without the loss of accumulated entitlements. Provisions to guarantee the remuneration and existing or accruing rights of Western Power employees are also contained within the bill.

The Electricity Corporations Bill 2005 also provides for a number of transitional provisions and amendments to several acts as a result of the restructure of Western Power. Many of the provisions within this bill have been based on those contained in the Energy Corporations (Transitional and Consequential Provisions) Act 1994, which was implemented at the time SECWA was split into Western Power and AlintaGas.

A key purpose of the bill is to amend the Electricity Corporation Act 1994 by repealing all provisions except those relating to access to Western Power's transmission and distribution systems. The name of the Electricity Corporation Act 1994 will be thus amended to the Electricity Transmission and Distribution Systems (Access) Act 1994.

The access act will allow for the continuation of Western Power's existing obligations to provide third party access to its transmission and distribution capacity, applicable to the new networks and regional power corporations. These obligations will remain in force until such time as the networks corporation has its access arrangements approved by the Economic Regulation Authority under the new networks access code.

The bill also provides for the making of a transfer order by the Minister for Energy specifying how the assets, rights and liabilities of Western Power are to be allocated to the four new corporations. The transfer order will give effect to the legal establishment of the new entities.

In addition to these important functions, the bill also makes consequential amendments to a number of other acts to replace the phrase "Western Power Corporation" with reference to one or more of its successor entities.

At the time the government introduced its electricity legislation in 2003, it is fair to say that this house agreed on the need for change, deregulation and competition in the electricity market. However, some members opposite disagreed about the pace of change and the degree of that change.

It has been 18 months since the government introduced its legislation. During that time the government has undertaken significant electricity market reforms in terms of progressing a wholesale market, initiating a range of customer protections, increasing the number of customers who may elect a different supplier, encouraging renewable energy and establishing a more fair and equitable set of access arrangements. However, the most important element to be completed is the restructure of Western Power, particularly the creation of independent retail and generation corporations.

The restructure of Western Power, particularly the separation of the retail arm from the generation arm, is vital if we are to attract true competition in this state. As I stated earlier, the events in February 2004 have also clearly demonstrated that retaining the status quo in terms of the current Western Power structure is clearly not sustainable.

Also, I am pleased to advise the house that the Western Power Board is fully supportive and committed to the restructure of Western Power and the corporation is busily working towards achieving the restructure by the government's deadline of 31 March 2006.

Collectively, we, as parliamentarians, have a unique opportunity to bring change to the Western Australian electricity market for the benefit of all Western Australians. Bipartisan support of the legislation to restructure Western Power will result in greater focus on network service improvements, competition between electricity generators and retailers respectively and lead to efficient private investment in the electricity sector.

This bill is an important and necessary step for the delivery of a competitive electricity industry for the benefit of all Western Australians. I commend this bill to the house.

Debate adjourned, on motion by **Dr S.C. Thomas**.

PLANNING AND DEVELOPMENT BILL 2005
PLANNING AND DEVELOPMENT (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2005
METROPOLITAN REGION IMPROVEMENT TAX AMENDMENT BILL 2005

Cognate Debate

On motion by **Ms A.J.G. MacTiernan (Minister for Planning and Infrastructure)**, resolved -

That, in accordance with standing order 169, leave be granted for the Planning and Development Bill 2005, the Planning and Development (Consequential and Transitional Provisions) Bill 2005 and the Metropolitan Region Improvement Tax Amendment Bill 2005 to be considered cognately, and for the Planning and Development Bill 2005 to be the principal bill.

Second Reading - Cognate Debate

Resumed from 7 April.

MR G. SNOOK (Moore) [10.38 am]: The opposition is comfortable with debating these three bills cognately. The history of the amalgamation of the planning bills goes back many years. I think it had its beginnings prior to the first Gallop government. A long held view by many people is that the planning process, with the many amendments to the three primary bills, has been a complicated and convoluted process in achieving good planning outcomes.

The Planning and Development Bill 2005 brings together the three primary pieces of legislation that are used for planning purposes in Western Australia - the Town Planning and Development Act 1928, the Western Australian Planning Commission Act 1985 and the Metropolitan Region Town Planning Act 1959. The consolidation of these acts will bring together and streamline the whole planning process. Local government, with the important role that it plays in the planning process, has been involved in the negotiations and discussions along the way. The amendments in the bill will provide local government authorities with the comfort they require in carrying out their role.

Some clauses in the bill deal with state planning policies, which have gained additional statutory powers that are reflected in amendments in the bill. We on this side of the house believe that the additional powers contained in state planning policies should continue to reflect only the broad and general planning needs of the state. That is the Liberal Party's view. We endorse the new measures in the bill that address the process of review of local government town planning schemes. Those involved in local government will be able to reiterate many examples of the frustrations caused by the long delays. With local government town planning schemes having a requirement to be reviewed every five years, I am sure the minister will be aware that, in some cases, the town planning schemes of local authorities are eight years old or older -

Ms A.J.G. MacTiernan: Sometimes they are 15 or 25 years old.

Mr G. SNOOK: Yes. Some are extraordinarily old. Hopefully the passage of these bills will speed up and streamline the process so that the job of addressing the requirement for review is carried out.

The Planning and Development (Consequential and Transitional Provisions) Bill 2005 seeks to make, I think, 71 amendments to different acts. The consolidation process will bring planning and development together under the one act, and the opposition agrees and has no problems with that. I have had extensive discussions with representatives of the peak body, the Western Australian Local Government Association, and their views have been addressed throughout the process.

The Planning and Development Bill 2005 passed the third reading stage in this place during the previous Parliament and was delivered to the Legislative Council. However, as the result of Parliament proroguing, it travelled no further and, hence, is now back before this chamber. We on this side of the house do not see the need to further consider this legislation in any great detail and we are happy to see it progress through the second reading stage. I had some concerns about part 11, the compensation provisions of the legislation. The impact that planning decisions and town planning and regional scheme implementations have on development and property has become a lot clearer and it is good that we have those provisions in detail in part 11. In terms of the planning process, provisions in other acts have an impact on planning decisions. The environmental protection policies contained in the Environmental Protection Amendment Act and its regulations, which was passed some time ago, impact on planning and land use. When EPPs are released, they place impositions on land use. It is my view that that then becomes a planning issue. It is also my view that the overarching planning and development legislation does not recognise or accommodate that. I understand that one piece of legislation cannot override and affect another. It is probably more important that we accommodate the impacts that decisions have consequentially as a result of other legislation, such as the Environmental Protection Amendment Act and its environmental protection policies, which have an impact. For example, I refer to the Swan coastal plains wetlands policy. Under the Environmental Protection Amendment Act, that has an impact on land use and land-use planning and this is an issue must be addressed. I sought advice about whether we should address that issue under the Planning and Development Bill 2005, which is the primary bill. The various advice I received was that that was probably not the best way to go. However, I flag that idea for the minister's consideration to see whether, somewhere down the track, we can accommodate other legislation, aside from the Environmental Protection Amendment Act, that impacts land-use planning as a consequence of regulations or provisions within it or, as in the case of the Environmental Protection Amendment Act, environmental protection policies. That is an area we must consider so that we overcome those problems.

Of course, we are all aware that within the Environmental Protection Amendment Act dealing with environmental protection policies there is no provision, as I understand it, for compensation. When a policy is released and it has an impact on a land planning issue, compensation provisions must apply. To be compatible and fair and to have equal

balance between legislation, we must be able to give that some consideration. Other people may have a different view, which I respect. Some people may have the view that there are other ways of providing for that impact in this bill. However, my advice is that that is probably not the best way to go. In terms of the need for this bill, which has been around for in excess of five years through successive governments, to be passed to enable streamlined planning decisions to be made and to get the process moving for the benefit of all areas of planning in Western Australia, I have moved away from the thought that I had of trying to amend it.

The opposition states in good faith that the impacts of other legislation on land-use planning issues must be accommodated in other ways to achieve parallel fairness, particularly regarding compensation. When an environmental planning policy is simply proposed or put out for public notice without being implemented, the word spreads immediately like wildfire among the community and landowners. One then has this assumption that something is placed on the land that restricts or limits the use of the land. That has a detrimental effect on the value of the land, particularly for people who at that pertinent time are in the middle of a proposed sale. I know examples in which people have backed away from a purchase of a property because of the arrival of an announcement of an environmental policy. I bring this matter to the attention of the house because it has an impact on land use planning. Provisions within environmental protection policy, such as the Swan coastal plain wetlands policy, sets out restrictions and uses and activities on certain parcels of land. Therefore, that policy becomes a planning or land-use issue. Serious thought needs to be given to ways of covering that impact via either amending the legislation to reflect it or some other means of cross-referencing - I have not found that in this bill, although I will seek much better legal advice than I am able to proffer on that matter. That is an important issue in the consideration of the principal bill. Essentially, the passage of the bill and the formulation of associated legislation will be a huge benefit to local government, state planning, local government planning, the development industry and landowners and land use across the state.

The Planning and Development (Consequential and Transitional Provisions) Bill 2005 and the Metropolitan Region Improvement Tax Amendment Bill 2005 are consequential requirements of adopting the Planning and Development Bill 2005. The opposition is comfortable to consider these three bills together on the basis that they have had a long journey. Ample time has been given for consideration across the spectrum of the industry, the community, individuals and local government. The opposition can agree to the provisions of the principal bill in its current form. No amendments are proposed.

Again, I draw to the attention of the house concerns regarding compensation provisions in part 11 of the Planning and Development Bill 2005. We need in future to consider a way of acknowledging and somehow parallelling impacts on land planning and land use with the impact of these other bills.

MR G.M. CASTRILLI (Bunbury) [10.55 am]: I also support the bill and my colleague the member for Moore. The minister's second reading speech for the Planning and Development Bill 2005 reads -

> The purpose of this bill is to consolidate the Town Planning and Development Act 1928, the Metropolitan Region Town Planning Scheme Act 1959 and the Western Australian Planning Commission Act 1985 into a single act called the Planning and Development Act 2005.

Further -

> . . . the bill streamlines planning procedures for the preparation and amendment of region schemes, the review of local schemes and the subdivision of land . . . the bill provides for greater certainty and consistency. It confers greater weight to local schemes in subdivision decisions. It also introduces consistent compensation and enforcement provisions.

From a local government perspective, I hope the bill will achieve a lot of streamlining and assist in the processes of town planning schemes. The minister stated that some frustration has been expressed from time to time on the process of getting town planning schemes through; I refer to dealing with other legislation and going backwards and forwards to get the town planning schemes through the system. I am sure that the bill will assist the process. I am sure people will be thankful for any improvement in that regard. The minister said a while ago that some schemes have taken 15 or 20 years.

Ms A.J.G. MacTiernan: Perth was one that took a very long time.

Mr G.M. CASTRILLI: It was a long time indeed. The rapid rate of growth in areas like the south west of the state means we need timely approvals for town planning schemes. We do not want development running over the top of us. Local government and town planning schemes need to be in control. I hope the bill will accomplish that outcome.

I refer now to the compensation provision in clause 173 in part 11 of the bill. I do not want to cover a lot of the ground that the member for Moore dealt with very well. I express some concern. The bill refers to compensation, and I hope the interpretation really means fair and just compensation. As the member for Moore stated very well, other acts impact on the Town Planning and Development Act. I hope that compensation will be based on zoning and uses of land at the time of such discussions, and not be subject to caveats or eventual land use once land is earmarked and discussions start on possible alternative uses of the land. Importantly, sometimes when starting to talk about earmarking land for alternative uses to its current zoning, the conclusion of that process can take 10, 15 or 20 years. Like the member for

Moore stated, once the word spreads that a piece of land is earmarked for open space or whatever, people take it that the land is untouchable and the value of the land is nowhere near what it is today. A willing purchaser may not be available in 20 years in terms of a fair and just purchase. Such process would have a detrimental effect on the land. I hope that this point is addressed further down the track, as the member for Moore said, and that the fair and just compensation reflects those concerns. I support the bill. It is a good step forward for all parties concerned and hopefully it will be beneficial to us all.

MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [11.00 am]: I thank members opposite for supporting this expedition process and the legislation. It is certainly not our desire to contract the debate, but this bill was debated extensively when it was introduced at the end of last year. Those members with a local government background, including the members for Moore and Bunbury, are very well aware of the length of the gestation of this bill. No-one knows that more than Ray Stokes from the Department for Planning and Infrastructure, who has been very keen to get this legislation up for many years. We keep getting within striking distance and then it falls away. A green bill was introduced in 2000 but nothing came of it. The bill was revised after all the consultation mechanisms were put in place and finally last year we introduced it into Parliament. It was passed in this house and taken to the black hole of the Legislative Council where it vanished into antimatter. However, we have resurrected it again and will hopefully pass it in this place in very quick time. I appreciate members' support in getting this legislation passed quickly.

To date, legislation for the revision of town planning schemes has included some fairly inflexible provisions. One of the big changes in this legislation is to allow local authorities to make a decision that at this point they do not need to change the local scheme. Another is to allow them to consolidate all the amendments that have been made over the interim five years without going through the whole process again. Another version of that is to agree to fundamentally consolidate the scheme amendments but to allow a few bits on the side to be changed. Therefore, only those parts of the plans that need to be changed will be advertised; they will not have to advertise the whole thing again. A lot of thought has gone into ensuring that the review process is very focused and we do not require local government to do an enormous amount of work that might not need to be done. I have an enormous amount of sympathy for local governments given the amount of their resources that are gobbled up in planning matters. It routinely takes three or four years for these scheme reviews to begin. A year after the scheme has begun the five-year review must begin. I am very confident that this legislation will make it easier for local governments to keep their schemes up to date.

Members opposite did not refer to their beloved section 20(5) of the old legislation that the government has now changed. Members will recall that a previous minister introduced a provision that the WA Planning Commission was not fettered in any way by town planning schemes when making decisions on subdivisions. This government has turned around that decision and has said that the WAPC must have due regard for town planning schemes. Generally, the WAPC must make decisions that conform to this scheme, except in variously enumerated instances in which there is obviously a clear reason why it might be wise to move away from the scheme. In that way the government is recognising that often the schemes are not up to date or that there has been an intervening statement of planning policy. The member for Moore made reference to the statement of planning policies and the strengthening of them. Regrettably, to pass this bill the government had to remove those strengthening provisions during the debate, which is unfortunate. However, we believe there is great benefit in the legislation generally. On another day we will need to give more thought to the alignment of statements of planning policies.

Members opposite referred to environmental protection policies. There is no doubt that they are an issue and that they impact on land use planning. There will always be debate about the ambition of the environmental agencies regarding the extent of land they seek to bring under these provisions. However, from a planning point of view, these matters are embraced as planning instruments are reviewed. The instruments must be amended to take into account those areas that have been designated as requiring a certain level of environmental protection. When the plans for the greater Bunbury region scheme were drawn up, those areas that were designated as conservation wetlands in the late 1990s were then incorporated as conservation areas within that instrument. Likewise, when local schemes are reviewed, they are required to take into account the existence of these matters that may have been categorised since the last time that instrument was prepared. I am not sure whether we need to change the planning legislation to accommodate it. There may have been some other aspects of what members opposite said about EPPs that I have not quite grasped. We have the capacity to incorporate them. Much of the dispute is about just how ambitious we should be when putting aside areas for that conservation category.

Another related issue that we must work our way through is compensation. It is quite clear that when rezoning for regional open space, the government is required to compensate as if that reservation were not in place. We take into consideration the highest and best use the land may have, which often represents a significant windfall profit for the land user. Either the member for Moore or Bunbury raised the issue of not wanting to wait for 10 years to find out what the potential use of the land might have been. That works the other way, because often we talk about rural property, which would not be within the purview of becoming urban land in the near future but which the government categorises as regional open space. If it is likely or possible that in the future the land will be rezoned as urban land, we must take that potential for urbanisation into account when providing compensation. The tricky bit concerns the environmental

constraints. When compensation is assessed and the government considers the environmental constraints, it is argued that regardless of the control that has been put over it, environmental approval would not have been obtained to develop the land. Therefore, the government cannot justify using taxpayers' funds to pay a rate that presumes development on the land. These issues have become somewhat blurred in the minds of landowners. It is not the identification of areas on their properties as conservation category wetland that in itself provides the constraint on development.

The ACTING SPEAKER (Mr P.B. Watson): I ask the minister to please stand a bit closer to her microphone.

Ms A.J.G. MacTIERNAN: I am so eager to engage with members opposite!

Several members interjected.

Ms A.J.G. MacTIERNAN: Never; the line is there and I will never cross it.

Mr P.D. Omodei: I thought you were looking to sit on the member for Vasse's lap.

Ms A.J.G. MacTIERNAN: The member for Vasse?

Mr P.D. Omodei: The good-looking bloke.

Ms A.J.G. MacTIERNAN: I know that there are the members who play football and the members who come from local government, and I have trouble sorting them out sometimes.

Mr G. Snook: They are both rugged games!

Mr T.R. Buswell: I come from a lawn-bowling background!

Ms A.J.G. MacTIERNAN: That is pretty exciting!

Mr G. Snook: When an area is declared a wetland and it is to be reserved for the benefit of the state, shouldn't the state pay anyway?

Ms A.J.G. MacTIERNAN: I am not saying that there is not an issue. I do not want to go into uncharted waters. Let us look at, for example, Bush Forever as a parallel program. It is an excellent program that was started by Mr Graham Kierath.

Mr P.D. Omodei: A friend of yours!

Ms A.J.G. MacTIERNAN: He was very proud of the program, although it was attacked by the opposition before the last election. Nevertheless, in his advertising for re-election, Mr Kierath very strongly promoted his achievements on Bush Forever. No compensation is payable on Bush Forever land directly if Bush Forever land is not to be incorporated into regional open space. However, there is a capacity to come to a negotiated solution. On a landholding that is part Bush Forever and part non-Bush Forever, bonuses are allowed for the area that is not affected by Bush Forever; therefore, there is a capacity to extract benefit from the fact that there is Bush Forever land on the property by virtue of planning bonuses that are available. We have to talk about the environmental planning policy issues. We need to understand that in providing compensation under our existing legislative regime, the value of the land depends on its development potential. When the land, by its fundamental nature, has environmental constraints, they must be taken into account in assessing its development potential.

Mr G. Snook: The announcement of an environmental policy, for example, whether or not we like it, immediately puts a blight on the land.

Ms A.J.G. MacTIERNAN: The member has said that. Some of the experience is not entirely consistent with that, and one example is the land that Dr Manea owned at Muddy Lakes. Even though the land was identified under the greater Bunbury region scheme, he managed to sell it privately for quite a substantial price a couple of years ago. The owner then on-sold it to the Western Australian Planning Commission at a 20-plus per cent premium. When we drill down into what has happened, we find that the experience is sometimes different from what it has been said to be. There is no doubt that there is a lot of blue sky in people's concept of the value of their land. A lot of what we call valuer advocates are racing around the countryside ramping up values. I think that sometimes they do their clients a disservice. I will use the Main Roads WA experience, which I know most about because we did a review of Main Roads' valuation practices and performance. Those valuations that end up in court almost invariably have been found in Main Roads' favour. We must ensure that our valuers give the best advice to their clients. We have said that when someone's land has been earmarked for a regional open space reservation, even under a draft region scheme, and even though we will not necessarily acquire it at that stage or the owner might not want to sell the land, that landowner should at least have the entitlement to some compensation for obtaining legal and valuation advice. Once it has been advertised, people need to get some advice so that they can be in a position to properly respond to the advertising. That is an undertaking that we have made. At some point we will need to put that into legislation because it is important, but at the moment it is a practice.

These are not easy issues, and we need to constantly review them. Regional open space per se is not that hard, because we value it at its highest and best price. However, the consequence of an environmental planning policy that should be borne by the taxpayer is much more debatable, because the argument is that the owners would never have been able to

develop on the land and would never have gotten the environmental approvals in any event. We need to have a broader discussion about the impact of that. Those were the major issues raised by members. Again, I thank them for their support, and we look forward to these bills finally reaching the status of acts. I commend the bills to the house.

Question put and passed.

Bill (Planning and Development Bill 2005) read a second time.

Leave granted to proceed forthwith to third reading.

PLANNING AND DEVELOPMENT BILL 2005

Third Reading

Bill read a third time, on motion by **Ms A.J.G. MacTiernan (Minister for Planning and Infrastructure)**, and transmitted to the Council.

PLANNING AND DEVELOPMENT (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2005

Second Reading

Resumed from 7 April.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Ms A.J.G. MacTiernan (Minister for Planning and Infrastructure)**, and transmitted to the Council.

METROPOLITAN REGION IMPROVEMENT TAX AMENDMENT BILL 2005

Second Reading

Resumed from 7 April.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Ms A.J.G. MacTiernan (Minister for Planning and Infrastructure)**, and transmitted to the Council.

COAL MINERS' WELFARE AMENDMENT BILL 2005

Second Reading

Resumed from 7 April.

DR S.C. THOMAS (Capel) [11.21 am]: The opposition will support this bill, but will attempt to make an amendment, which I will discuss in a moment. The coal industry is centred on the district of Collie, an area adjacent to the electorate of Capel. My understanding is that there are about 600 miners in the coal industry in that area, and the industry has a value to the state of about $400 million a year, at the latest estimate. The Coal Miners' Welfare Act 1947 established a fund to set money aside from the mining companies to provide for the welfare of miners in the industry and their families. The act has remained relatively unchanged since its passage, and the fund has provided infrastructure and recreational equipment throughout the town of Collie. I believe that it has contributed to the local hospital and to various sporting arenas and community groups. The opposition will support the continued provision of these facilities, and the contributions of the Coal Miners' Welfare Board. It could be said that the fund provides the opportunities for unions to earn good publicity by making announcements of sporting and community grants. However, in the interests of providing services to the people of Collie, we will be supporting this bill.

I will address the one area the opposition would like to amend. The minister has been given a copy of the foreshadowed amendment to clause 6 of the bill, which in turn amends section 7 of the act, dealing with the inspection of records. This section exists so that the board may examine the turnover of mining companies, because the amount of money contributed to the welfare fund - about $150 000 a year - is determined by the turnover of the mining companies and is made by way of a levy. The records of the turnover of the mining companies are made available to the board so that it can test the honesty of the companies in declaring their total turnover, and the levy can be applied accurately. Proposed section 7(1) states -

> The Secretary may, at any reasonable time, examine such records of any person as are required for the purpose of determining the amount payable by a person under section 6.

