Legislative Assembly

Wednesday, 14 November 2001

THE SPEAKER (Mr Riebeling) took the Chair at 12 noon, and read prayers.

DUNCRAIG HOUSE, SALE

Petition

Dr Woollard presented the following petition bearing the signatures of 69 persons -

To the Honourable the Speaker and Members of the Legislative Assembly in Parliament assembled.

We, the undersigned request the Parliament to ask the Government to

1. not sell Duncraig House and its surrounding land. Duncraig House is an integral part of the Heathcote Heritage and Parkland Area. It is an important historical site with Point Heathcote being a landing for Captain Stirling in 1827. Duncraig House is a valuable community asset south of the river and should be kept for community use;

2. adhere to the Heathcote Coordinating Agreement between the Minister for Lands and the City of Melville dated 9/01/01. This Agreement, amongst other things, preserves the Heathcote lower land permanently for Parks and Recreation with full public use and access.

Now we ask the Legislative Assembly to note our view in order that the Government reject the sale of Duncraig House and maintain the lower lands as Parks and Recreation with full public use and access.

[See petition No 104.]

AUSTRALIAN BROADCASTING COMMISSION, SPORTS TELEVISING

Petition

Mr Watson presented the following petition bearing the signatures of 68 persons -

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned petitioners call on the State Parliament to strongly oppose moves by the Australian Broadcasting Commission to cease the televising of sports such as netball, basketball and football.

Now we ask that the Legislative Assembly urgently consider this matter.

[See petition No 105.]

ONE VOTE, ONE VALUE

Petition

Mr McNee presented the following petition bearing the signatures of 192 persons -

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, say that we strongly object to, and are concerned at the impact the Electoral Reform Bill will have on rural areas and the provision of services to these areas.

We now ask that the Legislative Assembly consider undertaking a referendum of the people of Western Australia before such drastic legislation is implemented, or that if the legislation goes forward without such referendum, no increase be implemented to metropolitan seats when the reduction of rural seats takes place.

[See petition 106.]

GAY AND LESBIAN PEOPLE, DISCRIMINATION

Petition

Mr Hyde presented the following petition bearing the signatures of 111 persons -

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

> We, the undersigned, say that discrimination in Western Australia against Gay and Lesbian people should cease herewith. We ask that the Legislative Assembly endorse the legislative recommendations of the Ministerial Committee on Lesbian and Gay reform.
>
> We ask that Parliamentarians vote to treat all West Australians as equals and reject attempts by those seeking to wrongly distort the human rights basis of lesbian and gay law reform.

A similar petition was presented by Mr McRae (111 signatures).

[See petitions Nos 107 and 108.]

PRIVATE MEMBERS' NOTICES OF MOTION, LAPSED

Statement by Speaker

THE SPEAKER (Mr Riebeling): I advise members that in accordance with Standing Order No 74, private members' notices of motion Nos 3 and 4 have lapsed, and unless the member indicates otherwise they will be removed from the Notice Paper.

NATIVE TITLE, WAND REVIEW

Statement by Deputy Premier

MR RIPPER (Belmont - Deputy Premier) [12.07 pm]: I advise the House that today the Government released the Wand Review of native title policies and practices in Western Australia for public comment.

The Government commissioned the review in April to: develop a new set of principles to guide the State Government's negotiations on native title determinations and agreements; consider a range of policy options open to Government to develop a cooperative approach to the resolution of native title matters, including the approaches in other States; assess the practical impact of the new guidelines on the resources of the parties involved; and assess the legal framework associated with the negotiation guidelines.

The report was prepared by Mr Paul Wand, a former Rio Tinto vice-president, and Mr Chris Athanasiou, a Brisbane-based native title barrister. In preparing the report, the reviewers interviewed many stakeholders and considered the submissions they received on the draft negotiating guidelines that were released in July.

Importantly, the reviewers found that there was unanimous support for the resolution of native title matters by way of agreement, thereby avoiding costly and adversarial litigation. That is pleasing advice, because the Government believes that it is in the interests of all Western Australians that the rights of indigenous people are properly recognised.