Effectively, this says that the secretary of the board that operates the coal miners' welfare fund can inspect the books of the mining companies in Collie to work out what the levy should be. The opposition seeks to delete proposed section 7(2), which reads -

> The Secretary may make copies of those records.

It is the position of the opposition that those records, for the most part, are now available in a number of places and ways. If it is simply a matter of working out the turnover of a mining company in Collie - either The Griffin Coal Mining Company Pty Ltd or Wesfarmers Ltd - the figures are generally made publicly available. The Department of Industry and Resources would probably have the figures available, and the companies are required to make annual reports to shareholders. All those records are available publicly. It may or may not have been the original intent, but this part of the legislation allows for the opening of the books of the companies in Collie for a fairly thorough examination, potentially, by a union representative. In this day and age of some degree of financial responsibility and secrecy about some company activities, we believe this to be an oversight in the drafting of the bill. I am sure it was not the intention of the minister to allow the unions to go through the books of Wesfarmers and Griffin, and have a good look at the activities of those companies. We are hoping that, by amending this clause and removing proposed section 7(2) at the consideration in detail stage, the making of various copies and their removal to be stored elsewhere will be prevented, although the secretary will still be able to examine the records.

I will not dwell for too long on the rest of the bill. Even though, to some degree, it provides positive publicity to the unions that would not otherwise be there, the work done by the fund, and the projects on which this money has been spent over the past almost 60 years, have been very worthy. The member for Collie-Wellington is in the house, and will probably be well aware that the money has gone to some very worthy causes over the past 60 years. We are certainly not proposing to change the intent of the bill in its support for the people of Collie. That is sufficient; we should move quickly to consideration in detail of the opposition's amendment.

MR M.P. MURRAY (Collie-Wellington - Parliamentary Secretary) [11.28 am]: The welfare board, of which I was chairman for some years, is probably unique to the coal industry, and perhaps similar boards should have been set up in some of the other mining industries. It was originally formed to provide amenities and facilities for people working underground at a time when it was pretty tough working down there. There were no crib cabins or other amenities. As the fund has evolved and moved along, the focus has changed to the extent that a lot of unseen work is now being done. The causes supported by this fund include children in the community who are not able to go on trips because of financial difficulties, and scholarships for schoolchildren. Recently provision was made for a disabled children's swing in a local park. All this has come about through the levy on coal production.

The opposition has raised the issue of the books being open to examination. A few years ago companies worked very hard to avoid paying the levy. The levy was calculated on the tonnage of coal produced, and its purpose was to provide funding for community amenities. It put me somewhat offside that the companies were reluctant to pay a levy of half a cent per tonne to fund community amenities. It was quite disappointing.

Mr F.M. Logan: Hear, hear!

Mr M.P. MURRAY: Despite their reluctance to pay that levy, if they want to be seen to be honest, they have no reason for objecting to an examination of their books to determine the tonnages. The Department of Mineral and Petroleum Resources was involved in the process for quite some years. I have rung the department to find out why its involvement ended a number of years ago. The onus then fell directly on the companies. I have seen no evidence of abuse of the system by which the Chairman or the Secretary of the Coal Miners' Welfare Board examines coalmining companies' books across the board. That is not the issue. The issue is about the board determining the correct tonnages so that coalminers pay the correct amount and are billed appropriately.

The member for Capel's proposed amendment to delete line 7 on page 4 is a backward step. Relations between the unions and the coalminers have not always been smooth. A recent strike lasted for more than 10 weeks. During industrial disputes, the parties involved tend to look for opportunities to get at each other. However, I would be surprised if that were likely to result in the community being short-changed because the welfare levy on the coal tonnages was not paid. The issue has been mentioned by various managers whom I have put up with during 24 years in the coal industry. I am aware that the opportunity exists for the system to be abused, although that has not occurred in 60-odd years, and I do not expect that it will occur in future. It should therefore be left well alone.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 to 5 put and passed.

Clause 6: Section 7 replaced -

Dr S.C. THOMAS: I move -

Page 4, line 7 - To delete the line.

As I said during the second reading debate, proposed subsection (2) provides that the secretary of the board may make copies of the records. It is the only provision in the bill that the opposition is questioning. The opposition has no objection to proposed subsection (1). It provides that the secretary may at any reasonable time examine the records. This amendment is not about trying to stem the flow of information. It is about the capacity to copy records and the potential for copies to be made of inappropriate material, and those copies to be taken away and used for other purposes. The opposition has no desire to prevent the secretary of the board from examining - obviously at a reasonable time following prior notice - the records required of tonnages, turnovers and activities of the mining companies. This amendment is specifically about the potential to take copies of records inappropriately. I take on board the member for Collie-Wellington's comments during the second reading debate.

There was a time when the coal companies in Collie did not support the application of the Coal Miners' Welfare Act and tried to have it repealed so that those funds, which total $150 000 a year, would not be levied. However, I suggest to the house and the member for Collie-Wellington that coal companies in Collie provide much more in donations than $150 000 a year. The coal companies donate large amounts of money outside this process. I acknowledge that the member for Collie-Wellington fought, I believe in the early 1990s, to maintain those funds. The coal companies considered that they would make contributions to the community but that it would be better if those contributions were controlled by the companies rather than by the board. It would be an affront to the coalmining companies to suggest that they did not contribute in many ways to the communities in Collie and surrounding areas. The coal industry and the related power industry in Collie support the towns around it, including the towns of Bunbury and Donnybrook where I come from. Large numbers of people commute to Collie for work in both the mining and power industries. Those industries support many industries outside Collie, such as the Donnybrook recreation centre. I suggest that hundreds of thousands of dollars annually are contributed to community projects in the greater south west region, not just in Collie.

Mr M.P. Murray: I think you should check, but I know that only $44 000 was contributed by one company last year, which was appalling. Under the agreement acts mining companies do not pay shire rates. It is appalling.

Dr S.C. THOMAS: The member for Collie-Wellington is correct. The mining companies do not pay shire rates. I have moved a little bit away from the intent of the amendment. The amendment seeks to provide for the fact that information on tonnages and turnover is available in a number of places. In fact, it is still available to the board because the secretary can request that information from companies. Subsection (2), which will allow the secretary to make copies of records, is too loosely worded and allows too much leeway in terms of access to confidential corporate information. The opposition's intent is to remove proposed subsection (2), because it allows for the information to be available at any stage. It can be talked about and written down. It is my belief that proposed subsection (2) is overkill.

Mr A.J. CARPENTER: I appreciate the member for Capel's intent and concern. However, I do not want to support the amendment because it makes proposed section 7(1) inoperable. It reads -

> The Secretary may, at any reasonable time, examine such records of any person as are required for the purpose of determining the amount payable by a person under section 6.

The natural next step for the person carrying out the examination is to make a record of what has been examined. This information may be produced electronically or in a variety of formats, but the person doing the examination must have the ability to make some sort of a copy of that information to take it forward.

The purpose of proposed section 7 is to gauge the tonnage that the employers are producing and, therefore, the amount that goes into the fund. It would render the activity of the secretary trying to get that information impossible if a record could not be made. I suggest to the member for Capel that the permissible activity in proposed subsection (2) be narrowed down to reflect the requirement in proposed subsection (1). It could be amended to read -

> The Secretary may make copies only of those records such as are required for the purpose of determining the amount payable by a person under section 6.

The ACTING SPEAKER (Mr P.B. Watson): Does the member wish to withdraw his amendment?

Dr S.C. THOMAS: I withdraw my amendment.

Amendment, by leave, withdrawn.

Mr A.J. CARPENTER: In seeking to address the concerns of the member for Capel and in view of his having withdrawn his amendment, I move -

Page 4, line 7 - To delete all words after "copies" and insert the following -

> only of those records required for the purpose of determining the amount payable by a person under section 6

That amendment will make it absolutely crystal clear that only a particular part of the information can be copied.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 7 to 14 put and passed.

Title put and passed.

Third Reading

MR A.J. CARPENTER (Willagee - Minister for State Devlopment) [11.48 am]: I move -

That the bill be now read a third time.

DR S.C. THOMAS (Capel) [11.49 am]: I thank the minister for his consideration in this matter. I commend the member for Collie-Wellington for his interest in and support of the coal industry.

If the government were truly serious about the welfare of the coal industry and coalminers, it would build a coal-fired power station in Collie and the future of the industry might well be assured. I commend the work of the Coal Miners' Welfare Board of Western Australia over the past 50 years. I hope it will continue to offer money, time and support to worthy projects, as it has done in the past. I hope that the entire south west will continue to get behind power generation and electricity in the flourishing coal industry basin, as it has done in the past. I also hope that the burgeoning export market will be supported and developed by future governments of both persuasions.

MR M.P. MURRAY (Collie-Wellington - Parliamentary Secretary) [11.51 am]: I have a lot of knowledge about the Coal Miners' Welfare Board of Western Australia and the amount of work done by its volunteers. I especially take my hat off to the Chief Executive Officer of the Shire of Collie, who has worked tirelessly over the years to ensure that the board is run at a minimal cost and that all moneys have been returned to the community. As I said earlier, some great projects - not just one-off projects, but projects that have been spread over many years - have been funded, which is great. I am glad that the small amendment has been made to the legislation; I can certainly live with it. It is a commonsense amendment. As I said before, I do not think that anyone wanted to delve too deeply into the books of companies. This issue has been about ensuring that the numbers are right so that there are no arguments in the future. I thank the welfare board, and the member for Capel for his small amendment.

MR A.J. CARPENTER (Willagee - Minister for State Development) [11.54 am]: This is an important piece of legislation. I am very grateful to all those who have played a part in bringing it before Parliament. I especially thank the member for Collie for his support of the legislation. Obviously as the local member he has a profound knowledge of the industry and of the impact and importance of the industry to the town and regions of Collie. He does an absolutely outstanding job, which was evidenced by the result of the last state election, in representing those interests in the Parliament. I also thank the newly elected member for Capel for his interest in the legislation and for the small amendment he brought to the government's attention and generated - it ended coming under the government's name - to refine the legislation in a positive way. I thank him for that. I thank all members of the house for their support for the passage of this important piece of legislation.

Question put and passed.

Bill read a third time and transmitted to the Council.

COAL INDUSTRY SUPERANNUATION AMENDMENT BILL 2005

Second Reading

Resumed from 7 April.

DR S.C. THOMAS (Capel) [11.56 am]: The opposition supports this bill in its entirety and wishes to put forward no amendments. The coal industry has its own superannuation fund that is based on the industry. The coal industry is a special industry, and has been the entire time that coal has been mined in Collie. The industry tends to have its own special level of protection and guidelines and operates in isolation from the other great mining ventures that work across the state.

The initial legislation that established the coal industry superannuation fund was introduced in 1943. It was changed fairly significantly in 1989 when it was removed from direct governmental control to become a self-managed fund. At that stage, there was a large degree of consultation. The member for Collie was probably involved in those consultations. The superannuation fund appears to be the best system for the coal industry and its workers. It is my understanding that there are some 600 coal miners left in Collie as well as ancillary staff etc. The Coal Industry Superannuation Board seems to have funds well in excess of its requirement to look after its people. It has been a well-managed fund. It is my understanding that well over $100 000 is available in direct payments for each member in the industry if required. That is a credit to those managing the fund. It has been run extremely well. Ostensibly, this bill manages to extend what is a fairly well-run and good superannuation program to spouses and extended members of family. The opposition sees no reason that spouses, in particular, should not enjoy the same superannuation benefits

that miners themselves enjoy. Members would probably be aware that coal mining traditionally runs in families. It is a family-oriented industry. The grandfathers and fathers of many coal miners in Collie were also coal miners. The industry lends itself to having its own superannuation system. There is absolutely no point in preventing spouses and other family members access to that service. This is good legislation. The opposition commends it to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

MR A.J. CARPENTER (Willagee - Minister for State Development) [11.57 am]: I move -

That the bill be now read a third time.

I thank all members of the house for supporting the passage of this legislation. Once again, I thank the member for Collie for his support in the generation of this legislation, which is to improve opportunities for people in the coal industry in his electorate. I also thank the member for Capel for his supportive remarks during the passage of the legislation. Essentially the bill will allow spouses of fund members to open accounts. It is warmly approved of in the Collie area. I also thank Mr Chris Fitzharding from my office for the development of this amending legislation and the previous piece of legislation that Parliament dealt with. I commend the bill to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.

GENE TECHNOLOGY BILL 2005
GENE TECHNOLOGY AMENDMENT BILL 2005

Cognate Debate

On motion by **Mr F.M. Logan (Minister for Housing and Works)**, resolved -

That the Gene Technology Bill 2005 and the Gene Technology Amendment Bill 2005 be dealt with cognately, and that the Gene Technology Bill 2005 be declared the principal bill.

Second Reading - Cognate Debate

Resumed from 7 April.

MR P.D. OMODEI (Warren-Blackwood - Deputy Leader of the Opposition) [12 noon]: I support the bill, which represents Western Australia's component of the national regulatory scheme established by commonwealth, state and territory legislation. The Gene Technology Bill passed through this house in 2001 along with a raft of other legislation. It would be simple for me to stand in my place and support the bill without comment. However, some developments have occurred since the passage through this place of the 2001 bill. The commonwealth Gene Technology Bill 2000 came into being on 21 June 2001, and complementary legislation was passed that year in the Legislative Assembly and was sent to the Legislative Council, where it was sent to a committee. During the second reading speech on the 2005 bill, the Minister for Housing and Works representing the Minister for Agriculture said that a few minor changes had been made to the bill, but that, in its entirety, the bill was exactly the same as that introduced in 2001. If I can be a little critical of the government or the process, that 2001 bill went through this house but fell off the notice paper as a result of prorogation of Parliament prior to the election. Some time had elapsed. The commonwealth legislation is almost due for review, and Western Australia has still not passed complementary legislation. Genetically modified crop trials are taking place, I presume, under the purview of the commonwealth legislation or the Genetically Modified Crops Free Areas Act 2003 of this Parliament.

The object of the legislation is to mirror the gene technology definitions found in the commonwealth act. The legislation will also protect people's health and safety and protect the environment by identifying and assessing any risks. The second reading speech outlines that the commonwealth act, to be reflected in the state act, does a number of key things -

> it establishes a statutory officer, to be known as the Gene Technology Regulator, for the purposes of performing functions and exercising powers under the legislation;
>
> it establishes three committees - the Gene Technology Technical Advisory Committee, the Gene Technology Ethics Committee and the Gene Technology Community Consultative Committee - to provide scientific, ethical and policy advice respectively to the regulator and/or the ministerial council established under the intergovernmental agreement on gene technology;
>
> it prohibits people from dealing with GMOs unless the dealings with the GMOs is exempt, is a notifiable low-risk dealing, is on the register of GMOs or is licensed by the regulator;

it establishes a scheme for the assessment of risks to human health and the environment associated with various dealings of GMOs, which includes opportunities for extensive public input;

it provides for the certification of facilities to certain containment levels and the accreditation of organisations assessed by the regulator to have a properly constituted and maintained institutional biosafety committee;

it provides for a centralised, publicly available database of all GMO and GM product dealings in Australia; and

it establishes comprehensive auditing, monitoring, inspection and enforcement powers that can be adapted to individual circumstances on a case-by-case basis.

Based on that, any trials taking place in Western Australia must be controlled under the commonwealth legislation because the state legislation does not yet exist. Both measures contain provisions for policy principles to be issued by the ministerial council recognising areas designated under state law for the purpose of preserving and identifying GM crops and/or non-GM crops for marketing purposes. As I mentioned, they are controlled under the Genetically Modified Crops Free Areas Act 2003. I will refer to that legislation later.

The second issue particularly mentioned in the second reading speech was information on the location of trial sites. Although the second reading speech states that a few minor changes were made, I have gleaned some differences between the 2005 and 2001 bills. The Gene Technology Bill 2001 passed the Legislative Assembly without amendment and was transmitted to the Legislative Council where it was the subject of an inquiry by the Council's Standing Committee on Environment and Public Affairs. I will refer to the committee's report shortly. The committee recommended a few amendments to the bill that were drafted to be moved during consideration of the bill in the Legislative Council. That consideration did not eventuate before the election. As the Gene Technology Bill was to be reprinted for reintroduction to the new Parliament as the 2005 bill, the proposed amendments were incorporated into the reprinted bill.

The changes recommended by the committee include a provision to expressly state that nothing in clause 58 will affect the operations of the Spent Convictions Act 1988. Clause 58 provides for matters the regulator must take into account when determining whether a person is suitable to hold a licence. These include relevant convictions. A provision referring to the commonwealth's spent conviction regime is also included in the commonwealth Gene Technology Act, and it is appropriate that it be part of the WA bill.

Clauses 192B, 192C and 192D have been deleted from the original bill. The relevant provisions from the commonwealth act prevent human cloning and experiments mixing human and animal eggs and embryos. These provisions were removed from the commonwealth act as they are covered by the commonwealth Prohibition of Human Cloning Act 2002. Consequently, the clauses needed to be deleted from the WA bill. It could not be said that these are minor changes, and they should have been mentioned during the second reading speech so Parliament was clear about proposed changes made since the 2001 bill.

Clause 164 is intended to apply only to the inspection of goods coming into Western Australia from overseas, not interstate. Inadvertently, the reference in the 2001 bill was to Western Australia rather than Australia. This has been remedied simply by removing "Western". The other change is the removal of clause 295 of the 2001 bill that would have amended the Agriculture and Related Resources Protection Act 1976 to allow regulations to be made under that act as a designated area for GM or non-GM crops. Subsequent to the introduction of the 2001 bill, the Genetically Modified Crops Free Areas Act 2003 was enacted. Consequentially, provisions to allow areas to be designated under the Agriculture and Related Resources Protection Act 1976 were no longer required. Those changes were made.

When the bill went to the Legislative Council, it was sent off to the Standing Committee on Environment and Public Affairs, an all-party committee, which travelled extensively.

Mr F.M. Logan: Don't we know that?

MR P.D. OMODEI: It is strange to have those committees travelling; very unusual!

Mr F.M. Logan: Where did we go?

MR P.D. OMODEI: I do not think we went anywhere.

The committee produced a comprehensive report comprising 375 pages. I commend the committee's members and support staff for the diligence applied to that report. A number of recommendations were made to change the legislation. I recommend that members read at least the executive summary of that report that in itself contains 30 recommendations on the bill. Of course, those recommendations have not been included in this legislation because they have to be included in the commonwealth legislation first. I expect the ministerial committee and the Western Australian Minister for Agriculture and Forestry to recommend to that committee that the commonwealth legislation be amended. Given that the commonwealth legislation is about to be reviewed shortly, whether this legislation is passed seems almost incidental. When the commonwealth legislation is reviewed, it will be changed significantly. One would have thought we could have waited for that. If trials are taking place on genetically modified crops or other products, they are obviously taking place under various other acts of Parliament that allow it to occur.

I will refer members to some of the recommendations that have been proposed by the Standing Committee on Environment and Public Affairs. I draw to members' attention the proposed amendments to the Gene Technology Bill that appear in recommendations 2, 3, 4 and 5, and to the comments made by the committee in recommendation 7. The committee urged the government to seriously consider those recommendations but said it did not intend to make the passage of the Gene Technology Bill 2001 through the Legislative Council subject to the amendments referred to in those recommendations. I will refer members to those recommendations so that they are aware of what this very important committee proposed. The report states -

> Recommendation 1: The Committee recommends that the penalty provisions in the Gene Technology Bill 2001:
>
> a) be reassessed when the Minister causes an independent review of the Act, as provided in clause 194 of the Gene Technology Bill 2001;
>
> b) be reassessed when the Gene Technology Ministerial Council causes an independent review of the Commonwealth Act, as provided in section 194 of the *Gene Technology Act 2000* (Cth); and
>
> c) be monitored on an on-going basis,
>
> so as to ensure that they are adequate and effective in ensuring compliance.
>
> Recommendation 2: The Committee recommends that clause 58 of the Gene Technology Bill 2001 be amended in the following manner -
>
> Page 39, after line 13 - To insert -
>
> " (4) Nothing in this section affects the operation of the *Spent Convictions Act 1998.* ".

I understand that recommendation 3 may have been included in the bill. It states -

> Recommendation 3: The Committee recommends that the Government make representations to the Gene Technology Ministerial Council that the Gene Technology Bill 2001 be amended to provide that monitoring of each licence holder be undertaken at least once every three years.
>
> Recommendation 4: The Committee recommends that the Minister for Agriculture, Forestry and Fisheries make representations to the Gene Technology Ministerial Council that the Gene Technology Bill 2001 be amended to provide for review of licences issued by the Regulator that involve an intentional release of a genetically modified organism into the environment, every three years.
>
> Recommendation 5: The Committee recommends that the Minister for Agriculture, Forestry and Fisheries make representations to the Gene Technology Ministerial Council to provide that the Record of GMO and GM product dealings established under clause 138 of the Gene Technology Bill 2001 be amended to also include:
>
> a) any detail which the Regulator has in respect of a licensee's compliance with the licence, including breaches of licence conditions;
>
> b) details of all decisions made by the Regulator under the following clauses of the Gene Technology Bill 2001:
>
> | | | |
> |---|---|---|
> | i) | clause 68 | The Regulator may decide to suspend or cancel a licence |
> | ii) | clause 70 | The Regulator may decide to permit a licence holder to transfer a licence |
> | iii) | clause 71 | The Regulator may vary a licence |
> | iv) | clause 78 | The Regulator may determine to include a dealing with a GMO on the GMO Register |
> | v) | clause 80 | The Regulator may determine to vary the GMO Register |
> | vi) | clause 84 | The Regulator may certify or refuse to certify a facility to a particular containment level |
> | vii) | clause 86 | The Regulator may or may not impose conditions on the certification under clause 84 |
> | viii) | clause 87 | The Regulator may vary the certification of a facility |
> | ix) | clause 88 | The Regulator may suspend or cancel a certification of a facility |
> | x) | clause 92 | The Regulator may decide to accredit or not accredit an organisation |
> | xi) | clause 94 | The Regulator may decide to impose conditions on an accredited organisation |
> | xii) | clause 95 | The Regulator may decide to vary the accreditation of an organisation |

xiii) clause 96 The Regulator may decide to suspend or cancel the accreditation of an organisation

xiv) clause 143 Under clause 140 and 141 the Regulator may review a notifiable low risk dealing or an exempt dealing and may, as a result under clause 143 make various recommendations to the Ministerial Council

xv) clause 185 The Regulator may declare or refuse to declare certain information to be confidential commercial information

xvi) clause 186 The Regulator may revoke a declaration that certain information is confidential commercial information; and

c) the reasons for these decisions.