The reviewers found that the State Government spends around $10 million a year on native title matters, half of which is absorbed by litigation. With 133 native title applications in this State, and 44 applications heading for trial in the Federal Court, there is a pressing need for a greater investment in mediation by all parties to achieve agreements that accommodate everyone's interests.

The report prepared by Mr Wand and Mr Athanasiou is fair, clear and comprehensive, and a worthy blueprint for the development of a more cooperative approach to the settlement of native title issues in this State. The Government is seeking further public comment on the report until 6 December 2001, before considering its response to each of the recommendations. I to place on record the Government's appreciation of the efforts of Mr Wand, Mr Athanasiou and all of the groups and individuals who made a contribution to this blueprint for change.

ACTS AMENDMENT (LESBIAN AND GAY LAW REFORM) BILL 2001

Introduction and First Reading

Bill introduced, on motion by Mr McGinty (Attorney General), and read a first time.

Second Reading

MR McGINTY (Fremantle - Attorney General) [12.10 pm]: I move -

> That the Bill be now read a second time.

The Acts Amendment (Lesbian and Gay Law Reform) Bill 2001 gives effect to a simple principle: that all individuals of the Western Australian community should enjoy equal rights under the law, regardless of their sexual orientation. The Labor Party stands for that simple proposition - equality under the law.

Formal equality or equal treatment is an intrinsic concept that underpins international and Anglo-Australian legal culture. The Government supports unequivocally the notion that citizenship confers certain rights upon citizens. An important right that citizenship confers upon citizens is equal treatment before the law. Formal equality guarantees that the law is administered in a fair, just and impartial manner in the interests of the individual. Equality before the law is undermined when the law distinguishes between people because of their sexual orientation. When lesbians, gay men and bisexuals are treated differently, or discriminated against simply because of their sexual orientation, then the notion

of equality before the law is compromised, if not obviated. Lesbians and gay men are treated differently and suffer discrimination on a daily basis because of their sexual orientation.

Western Australia is now the only State in Australia that does not make discrimination on the grounds of sexual orientation unlawful in its Equal Opportunity Act 1984. It is the only State that makes it a criminal offence for males to engage in consensual sexual activity until they are 21 years of age. Unlike New South Wales, Victoria, the Australian Capital Territory and Queensland, Western Australian laws do not recognise the rights of same-sex partners with regard to medical treatment, inheritance and death. Lesbian and gay law reform in Western Australia is long overdue.

Before the last state election there was a clear commitment by the Labor Party to amend Western Australian laws to recognise that lesbians, gay men and bisexuals have the same rights as other citizens in Western Australia and are equal before the law. The Acts Amendment (Lesbian and Gay Law Reform) Bill implements the Government's commitment. This reform of Western Australian laws is long overdue and I now turn to a more detailed examination of the Acts that will be amended by this Bill.

The Criminal Code and the Law Reform (Decriminalization of Sodomy) Act 1989: a number of questions are at stake in the debate about the age of consent for consensual sexual activity. The Government is of the view that a primary function of the criminal law is not to impose a moral standard but rather to identify the types of actions that warrant punishment. Currently, the age of consent for consensual sexual activity is 16 for heterosexuals and 21 for gay men. This means that it is legal for a 16-year-old girl to engage in consensual sexual relations with a 16-year-old boy, and a 16-year-old girl to engage in consensual sexual relations with a 16-year-old girl; however, it is a criminal offence, punishable by five years in prison, for a 16-year-old boy to engage in consensual sexual activity with another 16-year-old boy. The objective of equalising the age of consent for homosexual sexual activity is simply to remove the distinction between homosexuals and heterosexuals in the way that the law applies.

In no Australian jurisdiction is the disparity for consensual sexual activity as great as it is in Western Australia. The age of consent for homosexual and heterosexual consensual sexual activity is equal at 16 years of age in the Australian Capital Territory and Victoria, and 17 years of age in South Australia and Tasmania. In New South Wales and the Northern Territory the age of consent for consensual homosexual sexual activity is 18 years of age, while it is 16 for heterosexual sexual activity.