Recommendation 6: The Committee recommends that the Government consider establishing a state-based consultative committee -

Which I think is a good idea -

equivalent to the Gene Technology Community Consultative Committee:

a) to compliment the technical advisory role that the Western Australian Gene Technology Interdepartmental Committee provides to the Regulator; and

b) to provide for Western Australian community input into the decisions of the Regulator.

Recommendation 7: The Committee recommends that the Government clarify the reasons for the difference in wording of clauses 154 and 164 of the Gene Technology Bill 2001 and their intended scope during the Legislative Council's consideration of those clauses.

I think I have mentioned the rest. There are a significant number of other recommendations. I will not go through all of them; there are 20 recommendations, and I have referred to only half of them. These recommended amendments to the legislation by the Legislative Council committee would be transferred to the ministerial committee to be inserted into the commonwealth legislation. That would mean that this government would have to introduce another amending bill into Parliament to reflect the commonwealth legislation to make the state legislation workable.

The minister has been advised that the opposition intends to move an amendment to clause 79(1) of the Gene Technology Bill 2005 during consideration in detail. The amendment will suggest that the Gene Technology regulator cannot make a determination unless she is satisfied that there is no risk of environmental contamination, including the spread of genetically modified genes, or to the health and safety of people. That might seem to be a very stringent change given that clause 79(1) states -

(a) that any risks posed by the dealing are minimal; and

(b) that it is not necessary for persons undertaking the dealing to hold, or be covered by, a GMO licence, in order to protect the health and safety of people or to protect the environment.

One would expect that if experiments were conducted on a GMO or GM product, it would be done in a sterile laboratory. Therefore, any risks that were exposed should be resolved there. Certainly, the legislation provides that any risk likely from dealing with a genetically modified organism would be minimal. The definition in the legislation states -

"deal with", in relation to a GMO, means the following -

(a) conduct experiments with the GMO;

(b) make, develop, produce or manufacture the GMO;

(c) breed the GMO;

(d) propagate the GMO;

(e) use the GMO in the course of manufacture of a thing that is not the GMO;

(f) grow, raise or culture the GMO; or

(g) import the GMO,

and includes the possession, supply, use, transport or disposal of the GMO for the purposes of, or in the course of, a dealing mentioned in any of paragraphs (a) to (g);

Given that the community is concerned about any indiscriminate spread of a genetically modified organism, the question being posed to the minister through his representative in this place is: how will the recommended amendment that we will propose affect the legislation? Will it render it difficult to conduct a trial and then grow a crop? I find it interesting that in the past couple of days, comments have been made about a trial of, I think, 0.45 of a hectare of salt-

tolerant wheat that is taking place in Corrigin. From time to time the minister seems to be a little defensive about the government's policy on genetically modified crops. It is covered under the Genetically Modified Crops Free Areas Act. Section 5, the offence provision of the Act, states -

(1) A person commits an offence if -

(a) the person cultivates a genetically modified crop;

(b) the crop is cultivated in an area that is designated in an order under section 4;

(c) if the order is made under section 4(1)(b), the crop is specified in the order; and

(d) the person knows, or is reckless as to whether or not, the crop is a genetically modified crop.

The penalty is $200 000. The section goes on to provide where crops may not be grown; under the act, the whole of Western Australia is designated as a genetically modified crops free area. However, there are exemptions. Given the Labor Party's green credentials, if it never wanted to have a trial, why are there exemptions in the act? Section 6 of the Genetically Modified Crops Free Areas Act states -

(1) The Minister may, by order published in the *Gazette*, exempt a person, or a specified class of persons, from the application of section 5(1) to a specified extent in relation to a specified area or in any other specified way.

It gives the Labor government in Western Australia the ability to allow somebody to grow a genetically modified crop. That is not the understanding of the public of Western Australia. The public of Western Australia thinks that the Labor Party in Western Australia is totally opposed to genetically modified crops. This week we heard about the trial being conducted in Corrigin. It is a very sensible suggestion that genetic modification be used to grow crops that are salt tolerant or frost tolerant; that would be a good thing. If that requires some gene manipulation, obviously it must go through a very strict regulatory scheme set up by the commonwealth and mirrored by the state. It is interesting that the minister, having given approval for the trial, is not prepared to consume the crop. Eloise Dortch, who is a very diligent reporter for *The West Australian*, made all kinds of comments. She rang me to ask my view on the minister's position. To be honest, I thought it really was quite funny. The minister is not prepared to eat the crop, yet genetically modified products are being used by the public in Western Australia, such as insulin, vaccinations -

Several members interjected.

Mr P.D. OMODEI: They include insulin and the hepatitis vaccination, and some of the bacteria in cheeses are also genetically modified.

Mr T.R. Buswell: And chips.

Mr P.D. OMODEI: I do not want to damage the good old spud industry, but most of the chips in Western Australia are being cooked in cotton oil and have been for many years. It comes from genetically modified crops -

Mr F.M. Logan: You are going down a frightening path!

Mr P.D. OMODEI: I am. I would have thought that canola oil would be much better. I do not have to tell members about my support for the potato industry. I lived and breathed it for more than half my life, and I do not want to be dipped in hot oil in downtown Manjimup! However, it is a fact. Ian Edwards, the Chairman of the AusBiotech Advisory Board, is a well-known authority on genetically modified crops. Given my flippancy in saying that eating a genetically modified food would be okay as long as people woke up the next morning, I really must say that I was only joking. It just goes to show that a public figure who holds a responsible position cannot afford to make flippant comments. Interestingly, the responses from very well-meaning people who were astounded by my comments referred to the dramatic implications of smoking a cigarette 10 or 20 years down the track. I could not help thinking that my good friend the Minister for Agriculture is a chain smoker, but says that he would not eat the genetically modified food from the trial.

Mr F.M. Logan: He has given up smoking; he has gone on a diet, which may account for the fact that he is not eating GM foods; and he is riding a bike.

Mr P.D. OMODEI: I thank the minister. Obviously the minister is on a health kick. Not only has he given up the smokes, but also he definitely will not consume any genetically modified crops!

I made the point to Eloise in our trivial discussion - I want to refer to this because it is a serious matter - that about 80 Gmillion meals a day containing genetically modified foods are consumed overseas. Other countries are producing vast quantities of genetically modified grains and pulses and they are exported all over the world in products that are consumed. We know that a lot of yeasts have been genetically modified. I do not intend to give up drinking beer because the yeast it contains may be genetically modified. However, at the same time, we have strict legislation that requires that the use of genetically modified organisms be strictly controlled. We support that; any sane person would. We do not want people's health to deteriorate or be affected by an injudicious use of genetically modified crops. I note that one comment reported in the paper this morning is that, because of the stringent guidelines that apply, most

genetically modified foods are probably safer than some organically grown foods, which may contain dioxins. Members need only read the paper today to find out about the cabbage and cauliflower mosaic virus in some genetically modified crops.

Unlike many people, I have said - I said it prior to the election - that I detect a change in mood. I know that the Department of Agriculture in particular and scientists in our universities are very keen to proceed with genetically modified crops and foods. It is happening around the world anyway. That is not to say that I do not think this legislation is important. Interestingly, during the election campaign I said that we would support a review of the Genetically Modified Crops Free Areas Act 2003. I said that in the full knowledge that the legislation creates genetically modified crops free areas across Western Australia and that if people want to trial those crops, they must have special approval under section 6 of the act. Section 19 of the act requires that the act be reviewed after five years. When I said during the election campaign that I supported a review of the Genetically Modified Crops Free Areas Act 2003, I was taking that straight out of the law in Western Australia that states that after the passage of five years, there will be a review of that act. We can expect this Parliament to review that legislation in 2008. It is a shame that the committee of the other place could not report earlier, if blame can be laid in that direction. Alternatively, it is the prerogative of the government of the day to speed up the process. It is simply a question of prioritising the legislation.

Many people in the community are concerned about the use of genetically modified crops and the possibility of genes escaping. Yesterday I was talking to the tree plantation people about the plantation of blue gums and their possible genetic manipulation. The original *Eucalyptus globulus* - the Tasmanian blue gum - has been vastly improved, not by genetic manipulation but by selective breeding. The Western Australian blue gum is far superior to the variety that was originally imported 10 or 15 years ago. I would be concerned, as would many other members of this house, about genetic manipulation of the western blue gum. If that were to happen, and the pollen or seed escaped into our native forests, given that the tree is a eucalypt, I would need a lot of convincing by a lot of scientific information that the environment would be protected. I think all Western Australian members of Parliament are very conscious of this issue. People in the community are concerned about this issue, and they must be reassured that legislation is in place to make sure that any development of genetically modified crops or organisms is very strenuously controlled. I am sure that the GM industry, which is very keen to promote itself and to grow, would have no fear about sensible and reasonable legislation. The opposition supports this legislation.

It would have made for a very good debate if all the information that came out of the committee of inquiry in the Legislative Council had been consolidated in the bill. It now seems that that will not occur for a couple of years. At least 20 recommendations of that committee need to be put into this bill. The task for the government and the minister is now, through the ministerial council, to ensure that the findings of the Western Australian parliamentary inquiry are placed into the federal legislation, to make sure that it is the best legislation we can get. I commend the committee for its recommendations. Those recommendations also need to be placed before the general community, of both consumers of goods and producers of crops. Feedback from the community will make sure that the legislation is sensible and workable. I have covered the areas I wanted to cover. We will be raising the issue of making sure that genetically modified foods are safe, and that there is no risk to the environment. My colleague the member for Capel has some thoughts to impart to the house on those issues. It is not a question of making life hard for anybody who wants to produce genetically modified crops or organisms; it is a question of risk to the environment, and whether there should be no risk at all or, as this bill provides, minimal risk. Hopefully the parliamentary secretary has an answer to the suggested amendment.

MR D.T. REDMAN (Stirling) [12.35 pm]: In speaking on this bill on behalf of the National Party - being the spokesman on agriculture - it is important to cast an eye over it in the context of National Party policy. I will therefore begin by giving a quick briefing to the house on National Party policy on genetically modified organisms and genetically modified products. First of all, National Party members recognise that GMOs have a future in agriculture. There are many examples around the world of GMOs and GM products being used in agriculture. Over the eight years in which GM cotton has been used, for example, it has been adopted by more than 90 per cent of growers. GMOs have the potential to produce disease-resistant and pest-resistant crops, with the possibility of reduced chemical use on farms and increased yields. There are a number of examples of that around the world. Gene technology is leading to the development of crops that can tolerate climate and soil stresses, such as drought, salinity and frost. Members will recall recent press reports, which were also referred to by the member for Warren-Blackwood, of trials at Corrigin of GM wheat on various levels of salt-affected soils, to test susceptibility. There is the possibility of GM crops being grown on salt-affected land in Western Australia.

Although we recognise that there is a future for GMOs in agriculture, there are also significant risks, some of which, at this point, we do not fully understand. The policy recognises that there are risks, and that checks and balances are necessary to make sure that, if GMOs are trialled, there will be only minimal risks to the environment. The National Party supports the current position of the government of a moratorium on GMOs in Western Australia. That was made clear in its campaign position. However, we also recognise that mechanisms must be in place for commercial release where scientific evidence provides sufficient assurances to satisfy community concerns. There are a number of examples overseas - Argentina is one - where genetically modified organisms have been released and have created what

might be called super weeds that are very hard to control. There are certainly examples of high risk, and we must be very tentative in trialling GMOs and releasing them for commercial use. It is still part of National Party policy that incentives are needed to encourage researchers and biotechnology companies to continue their research in Western Australia, to prevent a "brain drain" of intellectual property. It is important to recognise that technology is involved in GMOs, and we want to keep that technology in this state. Although we are not yet ready for the release of commercial products, it is important that laboratory research and farm trials continue in order to maintain the technology in this state, so that when the point of commercial release is reached, the knowledge and follow-up capacity are there to take the enterprise to fruition.

It is clear that legislation is necessary to provide monitoring and penalties in relation to gene technology and its products. There must be some teeth in the legislation. The commonwealth act relies on the commonwealth's constitutional powers to regulate some GMOs, such as imports, but does not cover all activities. The purpose of this state legislation is to fill in some of the gaps. The state legislation is designed to regulate involvement with genetically modified organisms by individuals, state departments and universities that are not involved in cooperative agreements with corporations or interstate trade and commerce.

This bill takes a cautious approach to gene technology and supports public knowledge about GM trials. It regulates who can deal with GMOs through a register and licensing system run by the Office of the Gene Technology Regulator. It also establishes a scheme to assess the risks of GMOs, procedures for the assessment of organisations and facilities in relation to safety matters and a public database of GMO dealings and the provision of comprehensive auditing, monitoring, inspection and enforcement powers that can be implemented on a case-by-case basis.

The bill provides for the availability of information on the locations of trial sites. The regulator must provide copies of applications, risk assessments and risk management plans, if they are requested, and allow anyone to inspect the record of GMO and GM product dealings. An exception applies to confidential commercial information, in which case it must be declared by the regulator.

The regulator must refuse to declare information of a confidential commercial nature if it relates to locations of GM trials, unless the regulator is satisfied that significant damage will be caused to the health and safety of people, the environment or property if the locations are disclosed. If the office of the regulator declares a field-trial site "confidential commercial information", it must release a public statement outlining why public interest in disclosure would outweigh the prejudice of disclosure, or the reasons the regulator is satisfied that significant damage will occur if the locations are disclosed.

The National Party approves of the penalties for unlawful dealings that cause or are likely to cause significant damage to the health and safety of people or the environment. Safety and containment are priorities in the bill. The relevant penalties send a strong message that any contrary activity will not be tolerated. The Nationals also welcome the openness and accountability provisions of this bill, particularly part 5, which deals with the licensing system and the provisions relating to information provided to applicants for a licence, stakeholders and the community.

The National Party will ask some questions during consideration in detail. Both the commonwealth and the state bills recognise that areas could be designated that are either GM free or not GM free. It is important that the legislation contain a provision to that effect. There is a growing industry in organics and biodynamics, for which specific niche markets should be recognised. They should not be compromised by the release of GMOs. The National Party understands that the legislation makes provision for that. It is good to know that. My wife and I own a liquor store in Denmark. It has been interesting to see a growing demand for organic and biodynamic wines. Although I do not know the rates of sales for those products; nonetheless, it is a growing market. We must protect some of those markets by ensuring that legislation does not compromise producers' efforts.

The bill contains a control mechanism for the Minister for Agriculture and Forestry, via the Gene Technology Ministerial Council, to have an influence on policy regarding GMOs. I will ask questions about this during the consideration in detail stage because the legislation appears to contain some conflicting provisions. I understand it is mandated that the Minister for Agriculture and Forestry can have some influence on the decisions of the Gene Technology Regulator. The National Party believes that it is important that the minister be able to exercise some influence, particularly from a policy perspective, because we need those controls.

We will seek clarification on the issue of penalties attached to offences involving the unauthorised release of GMOs and on where liability may or may not lie. Liability is an important question, and our National Party is concerned about it. Agriculture is facing liability issues in a raft of other areas. I can see the issue of GMOs being a bit of a minefield for liability claims.

The farming community believes that there is general support for trialling GMOs in the farming community. However, we appreciate that risks are involved. It is important that this legislation contain the appropriate checks and balances. Provision must also exist for trialling and assessing the GMOs so that we can be sure that when they are released they will not be a risk to our environment, our health or the marketplace.

The newspapers recently carried some articles about the trialling of salt-tolerant plants, particularly salt-tolerant wheat, in Corrigin. The minister and others have made comments about whether they would or would not consume GM products. For the record, I am happy to consume GM products

Mr P.D. Omodei: Hear, hear!

Mr D.T. REDMAN: It is very unlikely that I have not, albeit unknowingly, already consumed some GM products. I do not think they have had any deleterious effects on me.

Several members interjected.

Mr D.T. REDMAN: I guess that is a subjective assessment. I feel okay.

The National Party will support this bill. However, as I indicated, we will seek clarification on some matters during consideration in detail. I thank the house for this opportunity to speak on the second reading. The National Party supports the Bill.

DR S.C. THOMAS (Capel) [12.46 pm]: Speakers before me have referred to what is in the bill so I will not refer to it a third time during this second reading stage. It is a fairly long bill. I support the bill and I will support the member for Warren-Blackwood's proposed amendment. I will address why this is good legislation and why it will benefit from some minor amendments.

This is basically a mirror image of the federal government's Gene Technology Act 2000. Rather than this Parliament merely adopting the federal gene technology legislation this government has introduced its own bill. We will benefit from that in a number of ways. Most importantly, it will enable the house to include some minor changes, which might not necessarily reflect the federal government's intention but which will provide safeguards for Western Australia.

The opposition's proposed amendments are fairly minor changes to the wording in the bill, but they will have a fairly profound effect in two areas. I do not propose to debate the rights or wrongs of genetically modified organisms. That debate will be more appropriate during the review of the genetically modified organisms exception legislation to be introduced in 2008. The two issues I will address now are quarantine and accountability. This Western Australian bill provides the opportunity, in a unique way, to boost quarantine proposals and provide accountability in the management of genetically modified organisms.

It can be seen in a number of places that quarantine restrictions to keep exotic diseases out of Western Australia have been inadequate in a number of cases. The most recent example is Johne's disease. Despite strengthened quarantine restrictions, Johne's disease was discovered in Western Australia last year and is now endemic. The federal government and the state of Western Australia thought Australia was adequately protected against Johne's disease in the 1990s. Protocols were in place, but they were rather weak and now the industry is suffering in light of the cost associated with Johne's disease. It is endemic to the point at which its eradication is no longer possible; only control of the disease is possible. That control comes at a cost. The system fell down because of a lack of quarantine.

On the question of quarantine, we are dealing specifically with the ability of people proposing to use genetically modified organisms in whatever way, as the member for Warren-Blackwood said. One could be running a trial or simply carrying out a laboratory experiment. What we expect, and it is a reasonable expectation, is that wherever it happens to be, adequate protocols are in place to prevent those genetically modified organisms from escaping the controlled environment in which they have been placed. I can give some graphic examples around the world where this has failed to occur. Protocols are in place in many countries, particularly Canada. The escape of genetically modified canola resulted in weeds in Canada and they are almost impossible to kill or remove. The escape of those genetically modified organisms has had a dramatic impact on the environment because of the escape of altered DNA.

Debate interrupted, pursuant to standing orders.

[Continued on page 1438.]

LEADER OF THE OPPOSITION, COMMENTS ABOUT THE POPE

Statement by Member for Girrawheen

MS M.M. QUIRK (Girrawheen - Parliamentary Secretary) [12.50 pm]: I want to record my profound disappointment with the Leader of the Opposition's refusal to apologise for his insensitive remarks about the Holy Father on radio yesterday. As a Catholic I was offended, as I know many others were, by what could be described as a poor attempt at humour by a politician desperate to divert attention away from his current problems.

I note that some people believe that the comments may have been the result of sheer ignorance, that he somehow did not know that the leader of the world's largest religion leads a celibate life. I do not believe this because the Leader of the Opposition is, like me, a Catholic, or at least he claims to be.

In today's edition of *The West Australian* he defended his refusal to apologise by stating -

> "Unlike the Labor Party, I have no intention of dragging religion into politics and there is no way I intend to dignify this brand of gutter politics by responding to it, . . .

This is a very peculiar comment by the Leader of the Opposition. Again, let me quote from another newspaper, the *Kalgoorlie Miner* of 16 February 2005, in which the following was reported to have been said at a candidates forum organised by the Australian Christian Lobby -

> A born politician and extremely slick in his approach, Birney had the crowd eating out of his hand when he opened his speech with "I do feel quite comfortable among this crowd because I'm a Catholic and the Liberals best represent the views of Catholics."

I say shame, Leader of the Opposition, shame. Do the right thing and apologise like the man you profess to be.

MR BOB UITTENBROCK

Statement by Member for Murdoch

MR T.R. SPRIGG (Murdoch) [12.52 pm]: The Legislative Assembly of the thirty-seventh Parliament congratulates and pays tribute to Bob Uittenbrock, who recently retired as the general manager of the East Fremantle Football Club after 31 years. During his tenure, Bob developed into a highly respected, hard working administrator who always put the Sharks, or Old Easts as they were formerly known, at the forefront.

From humble beginnings as the secretary of the Gosnells club that participated in the Sunday Football League, Bob rose to become one of the best-known football administrators in Australia. He is renowned for his tough negotiating skills when dealing with opposition clubs on clearances, his fairness when negotiating player contracts and, above all, his principles, especially in relation to club sponsors and members.

Bob has a gift of inspiring volunteers to work for the good of the club and many of these people are still helping the club today. Indeed, since his retirement Bob has taken on the job of running a major raffle to assist the struggling Western Australian Football League clubs. Should members come across Bob they should make sure they have $5 on hand to buy a raffle ticket. It has been widely acknowledged that Bob can sell ice to Eskimos and sand to Arabs.

In 1996, I with other life members of the East Fremantle Football Club, had great pleasure in voting Bob into life membership because of his devotion to duty above and beyond the call.

Some 75 players graduated to the Victorian Football League-Australian Football League ranks during Bob's tenure. The EFFC has won 29 premierships in its 107-year history, six of which have been in Bob's time. He is certainly an outstanding administrator. May he enjoy many happy years of fruitful retirement and continued success for his beloved Sharks.

ANZAC DAY SERVICE, ALBANY

Statement by Member for Albany

MR P.B. WATSON (Albany) [12.54 pm]: I refer to the Anzac Day service in Albany. It is probably the most poignant service held in the world. People go to Gallipoli and other places around the world for Anzac Day, but the best service is in Albany. Everyone must get up at about 4.15 in the morning, because if they do not get to the top of the mountain between 4.30 and 5.15 am, they cannot find a position to see what is happening. The crowd of people who walk up the hill early in the morning include children from seven years of age to adults up to 90 years of age. It was great to see the community of Albany at the Anzac Day dawn service. We stood on the mountain and looked out over the passage from where the last Anzacs left Australia. The last thing they saw was Albany. Once the dawn service was over, everyone faced the water. Members of the State Emergency Service released flares across the harbour. There is no better sight than that on Anzac Day. After that, we all adjourned to the army barracks for a breakfast of rum and coffee and bacon and eggs. After standing on the mountain in Albany at five o'clock in the morning, the rum comes in very handy. At 10.30 am, we moved to the foreshore. The eleven o'clock service in Albany is attended by schoolkids who have the day off school. All the schools are represented. One of the best parts about Anzac Day in Albany is that once the service is over, the diggers form a line and salute all the young children who have given up their time to attend the service and look after the interests of the Anzacs.

WALPOLE TELECENTRE

Statement by Member for Stirling

MR D.T. REDMAN (Stirling) [12.56 pm]: I take this opportunity to acknowledge and congratulate the people of Walpole following the opening of the Walpole telecentre on 20 April. This new facility, which incorporates a new library, an upgrade to the community centre and the new Walpole telecentre building, represents a culmination of seven years of hard work and commitment by a very dedicated band of volunteers. In particular, I acknowledge the enormous effort put into this project by Jenny Willcox, the telecentre coordinator. Jenny was a key driver of this project. Her tenacity, cheerful nature and enormous capacity for hard work ensured that it would succeed. Congratulations also to Trish Knapton, the telecentre management committee chairperson, and her dedicated committee; local identity Rod Burton, whose vision it was; and previous telecentre chairpersons, Chris Bellanger and Joanna Young. Congratulations also to the Walpole Collocation Committee chaired by Lee Fernie, which was instrumental in coordinating the

incorporation of the library, the telecentre and the community centre. The Shire of Manjimup should also be recognised for its very strong support, as should the state and federal governments for their assistance with funding.

Walpole is a tiny rural community, and the success of this project is a reflection of the strong fighting spirit of rural people who have ably demonstrated what a small group of determined and dedicated people can achieve. Infrastructure such as this, along with good roads, water and power supplies, is vital for rural communities to prosper and grow. It is incumbent on governments to fully recognise that they have a key role to play in facilitating the provision of infrastructure in rural communities because it is fundamental to their survival and growth.

POWER SUPPLY CUTS

Statement by Member for Bassendean

MR M.P. WHITELY (Bassendean) [12.57 pm]: On 10 and 11 March, my electorate office in Bayswater and 185 neighbouring homes and businesses were blacked out for nearly two working days, which was incredibly frustrating. Western Power told me that 185 customers were without power for 36 hours, yet it claims that it cannot identify the streets that were without power. Wester Power's inability to keep lights on is bad enough, but its inability to identify the extent of the problem is inexcusable. Although there may have been other affected streets in Bayswater and Eden Hill, after receiving phone calls from angry Western Power customers I can advise that parts of Walter Road, Mottram Place, Wicks Street and Wendlebury Way were blacked out. Residents told me that that small pocket frequently suffers extended blackouts. Western Power is not legally obliged to pay for the losses because a pole-top fire caused the blackout. However, some domestic customers received an ex gratia payment for small losses such as spoilt frozen food. I welcome the Minister for Energy's direction to Western Power that in future customers without power for 12 hours or more must automatically receive an $80 compensation payment. This initiative must be backed up by measures to prevent these frequent extended blackouts in this small pocket in Bayswater and Eden Hill.

BUNBURY SENIOR HIGH SCHOOL, ENVIRONMENT INITIATIVES

Statement by Member for Bunbury

MR G.M. CASTRILLI (Bunbury) [12.59 pm]: I bring to the attention of Parliament an outstanding achievement from within the City of Bunbury. For the past eight years, Bunbury Senior High School has run a project called OSCAR - Our School Cares About Revegetation. During this time, years 8 and 9 students, under the direction of their teacher, Mr Val Knott, have participated in a number of environmental initiatives. Last year the school adopted a piece of Bunbury's degraded dune system and, with the help of a $5 000 Coastwest grant, began a process of revegetation. The students removed weeds and unsuitable species from the area and replaced them with 4 000 native seedlings collected and grown locally. Their efforts were officially recognised in 2004 in the Coastcare category of the SGIO WA Environmental Awards. More recently, they were named finalists in the Prime Minister's National Banksia Environmental Awards, the winner of which will be announced in Adelaide in June. The students are one of four finalists in the Leadership in Coastal and Marine Award category. They will be up against giants such as BHP Billiton and Shell Victoria. Of the 63 national finalists covering 12 categories, Bunbury Senior High School is the only high school in the nation to be represented. I congratulate Bunbury Senior High School staff and students and, in particular, Val Knott. Not only have they made a positive difference to the environment, but they have also brought national recognition to our state and the region.

Sitting suspended from 1.00 to 2.00 pm

QUESTIONS WITHOUT NOTICE

LABOR'S TWO-PLANT CANNABIS POLICY

143. Mr M.J. BIRNEY to the Premier:

I refer the Premier to Labor's two-plant cannabis policy, which allows Western Australians to grow two marijuana plants in their backyards without attracting a criminal conviction.

Several members interjected.

The SPEAKER: Order, members! I advise members on my right that the Premier is more than capable of answering a question without their assistance.

Mr M.J. BIRNEY: I will start again because I am not sure whether members opposite heard!

I refer the Premier to Labor's two-plant cannabis policy, which allows Western Australians to grow two marijuana plants in their backyards without attracting a criminal conviction.

(1) Is the Premier aware that his friend and British Labour colleague, Prime Minister Tony Blair, recently acknowledged that his controversial policy to downgrade the penalties for marijuana may have been a mistake and that he was quoted in the British press as saying -

> I have thought about this a lot. I know people say cannabis is different from hard drugs - and it is - but I think there is a risk that you start with that and then get into other things.

And also I think there is increasing evidence emerging that it isn't quite as harmless as people make out.

(2) Will the Premier take Mr Blair's advice and the advice of many medical practitioners around the world and abandon his ill-advised law that allows our young people to grow their own drugs without attracting a criminal conviction?

Dr G.I. GALLOP replied:

(1)-(2) I too have thought about this matter a lot and I think we have an excellent policy in Western Australia. The reason we have an excellent policy is based on two things. We should remind ourselves that the previous policy was relaxed by Richard Court and the coalition government. Before Richard Court relaxed the policy, it was not working. We have introduced a much better policy than Richard Court did. We have not introduced a cautioning policy; we have maintained the system in which the possession of cannabis is an offence. To have the opposition run around the community saying something else indicates how desperate it is.

We are addressing the issue of drug and alcohol abuse in our community in the proper way. What do we have here? I can just see it: the Leader of the Opposition sitting in his room with his advisers. They are under a lot of pressure. What do they do? One of the advisers shouts, "Cannabis! We'll raise cannabis! We'll try to get the debate onto another issue." That is exactly what happened. It is called the conservative formula when under pressure. They do it all the time. I support our policy because the previous policies that were applied - before Richard Court, and then with the cautioning system under Richard Court - were both inadequate. We have a better policy that deals with the issue and has the ability to get young people and others into proper programs so they can learn of the consequences of drug abuse in our community.

TOURISM MARKETING ACTIVITIES

144. Mr A.P. O'GORMAN to the Premier:

Will the Premier provide an update on Western Australia's tourism marketing activities?

Dr G.I. GALLOP replied:

I am very pleased to announce to the Parliament that the government will inject an additional $9.4 million into the marketing of Western Australia. We manage our finances well. During the election campaign -

An opposition member interjected.

Dr G.I. GALLOP: That is why we were elected. Members opposite have not worked it out yet. We were elected and re-elected because we manage the finances well. Members opposite obviously do not understand that. During the election campaign, the government announced an additional $13 million for the marketing of Western Australia: $1 million this year and $3 million every year for the next four years. Not long after the election, the tourism minister approached the government and me and advised that the Australian Tourism Exchange would be held in Western Australia this year. It involves 2 500 delegates and 650 tour operators. It is an ideal opportunity to promote the state. Not enough tourists are visiting Western Australia from overseas. The percentage that visits Western Australia is too small, particularly those from China and South Korea. China and South Korea are major trading partners of Western Australia so the state is in a position to leverage its trade and get more tourism from those countries.

Several members interjected.

The SPEAKER: Order, members! I know the members for Hillarys and Vasse like to comment on everything. However, it is disorderly and I call them both to order.

Dr G.I. GALLOP: The government will use its Real Thing promotional campaign, which is an excellent campaign. Tourism destinations in many parts of the world have been overcommercialised. We have a natural advantage in Western Australia and can provide authentic tourism experiences. That is the basis of the campaign we have devised. The additional $9.4 million will be spent to target an additional 160 000 international visitors to Western Australia. We expect the campaign to create an additional 700 jobs in Western Australia and inject $90 million into the economy. This is all part of the process that we are following to promote Western Australia. We are promoting our traditional resource industries and our defence and shipbuilding industries. Our tourism industry is doing well but it needs to do better. We are very positive.

Several members interjected.

Dr G.I. GALLOP: Why is the opposition criticising $9.4 million in extra funding for tourism?

Several members interjected.

The SPEAKER: I call to order the members for Vasse and Hillarys.

Dr G.I. GALLOP: I look forward to the Australian Tourism Exchange, which cabinet members will attend. The government will lever off the Australian Tourism Exchange a major campaign in Western Australia's traditional

markets of the United Kingdom and other parts of Europe, New Zealand and Japan, and will also do more work in China and South Korea to try to get more tourists to come to Western Australia. Western Australia is a great state. It is going ahead and leading the nation. This is an excellent additional expenditure that will create further jobs and opportunities for Western Australians.

GOVERNMENT'S CANNABIS POLICY

145. Dr G.G. JACOBS to the Premier:

I also refer the Premier to the British Prime Minister's about-face on his government's drug policy.

Several members interjected.

The SPEAKER: Order, members! I call the Minister for Planning and Infrastructure and the member for Girrawheen to order for the first time.

Dr G.G. JACOBS: As a doctor of many years standing who has had to deal with the enormous trauma associated with drug addiction, I ask whether the Premier is aware of the 2003 Drug Use Monitoring in Australia statistics of detainees at the East Perth lockup. The statistics reveal that 67 per cent of those detained for violent crime tested positive to cannabis, 90 per cent of those detained for robbery tested positive to cannabis, 59 per cent of those detained for aggravated assault tested positive to cannabis, and 80 per cent of those detained for car theft tested positive to cannabis. The long list continues with similar statistics. Will the Premier now concede that his government's two-plant policy was a serious error of judgment, and will the Premier show some leadership to the 40 000-plus Western Australian families whose lives have been traumatised by this gateway drug?

Dr G.I. GALLOP replied:

Let me ask the member a question.

Several members interjected.

The SPEAKER: Order, members! I call the member for Nedlands to order for the first time.

Dr G.I. GALLOP: Is it the case that before the policy was changed, difficulties regarding cannabis and drugs were presented to the Liberal Party?

Several members interjected.

Dr G.I. GALLOP: Of course it was. The fallacy of the opposition question is that its members think that there was a golden age before the change of policy when people did not turn to cannabis. That is not true. We now have a better policy.

Mr M.J. Birney: The better policy is that they all grow their own now.

Dr G.I. GALLOP: Finally, the Leader of the Opposition has spoken! He has said something! The policy is better now because young people will be directed into programs. It remains an offence. The government has provided a way to deal with the issue. The system that prevailed before Richard Court changed it had unintended consequences that were worse than the policy itself. Those unintended consequences related to the criminal conviction of people and their association with the criminal justice system. It had consequences that were not in the interests of the public. I stand by our law. It was the result of a drug summit. It is a good policy and the government stands by it.

COMMONWEALTH-STATE TAXING ARRANGEMENTS

146. Mrs D.J. GUISE to the Treasurer:

Will the Treasurer inform the house of any recent developments in the dispute between the state and the commonwealth over tax?

Mr E.S. RIPPER replied:

There have been two developments of note in this dispute. First, the New South Wales government this week commissioned legal advice on the goods and services tax agreement. It wanted to know whether it had fulfilled its obligations under that agreement. The legal advice confirmed everything that we have been saying for more than a month. Bret Walker, SC, a commercial law specialist, confirmed that the New South Wales government had done everything that it was expected to do. The New South Wales Treasurer said of Mr Walker's advice -

> He suggests it's absurd that a promised review of the need for the retention of certain taxes would ever be regarded as a promise that all the taxes in question would be abolished.

That is a pretty significant statement. Of course, if it applies to New South Wales, it applies even more so to Western Australia, because Western Australia has done more than New South Wales. We are scrapping all three taxes that were listed for abolition under the agreement. The final one, bank account debits tax, will go on 1 July as scheduled.

Mr M.J. Birney interjected.

The SPEAKER: Order, Leader of the Opposition!

Mr E.S. RIPPER: It is good that we have a new and youthful opposition leader. It is good to see the vigour and dynamism that he brings to the parliamentary debate. Age-old and neglected -

Mr M.J. Birney: Are the figures coming out today? They are not!

The SPEAKER: Order! Leader of the Opposition

Mr E.S. RIPPER: Age-old and neglected questions in the policy debate have been raised at long last by the Leader of the Opposition; for example, that long-neglected question, "Is the Pope a Catholic?" At last that question has been raised by the member who now leads the opposition with youthful dynamism!

The government has scrapped not only all the taxes listed for abolition under the agreement but also another three taxes that were listed for review only. It has also abolished two taxes that were outside the agreement. On top of that, the state government implemented $1.5 billion of tax cuts in the last year alone.

That brings me to the second development that has occurred this week. I wrote to the federal Treasurer yesterday and outlined for him yet again the ongoing commitment of the state government to tax reform in Western Australia, but pointed out that this was in accordance with our priorities, not his. I pointed out to Mr Costello that the GST arrangements were always intended to give the states a robust and growing tax base. The advocates of the GST told us that it would be available to pay for growth in essential services and infrastructure. That is what we are using it for. That is how we have funded, in part, $889 million extra for the health budget each year since we were elected. I pointed out that the commonwealth has already robbed us of our competition policy payments, using the GST as an excuse. I should not have had to point those things out to the federal Treasurer because he was there when the Prime Minister made the deal with the states. The fact that he may not have agreed with the Prime Minister's deal at that time, or that he wishes for his own reasons to disown the Prime Minister's deal now, should not be allowed to disadvantage the people of Western Australia. He should play out his rivalry with the Prime Minister elsewhere, and not at the expense of states such as Western Australia. We will not allow Western Australia to be used as a pawn by Peter Costello to help to establish his leadership credentials. His misinterpretation of the GST agreement is about as reliable as an insurance quote from Rodney Adler.

INDEPENDENT WATER PANEL

147. Mr B.J. GRYLLS to the Premier:

Given that average inflow into Perth's dams has declined markedly since 1975 and that water use in Western Australia is predicted to double in the next 20 years, I ask -

(1) Does the Premier concede that the state will need another long-term water source beyond the state's proposed desalination plant at Kwinana?

(2) When will the independent water panel deliver its recommendations on the viability of transporting water from the Kimberley?

(3) Can the Premier confirm that panel members are planning to travel overseas to investigate transport methods; and, if so, when and where are they travelling?

(4) Will the Premier commit to implementing the recommendations of the panel?

Dr G.I. GALLOP replied:

I thank the member for some notice of this question.

(1) Yes. As was clearly stated in the government's water policy announced during the election campaign, we will outline short-term, medium-term and long-term strategies to deal with water.

(2) The panel will aim to deliver its report and recommendations in September 2005.

(3) The chair and a panel member are travelling overseas with the executive officer to consider alternative transport methods. The panel is going to the United States, Turkey and Greece in May 2005.

(4) The recommendations of the panel will be considered by government, along with other recommendations relating to long-term supply; for example, from the south west Yarragadee.

I find it quite interesting that the opposition would raise questions about our long-term water needs. When we raised this issue during our last term, the then Leader of the Opposition and member for Cottesloe said -

> Western Australia does not face an immediate water crisis.

That was the opposition's view. What did Hon Norman Moore, who was the opposition's spokesperson, say? He said -

> Let us stop this nonsense about a water crisis.

That was the attitude of the opposition in our first term of government. We have got on with the job. The short-term, medium-term and long-term strategies are now in place to deal with this issue. In the interests of the member for Merredin's further development as the opposition spokesperson on water, I table "Labor's plan to secure our water future" and suggest the member give it a good, close read, because it is an excellent document that outlines what we need to do in Western Australia today.

[See paper 408.]

KALGOORLIE, COMMUNITY SAFETY AND SECURITY, IMPROVEMENT

148. Mr T.G. STEPHENS to the Minister for Police and Emergency Services:

Will the minister advise what the government is doing to improve community safety and security in Kalgoorlie?

Mrs M.H. ROBERTS replied:

I thank the member for the question. Of course, last week the member for Kalgoorlie was overseas when I tabled the March quarterly crime statistics. There is really good news on that front. I am pleased to advise the house that, thanks to our government's massive budget increase and initiatives, such as the 44-hour week, and some excellent local police work, crime is down significantly in the goldfields-Esperance district. For the nine months ending 31 March this year compared with the same period in the previous year, total offences were down by 10.6 per cent. Home burglary was down by more than 40 per cent.

The SPEAKER: I call the Leader of the Opposition and the Deputy Leader of the Opposition to order for the first time.

Mrs M.H. ROBERTS: Crime overall has gone down by 10.6 per cent. That is the trend. Home burglaries are down by more than 40 per cent, and car thefts are down by 25 per cent.

The SPEAKER: Order, Leader of the Opposition!

Mrs M.H. ROBERTS: The member for Kalgoorlie may want to criticise the local police. However, I am saying that they are doing a good job. For example, the clearance rates have improved by some 4.4 per cent. That must be good news. I suggest that members opposite listen to this.

I know that the member for Kalgoorlie will be absolutely delighted because tomorrow I am going to Kalgoorlie to open the brand new, state-of-the-art fire station, valued at $1.85 million, which has been funded out of the emergency services levy. I will also contribute, on behalf of the government, nearly $95 000 to the government's partnership with the City of Kalgoorlie-Boulder. Some $82 500 of that will go towards eight closed circuit cameras and security lighting. Three of those cameras will be installed in Burt Street, Boulder, and the other five cameras will be installed in Hannan Street, Kalgoorlie. Of course, we do not expect to capture the member for Kalgoorlie on the cameras, because he will be too busy scouring the streets of Cottesloe and Floreat looking for a new place to call home or trying to introduce himself to the local Catholic parish priest. I know that some people opposite do not think he will introduce himself to the local Catholic priest after his comments yesterday. However, in February the Leader of the Opposition told the Australian Christian Lobby in Kalgoorlie that he was in fact a Catholic. In fact, the *Kalgoorlie Miner* of 16 February states -

Point of Order

Mr D.F. BARRON-SULLIVAN: The point of order is very simple. This diatribe from the minister has absolutely nothing to do with the question that was asked of her. It is not relevant, and it contravenes standing orders as such.

The SPEAKER: Members may not like the way in which the minister is answering the question. However, I think she is answering the question asked by the member for Central Kimberley-Pilbara at this stage. I call the Deputy Leader of the Opposition to order for the second time, and I call the member for Peel to order for the first time.

Questions without Notice Resumed

Mrs M.H. ROBERTS: The *Kalgoorlie Miner* states -

> A born politician and extremely slick in his approach, Birney had the crowd eating out of his hand when he opened his speech with "I do feel quite comfortable among this crowd because I'm a Catholic and the Liberals best represent the views of Catholics".

Point of Order

Mr D.F. BARRON-SULLIVAN: This is the second time in two days that this minister has attempted, in the most grubbiest of manners, to mix religion and politics.

The SPEAKER: I call the member for Leschenault to order for the first time. It is not appropriate to try to break up a speech by using points of order that are not points of order

Questions without Notice Resumed

Mrs M.H. ROBERTS: Only one question remains: is the dope a Catholic?

TONKIN HIGHWAY, ABERNETHY ROAD ON-RAMP

149. Mr J.H.D. DAY to the Minister for the Environment:

I refer to the urgent need for the construction of an on-ramp between Abernethy Road and Tonkin Highway in the Forrestfield-Kewdale area, as particularly expressed by the Shire of Kalamunda.

(1) Is the minister aware of an incident last Monday in which a very large load brought down a power pole and lines in Hale Road, Forrestfield, resulting in a widespread loss of electricity?

(2) Why has approval for the construction of a ramp now been under consideration by the environmental Appeals Convenor for 18 months?

(3) Does the minister agree that this is an excessive time for a decision to be made?

(4) When will a decision be made to enable the construction of the ramp to proceed so as to remove the need for oversize loads to travel through suburban areas in Forrestfield and Maida Vale?

Dr J.M. EDWARDS replied:

I thank the member for some notice of this question.

(1) No.

(2) It is important to point out that the Environmental Protection Authority formally assessed this project, and it concluded that it was environmentally unacceptable. Therefore, the EPA said no. The Appeals Convenor, with my blessing, has been working through this proposal and the appeals, focusing on ways in which we can say yes; in other words, focusing on ways in which the proposal can be either modified or constructed in a different manner so that the environmental impacts can be avoided or better managed. As part of this, there has been an independent review of engineering options, which was initiated late last year.

(3) No. Given the EPA's advice about the proposal and the need to look at design options and ways of making it environmentally acceptable, I believe that is acceptable.

(4) A decision will be made as soon as possible.

KING EDWARD MEMORIAL HOSPITAL FOR WOMEN, SAFETY OF BABIES

150. Mr D.A. TEMPLEMAN to the Minister for Health:

I refer the minister to the coroner's criticism over the tragic death of baby Michael Anderson at King Edward Memorial Hospital in 2001. Will the minister explain what measures have been taken to ensure the safety of babies at the hospital?