P-FLAG, a non-profit organisation representing the parents, families and friends of lesbians and gays, welcomed the proposal to equalise the ages of consent and expressed their concerns for their gay children of 16, 18 or even 20 years of age who were breaking the law simply by being in a relationship. As P-FLAG noted, those who are in long-term relationships are more at risk of being caught breaking the law than others.

An argument that is commonly raised in opposition to equal ages of consent for heterosexual and homosexual ages of consent is that it exposes young boys under the age of 16 years to paedophilic behaviour from older men. The Criminal Code provides that it is a criminal offence for lesbians and heterosexuals to engage in sexual activity if the young person is less than 16 years of age. The Criminal Code also provides that it is a defence to this offence if the offender had a mistaken but reasonable belief that the young person was 16 years of age. However, the question of whether such a belief is reasonable is a matter for a jury to decide. In my view, it is appropriate that the defence of mistaken but reasonable belief that a young person was 16 years of age should be limited. Since the Government is concerned about the young and those who are vulnerable, this provision will be strengthened by the proposed amendments to the Criminal Code whereby a person will only be able to claim that they were mistaken about the victim's age if the accused was of the same age group as the victim. Further, the accused would still have to demonstrate that he or she believed, on reasonable grounds, that the young person was over 16 years of age. This amendment will apply to both young men and women and curtails the defence of reasonable but mistaken belief.

I also draw the attention of members to other provisions in the Criminal Code that apply equally to both homosexuals and heterosexuals and currently prohibit indecent acts in public places, sexual offences against children under 16 years of age, sexual penetration or sexual behaviour by a person with a child who is between 16 and 18 years of age when that child is under the person's care, supervision or authority, sexual offences against a child by a relative, and sexual offences against a person who is so mentally impaired as to be incapable. These provisions will not be altered, and will continue to apply to both homosexuals and heterosexuals.

The Bill also repeals criminal offences of indecency and gross indecency that are limited to acts between males as such acts will remain unlawful regardless of the gender of the perpetrator or victim. Legislative condemnation has not and will not prevent males from engaging in sexual activities with other males when both parties are 16 years of age or older. Indeed, it is questionable whether the law has a role to play in consensual behaviour between young adults. There is general acknowledgment that the purpose of laws is to ensure that individuals and groups are treated justly while safeguarding rights at the same time. I share the views of the Commission for Inquiry into the Queensland Police - the Fitzgerald Report - that the Legislature should interfere only to the extent necessary to protect the community, or any individuals with special needs. Generally speaking, those who voluntarily take part in activities that some consider morally repugnant should not be the concern of the Legislature unless they are so young and defenceless that their involvement cannot be said to be voluntary.

With regard to maturity, I draw member's attention to one of the findings of the Royal Commission into the New South Wales Police Service conducted by Hon Justice Wood. The Royal Commission considered issues surrounding the age of consent and concluded that it saw no reason to suppose that legislative change to achieve uniformity in this area would bring about any behavioural shift, or that it would, in real terms, expose more children to the risk of paedophile activity than are presently exposed, so long as the age of consent does not go below 16 years of age. The final report of the Royal Commission was published in May 1997. I note that irrespective of legislative provisions regarding age of consent for homosexual and heterosexual sexual activity that is consensual, parents and religious bodies remain free to teach their children according to their own religious and moral beliefs and convictions.

The Acts Amendment (Lesbian and Gay Law Reform) Bill 2001 strikes a balance between the proper function of the criminal law and safeguards that have been strengthened to protect the young, the vulnerable and the defenceless. The Bill also repeals the Law Reform (Decriminalization of Sodomy) Act 1989. In my view notions of justice and equity are fundamental concepts that inform and influence the formulation and operation of law, and not moral opprobrium. It is not the function of laws to stigmatise or marginalise a group because of a characteristic such as their sexual orientation.

Some sections of the community have expressed concern that the repeal of sections 23 and 24 of the Law Reform (Decriminalization of Sodomy) Act will result in the promotion of homosexuality in schools. This will not be the case. Sections 23 and 24 of this Act prohibit the promotion of homosexuality. Section 23, entitled "Proselytising Unlawful" states that it "shall be contrary to public policy to encourage or promote homosexual behaviour and the encouragement or promotion of homosexual behaviour shall not be capable of being a public purpose". Section 24 relates to education institutions and states that it shall be "unlawful to promote or encourage homosexual behaviour as part of the teaching in any primary or secondary educational institutions".