Mr J.A. McGINTY replied:

As members would be aware, baby Michael Anderson was born at King Edward Memorial Hospital on 8 November 2000. On 15 November his mother reported to the nursing staff that he was unwell. Having spent the next four months on life support, he died in March 2001. I think members will also be aware that high levels of paracetamol and codeine were discovered in his blood. The matter was reported to the police and subsequently to the coroner. Yesterday the coroner delivered his findings on the death. The coroner concluded that there was an overwhelming body of evidence that Michael was given grossly excessive amounts of paracetamol and codeine by an unknown person or persons, and recommended that the police treat baby Michael's death as a murder inquiry. The hospital will, as of course it should, cooperate with the police fully in undertaking that further investigation. The coroner found that the police investigation was inadequate and that the hospital did not ensure that reasonable, vigorous action was taken to obtain the relevant information and statements from potential witnesses. The Australian Nursing Federation was criticised for providing misleading advice to the nurses, which had the effect of substantially delaying the investigation at a crucial time.

This was a very tragic case. I report to the house that, as a result of this, the King Edward Memorial Hospital has instituted a number of measures to ensure the safety of all babies at the hospital. First, a review of all babies who had collapsed or died from unknown causes between 1998 and 2002 was undertaken. The review found that no other babies had died in suspicious circumstances. The hospital is now reviewing any deaths from unknown collapses from 2002 to the present day. Also, toxicology screening is now routine for all babies who collapse unexpectedly. A medical review of all babies who collapse unexpectedly is done immediately and a report is submitted to the chief medical officer in the Department of Health. All clinical incidents at the hospital are reported and the information held on a database for further analysis if appropriate. All adverse events are reported and investigated by the morbidity and mortality committees established at both the hospital and the department. The hospital now has ongoing staff education in the management and giving of medications. A review of policies and procedures for the giving of medications and the management of codeine-based analgesia is being undertaken. Drug storage areas and fridges are securely locked.

That represents the initiatives taken by the hospital in response to this tragic event. The death of Michael Anderson should never have happened. I believe the hospital has now taken the rights steps to ensure that an event like this does not happen again.

COODE STREET JETTY FERRY SERVICE

151. Mr J.E. McGRATH to the Minister for Planning and Infrastructure:

Some notice of the question has been given. Can the minister advise whether Transperth is about to permanently discontinue the seasonal ferry service to and from Coode Street jetty in South Perth; and, if so, why?

Ms A.J.G. MacTIERNAN replied:

I thank the member for the question. Yes, a decision has been made by the Public Transport Authority to discontinue the ferry service to Coode Street jetty in South Perth. The basis for this decision is that the average patronage of the Coode Street ferry is three persons per trip, as opposed to the average patronage of the Mends Street ferry, which is 24 persons per trip. The government is not proposing to save any money from this change. We intend to use the additional resources to increase the number of services to Mends Street jetty. We have calculated that we will be able to deliver a better return on investment for the people of South Perth by increasing the frequency of services to Mends Street jetty, because that is where the bulk of the patronage occurs. There are connector bus services between Coode Street and Mends Street. I have recently received a letter from one of the member's constituents expressing his concern about this matter. One point that was made in the letter and that is worth looking at is the possibility of a weekend service to Coode Street. I am prepared next summer to consider the trial of a Sunday service to see whether we can promote the Coode Street area as a tourism destination. I am happy to work with the member to see whether we can make that work for that six-month period. It will obviously need to be promoted, because if the service is not being used we will not continue to sink resources into it.

It is certainly true that Perth has beautiful waterways. However, because of the lack of population densities in the riverside areas of Perth we have not been able to make a ferry service work. However, I am optimistic that with the fantastic development that Mirvac Fini (WA) Pty Ltd is doing at Burswood, and the rejuvenation of the old eastern gateway to the city of Perth that we are in the process of undertaking, the population densities in those areas will build up and make a ferry service a more viable proposition.

COODE STREET JETTY FERRY SERVICE

152. Mr J.E. McGRATH to the Minister for Planning and Infrastructure:

I ask a supplementary question. Given what the minister has just said - which I appreciate - will the decision with regard to the Coode Street jetty ferry service be reviewed if the demand for the service improves due to population growth and the service being better advertised?

Ms A.J.G. MacTIERNAN replied:

In the short-term I am willing to explore the opportunity of providing the service on weekends. In the long-term, over the next four years we want to develop, as the member knows, as part of the value-adding to the rail project, a four-hectare area on the western foreshore next to the Perth Convention and Exhibition Centre. That will create a lot more activity in that part of town around the new Esplanade station. Once that is in place, there may be sufficient vigour and strength in the two-way passenger flow to make a ferry service worthwhile. We need to continue to look at the way in which the city is developing and changing and make sure that when those developments are delivered we keep all the options open.

UNDER TREASURER

153. Mr D.F. BARRON-SULLIVAN to the Treasurer:

I refer the Treasurer to his indecisiveness in allowing the extremely important Department of Treasury and Finance to drift without a rudder for the past 12 months while Western Australia has had a rotating selection of Acting Under Treasurers.

(1) Why has it taken the Treasurer so long to fill the position of Under Treasurer, which undoubtedly is one of the most important senior executive roles in government?

(2) When will this position be filled permanently?

(3) Is it true that none of the three Acting Under Treasurers will get this job and the government will import an out of state applicant after another eastern stater turned it down?

Point of Order

Mr J.C. KOBELKE: Ministers can answer questions relating to their portfolio. The appointment of senior officers is a matter that comes under the Public Sector Management Act and is the responsibility of the Premier, not the Treasurer.

Mr D.F. BARRON-SULLIVAN: Although I appreciate that this is a question about the appointment of a chief executive officer, the Treasurer is responsible for the whole department. The department will not operate effectively and efficiently until it has a permanent chief executive officer.

The SPEAKER: Order! What the Leader of the House says is true. I am sure the Treasurer knows what the question is and will either answer it or not answer it.

Questions without Notice Resumed

Mr E.S. RIPPER replied:

(1)-(3) It is demonstrably the case that the Department of Treasury and Finance is performing very well. The former Under Treasurer was a great strength for the public sector, and, indeed, for the previous government and this government. One of the characteristics of his strong leadership was that he fostered people underneath him and arranged for their professional development. Therefore, although we certainly missed him when he departed, we have had the benefit of the people whom he mentored. They are excellent people, and they have performed very well indeed. The Under Treasurer position is a very important position in the state public sector. It is important that we go through a proper selection process. We resolved that it would not be appropriate to have a selection process that would result in an appointment very close to the beginning of the then forthcoming state election campaign. I think the opposition would have been strongly critical of an appointment process that resulted in the appointment of a new Under Treasurer just before the beginning of the caretaker period of government and the election of a new government. Therefore, we deliberately decided to have the selection process commence before the election campaign but not conclude until after the election campaign so that the applicants would have the benefit of knowing the outcome of the election, and the incoming government would have the benefit of being able to make the appointment. I do not have personal supervision of the selection process. That is a matter for the Minister for Public Sector Management. I cannot therefore comment at all on the member's retailing of what would appear to be scurrilous gossip.

LEADER OF THE OPPOSITION

Personal Explanation - Comments about the Pope

MR M.J. BIRNEY (Kalgoorlie - Leader of the Opposition) [2.39 pm] - by leave: I make a personal explanation regarding my reported comments on ABC radio about the Pope. I was asked in broad terms by the interviewer about the circumstances in which it would be appropriate for a member of Parliament to take a partner to an official function. The point I was attempting to make was that one circumstance in which it would be appropriate for a member of Parliament to take his or her partner to an official function would be if the host of that function was also accompanied by his or her partner. I was further asked if I would take my partner to a function hosted by the Pope - a hypothetical question. My response was certainly not flippant, nor was it a joke or meant to be insulting to Catholics, of which I am one. It was, in fact, a slip of the tongue during the cut and thrust of a talkback radio segment, which was somewhat opportunistically seized upon by the Labor Party. Within hours of the radio interview yesterday, I was in touch with the Archbishop's office and I communicated my regret at making the comments, that they were merely a slip of the tongue and that no offence was intended. I am pleased to say that no offence was taken by the Catholic Church or the Archbishop's office and I understand that this message was communicated yesterday in a statement that reads as follows -

> A spokesman for the Catholic Church said he had been assured by Mr Birney that there was absolutely no disrespect intended to the Pope, and his explanation is accepted.

It is a pity that the Labor Party is not as gracious.

Point of Order

Mr P.D. OMODEI: Mr Speaker, yesterday the Premier agreed to table the costs to taxpayers of travel undertaken by partners of members of Parliament and I ask whether the Premier intends to table that detail for us.

Several members interjected.

Mr P.D. OMODEI: The Premier gave the commitment yesterday.

The SPEAKER: That is not a point of order, as the member for Warren-Blackwood would well know, and I call him to order for the third time.

Mr M.J. Birney: Are you going to table them, Premier? Are you going to table the figures? What have you got to hide?

The SPEAKER: Perhaps the Leader of the Opposition cannot see me standing.

Mr M.J. Birney: I am sorry, I could not.

The SPEAKER: I can certainly see the Leader of the Opposition and I call him to order for the second time.

QUESTION WITHOUT NOTICE 141

Supplementary Information

MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [2.41 pm]: In relation to standing order 82, yesterday the member for Murray sought advice on the timetable for the installation of traffic control lights at the intersection of Madora Beach Road and Fremantle Road, and I am pleased to confirm that, in line with our election commitments, this will be completed by October 2005.

CANNABIS LEGISLATION, REPEAL

Matter of Public Interest

THE SPEAKER (**Mr F. Riebeling**): Today I received within the prescribed time a letter from the Leader of the Opposition in the following terms -

> That this House calls upon the Premier to immediately repeal his government's two-plant policy which decriminalises the possession of cannabis and sends the wrong message to young Western Australians, often leading them into a life of drug addiction and crime.

This matter appears to me to be in order. If at least five members stand in support of the matter being discussed, I will allow it.

[At least five members rose in their places.]

The SPEAKER: The matter shall proceed.

MR M.J. BIRNEY (Kalgoorlie - Leader of the Opposition) [2.42 pm]: I move the motion.

It is well recognised in Western Australia that the current Labor Party has a very soft-on-drugs approach. That is not a subjective view; it is an objective view based on the legislation that the Gallop Labor government passed through this Parliament during its last term in office. The most significant change to this state's laws as a result of that legislation is that Western Australians, particularly young Western Australians, now have the capacity and the blessing of the government to grow up to two plants of marijuana in their backyards without attracting a criminal conviction.

I guess the news today is that the Premier's good friend - I hope I am not being presumptuous in saying that - the Prime Minister of Britain, Mr Tony Blair, a member of the British Labour Party, has had a rethink about his government's attitude to marijuana. It has been reported quite recently in the British press that Mr Blair said -

> I have thought about this a lot. I know people say cannabis is different from hard drugs - and of course it is - but I think there is a risk that you start with that and then get into other things.
>
> And also I think there is increasing evidence emerging that it isn't quite as harmless as people make out.

The British government reduced the penalties that apply to people found in possession of marijuana and downgraded marijuana from a class B drug to a class C drug. Mr Blair has reconsidered his position on marijuana and I believe he told a group of mothers only a few days ago that he now has a new position on it. My question to the Premier is whether he will take the lead from his good friend and fellow Labour colleague, Tony Blair, who quite obviously is now aware of the terrible dangers involved with cannabis. It is not only Tony Blair who is aware of the dangers, as other articles are floating around in the British press. One article in *The Guardian*, a United Kingdom newspaper, said -

> Thirty thousand Britons a year might eventually die from cannabis smoking, doctors claimed last night.

The Guardian stated that 120 000 deaths are caused among 13 million tobacco smokers each year and that if those figures are added to the number of cannabis smokers, of which it is suspected there are 3.2 million, it would result in about 30 000 deaths a year.

The medical authorities in the UK have warned that we must not be caught out like we were with the results of tobacco consumption, which took about 50 years of research before any concerted fight-back happened. It is an absolute disgrace that a duly elected government in this place is intent on sending the wrong message to young people.

It does not matter how the government tries to fudge it or flower it up, the message is clear: people in Western Australia can now grow two marijuana plants in their backyards without attracting a criminal conviction. Let us think about that point: two non-hydroponic marijuana plants can produce up to 2.6 kilograms of cannabis a year. I am led to believe that that is worth around $65 000. People can now grow $65 000 worth of drugs in their backyards without attracting a criminal conviction as a result of legislation introduced by Premier Gallop and the Labor Party. What does the Premier think people will do with $65 000 worth of drugs? I expect it would be pretty hard to smoke it all. People with $65 000 worth of drugs will end up selling it. The Labor Party in this state is turning people into drug dealers by virtue of its legislation, because people who have $65 000 worth of drugs cannot smoke it. There is only one thing left to do with it; that is, sell it. Quite simply, Mr Blair, the British Prime Minister, is aware of all these aspects, which is why he has decided that it is now time to do something about it.

The Liberal Party's position is somewhat different from that of the Labor Party. I note that the Premier consistently quotes the former Premier, Richard Court, as having had a soft-on-drugs approach. Of course the Premier does not go one step further and tell people exactly what that approach was. One thing that Richard Court never subscribed to was the theory that people should be able to grow drugs in their backyards without attracting a criminal conviction. That was never Liberal Party policy and it was never Richard Court's policy. If the Premier of this state had been honest with people when he made the comment about the Liberal Party changing the scene on drug legislation, in his next breath he would have said that the Liberal Party did not go as far as the Labor Party. In fact, it is the Liberal Party's view that people who are caught in possession of a small amount of marijuana for the first time should attract only a minor penalty. However, if they did it again and again, a criminal conviction would kick in. Under the Labor Party's policy - a policy with which the British Prime Minister, Tony Blair, is now uncomfortable - the only penalty is the equivalent of a parking fine; people can get a whole stack of them. It does not matter how many times they are caught with marijuana, all they will get is a parking fine. There is no escalation in the size of the fine. They will simply get a slap on the wrist for growing 65 grand worth of drugs and away they will go. That is extraordinary. It is typical of this ultra left-wing Labor government. I suspect that this is the most ultra left-wing Labor government that this state has ever seen. It is philosophically off the planet and to the left of the spectrum; there is no doubt about it.

I searched the British press for Mr Blair's comments. I came across an article in *The Guardian* that referred to Dr William Oldfield of St Mary's Hospital, London. It states -

> Dr William Oldfield, a senior registrar at the hospital, said cannabis and nicotine had very different modes of inhalation, with cannabis smokers taking in larger volumes and holding smoke down far longer. "These could all contribute to illnesses of the heart and respiratory system, particularly as the chemicals in cannabis smoke are retained to a much higher degree."
>
> The doctors argued that the level of active ingredient known as THC was much higher than 20 years ago. It had a marked effect on heart and blood vessels and sudden deaths had been attributed to cannabis smoking.

It is a shame that the Premier knows more than do doctors around the world. A doctor is about to stand who, I suspect, knows a helluva lot more than this Premier about this issue.

MR M.J. COWPER (Murray) [2.51 pm]: I support the motion. I intend to speak from a policing perspective. My colleague the member for Roe will speak from a medical perspective. We will also hear an educational perspective on how this problem is impacting on the people of Western Australia. The specific crime implications are most evident in the resulting degradation of society. Many people in the community of Western Australia have grave concerns about the perpetuation of this drug in the community. The practice of hydroponics is perpetuating the situation as much as the potency of the drug is having a serious effect on our young people. The consequence of that is that young people turn to a life of crime. We heard a short time ago in the house about the number of people convicted in Western Australia who have a high proportion of tetrahydrocannabinol in their blood or who were affected by high levels of THC in their blood when committing offences.

Cannabis is a gateway drug. I have seen first-hand that it does lead to further escalation in drug use, because it places young people particularly in a culture of drug use and abuse. Evidence suggests that people experimenting with drugs such as cannabis progress to harder, core drugs. I have been an officer in charge of police stations. I had people present at my police station who were concerned about young people of the age of 12 and 14 years who had a change in attitude and outlook on life. They had got into a downward spiral of crime and associated with the wrong crowd. Frankly, their parents had become desperate about what to do. An article in *The West Australian* of Saturday, 10 January referred to me and an incident in which I was involved. The article tells a story of woe about an angelic young boy who became an absolute monster. For those members who care to read it, I will table the document. In essence, the article went on to say that the impact on the boy's family was profound, and its social ramifications were equally profound.

The SPEAKER: That document will lie on the table for the balance of this day's sitting.

Mr M.J. COWPER: As a result of this laissez-faire attitude towards people in possession of cannabis, a large number of people on our roads are affected by cannabis and alcohol. I do not need to remind this house that when people smoke cannabis and consume alcohol, the two do not necessarily compound each other but exponentially affect each other. They have a serious effect on a driver's capacity to control a vehicle. There is no way of having an exact understanding of the numbers of people on the roads who are affected by cannabis and other drugs. It is cause for serious concern.

As for the effects on policing, when the legislation was drafted it was fundamentally flawed, as it contains no provision to ease the burden and impost on police and services, particularly when it comes to the handling and management of the cannabis systems. The police face an administrative nightmare when dealing with these issues. The strange anomaly is that every time the police take a unit to the PathCentre for analysis, it costs in the region of $250. If members consider that the fine is only $150, I do not have to remind members who are in business that if something is sold for $150 that costs $250, a business goes backwards in a hurry. I am quite perplexed about what is being done.

Another problem with the PathCentre is that it is inundated with units, resulting in a backlog of examinations. The police can wait up to eight months for an analysis to be made. This creates a storage problem for police officers. The

drug receival unit is an anomaly, because it has stopped receiving drugs, which is indicative of the problems resulting from this legislation. Police have real security concerns about the storage, management and control of drugs. The court system is impacted upon and court cases cannot proceed because analyses have not been carried out. It has a domino effect through the whole system.

Offenders have thumbed their nose at this legislation. Of the 1 000 fines issued under the state's new cannabis laws in the first three months, 341 people have not responded to notices. In essence, we have a toothless tiger. It was supposed to have the effect of sorting out the problem, but it has not sorted out the problem. As has been mentioned in the house, the handling of this drug has been a long-term problem. Clearly, this legislation is not the antidote to the problem. Those 341 people have just decided to totally ignore the fines system. As a result of doing that, they are subject to a fines enforcement system. This compounds the fines enforcement system, and means that in the vicinity of 40 000 people on WA's roads do not have a valid driver's licence.

Another concern with the storage, management and control of cannabis and other drugs is that it puts police in a precarious position because it puts harm in their way. The Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers identified a number of practices within the Police Service that needed addressing. The storage of these items does not assist the ability of police to manage the continuity of evidence that is required for those cases. The hypothesis is that if someone knew how to work the system and they got into the system, they might never be dealt with. They would have the option of attending a drug education program. If they failed to attend, the matter would go to court. They could then elect to go back on a drug education program, and so it would go on. It is an added burden on not only the police, but also the court system. Members will shortly hear how it impacts on health issues in Western Australia.

The two-plant policy under this legislation is supposed to have stopped drug cultivation. I certainly had first-hand knowledge of the cultivation of cannabis when I was stationed in the south west. It has impacted on the drug culture, but only marginally. It has seen an increase in the use of hydroponics, with record sales of hydroponic gear and the installation of a large amount of associated infrastructure that goes with the industry. The danger is that it grows a very potent mix, which has a very profound effect on people, particularly young people. For argument's sake, the average user may smoke one or two cigarettes a day, or a joint or cone. They generally smoke them with about 0.5 of a gram of cannabis. Two plants equate to about 4 000 joints a year, because a well-grown plant can produce about a kilo of cannabis material. If that is divided by a cone or a joint per day, it works out to 11 joints a day. No-one in their right mind would suggest that people smoke 11 joints a day, every day of the year.

Mr A.D. McRae: Is that calculation consistent with the $65 000 value referred to by the Leader of the Opposition?

Mr M.J. COWPER: I did not mention any values; I was referring to the weight as opposed to each unit.

Mr A.D. McRae: Is two kilograms worth $65 000?

Mr M.J. COWPER: It depends on the marketplace and how it is broken up. The legislation contradicts itself. People are allowed to have 30 grams of cannabis without attracting a criminal record. It is not difficult to grow two kilograms from two plants, or one kilogram per plant. A person is allowed to possess only 30 grams. One must ask the question: what happens to the remaining 1.97 grams? The answer to that is apparent: it is used for other purposes, either being sold or supplied to other people.

Mr R.C. Kucera: Which makes you a dealer.

Mr M.J. COWPER: Which goes to show that the legislation is contradictory. During the drafting of this legislation the concerns of the Police Service were highlighted in another place. It was given the option of including a clause stating that when a cannabis infringement notice had been issued pursuant to section 567, unless within 28 days after the giving of the CIN, as it was called, the alleged offender delivered notice in writing to the commissioner and denied that the alleged offence involved cannabis, then section 38(b) of the Misuse of Drugs Act 1991 shall not apply to any prosecution brought in relation to the alleged offence. That clause was later rejected by the house. The government stated that it was not prepared to support the proposed new clause and the reasons were outlined in the house. The government also said it believed that it would not have any effect on the people involved. That has been shown to be contrary to what has occurred. After the cannabis has been identified as such, the police still have to hang on to it for some time, until the offender is dealt with by the courts or by way of an educational program. It is creating a huge storage and infrastructure problem for the police.

I will sit now and make allowance for my colleagues to speak, but I make the point that this legislation is fundamentally flawed and from a policing perspective it is not working.

DR G.G. JACOBS (Roe) [3.02 pm]: I would like to speak to this motion as a general practitioner who has recently come into this place. I have only a short time, but I wish to address some of the consequences to mental health and wellbeing, particularly in young people, who start using THC, or delta9 tetrahydrocannabinol. This drug has had enormous consequences, particularly in our young community. I will refer to a British study into genetics and the Drug Council of Australia's finding, and I will share a little anecdotal story about an unfortunate patient of mine who has been with me for over 20 years - in fact, I delivered her.

Firstly, I will briefly address the Premier's comment about the figures I mentioned during question time. I stated that 67 per cent of those detained for violent crime tested positive for cannabis. In case members think that statistic has been there all the time and it has always been bad, I suggest they look at the figures for the East Perth Police Station and the percentage of people who test positive for cannabis. Violent crime with cannabis reached a figure of 55 per cent in 2000, 65 per cent in 2002 and, as I said in my question, it is now over 67 per cent. The problems are getting worse. We should not be making light of this, because the 2004 national drug strategy household survey indicated that 1.848 million people from the age of 14 recently used cannabis, according to its questionnaire. On a conservative estimate whereby Western Australia would account for only 10 per cent of that 1.8 million people, we would still have a significant number of 180 000 people dabbling, the government may say, but the dabbling can lead to more abuse.