It has been argued that section 24, in particular, is ambiguous in that it is unclear what is meant by "promote" or "encourage", and that this section may have impeded beneficial activities such as safe sex education campaigns and the information about safe sex practices in schools since 1989 as this relates to young gay men. It is important that all young people receive information about safe sex practices, support and appropriate health education as they make the transition to adulthood. This should not be denied to them simply because of their sexual orientation. In order to strike an appropriate balance between ensuring that all youths receive appropriate information about healthy lifestyles underpinned by autonomous decision-making, the Ministers for Education and Health have agreed to establish a working party to deal with this issue. The working party will comprise representatives of the health and education departments and the WA Council of State School Organisations and will formulate guidelines on sex and health education that will be taught in schools.

Equal Opportunity Act 1984: as I stated earlier, Western Australia is the last State in Australia to amend its anti-discrimination laws so as to offer a means of redress to gay men and lesbians. The inclusion of sexual orientation in the Equal Opportunity Act is consistent with the general schema of the Act in relation to the other grounds of unlawful discrimination such as sex, race, impairment and age. The Bill defines sexual orientation to mean lesbianism, homosexuality and bisexuality, and covers discrimination on the basis of imputed or presumed sexual orientation.

In all anti-discrimination law and in relation to specific grounds of unlawful discrimination, reference is made to the various characteristics that are assumed to constitute or be part of the distinct qualities of a minority group. Thus, people who share that attribute may be presumed to belong to that group, irrespective of whether or not this is true, and such belonging operates frequently to their detriment. Empirical findings cited by the Commissioner for Equal Opportunity in her discussion paper on sexual orientation discrimination, and by the Ministerial Committee on Gay and Lesbian Law Reform in its report, confirm that people who were assumed to be gay or lesbian were subject to an ongoing pattern of harassment. The Bill makes both direct and indirect discrimination unlawful in specified areas of public life including employment or work, education, provision of goods, services and facilities, and accommodation.

It is also proposed that the general exceptions included in the Act apply in relation to sexual orientation. Within the general schema of anti-discrimination law, exceptions are circumstances in which discrimination may be lawful. Like other statutes, the WA Equal Opportunity Act provides for a number of general and specific exceptions that relate to each ground of unlawful discrimination. The Act also provides that in the event that someone complains about another's use of an exception, then the onus of substantiating or justifying use or reliance on that exception falls on the individual or organisation doing so. Exceptions enable people to discriminate according to personal beliefs and views in the conduct of their private affairs. The exceptions of relevance include domestic workers in private households, accommodation provided by a religious body, charitable or other voluntary body, and religious bodies carrying out acts in accordance with their religious beliefs. These exceptions explicitly acknowledge the individual's right to hold religious beliefs and convictions, and determine whom they wish to employ, or provide accommodation or services for, consistent with their beliefs. The distinction between the private and public spheres has been maintained.

The Bill also makes a few technical amendments to the Equal Opportunity Act 1984. The definition of marital status will include same-sex de facto partners, and extends an exception for discrimination based on actuarial or other data to marital status. This amendment corresponds with existing provisions in the commonwealth Sex Discrimination Act 1984.

The foundation for equal opportunity legislation in Western Australia was laid by Ms Yvonne Henderson MLA in 1984. In introducing these amendments that expand the coverage of equal opportunity provisions in Western Australia, I wish to formally acknowledge the pioneering work of Ms Henderson, who contributed to our understanding of the concept of equal opportunity. Equal opportunity remains concerned with ensuring that all people have equal access to specified public benefits and resources. This will go a long way towards achieving the elusive goal of substantive equality for lesbians, gay men and bisexuals.