Mr N.R. Marlborough: You want to see all that change, do you?

Dr G.G. JACOBS: I want this government not to send my patients, my young people, who come in my door, the wrong message. The message is that it is okay: a little bit is fine; it does not matter!

Mr N.R. Marlborough interjected.

The DEPUTY SPEAKER: Order!

Dr G.G. JACOBS: I am telling the truth, and if the member had been where I have been, he would know what I am talking about.

The DEPUTY SPEAKER: Order, members! I am having difficulty hearing the person with the call.

Dr G.G. JACOBS: Young people under 15 years of age -

Mr N.R. Marlborough interjected.

Dr G.G. JACOBS: Just in case members believe a little bit is fine and the message is okay, I refer them to a study published in the *New Scientist*, and Sir Norm can look it up if he would like -

Mr N.R. Marlborough: Sir Norm?

Dr G.G. JACOBS: The member for Peel, I am sorry.

Several members interjected.

Dr G.G. JACOBS: I do not have much time, Madam Deputy Speaker, and members on the government side are allowing me less. Young people under 15 years of age who smoke marijuana three or more times a year are more than doubly likely to develop schizophrenia by the age of 26. The government can say that it does not matter and that this is a political horse that I am flogging -

Mr N.R. Marlborough: It's a dead horse!

Dr G.G. JACOBS: It is not a dead horse. In fact, the member should take notice of a British study that was released in March this year, which states that one in four young people have a genetic predisposition to schizophrenia following the smoking of marijuana, and I am not referring to chronic abuse. In fact, 25 per cent of young people have the genetic enzyme vulnerability that will lead to mental illness following the smoking of marijuana; that is, schizophrenia, bipolar depression and, in my town, suicide. It seems that I do not have time, owing to the interjections from the other side of the house, to go through an anecdote of a personal experience I have had with one of my patients. However, my argument is that this legislation sends a message that young people can get onto drugs, which government members think is harmless.

Mr M.P. Whitely: We do not say that.

Dr G.G. JACOBS: The government is sending the wrong message. It is sending the wrong messages to teenagers to start on this drug and then commit themselves to a life of drug addiction, abuse, crime and mental illness.

MR R.C. KUCERA (Yokine - Minister for Disability Services) [3.09 pm]: I will deal with the comments of the last two speakers. No-one in this house has any argument with the medical evidence presented in the house today, and nor should they. Cannabis is a harmful drug; it has always been treated as a harmful drug. It is illegal - full stop. There is no problem with that; those arguments were well thrashed out in 2001 during the Drug Summit. All the legislation we discuss today arose from a week-long debate between more than 100 eminent Western Australians, headed by people like Jade McSherry, who is a young woman who has just written a remarkable book about her journey back from the drug scene. People like her realise that, at the end of the day, both ends of the spectrum have to come together. Out of the deliberations of those 100 people - people like Hon Fred Chaney and a vice-chancellor of one of the Melbourne universities, Liz Harman - came the recommendations that led to the legislation we are talking about today. It was not enough that those deliberations led to the recommendations; a committee was established, which was chaired by Rae Keane of East Fremantle, who is a very eminent counsellor in this city. The committee had some of the best barristers and legal brains in the state on it. They drafted the legislation, which was then referred to the Police Service. In fact, the Police Service assisted in its framing. The current policy is firmly supported by the Police Service; it was applauded

by it when it was introduced. Why was that? It was for the simple reason that a number of fundamental changes were made to the cannabis laws at the time. I will go into that in a moment.

The main reason it was applauded was that there had been an ad hoc cautioning system, which was brought in under the previous government. It was enforced by discretion, not legislation or regulation. It was a simple policy brought in by the Court government. The policy was clearly discredited by the royal commission because it could lead to entrenched corruption. That is why this government got rid of it and put in place a formal system. What has changed since the previous legislation went through this house? Only two fundamental changes were made to the previous legislation.

Mr R.F. Johnson interjected.

Mr R.C. KUCERA: It is the message that the member for Hillarys and others on his side give out that condones and promotes cannabis use in this state.

I refer again to the fundamental changes that were made. Firstly, the rules about simple possession were changed by reducing the number of plants that a person could grow from 12 to two. That was a change made to the previous legislation brought in by the Court government. The criminal offence of cultivating cannabis for simple possession remains the same; it has not changed. It is still on the statute books; the police can still apply it. The second thing that was changed was simple possession, which under the previous government was 100 grams of cannabis but which we reduced to 30 grams. Any amount that a person has in his possession up to two growing plants - not harvested plants - and 30 grams of cannabis, is regarded as simple possession. Any amount over that automatically classifies a person as a dealer. The kind of nonsense that has been spoken by one of my former colleagues to the effect that a person can reap six or seven kilos of cannabis from a plant sends out the wrong message. That sort of message will set people up to be charged with dealing. It is a very reckless way to try to draw the view of the community away from the problems that the Leader of the Opposition is having. It is a very reckless message to send to the young people of this state.

The other fundamental change was to the discretionary cautions that were being given out by the police at the time. The cautions were not backed up by legislation; their issue was simply a policy adopted by the Court government. It could have led to entrenched corruption. That was done away with. In its place, the police now have the power to issue first offenders a $150 infringement notice. The police also have the discretion to charge someone, as was always the case, with a criminal offence. The message sent to people that they are allowed to grow two cannabis plants was objected to during the last election. In fact, complaints were made to the Electoral Commission about that sort of message. All it did was to tell young people in this state that they were allowed to grow cannabis; that they were allowed to have possession. Only two parties in this state have pushed the message: the Liberal Party and Family First. They were taken to task by the Electoral Commission over that sort of message. It is totally reckless and stupid to put out that sort of message to young people. I tell members on the other side of the house that if they are putting out that sort of message to young people, they should be absolutely ashamed of themselves because they are putting them in jeopardy. The young people could be sent to jail. To say that six kilograms of cannabis that is ready for processing can be plucked from a marijuana plant will immediately put young people in jeopardy. It is the same type of jeopardy that we have seen recently with 10 young Australians in overseas countries. It is that stupid sort of message that promotes the use of cannabis.

The government has put in place a good policy. It is good policy because it is supported by the people who framed it. It is supported by the Police Service in this state and it is supported absolutely by the people who took the time and trouble to work through the issue.

As far as the member for Roe is concerned, I applaud the figures he presented to the house. Of course it is a problem. No-one says that it is not. Of course it is an issue. The policy of the government is a sensible approach. It is the one thing that grew from the week spent in this place with people from all over Western Australia. A member opposite made a flippant comment about them being hand-picked. That is an absolute insult to the people who came here. It is an absolute insult to people like Jade McSherry, who dragged herself out of the gutter because of the kinds of things we are talking about today. Those people came up with a sensible arrangement that stated that legislation should recognise the fact that the drug is illegal and harmful and should not be used. As the same time, a person does not hit a gnat with a sledgehammer. The education processes that are in place are to make sure that young people get a sensible approach to these things.

Let us look at the record of the Leader of the Opposition over the past week. He made a statement just after question time today about a slip of the tongue that he made. Again, that is the type of judgment issue that is linked with leadership - the type of messages that are sent out - when a person is not on top of the issues. It is those types of silly things that people say - and the message sent by the other side of the house - that are totally reprehensible.

The comments made by the member opposite who was in the Police Service are an insult to his former colleagues. He referred to the storage of cannabis and other issues. Proper processes are in place and the Police Service knows how to deal with these issues. To say the sorts of things he said about his former colleagues is quite insulting. I am somewhat ashamed of him.

I will finish by saying that members opposite are promoting the use of cannabis by putting out a stupid message that people are allowed to grow two plants and possess cannabis. It has been suggested in the house by a former police

officer, a doctor and the Leader of the Opposition that a person could grow two plants and pluck between six and 10 kilograms of cannabis off those plants. That is a stupid message. If a person were caught with that amount of cannabis in his possession, he would not pass go, he would not collect $200, but he would go straight to jail because he was a drug dealer. That is the message the opposition is promoting. It is telling people to deal drugs. What absolute nonsense! It is an absolute shame. Opposition members should be ashamed of themselves. They are doing that just to take the heat off somebody who does not know how to be a leader of his party. That is an absolute disgrace.

MR M.P. WHITELY (Bassendean) [3.20 pm]: I will pick up the message of the previous speaker by talking about the fact that the opposition is sending out the wrong message. This MPI motion refers to the wrong message being given. It is not the government that is sending out the wrong message, but the opposition. The Gallop government's message on cannabis is clear: cannabis is harmful and illegal; yet twice today, once in question time and again in this motion, the Leader of the Opposition, a supposedly senior figure in Western Australian politics, has said that the government is allowing the cultivation of cannabis. Furthermore, he said that the government blessed the cultivation and use of cannabis. That is absolutely reprehensible and irresponsible. Once again, the Leader of the Opposition has shown that he, the boy, is not fit for the position he holds. He is pumping out an entirely irresponsible and reckless message. Cannabis is harmful. Cannabis is illegal. The opposition should join the government in putting out that clear message to young people and children in Western Australia. It should stop trying to confuse the issue. The opposition is creating the impression that it is now legal to cultivate and use cannabis. It is promoting an unclear message. It is putting out the wrong message. Opposition members should be ashamed of themselves. The Leader of the Opposition has shown that he is not fit for the position that he holds. The Labor Party position is absolutely clear. Its message is that cannabis is illegal and harmful, and that people should not use or grow it.

The DEPUTY SPEAKER: Order, members on my left!

Mr M.P. WHITELY: The legislative approach to cannabis is a graduated approach. It is the approach that the government takes on all sorts of issues. If a person cultivates fewer than two plants and uses the cannabis from those plants for personal purposes, that will not lead to him getting a criminal record. That person will have transgressed the law, but that transgression will not lead to him being charged with a criminal offence. The message is clear: if a person grows no plants, he has nothing to worry about. If a person grows one or two plants and has no intention of dealing in those plants, he will not commit a criminal offence. He will be doing something stupid and something that will cause him harm, but he will not be committing a criminal act. If a person grows three or more plants or cultivates cannabis hydroponically, it can be clearly deduced from that that he has the intention to deal, which will do harm to others. Such a person deserves to be charged with a criminal offence and to end up with a criminal record. The Gallop government's message is clear and simple: cannabis is harmful and illegal; however, a graduated approach is taken to the penalties that apply. If a person possesses or uses cannabis to a personal use level, he is doing something which will be harmful to him and which is illegal. However, if a person's action is motivated by greed, such as dealing in drugs, and if what he is doing will harm others, that person is committing a criminal offence. The logic behind it is obvious and clear.

As outlined by the Minister for Disability Services, the police retain discretion. If a person is in possession of less than 30 grams of cannabis, he can still be charged with a criminal offence if the police clearly think that his intention is to deal in that substance. Some civil libertarians would argue that there is a problem with that as it creates inconsistencies in the application of the law. The government has chosen to give police the discretion to consider an offender and his circumstances. If the police believe that a person's intention is to go beyond simple personal use, which would cause harm to others, that person will be charged with a criminal offence.

The DEPUTY SPEAKER: Order, members on my left!

Mr M.P. WHITELY: I suggest that it probably reflects the reality that existed before this legislation was introduced. I will ask for the member for Murray's professional opinion. I presume that the member for Murray apprehended offenders who were in possession of less than 30 grams of cannabis.

Mr M.J. Cowper: I was an operational, front-line police officer; yes.

Mr M.P. WHITELY: Did the member come across people in possession of less than -

Mr M.J. Cowper: I have charged people with that, yes.

Mr M.P. WHITELY: Did he ever not charge people who were in possession of less than 30 grams of cannabis?

Mr M.J. Cowper: No. It was a simple complaint; they were charged.

Mr M.P. WHITELY: In every case on every occasion -

Mr M.J. Cowper: They were charged.

Mr M.P. WHITELY: When the member apprehended someone with one gram -

Mr M.J. Cowper: They were charged.

Mr M.P. WHITELY: Regardless of -

Mr M.J. Cowper: How many times must I say it? They were charged.

Mr M.P. WHITELY: Okay. What about the member's colleagues?

Mr M.J. Cowper: I cannot comment on what my colleagues did. I can say only what I did as a front-line police officer.

Mr M.P. WHITELY: He is unaware. Fair enough; okay. I suggest that the member's approach was probably different from that of some of his colleagues.

Several members interjected.

Mr M.P. WHITELY: The member's approach is clear. As I said, Labor's approach to cannabis is that it is a harmful substance.

Mr M.J. Cowper interjected.

The DEPUTY SPEAKER: Order, member for Murray!

Mr M.P. WHITELY: The government has chosen to approach the issue of cannabis cultivation and possession as a health issue. Underpinning our policy is the belief that cannabis is a harmful substance. It is bad; therefore, it is illegal. The government has also chosen to consider the legal impact on people who are engaged in silly and stupid activities which are harmful to them, but which do not have any effect on others. We have considered the consequences of people getting a criminal record; it affects their employment prospects and the ability to travel to certain parts of the world. All sorts of consequences result from having a criminal record. If someone is silly enough to use a small amount of cannabis, should the consequence be that he receives a criminal record? I suggest not. That sets a person up for a life of problems, rather than steers that person onto the straight and narrow.

The former member for Murdoch from the Thirty-sixth Parliament was a member of Parliament whom I greatly admired. I worked with him on the Education and Health Standing Committee. He made a great contribution to this Parliament. In many ways it is a pity that he has left. He admitted that he used cannabis on occasion in his youth or early 20s. He admitted that he regretted it, but that he had dabbled in it. He admitted that it was a stupid act. It is my opinion and the opinion of other members on this side of the house that he should not have a criminal record for that. It is illogical for him to have a criminal record for that. He is a law-abiding, contributing member of society. There is absolutely no reason that somebody like him who admits to having used cannabis should have a criminal record.

The Leader of the Opposition has moved this matter of public interest in an attempt to deflect criticism of his abilities. He has shown why he is unfit to be the Leader of the Opposition in this place. His desire to put out the wrong message to Western Australians is reprehensible. If the opposition were serious about looking at problems of diversions of drugs for illicit purposes, it would be switched on to many of the health issues in the community at the moment. Take, for instance, the illicit diversion of amphetamines for the treatment of attention deficit hyperactivity disorder into the black market. That is an issue with enormous health consequences. Amphetamines are a huge problem for Western Australian children, yet we never hear a peep from the opposition about that, because it is never prepared to make a contribution on a serious issue in a constructive manner. The opposition comes into this place, bangs the old drums, acts irresponsibly and sends the wrong message. It tells Western Australian children that the government in fact allows them to grow cannabis, and it tells Western Australian children and young people that if they grow cannabis, they have the blessing of the Western Australian government. That is the wrong message, and it is a harmful message. The opposition should join us in sending our clear message, which is that cannabis is harmful and illegal; do not use it.

MR A.D. McRAE (Riverton) [3.30 pm]: I have looked at the Leader of the Opposition's motion. In wanting to oppose some of the misleading aspects of it, I do not stand without some empathy for and agreement with the concern that is obviously embedded in the opposition's motion. The first thing I say is that the message to young people in Western Australia, in particular, about the dangerous health and wellbeing effects of cannabis is confused. It is not articulated in such a way as to ensure that people are able to make decisions in a fully informed way. The first thing with which I agree is the thrust of the concern expressed in the Leader of the Opposition's motion. After that, I think we part ways. It would be a lie to suggest that the Gallop Labor government has decriminalised cannabis or made it legal, or confused anybody about its intent.

Mr M.J. Birney: You did decriminalise it. You don't know your own policy. You've decriminalised marijuana. Read your own policy.

Mr A.D. McRAE: We have taken away the criminal sanction for somebody who is -

Mr M.J. Birney: You've decriminalised marijuana. Read your own policy.

Mr R.C. Kucera: The criminal sanction is still there.

Mr A.D. McRAE: We have taken away the criminal sanction. The situation now is that a police officer uses his discretion to issue a caution and require a person to participate in an education program. If opposition members are

saying to the community that the discretion of a police officer to cause somebody to go through an education program, or to cause an offender to face the full force of the law, is decriminalisation of the offence, they are indeed, as my colleagues have said, the ones who are causing confusion about the law that applies to cannabis use in Western Australia. There is no doubt that the law says that the police, at the point of interception of use, can use their discretion about the nature of the use and its intent. It is absolutely appropriate that we have taken that course. It was one of the key elements that emerged from the Community Drug Summit. One of the key elements was that we wanted high levels of education. We wanted the police to not be bound to force people immediately into having a criminal record, but to be able to cause people to go through an education program. First and foremost, above all those things, there was a shift in the Western Australian community's discussion about this. It was to move away from cannabis use, and all its very deleterious impacts on people's wellbeing, being treated as a criminal matter to it being treated as a health matter. If the opposition does not make a transition from its stance that the only solution is to deal with the matter as a crime, it will invent prohibition. I invite the Leader of the Opposition and all members to read the history of prohibition throughout the world. It has failed again and again. If all we have is a legal and police-enforced sanction and prohibition, we will fail. It is 100 per cent guaranteed.

Several members interjected.

Mr A.D. McRAE: Can members opposite point me to one place in the world in which dealing with heroin as a criminal matter has succeeded in causing people to stop using heroin?

Mr C.J. Barnett: Australia.

Mr A.D. McRAE: That has succeeded in Australia, has it?

Mr C.J. Barnett interjected.

Mr A.D. McRAE: The member for Cottesloe is absolutely correct. There has been a recorded reduction in the use of heroin and amphetamines in Australia, partly because of the greater controls over importation and point-of-source production, partly because of greater intelligence in tracking the organised crime that deals with this stuff, and partly because education programs are gradually starting to take hold, and people are making choices to not use drugs that are damaging their wellbeing and the wellbeing of their families and friends and the community. I do not have any difficulty at all with the proposition that is embedded in this motion; that is, that we have a problem. We have a problem. There is no question about that. I ask the Leader of the Opposition to consider whether this is a problem of health and community wellbeing or whether it is a problem of law enforcement. This is the community's problem. It is the Leader of the Opposition's problem, my problem and the problem of all the people in our community. Will the Leader of the Opposition look me in the eyes and acknowledge that this is a responsibility that we have to our communities and to the families in our communities?

Mr M.J. Birney: If the member for Riverton takes that argument to its logical conclusion, we would therefore also have to decriminalise heroin and cocaine.

Mr A.D. McRAE: Let us deal with that.

Several members interjected.

Mr A.D. McRAE: I took an interjection from the Leader of the Opposition because I thought it would add to the debate, and I am prepared to respond to it. However, it is difficult when -

Mr M.J. Birney: Okay. Hurry up.

Mr A.D. McRAE: I do want to respond to it, because I believe it is a worthwhile question. First of all, the government has not decriminalised cannabis use.

Mr M.J. Birney: Somebody tell him! Put him out of his misery!

Mr A.D. McRAE: We keep going around, trying to score political points. I challenge the Leader of the Opposition again -

Mr M.J. Birney: It is no longer a criminal offence.

Mr A.D. McRAE: It is a criminal offence, if the police officer who is given responsibility and powers to enforce the law deems that that is the way it will go. Why did we choose to create a different perspective on this? We did it because we recognised that enforcement and prohibition by themselves will fail our children. This is what I propose to put on the public record -

Mr M.J. Birney: Will you deal with the heroin and cocaine issue?

Mr A.D. McRAE: I have listened to the Leader of the Opposition's interjections, and I have tried to respond to them in the best way that I can. This is what I propose to put on the record - it is my personal perspective: I do not think that we are spending enough on education.

Mr M.J. Birney: The Gallop Labor government?

Mr A.D. McRAE: I will certainly say that we need to increase the amount that we spend on education. I will do it publicly and directly to the Minister for Health, who has responsibility for this area.

Mr P.D. Omodei: The Gallop Labor government is not spending enough money on education.

Mr A.D. McRAE: I said that we need to increase it. It is worth noting that it was on only 27 April this year that the first periodic report from the Drug and Alcohol Office monitoring the progress we have made since 2003 came down. That is only three weeks ago. I think we are entitled a breathing space of three weeks to contemplate. That is the first report; what is next? I am saying to the Leader of the Opposition that I have had a cursory glance at that report, and I have looked at some of the summary results. My view is that we now need to pursue a much more comprehensive and targeted education program. I will certainly put that to the Minister for Health and the Treasurer.

Mr M.J. Birney: How much is spent on education, do you know?

Mr A.D. McRAE: Off the top of my head, no, I do not know. I do not have the figures available to me.

Mr M.J. Birney: How do you know you need to spend more?

Mr A.D. McRAE: Because it is clear that much more is still to be done. I will give the house a couple of figures. In the six-monthly status report, which is the first status report of the Drug and Alcohol Office, a total of 778 cannabis infringement notices are addressed. Forty-one per cent of those notices were dealt with, and 57.6 per cent of those notices were not dealt with immediately but required a substantial program to drag people into the process and get them to understand what had happened. That is clear evidence that more work needs to be done, and I would endorse that.

MR D.T. REDMAN (Stirling) [3.40 pm]: I do not have a lot of time in which to talk, but having spent 18 years in the education system, in particular in a residential school that catered for students 24 hours a day, seven days a week, I want to make two points. The first point relates to the development of behavioural management policies in schools. Most schools develop their behavioural management policies in consultation with their community representatives and in a way that reflects community standards. My concern is that if we lower the bar in the community, there will be a lowering of the bar in the behavioural standards in our schools. One of the unfortunate consequences of lowering the bar in the community is that it is being reflected in the behavioural standards in our schools. The decriminalisation of cannabis is sending the wrong message to our youth. Unfortunately, it is going through our schools and having a huge influence. The consequence is that schools are more likely to adopt a more tolerant approach to the use of cannabis.

My second point relates to the focus on vocational training in our schools. A number of ministers have spoken about what the government is doing to lift the number of traineeships and apprenticeships. Schools are now taking on a vocational training role for students. Part of that role is to get students workplace ready. An important message that needs to go to our schools is that an increasing number of workplaces now conduct mandatory drug testing. We need to send the message to students who intend to go into those workplaces that they need to take the right approach to the use of drugs in order to obtain employment and maintain the various occupational safety and health standards that are required. It concerns me that if we lower the bar in the community, we will lower the bar in our schools. That is the wrong message to send to our students.