Human Reproductive Technology Act 1991: Currently only heterosexual couples, where one partner is medically infertile, are able to seek in-vitro fertilisation. Extending access to in-vitro fertilisation to lesbian couples and single women gives effect to the Government's pre-election policy that neither marital status nor sexual orientation are relevant criteria to assess who may obtain the services of assisted reproductive technologies. I draw the attention of the House to the fact that lesbian couples and single women in other Australian States, such as New South Wales, Queensland, Tasmania and the Australian Capital Territory, are currently able to access reproductive technologies, and have been doing so for some time now. Denying access to in-vitro fertilisation procedures on the basis of sexual orientation and marital status contravenes international instruments such as the Convention on the Elimination of all Forms of Discrimination Against Women that was ratified by Australia. Further, the decision of the Federal Court in McBain v Victoria held that the Victorian Infertility Treatment Act 1995 required a provider of infertility to treat a single woman less favourably than a married woman or a woman in a de facto relationship and hence that Act was inconsistent with section 22 of the commonwealth Sex Discrimination Act 1984. As members of the House would be aware, the invalidity of the Victorian Act arises from the provision in the commonwealth Constitution that where there is an inconsistency between a state law and a commonwealth law, then the state law is invalid to the extent of the inconsistency. Moreover, I note that the McBain decision has been appealed to the High Court, and it is envisaged that the matter will be determined shortly.

Nonetheless, as matters currently stand, the provisions of the WA Human Reproductive Technology Act 1991 that deny access to single women violate the commonwealth Sex Discrimination Act 1984. Similarly the "heterosexuality" requirement contained in the Human Reproductive Technology Act 1991 is discriminatory. Lesbian relationships, like other de facto relationships, involve a degree of stability and commitment from the parties, substantial economic and emotional interdependence and frequently the provision of care and support for children. This Bill requires lesbian couples that seek in-vitro fertilisation to be living in a stable relationship.

The Bill will enable lesbian couples and single women who are unable to conceive a child for medical reasons to seek in-vitro fertilisation. I emphasise that a fertile single woman, or a fertile woman in a same-sex relationship, would not be able to obtain in-vitro fertilisation. I also emphasise that existing provisions in the Human Reproductive Technology Act 1991, which list criteria prospective participants must meet, remain intact. The objects of the Human Reproductive Technology Act currently provide that "the prospective welfare of any child to be born consequent upon a procedure . . . is properly taken into consideration". This is reinforced in section 23 of the Human Reproductive Technology Act 1991 that requires that an in-vitro fertilisation procedure cannot be provided without consideration of "the welfare and interests of . . . the participants; and . . . any child likely to be born as a result of the procedure". This Government is committed to ensuring that the rights and welfare of children remain central in all considerations about who may have access to in-vitro fertilisation, be they heterosexual couples, lesbian couples or single women.

Adoption Act 1994: currently, under the Western Australian Adoption Act 1994 partners in same-sex relationships cannot adopt children. This is unjust for members of gay and lesbian relationships, because they cannot adopt the offspring of their partner, where the children were conceived through artificial insemination or a friend with little or no interest in the child; nor their partners' children from previous heterosexual relationships. Therefore, although both partners in same-sex relationships care for the children, the non-biological parent has no legal rights in relation to those children. This causes many problems; for example, in medical emergencies, and after the death of the biological parent, the non-biological parent has no legal rights to care for children.

The Acts Amendment (Lesbian and Gay Law Reform) Bill amends the Adoption Act to enable same-sex couples to be considered eligible to jointly adopt a child. It also amends the Adoption Act so that a same-sex partner who has long-term and day-to-day care of children of the birth parent will be able to be considered the joint guardian for the children being adopted.

Several members interjected.

The ACTING SPEAKER: Order, members!

Mr McGINTY: Again, all other criteria against which the eligibility of the adopting parents will be assessed in order to adopt a child remain intact. I note that same-sex couples who wish to adopt a child would, as a matter of course, have had to have cohabitated for a continuous period of no less than three years and be of good repute. This reflects the current provision in relation to heterosexual couples, and corresponds with the Government's intention to ensure that the key focus relates to what is in the best interests of the child.

I note that the Adoption Applications Committee makes decisions concerning adoptions. Section 42 of the Adoptions Act 1994 states that decisions of the committee cannot be reviewed, questioned or affected, except by way of judicial

review. Section 42 will not be amended, and decisions of the Adoption Applications Committee in any particular case will not be subject to challenge on the basis of discrimination on the ground of sexual orientation of the adopting parents. Only the Director General may ask the Adoption Applications Committee to review its decisions, and under section 114 aggrieved applicants may appeal to the Family Court only on a question of law, a question of fact or a question of mixed law and fact. Decisions of the Adoption Applications Committee are in effect final, and this law reform Bill does not confer upon same-sex couples any right to seek a review of the committee's decision concerning adoption.

This law reform Bill also makes a number of consequential amendments to the Administration Act 1903, the Artificial Conception Act 1985 and the Family Court Act 1997, to ensure consistency with the amendments proposed by the Bill, particularly the Human Reproductive Technology Act 1991 and the Adoption Act 1994. Consequential amendments will also be made to the Births, Deaths and Marriages Registration Act 1998 to enable the deemed parent under the Artificial Conception Act to register the child's name and to be named on the birth certificate as the other parent.

The Acts Amendment (Lesbian and Gay Law Reform) Bill recognises that many children who have lesbian mothers or gay fathers spend time living with that parent and the parent's homosexual partner. This Bill expressly acknowledges the reality that these children are cared for by their parents' homosexual partners in emotional and material ways. These children will benefit from these reforms.

Cremation Act 1929, Guardianship and Administration Act 1990, Inheritance (Family and Dependants Provision) Act 1972, Human Tissue and Transplant Act 1982, Public Trustee Act 1941, Members of Parliament (Financial Interests) Act 1992, Parliamentary Superannuation Act 1970 and State Superannuation Act 2000: many legal issues arise when a same-sex partner dies, or is medically incapable of making a decision. Western Australian laws do not recognise either the rights of the same-sex partners of the deceased to make decisions about a range of matters from cremation to post-mortem examinations or their right to benefit from the estate of the deceased. The rights and automatic responsibilities that are granted by these Acts are all too often forgotten and taken for granted in heterosexual relationships. It is evident in a number of reports and in correspondence that I have received that their absence in the legal treatment of same-sex relationships causes enormous pain and hurt. The Bill amends the Cremation Act 1929 so that the same-sex partner of a deceased person has an opportunity to object to the cremation of the deceased partner.

The Guardianship and Administration Act 1990 provides for the guardianship of adults who need assistance in their personal affairs and for the administration of the estates of persons who need assistance in their financial affairs. This Bill amends the Guardianship and Administration Act to include a de facto partner within the definition of a person's nearest relative. This will ensure that a de facto partner, including a same-sex partner, will be given the right to be notified by the board of hearings concerning their partner and to consent to medical treatment in certain circumstances.

It also amends the Inheritance (Family and Dependants Provision) Act 1972, which deals with who is entitled to make a claim on a deceased person's estate. This amendment will recognise the rights of the same-sex partner of the deceased. I emphasise that the provision is not retrospective to deaths that occurred prior to the commencement of the Acts Amendment (Lesbian and Gay Law Reform) Bill 2001.

The Human Tissue and Transplant Act 1982 makes provision for, and in relation to, the removal of human tissue for transplantation and for post-mortem examinations. Again the rights of same-sex partners are not recognised and the definition of senior available next of kin is expanded to cover same-sex couples.

The Public Trustee Act 1941 deals with the administration of the estate of the deceased. The Act is amended so that coverage is extended to same-sex couples.

The responsibilities and liabilities that apply to heterosexual couples will apply equally to same-sex couples. The Bill amends the Members of Parliament (Financial Interests) Act 1992 so that members of Parliament in same-sex relationships would be obliged to disclose financial interests as these relate to their partner, a requirement that applies to heterosexual couples.

Both the Parliamentary Superannuation Act 1970 and the State Superannuation Act 2000 that deal with the beneficiaries of superannuation benefits and schemes, are amended so that same-sex partners are recognised.

These amendments only confer upon same-sex couples and their offspring rights that are currently available to heterosexual couples. Neither new nor additional rights are being proposed. In addition, such rights are available to lesbians and gay men who live in Victoria, New South Wales and the Australian Capital Territory.