The Minister for Disability Services and the member for Riverton talked about the school drug education program. On Tuesday, 9 December 2003, Hon Simon O'Brien asked a question without notice in the Legislative Council about what funding has been allocated for the school drug education program. Hon Sue Ellery, the parliamentary secretary representing the Minister for Health, replied in part -

> (1) Funding allocations for the school drug education project are 2001-02, $1.045 million; 2002-03, $1.045 million; and 2003-04, $835 000.

If the government believes that education by itself is the solution to sorting out this problem, it should make a greater commitment to drug education in our schools. Education has a place, and funding for the school drug education project needs to be increased. There is absolutely no doubt about that. However, the government is taking a step backwards so far as the decriminalisation of cannabis concerned.

MR R.F. JOHNSON (Hillarys) [3.43 pm]: I will take up the remaining two minutes in this debate on behalf of the opposition. This motion is directed at the Premier. It calls upon the Premier to immediately repeal his government's two-plant policy, which decriminalises the possession of cannabis laws. This is a very important motion. I am disgusted that the Premier gave only five minutes of his time to listen to the debate. He then left the chamber, leaving behind only the Minister for Disability Services - who brought in the original legislation when he was Minister for Health but now has no responsibility whatsoever for this area - and two backbenchers to defend the government's position on the decriminalisation of cannabis. That is appalling. Young people are committing crimes, ending up in psychiatric institutions and committing suicide, all because the Premier and his government will not take action against them.

Mr R.C. Kucera interjected.

Mr R.F. JOHNSON: The minister can shout as much as he likes to try to drown out the truth, but he will not succeed. The Premier should do what his good mate in England has done. His mate in England had the good sense to say during

the election campaign, after he had seen the increase in crime and the increase in psychiatric cases, particularly in young people, that he had seen the error of his ways. The Premier does not have the guts to do the same for our young people in Western Australia.

Question put and a division taken with the following result -

Ayes (21)

Mr C.J. Barnett	Mr J.H.D. Day	Mr A.J. Simpson	Mr G.A. Woodhams
Mr D.F. Barron-Sullivan	Mr B.J. Grylls	Mr G. Snook	Dr J.M. Woollard
Mr M.J. Birney	Mr R.F. Johnson	Mr T.R. Sprigg	Dr G.G. Jacobs *(Teller)*
Mr G.M. Castrilli	Mr J.E. McGrath	Dr S.C. Thomas	
Dr E. Constable	Mr P.D. Omodei	Mr M.W. Trenorden	
Mr M.J. Cowper	Mr D.T. Redman	Ms S.E. Walker	

Noes (26)

Mr J.J.M. Bowler	Mr J.N. Hyde	Ms S.M. McHale	Mr E.S. Ripper
Mr A.J. Carpenter	Mr J.C. Kobelke	Mr A.D. McRae	Mrs M.H. Roberts
Mr J.B. D'Orazio	Mr R.C. Kucera	Mr N.R. Marlborough	Mr T.G. Stephens
Dr J.M. Edwards	Mr F.M. Logan	Mr A.P. O'Gorman	Mr P.B. Watson
Dr G.I. Gallop	Ms A.J. MacTiernan	Mr J.R. Quigley	Mr M.P. Whitely *(Teller)*
Mr S.R. Hill	Mr J.A. McGinty	Ms M.M. Quirk	
Mrs J. Hughes	Mr M. McGowan	Ms J.A. Radisich	

Pairs

Ms K. Hodson-Thomas	Mr P.W. Andrews
Mr T.K. Waldron	Mrs C.A. Martin
Dr K.D. Hames	Mr M.P. Murray
Mr T.R. Buswell	Mr D.A. Templeman

Question thus negatived.

GENE TECHNOLOGY BILL 2005
GENE TECHNOLOGY AMENDMENT BILL 2005

Second Reading - Cognate Debate

Resumed from an earlier stage of the sitting.

DR S.C. THOMAS (Capel) [3.50 pm]: Before the interruptions, we were debating the Gene Technology Bill 2005 and the Gene Technology Amendment Bill 2005 and we are now back to the important business of the day. I believe the minister was in the house when the debate started; therefore, I do not need to go over old ground. Despite the fact that a previous government may well have agreed to pass this legislation in exactly the same form as the federal act, it presents a major opportunity to make a difference in Western Australia. That difference will be addressed in the proposed amendment moved by the member for Warren-Blackwood. The amendment basically is about quarantine and accountability. It provides that there be no risk, rather than a minimal risk, of the escape of or contamination by a genetically modified organism. That is important because if the federal Parliament is under an obligation to ensure that there is only a small risk of escape or contamination, it may shrug its shoulders when an escape or contamination occurs and say that it was a small risk that it took, but it is terribly sorry that Western Australia now has a problem and, as it was Western Australia's fault for passing this legislation, unfortunately Western Australia must fix it. The proposed amendment to the legislation by the member for Warren-Blackwood is that the federal government be obliged to ensure that there is no risk of escape or contamination and it will therefore be forced to make a quantitative decision on the risk it takes when dealing with genetically modified organisms. In the event of a breakdown in quarantine standards, the federal government will then be forced to acknowledge any error it has made. Perhaps then the federal government will contribute to the cost of repair of any damage to the environment, to persons or to enterprises in the state because of an obvious breakdown in the Office of the Gene Technology Regulator. Although this legislation will match federal legislation, this is a prime opportunity for Western Australia to stand up for its rights, not to argue the case for or against genetically modified organisms, but to argue for accountability to the state from the federal government. If an adverse decision is made at the federal level, surely any damage caused as a result of that decision should be rectified at the federal level.

MR F.M. LOGAN (Cockburn - Minister for Housing and Works) [3.53 pm]: I thank the members for Warren-Blackwood, Stirling and Capel for their contributions to this afternoon's debate.

I will go back to the base of what we are debating. We are re-introducing the bills into the Legislative Assembly because the Legislative Council had not passed them by the time Parliament prorogued prior to the 2005 state election. We have not debated the bills to the extent that we debated them previously when they were first introduced to the house in 2001. The models, principles and issues involved in gene technology were debated extensively in this house at that time. Members will find that it was a very interesting debate, too, if they read *Hansard*. However, I reiterate a point that was made in the previous debate in 2001; that is, the bills are reflective of the commonwealth uniform legislation. The bills almost identically mirror the commonwealth Gene Technology Act 2000.

Mr P.D. Omodei: The amendments that have been made to this bill obviously have not been made to the commonwealth act. Will that have an impact on the legislation?

Mr F.M. LOGAN: I will come to those amendments as they relate to the point raised by the member for Warren-Blackwood about the recommendations from the Legislative Council Standing Committee on Uniform Legislation and General Purposes.

The point I emphasise at this time is that this is uniform legislation that is reflective of the commonwealth act. In the areas of the state in which the commonwealth act for constitutional reasons does not apply, the state has provided reflective legislation and powers to ensure that there is consistency in the application of the commonwealth act in Western Australia in those areas. That is basically the essence of this legislation. To ensure that there is consistency, we have followed the commonwealth act in its entirety. I will not go back over the debate of 2001, as it is all in *Hansard*. I reiterated in my second reading speech a short summary of most of the arguments in the original 2001 debate. However, I take this opportunity to respond to the issues raised by members opposite.

First, I highlight to the house an issue raised by the member for Warren-Blackwood; that is, the Minister for Agriculture and Forestry and I believe that any real concerns about this legislation, particularly those raised by the member for Capel, should be raised as part of the review of the commonwealth act, which will begin in July 2005. The member for Warren-Blackwood said that we should wait until the outcome of the review, see the amendments that are made to the commonwealth act and then introduce a new bill with those amendments. The reality is that we do not know how long the review will take nor the extent of the amendments that might be made by the commonwealth. As the member for Warren-Blackwood said, the amendments might be extensive. Also, as the member for Warren-Blackwood said, the report from the Legislative Council committee will be sent to the review committee and probably will be examined as part of the review of the act. Whether the commonwealth adopts any recommendation is yet to be seen. Therefore, the onus lies on the state government, given that we are the last state government to introduce this uniform legislation, to get on with the job, introduce the bill and get it passed. If that means that we must make further amendments two to three years down the track, so be it.

Mr P.D. Omodei: This is an obvious, no-brainer question: are the current trials on plants being conducted under the auspices of the commonwealth act?

Mr F.M. LOGAN: They were planted under powers in the commonwealth act. I will come back to the member for Warren-Blackwood's interjection in a minute and tell him how it works, where the trials are and what they are doing. Why are we putting this off and waiting until the review? The onus is on us. This legislation should have been passed before now. I do not know why it was not passed in the Legislative Council. I believe it should have been passed, given the fact that we were debating it in 2001, but for some reason it was not.

Mr B.J. Grylls: Do you think the Legislative Council is incompetent?

Mr F.M. LOGAN: It would be a fairly grand statement for me to say that the Legislative Council was incompetent. I believe that the Legislative Council decided to undertake a much more detailed review of the act than we had done. It referred the legislation to a committee, which went on an extensive overseas trip to examine how other jurisdictions deal with legislation relating to genetically modified organisms. The committee then wrote a 374-page report, as the member for Warren-Blackwood has said. It is therefore not surprising that it took a long time for the Legislative Council to deal with the act. I presume that is why it took so long for the legislation to be dealt with in the Legislative Council.

The opposition seeks to make a single amendment. I indicate now that we will oppose it. I shall give my reasons for doing that when we get to consideration in detail.

The member for Warren-Blackwood raised the issue, which was also referred to by the member for Stirling, of the relationship between the Genetically Modified Crops Free Areas Act 2003, this Gene Technology Amendment Bill and the commonwealth Gene Technology Bill and how the three bills interrelate. Western Australia's Genetically Modified Crops Free Areas Act 2003 is for the purposes of placing a moratorium on the commercial growing of GMOs for food production across the whole of the state; it is not for the purposes of restricting trials of GMOs. That policy and the act that has been passed by this house have been recognised by the Gene Technology Ministerial Council, which has acknowledged that the state has passed a law providing that the commercial growing of GMOs is banned throughout the whole of the state for five years and that the act is to be reviewed at the end of that period.

Under the commonwealth act the Office of the Gene Technology Regulator has the power to undertake trials in every state that has uniform legislation. It need only consult with state governments. It does not need to come to the state government and seek its approval to undertake trials. Consultation was carried out for the trials that are being undertaken in Western Australia, but approval from the state was not necessarily sought, because the OGTR does not have to seek approval. The relationship is that the commonwealth has the power to undertake trials. It is only when the OGTR has trialed that crop and approved it for commercial release that the state Gene Technology Act and Gene Technology Amendment Act come into force. The commonwealth has the power to approve the trial. The state powers come into force only when the regulator has approved a commercial crop and it has been made available for release. Then the state can approve the commercial growing of the GM product in the state.

As the member for Warren-Blackwood has indicated, salt-tolerant wheat trials are being undertaken in Corrigin, as are cotton trials in Kununurra and Broome, and in 2003 there were two canola trials in Wongan Hills and Calingiri, which are still the subject of post-trial monitoring. The commonwealth trials are currently at that stage. I hope that clears up the relationship between the state and the commonwealth.

Mr P.D. Omodei: Who monitors those trials?

Mr F.M. LOGAN: The Office of the Gene Technology Regulator, under its powers.

Mr P.D. Omodei: Obviously the OGTR is in charge, but who operates the trials? Is it the Department of Agriculture?

Mr F.M. LOGAN: If the member asks that question again when we get to the consideration in detail stage, I will take advice. Off the top of my head, I cannot tell the member who undertakes the trials. For the purposes of the legislation, the commonwealth monitors the trials, but during consideration in detail I will give the member the information on which body physically undertakes them.

I hope I have cleared up some of the issues of the relationship of the commonwealth act to the state act, uniform legislation, the powers of the commonwealth, GMO trials, and the state government's powers in respect of GMO trials in Western Australia.

The members for Stirling, Capel and Warren-Blackwood raised philosophical issues relating to genetically modified products. The member for Stirling indicated that the National Party supports the moratorium on GM products, as expressed in the Genetically Modified Crops Free Areas Act 2003, but his argument was that if genetically modified products are ultimately to be released, we must all agree on what the process must be. The legislation deals with that question and provides for a strict, well laid out consultative process.

Mr D.T. Redman interjected.

Mr F.M. LOGAN: We appreciate the support that has always been given by the National Party to the government's approach to dealing with genetically modified products.

Mr B.J. Grylls: Has he grown a tail yet?

Mr F.M. LOGAN: No, I do not think the Minister for Agriculture has started growing a tail yet. When he was talking about receptive genes as such, I think he had concerns that people could start growing tails. When he starts eating bananas and nuts and swinging from the chandeliers of the upper house I will start to worry.

I then come to the philosophical issues of genetically modified products and whether we should be open to the introduction of commercial GM products in Western Australia. The member for Warren-Blackwood was very specific when he said that we should follow these guidelines about how to deal with the commercial release of GM products and that we should not do anything that would endanger the environment or the health of Western Australians. Nevertheless, he argued that it is happening overseas and he sensed there was a change in the mood for the acceptance of GM products. There is no doubt that there is, in China.

Mr P.D. Omodei: I meant in Western Australia.

Mr F.M. LOGAN: I understand that. Overseas there is certainly an embrace of gene organism technology, particularly in places like China that have embraced it wholeheartedly and are gangbusters in terms of genetically modifying a lot of foods. A strong argument has been put up from various quarters, mainly scientific, that we should embrace a similar path in Western Australia otherwise, scientifically, we will be left behind. That view is not shared by a significant number of Western Australians and Australians. The Minister for Agriculture has raised concerns about the introduction of commercial GM crops in Western Australia and is more in tune with the general thinking not only of the public of Western Australia but also with the general thinking of the growers and the purchasers of agricultural products in Western Australia and overseas. I will support those claims by quoting from the Australian Consumer's Association survey of October 2003, which found that 84 per cent of Australian consumers were concerned about eating GM food and 94 per cent wanted comprehensive labelling of GM foods. I would also support this issue from the growers' and consumers' perspective by referring to a survey of Australian farmers that was conducted by the Kondinin group, of which my National Party colleagues would be well aware, which found that 81 per cent of its members were opposed to or wary of GM crops because they did not believe it was what consumers wanted and that the growing of

GM crops could threaten existing markets. In Western Australia 86 per cent of farmers surveyed held this view. The Australian Wheat Board has stated, with regard to purchasers of agricultural products produced in Australia, that 81 per cent of its overseas customers will not accept GM wheat or GM-contaminated wheat, and 39 per cent of its customers will not accept any trace of GM canola in wheat. This 39 per cent equates to about 50 per cent of wheat exports by volume. That is included in the submission by the AWB to the South Australian parliamentary select committee on GMOs.

Therefore, I take issue with the point raised by the member for Warren-Blackwood that GM products are starting to become embraced and he can sense a change. I put it to the member that that change has not yet happened, but it may happen in the future. The consumers, the growers and the general public are very wary about consumption and purchase of GM products.

Mr P.D. Omodei: The most strident proponents of GM facilities are the Department of Agriculture and the universities in Western Australia.

Mr F.M. LOGAN: I will not contest that argument at all.

Mr P.D. Omodei: Are they right? That is what we need to know.

Mr F.M. LOGAN: That is right. I found that when I was the parliamentary secretary, even though the member has been calling me the parliamentary secretary all afternoon -

Mr P.D. Omodei: It should have been the minister representing; I am sorry.

Mr F.M. LOGAN: That is right.

Mr B.J. Grylls interjected.

Mr F.M. LOGAN: I am a minister now.

Mr B.J. Grylls interjected.

Mr F.M. LOGAN: I am paid a little more as well.

Mr B.J. Grylls: How long before you will be "the honourable"?

Mr F.M. LOGAN: Some people, like the member for Merredin, would suggest that I will never be honourable. In terms of who is pushing GM, I support the views that have been expressed by the member for Warren-Blackwood. In my role as parliamentary secretary to the Minister for Agriculture during the previous four years, I found that the most strident supporters of GM - surprise, surprise - were the scientists who were working with GM products. They tried to convince me and ministerial officers, particularly at Murdoch University where the national agricultural GM research centre is located, that there was nothing wrong with GM products. They were saying that they are as safe as any other modified organism that occurs naturally in the environment. That view was not shared by the very extensive research that was done in the United Kingdom by the Department of Agriculture and the parliamentary inquiry into GM products, as well as the trials that were undertaken in the United Kingdom. That was a big report. It was a significant longitudinal study into GM trials and in the end a parliamentary report was released stating that there was no safe way of containing cross-pollination and contamination of GM products in agriculture.

Mr B.J. Grylls interjected.

Mr F.M. LOGAN: I think in certain areas it probably is.

Mr B.J. Grylls: Even after that research the British government freed up the GM market.

Mr F.M. LOGAN: My understanding is that the British government brought it to an end. If the member goes back to the British parliamentary report, I think they brought it to an end following the parliamentary inquiry. It went on for years and because the risks were so great they knew they could not control the cross-pollination and decided to call it to an end.

Mr B.J. Grylls interjected.

Mr F.M. LOGAN: My understanding was that the commercial growing of GM products was brought to an end. I will stand corrected if that is shown not to be the case. Anyway, that is my view and also the general view of the public about GM crops. It is certainly the general view of growers and consumers. That deals with the philosophical issues that have been raised.

I now refer to the Legislative Council Standing Committee on Environment and Public Affairs and its recommendations 2, 7 and 8 that have been included in this legislation. The other amendments referred to by the member for Warren-Blackwood and contained in this bill were put forward by the Legislative Council. One of the amendments is a reflection of the change that has already been made to the Commonwealth act; the other two were put forward as amendments in the Legislative Council and are reflected in the new bill. A further change that has been made to the new bill is that recommendations 2, 7 and 8 from the Standing Committee on Environment and Public Affairs report into the Gene Technology Bill and GM products have also been adopted and included. I believe I have addressed all

the issues that have been raised by members opposite. I thank them for their contribution to this further debate on the Gene Technology Bill 2005 and the Gene Technology Amendment Bill 2005. I commend the bills to the house.

Question put and passed.

Bill (Gene Technology Bill 2005) read a second time.

GENE TECHNOLOGY BILL 2005

Consideration in Detail

Clauses 1 to 78 put and passed.

Clause 79: Regulator not to make determination unless risks can be managed -

Mr P.D. OMODEI: I move -

Page 51, line 20 - To delete the line and substitute -

(a) that there is no risk of environmental contamination including the spread of genetically modified genes;

(b) that there is no risk to the health and safety of people; and

I raised this matter with the minister representing the Minister for Agriculture and Forestry during the second reading debate. The matter was raised by the member for Capel, who I am sure will speak to this. Having given the minister advance notice of this amendment, it is obvious that the amendment is to ensure that the environment is protected from the spread of modified genes and there is no risk to the health and safety of people. The problem of risk has finally been picked up under commonwealth legislation. As the member for Stirling mentioned, there is still concern in the farming organisations of Western Australia about compensation and where liability lies. The Network of Concerned Farmers and Julie Newman, in particular, are concerned. They have raised this question on a number of occasions. This amendment is proposed to test the government. I presume that most of the initial work will be conducted in a confined laboratory. Once the product is of a sufficient standard it will be placed in a trial. The trial would then be monitored. I believe there are trials in the Kimberley and at Wongan Hills. From what I have heard, I believe the trial at Corrigin is pretty wet. That would not disappoint a lot of farmers. The old saying that there is more money in mud than there is in dust would be relevant at the moment. I ask the minister representing the minister to give his views about the impact of the amendment.

Dr S.C. THOMAS: I would like the Minister for Housing and Works to address a few issues that arise from his speech. Firstly, this amendment has been moved by the opposition. Should the amendment be accepted, what would be the outcome in legislative changes? It has been said a number of times that, because this is uniform legislation, there is no capacity to amend it. In that case, it should have been presented as an adoption of the federal bill rather than as a bill of this house. If it is amended, will it cause heartache for the federal government? The member for Warren-Blackwood and I are driving this, to a large degree, for the opposition. If anyone has anything to lose from the process of agitating the federal government, it would probably be the members on this side of the house and not members opposite.

I have said a number of times that I do not want this issue to become a debate about genetically modified organisms coming or not coming to the state. This is not a debate about whether we should allow genetically modified organisms to be released. This is very specifically a debate about the ability to maintain proper quarantine mechanisms. The member for Warren-Blackwood talked about laboratory trials. In many of these cases there is not necessarily a laboratory with four walls and a roof and appropriate airconditioning and airflows that trap pollen. The trials often take place on farmland in soil, with the normal environmental conditions that the organisms would face if they were planted commercially. There would obviously have to be sufficient and adequate external quarantine procedures to make sure there is no contamination of the environment. That is the greatest issue. It is addressed to some degree by the federal legislation, which states that there will be adequate quarantine facilities. I will use the example of Biosecurity Australia. What the federal government says is adequate quarantine protection does not always apply across the board. I am glad that the minister has a Department of Agriculture representative with him. The department could tell him about its submission to the Biosecurity Australia 2003 draft report on the importation of apples etc from New Zealand. The Department of Agriculture submitted a completely different set of recommendations from the federal government and the federal department. There is a difference from state to state and between the states and the federal authorities. It was interesting to read in the draft report that Biosecurity Australia, having been given the brief to find a way to allow the trade to go ahead with minimum risk - as in the Gene Technology Bill - of an outbreak of apple scab and fire blight in Western Australia's apple industry. The Biosecurity Australia draft report, which recommended that the trade proceed, stated that it was almost inevitable, given the protocols that were put in place, that such an outbreak would occur. It is an example of exactly how the federal government may say on one hand that it will establish an adequate quarantine protocol but, on the other hand, also say that the protocols will almost certainly fail. It will say that it is unfortunately too bad for the state of Western Australia.

Biosecurity Australia got it wrong. A new draft report is coming out. Biosecurity Australia has been told to find a way to let the trade happen, so it will change the protocols and we will come to the point at which, again, it is almost

inevitable that the diseases will come about. I would like answers to those questions. I also have a few others. This is about quarantine procedures; it is not about whether genetically modified organisms should be around.

I will make one last comment about whether we should have genetically modified organisms in the state. I thank the minister for his views of the surveys and for being on top of this issue. The National Party is fairly strongly of the opinion that genetically modified organisms should be released and used in agriculture in the state after the tests and trials have been done. I respect that. Given the agreement with the Greens (WA), I wonder whether they knew that before the last election?

Mr D.T. REDMAN: I do not support the amendment that has been proposed by the Liberals. It is my understanding that when someone wants to deal in GMOs, there are four opportunities for him to do so in terms of his licensing arrangements or the scope of those arrangements. The first is that a person can undertake to get authorisation via a GMO licence. Second, he can deal in a notifiable low-risk dealing. Third, it can come under an exemption. Fourth, the dealing could also be included on the GMO register. This clause and its amendment relate to the GMO register. It is my understanding that if someone makes a submission to have a dealing put onto the GMO register, one way in which it can be done is by virtue of that person already having had a licence, in which case the application will have undergone a level of scrutiny and, presumably, gone through all the steps and conditions imposed on that dealing. Secondly, a person could straightaway apply to be put on the register; he would not have to get a licence first. In that case, it is a requirement under, I think, clause 78 that in the first instance an assessment must be made of whether the dealing requires a licence; that is, is there a high enough risk to require a licence? Therefore, enough scrutiny is made of the application for a dealing in this regard. The amendment seeks to change the provision from minimal risk to no risk. Enough scrutiny will have taken place to get to that point. The change is rather superfluous.

Additionally, it is pretty hard to place absolute certainty on there being no risk. I say that with some caution. There are concerns and risks, and we need to go through steps to make sure that there are no impacts on human health and so on. However, we do not want to stop the possible development of this technology. In my opinion, we need to keep the research going so that when the community is assured that there are no risks, we will have the opportunity to release these GM products for commercial use.

Mr B.J. GRYLLS: I support the member for Stirling and thank him for his extensive work in researching this matter, because it is very important. The Corrigin issue has come up in this debate. We can relate the amendment to the Corrigin trial. The GM trial in Corrigin is less than one kilometre from our homestead. I have been to Murdoch University several times to see the work being done by Grain Biotech Australia Pty Ltd.

Dr S.C. Thomas: The trial is only a few hundred metres from you, so do you have a tail?

Mr B.J. GRYLLS: No, but I am glad the member raised that point. This sort of discussion is really important. An article in the paper yesterday discussed GM products and included comments about humans growing tails. Is that a reasoned debate? All that does is to make this debate more and more difficult. We need to get this in context.

Ms A.J.G. MacTiernan: It certainly got me worried.

Mr P.D. Omodei: Have you had a look lately?

Mr B.J. GRYLLS: It is the horns that the minister needs to be concerned about!

The ACTING SPEAKER (Mr A.P. O'Gorman): Members, can we please come back to the bill?

Mr B.J. GRYLLS: Grain Biotech Australia is growing wheat, a cereal product, in water that is one-third sea water. The Corrigin trial aims to take that product out of the laboratory at Murdoch University and grow it in a trial plot at Corrigin. It is a fantastic trial plot, because it has hypersaline white scald. The land rises from the valley floor for about 100 metres and goes through all the soil profiles, from hypersaline soil to land that would normally grow a viable crop. This very contained area contains the full gamut of soils. The trial will demonstrate how this product will grow on normal land and also its ability to deal with hypersalinity. My neighbours have watched salt encroachment on their property year after year. A trial is going ahead. I am very concerned about the comments of the minister that were reported in the newspaper, because such comments straightaway set off alarm bells. Rather than getting a reasoned debate, we will get a ridiculous debate that I do not think has any basis in scientific fact, unless one is trying to get a particular outcome. If this amendment were to apply to the Corrigin trial, it would place on it a requirement that there be no risk of environmental contamination. There will be a risk. When this wheat flowers and sets seed, the member for Capel could go there in the dead of night, take some of that grain, go to the local CBH receival point and sprinkle it into the next truck that came through. That would cause contamination. The bill states that the risk proposed by the dealing should be minimal. The trial in Corrigin may not be successful. It could go back to the drawing board. If that occurred, commercial release of that product would not be on the agenda. We are talking about a trial.

Mr D.T. Redman: And the Corrigin trial will be under licence.

Mr B.J. GRYLLS: We need to be very careful about changing words to this degree. If the provision were to require no risk of environmental contamination, that would be music to the ears of Julie Newman. I welcome her contribution to this debate. She has certainly raised awareness of GMOs in the community. Those issues are on the board.

However, if passing this amendment means that trials like the one that is taking place under strict regulation in Corrigin could not go ahead, it would certainly not be an amendment that we should support.

Dr S.C. THOMAS: I wish to make a couple of points to clarify the situation, probably as much in response to what members of the National Party said as what the minister has said. The member for Stirling used the expression "no risk" and the member for Merredin said that a certain level of risk was acceptable. The member can stand in a minute and qualify that.

Mr D.T. Redman: Am I allowed to stand up?

Dr S.C. THOMAS: The member can stand in a minute when I sit down. It is interesting that the National Party says that it will accept a certain level of risk in terms of environmental contamination. The member for Merredin spoke about the trial in Corrigin.

Ms A.J.G. MacTiernan: I can almost read the media release now - "Nats rat on the bush."

Dr S.C. THOMAS: Now, now. I thank the minister. The horns and the tail are growing.

Mr D.T. Redman: The amendment refers to the assessment of a dealing going on the register. What you missed capturing in the amendment is the fact that judgments are made in giving someone a licence. It is possible to give someone a GMO licence without the dealing having to go onto the register.

Dr S.C. THOMAS: That can be done.

Mr D.T. Redman: That means that there is a whole layer of someone getting a GMO licence to go out and do what he is doing that is totally missed by the amendment.

Dr S.C. THOMAS: I agree that the amendment does not cover every potential breakdown of the system. However, that does not mean that the National Party should necessarily argue against our attempt to correct one potential breakdown of the system. Perhaps if that is the case, the National Party should consider amendments that would cover the whole gamut.

Mr D.T. Redman: This is at the lighter end of the scale in terms of the risk of GMOs.

Dr S.C. THOMAS: Absolutely.

Mr D.T. Redman: We are talking here about -

Dr S.C. THOMAS: The National Party is still rejecting it, though. This amendment is at the lighter end of trying to put in place some controls based on the scope of quarantine, and the National Party will resist it. The ultimate goal is to put some accountability into the state-federal relationship. I would like the minister to respond to that point, because it is probably the most important part. If there is a breakdown along the lines of that of Biosecurity Australia - there will almost certainly be a breakdown and a release of contaminants - we are proposing that the authority that makes the decision that leads to that happening be made responsible for its clean-up. If the trial goes ahead in Corrigin and the product works, it will be great if no environmental contamination occurs. If it is decided that the product be released for commercial trial and the Parliament of Western Australia turns around its decision to exclude genetically modified crops in this state, that is fine. However, that is not what I am debating today. I am trying to get the message across that if there are holes in the quarantine procedures, the public purse of this state will have to pick up the cost of repairing damage, if it occurs. If the trials that are being conducted at the moment are secure and there is no risk, the trials will continue. If it turns out that there is no risk in any trial, under this principle, it will go on. If it turned out that there was a risk, we might find that changing this legislation would stop some trials from going ahead because somebody had assessed that there was a risk, although small.

Mr B.J. Grylls: How will you assess the risk? Will you have a security guard at Corrigin?

Dr S.C. THOMAS: In every scientific trial there are controls. An AIDS vaccine would not be tested without pretty strong controls. Every scientific experiment has pretty tight controls. This is no different. People conducting these experiments should do so in a greenhouse, with air controls, in the same way that most scientific experiments conducted in a laboratory are conducted. The fact that it is outdoors does not necessarily mean that the quarantine controls should be relaxed. Strict controls should be set. I do not mind if the federal government sets those controls and sets the boundaries, as long as the federal government picks up the pieces if it is the group that sets those controls and they break down.

Mr F.M. LOGAN: This is the same sort of debate as we had in the first -

Mr P.D. Omodei: Is it?

Mr F.M. LOGAN: Exactly the same sort of debate as we had when this bill was first introduced to the house. The member for Merredin might remember that I sat back and thought I was Henry Kissinger, trying to keep the Nationals and the Liberals apart as they fought each other continuously over this legislation. It was an interesting debate at the time. It was the former member for Vasse versus the former member for Stirling. It got very heated, and there was a

fair bit of name-calling, not over this clause but over the whole bill, and the position taken by the Nationals as opposed to the position taken by the Liberals.

Mr P.D. Omodei: Things have improved all round.

Mr F.M. LOGAN: That is right; and obviously the level of debate has improved all round too. I will go specifically to the amendment that we are dealing with. I know that only one amendment is being put forward. Obviously, we had a much broader debate on the issue previously. However, members will not have a chance to have their views recorded in *Hansard* unless they speak now.

I will deal specifically with the amendment. The member for Stirling is completely correct in his assessment of how to read this clause and what the amendment will do to it. It must be remembered that we are dealing with part 6 of the bill, which is the regulation of notifiable low-risk dealings and dealings on the GMO register. The amendment is to clause 79 in division 3, which deals with the GMO register itself. We must remember that the GMO register is controlled by the commonwealth. That is not to say that we cannot put forward an amendment; we can. This is a state bill. However, the member for Stirling's reading of it is correct. What the member for Warren-Blackwood is trying to achieve with this amendment will not work. If it is about containing the overall risk associated with GM trials, or even GM commercial crops, this is not the clause of the bill to which the amendment should apply. This division deals with the GMO register, which is a commonwealth register. I will continue on from where the member for Stirling finished off. The effect of this amendment would be that whenever the commonwealth was dealing with GM trials, it would deal with them under the existing wording of clause 79. However, under the wording suggested, should the state of Western Australia conduct a trial, the commonwealth, and its GMO register, would have to deal with it. The end result of that would be that the GMO register would be thrown into a bit of chaos because it would be dealing with two different -

Mr P.D. Omodei: With the trial at Corrigin, obviously the work that has been done by the Department of Agriculture has been done under commonwealth legislation.

Mr F.M. LOGAN: No. I took advice on that, and I have clear advice now to clarify the point that the member for Warren-Blackwood raised earlier in the second reading debate. As I indicated earlier, the Corrigin trial, and the other trials, are being undertaken by the Office of the Gene Technology Regulator. They are being controlled and monitored by that office. However, the Department of Agriculture has a very strong interest in the outcomes of those trials, and it is observing those trials.

Mr P.D. Omodei: Those trials would be covered by this part of this legislation.

Mr F.M. LOGAN: Those trials have been licensed since last year, because they have been put into place under the commonwealth act and are part of the GMO register. The commonwealth will deal with those trials in the same way as is provided for in the current wording of clause 79(1)(a) and (b).

Mr P.D. Omodei: Under minimal risk. If anything happened to those trials, who would cover the compensation?

Mr F.M. LOGAN: I seek an extension.

Mr P.D. OMODEI: I rise merely to allow the minister to continue his remarks.

Mr F.M. LOGAN: The point is that the trials are being undertaken by the commonwealth under its own legislation. This clause does not deal with that. It just deals with the role of the regulator under the GMO register.

Dr S.C. Thomas: If there was a quarantine breakdown around that unit, who would pick up the pieces?

Mr F.M. LOGAN: The OGTR is responsible for that trial.

Dr S.C. Thomas: But if product escaped 500 metres into a patch of Western Australian-controlled bush, who would be responsible for cleaning it up?

Mr F.M. LOGAN: The OGTR is responsible for the trial, and it is being conducted under its legislation.

Dr S.C. Thomas: Your opinion is that it would be responsible for any environmental contamination?

Mr F.M. LOGAN: That is right. My response is based on the advice that has been given to me by the department, which is a practical piece of advice. Whoever was at fault - that can be looked at in the broadest possible terms - for the break-out of that quarantine would be responsible for the clean-up. The reason I say that is that although the Office of the Gene Technology Regulator is looking after, monitoring and controlling the site, the point raised by the member for Merredin was that if someone broke into that site, took some of the GM product and distributed it elsewhere, that person would ultimately be responsible for that breach. Under the legislation, if somebody is caught doing that, the penalties are very severe.

Dr S.C. Thomas: Absolutely. However, if that person was not found, or if that person had no assets, what would happen? Would the state be responsible for the clean-up?

Mr F.M. LOGAN: No, the state would not be responsible for that. This is a hypothetical argument. I understand where the member is going with the argument. However, the member needs to know that the body that is responsible

for those trials is the commonwealth. Beyond that, whoever caused the environmental damage as a result of the spread of the GM product would be liable for any clean-up that was required, depending on the legal outcome.

Dr S.C. Thomas: Yes. I accept that if a breakdown occurred and it could not be proved who was responsible, the commonwealth would be responsible for the clean-up.

Mr F.M. LOGAN: That may come down to a legal argument. I do not know. It is hypothetical.

Dr S.C. Thomas: You see the thrust of my argument.

Mr F.M. LOGAN: I understand it. We would have to go to specific cases. The member is talking about a very broad hypothetical case. We need to know who is responsible for those trials. What happens after that may well come down to a legal argument and whoever has caused the problem. It is the same in many cases.

Mr P.D. Omodei: Obviously this is a commonwealth trial. Once this legislation is in place it will be possible for the state to conduct a trial under the auspices of the -

Mr F.M. LOGAN: No. We have already given our clear view on genetically modified organisms; that is, there will be a moratorium for five years. The state certainly has not made any decision about trials.

Mr P.D. Omodei: Then why is it that this trial is taking place?

Mr F.M. LOGAN: This trial is taking place under the commonwealth legislation.

We will be opposing the amendment. Our reasons for opposing the amendment are very similar to the reasons that have been put by the member for Stirling. What the member for Warren-Blackwood is trying to achieve in his amendment may be well thought out philosophically, but this is not the right place for such an amendment. If we accept this amendment, it will cause major problems between the commonwealth and the state in the application of uniform legislation. Secondly, we cannot possibly enforce a legal compulsion to ensure that there is no risk. The cost to the state of resourcing and policing such a legal compulsion would be phenomenal.

Dr G.G. JACOBS: I would like the minister to continue his remarks.

Mr F.M. LOGAN: As I have said, this amendment will cause major problems, it will be impossible to enforce, and the cost will be prohibitive. For those reasons, I oppose the amendment.

Mr B.J. GRYLLS: This is a very important issue, and one on which we need a much wider debate, because we do not get many opportunities in the Parliament to discuss the issue of genetically modified organisms. The member for Capel has put on record his concern about minimal risk as compared with no risk. The member for Capel is more than welcome to do that, because this is part of the debate in the Parliament about where we should be going with genetically modified organisms into the future. However, I am concerned about where a position of no risk may leave us. If, as the minister has outlined, no risk will be difficult to resource and police, then if we want true no risk, we should not allow trials and we should extend the moratorium well into the future. If no risk is the bottom line of where we believe we need to be on this issue, that is a whole different argument.

Dr S.C. Thomas: I accept that there are risks on both sides. The position that I am putting is that there is a risk to the development of industry. The risk on the government's side at the moment is that there will be an environmental breakdown and an environmental catastrophe. The direction that we take in this place will decide which risk we think is the more important. I want the member and the government to be on record as saying they will accept and take on that risk. The vote on this amendment will then make it clear that that is a risk that this Parliament and the government are willing to take.

Mr B.J. GRYLLS: I accept that, but the member is also putting on record his opposition to genetically modified organisms. Because genetically modified organisms are intrinsically different from the grains that we currently have, the no-risk position is that we cannot conduct these trials. The position of the National Party is very clear. We support the moratorium. We do not want the commercial release of genetically modified organisms at this stage. However, we support the trial that is taking place in Corrigin of the salt-tolerant genetically modified wheat. That involves some inherent risk, because a genetically modified grain has been taken out of the shade house and put into a paddock in Corrigin that does not have a barbwire fence around it like the one at Bandyup and does not have security guards at the gate. The member wants to say that the Nationals are a bit lax about genetically modified organisms and there will be contamination; that was to be his press release tomorrow. As I have said, the National Party is very keen to support the trial and for it to go ahead. I have read the comments of Julie Newman and others who are opposed to the trial -

Dr S.C. Thomas: Which is not my position at all.

Mr B.J. GRYLLS: As I have said, the member needs to make that clear, because the no-risk argument that the member is putting forward will mean a blanket ban on genetically modified organisms.

Mr J.C. KOBELKE: It is not my intention to guillotine the debate, but we have another important matter that needs to go through this place. If we can conclude our consideration of this bill in two or three minutes, we will continue with it, but if members want more time, we will adjourn the debate until another time.

Mr F.M. LOGAN: I think the point has been made.

Amendment put and negatived.

Clause put and passed.

Clauses 80 to 194 put and passed.

Clause 195: ***Agricultural and Veterinary Chemicals (Western Australia) Act 1995*** **amended -**

Mr F.M. LOGAN: I seek leave to move the following amendments en bloc.

Leave granted.

Mr F.M. LOGAN: I move -

Page 112, line 13 - To delete "NRA" and insert instead "APVMA".

Page 112, line 20 - To delete "NRA" and insert instead "APVMA".

Page 112, line 25 - To delete "NRA" and insert instead "APVMA".

The reason for the amendments is that the name of the authority has been changed to the Australian Pesticides and Veterinary Medicines Authority.

Amendments put and passed.

Clause, as amended, put and passed.

Title put and passed.

Third Reading

MR F.M. LOGAN (Cockburn - Minister for Housing and Works) [4.59 pm]: I move -

That the bill be now read a third time.

MR P.D. OMODEI (Warren-Blackwood - Deputy Leader of the Opposition) [4.59 pm]: The minister in his second reading speech said that there will be very few amendments to this bill, and they will be inconsequential. The amendments that were moved were very important amendments. I know that the government wanted to get these 16 or so pieces of legislation through the Parliament en bloc in very quick time. However, given that this is very important legislation, I would have thought the minister could have described the amendments during the second reading debate to give us some idea of what they entail. Now there is a shortage of time for debate on these bills.

Her Majesty's opposition is not opposed to this legislation. We are certainly in favour of the continuation of extensive trials. There was a slight difference between the policies of the coalition and those of the government prior to the election, in that we proposed extensive trials rather than small trials so that there would be a good reading of which new crops would be available. However, this legislation on genetically modified organisms is about not only crops but also gene technology generally and many genetically modified organisms that would be controlled in laboratory-type scenarios. There has been extensive discussion in the community in recent times on compensation, who is responsible for the risks and so on. The amendment moved by the Liberal Party was merely to gauge from the state Labor government the extent to which there was a risk, and to try to get a reading from the government about the question of compensation and who would be responsible.

The debate on the whole issue of genetically modified crops in foods has been most unfortunate. It started with a company that was seeking to introduce genetically modified crops into the marketplace such as Roundup Ready canola and Bt-cotton. The community then came out with the Frankenstein-food argument when, in reality, many products produced by Monsanto and Bayer would have been good for the environment. Some chemicals currently used in the grains industry are atrazine or triazine based, about which members from the wheatbelt would know better than I. However, I know that atrazine has been banned in Europe for many years, probably 15-plus years. Surely it would be a good thing for the agricultural industry if we could find an environmentally friendly alternative to replace that kind of chemical.

This debate has been driven by a company selling a product, whether it be a chemical, seed or whatever, and the community has reacted to that in an adverse way. The debate could have been driven from the other direction; in other words, on the basis that the product, whether it be golden rice or some other kind of genetically modified product, is beneficial to the community. For example, if we could have the benefit of a product, such as gluten-free wheat for gluten-intolerant people with celiac disease, by whatever means, either by breeding, elimination, trialling or genetic modification, I am sure the community would have a different view. I do not think the debate is over. This legislation is going through the Parliament now. Obviously the commonwealth legislation will be reviewed, and the review committee will take into account any information that is available so far from the trialling that has been conducted by the commonwealth, which trialling it can do anyway without the state's permission. Some amendments recommended by the Legislative Council parliamentary committee might make the legislation better. Obviously there will be a further

public consultation process when the commonwealth legislation is next reviewed, and perhaps the legislation will be refined so that it does make good legislation.

However, it is strange that this legislation was introduced into this place in 2001 and it is now 2005. The commonwealth legislation is about to be reviewed after five years and we still have not passed the state legislation through this Parliament. It has been debated in the Legislative Council, referred to a parliamentary committee and a report of 375 pages has been produced recommending 20 or 30 amendments, yet we are still debating the legislation in this place and the government is about to guillotine it, if I do not hurry up and sit down.

Mr J.C. Kobelke: I am not going to guillotine it.

Mr P.D. OMODEI: The Leader of the House is not going to guillotine it? I thank him for that, although that is what he said.

Mr J.C. Kobelke: I said I didn't want to.

Mr P.D. OMODEI: The minister does not want to?

Mr J.C. Kobelke: I said I would defer the bill until next week if you want to speak to it.

Mr P.D. OMODEI: I thank the minister for that. This is important legislation and it deserves proper debate. We support the legislation, but I think it could have been handled in a better way.

Question put and passed.

Bill read a third time and transmitted to the Council.

GENE TECHNOLOGY AMENDMENT BILL 2005

Second Reading

Resumed from 7 April.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Mr F.M. Logan (Minister for Housing and Works)**, and transmitted to the Council.

FINANCIAL ADMINISTRATION LEGISLATION AMENDMENT BILL 2005

Third Reading

Bill read a third time, on motion by **Mr E.S. Ripper (Treasurer)**, and transmitted to the Council.

ADJOURNMENT OF THE HOUSE

On motion by **Mr J.C. Kobelke (Leader of the House)**, resolved -

That the house at its rising adjourn until Tuesday, 17 May 2005 at 2.00 pm.

House adjourned at 5.06 pm

QUESTION ON NOTICE

Questions and answers are as supplied to Hansard.

POLICE STATIONS, NEW, LOCATIONS

4. Dr E. Constable to the Minister for Police and Emergency Services

With reference to the Governor's speech on the opening of the 1st Session of the 37th Parliament, where are the locations of the 23 new police stations?

Mrs M.H. ROBERTS replied:

The Western Australia Police Service advise as follows:

Albany
Balgo
Bidyadanga
Broome
Canning Vale
Carnarvon
Dampier Peninsula
Derby
Ellenbrook
Harvey
Jigalong
Kalumburu
Karratha
Laverton
Leonora
Newman
South Hedland
Stirling
Vincent (Leederville)
Wanneroo
Warakurna
Warburton
Warnum

_____