This Bill will have a real and beneficial impact upon people's lives. It reduces the discrimination experienced by same-sex couples in some areas. It will allow recognition of a same-sex partner in relation to the distribution of the deceased partner's estate. It will prevent situations where the same-sex partner cannot make decisions about organ donation and cremation regarding the deceased partner.

Subsidiary amendments: there remain a number of other laws that discriminate against same-sex couples on the basis of their sexual orientation, including the Stamp Act 1921, the Coroners Act 1996, the Fatal Accidents Act 1959, the Criminal Injuries Compensation Act 1985 and the Workers' Compensation and Rehabilitation Act 1981. These Acts

cover property-related benefits, compensation schemes, consumer and business legislation and other general legislation. Amendments to these Acts are consistent with the principles of equality that underpin the Acts Amendment (Lesbian and Gay Law Reform) Bill 2001. The Government intends to introduce a Bill amending these Acts early in the autumn session of Parliament next year. Protecting every individual's right to be treated fairly and equitably may sometimes mean that the rights of others to discriminate on the basis of personal beliefs and convictions in public life are limited.

As the Government of this State, it is incumbent upon us to balance competing rights and values. It is a measure of our maturity as a democratic society that we are able to debate matters where divergent views are held, and to create solutions that balance the right to hold personal views in the private sphere, and the right to exist without harm and discrimination in the public sphere. The Acts Amendment (Lesbian and Gay Law Reform) Bill strikes a balance between conferring rights upon lesbians, gay men and bisexuals to ensure their rights as citizens with a series of safeguards that enable people to hold their personal and religious beliefs, to safeguard the young, the defenceless and the vulnerable, and to place the best interests of the child at the centre of decisions concerning adoption and access to in-vitro fertilisation.

This Government is committed to the fundamental principle that all people should be equal before the law, and this Bill is long overdue in giving lesbians, gay men and bisexuals rights, responsibilities and liabilities that have been denied to them simply because of their sexual orientation. It gives me great pleasure to commend this Bill to the House.

Debate adjourned, on motion by Mr Bradshaw.

DIAMOND (ARGYLE DIAMOND MINES JOINT VENTURE) AGREEMENT AMENDMENT BILL 2001

Declaration as Urgent

On motion by Mr Brown (Minister for State Development), resolved -

That the Bill be considered an urgent Bill.

Second Reading

Resumed from 7 November.

MR DAY (Darling Range) [12.41 pm]: The Opposition supports this Bill, the reasons for which I will outline shortly. It is appropriate to debate a resources development Bill today because only this morning the Premier opened the Australian Resources Centre in Kensington. That is a major and significant new facility in Western Australia that will be of great benefit to the resources sector in the State. There is something timely about discussing a resources related development Bill in that context.

The new centre in Kensington combines the research activities of the Commonwealth Scientific and Industrial Research Organisation - in particular the petroleum research division and the exploration and mining divisions - with the research and teaching activities of the Curtin University of Technology. I am pleased that at the opening of the facility this morning, the Premier acknowledged the former State Government's $35 million contribution on behalf of the taxpayers towards the establishment of this major new facility in Western Australia. That facility will be of great benefit to petroleum and minerals research not only in Western Australia, but also nationally. I understand that early discussions on the facility occurred in the days of the former Labor Government. However, a great deal of work and negotiations were conducted during the eight years of the coalition Government. During that time, a decision was made to allocate $35 million towards the establishment of the centre. It is very pleasing that it now operates in Western Australia.

As I said, the Opposition is happy to support the Bill, which, of course, relates to the diamond industry in Western Australia. That industry is significant to the resources sector in our State. I was interested to read that in 1999 Western Australia was responsible for 43 per cent of the world's diamond production. Therefore, Western Australia is a major player that produces almost half the world's diamond production. In the financial year 1999-2000, diamond sales from Western Australian production was valued at $704 million, which is a substantial contribution to the Western Australian and Australian economy.

In Western Australia, there are two proven diamond deposits. The first and best known is the Argyle deposit that has been subject to extensive mining activity since at least the mid-1980s, and the second is the Ellendale deposit, which is about 300 kilometres east of Broome and is the subject of this Bill. The Ellendale deposit forms part of the original diamond titles that have been held by the Argyle Diamond Mines Joint Venturer under the Diamond (Argyle Diamond Mines Joint Venture) Agreement Act. That deposit was discovered in the late 1970s with the discovery of 48 lamproite pipes in the area; however, only three pipes were identified as being potentially viable. I understand the area originally comprised 229 mineral claims but 115 of those were surrendered in 1992.

In 1990, an extensive drilling and feasibility program in the area was undertaken. A total of about $20 million was expended by the joint venturers as part of that evaluation process. Despite a large amount of money having been spent, the Argyle joint venturers came to the conclusion that further development would not be economically viable. Ultimately, in 1999 a proposition was put to the then Minister for Resources Development, the now Leader of the Opposition, that third parties be invited to develop the deposit. The then minister gave approval to that proposal, which

was undertaken by the Argyle joint venturers. The end result of that process was that the Kimberley Diamond Company NL was selected as the best proponent - as far as the Argyle joint venturers were concerned - to undertake the development of the Ellendale deposit. The Kimberley Diamond Company NL now proposes to construct a 950 000 tonne processing plant on the site, with production to begin in 2002.

The Opposition is happy to help facilitate this development. It is in the State's economic interest and will lead to a number of additional jobs in the mining industry. I understand that the first stage of the development will produce 50 jobs and the second stage, which will be undertaken over a 10-year period, will result in the creation of 120 jobs. About $9 million will be spent on the first stage of the capital works program and about $26 million will be spent on the second stage of the capital works program. Additional recurrent expenditure will result from the development that will take place.

The Government intends to maintain the same royalty regime for the Ellendale diamond deposits as applies at Argyle. Although it is not dealt with directly in this legislation, the Government will attend to that matter, which has the support of the Opposition. The original agreement for the development of the Argyle deposits specified that royalties would be paid on the basis of the above zero profit of the Argyle production, which is also intended to apply to the Ellendale deposit. Up to 22.5 per cent of the net profit, as determined by the appropriate process, is paid as royalties to the State. That compares with what would otherwise be a royalty rate of 7.5 per cent. It is in the State's interest to maintain the high royalty rate for the Ellendale deposit, and the Opposition supports the Government's intention to ensure that that is the case. As I understand it, a change will be made to the regulations under the Mining Act for that to occur.

It is necessary for the transfer of the interests in the Ellendale deposit to the Kimberley Diamond Company to be affected for the Ellendale deposit to be excised from the Argyle Agreement Act, which is what this legislation is all about. The quantity of diamonds in the Ellendale deposit is far smaller than that in the Argyle deposit, but the average quality is generally higher. Therefore, although the deposit is far smaller, hopefully it will be of significant value to the State and to those who are involved in its development.

The Opposition has agreed that this Bill be treated as an urgent Bill, even though it was introduced into the Assembly only last week, so that hopefully it can pass through both Houses of the Parliament before the end of this calendar year. Both of the companies involved are eager for that to occur. Kimberley Diamond Company NL wants to get on with production as soon as the wet season ends; and given that is most likely to be before the Parliament resumes in 2002, it is clearly in its interests that the legislation go through this year. The Opposition is happy to facilitate that. The Argyle Diamond Mines Joint Venture participants are, no doubt, keen to finalise their interest in the site and to receive the payment that will flow to them once the legislation has passed through both Houses of the Parliament. The Opposition supports the Bill and has no desire to hold it up.

MR BROWN (Bassendean - Minister for State Development) [12.50 pm]: I thank the Opposition for its support and for allowing the Diamond (Argyle Diamond Mines Joint Venture) Agreement Amendment Bill to be treated as an urgent Bill to facilitate its quick passage through this place. As the member for Darling Range has said, if we can get this Bill through both Houses of the Parliament before the end of the wet season so that work on the Kimberley diamond operation can commence, it will be of benefit to the State.

Question put and passed.

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

GENE TECHNOLOGY BILL 2001

Consideration in Detail

Clauses 1 to 4 put and passed.

Clause 5: Nationally consistent scheme -

Mr MASTERS: It is important to remind all members of this place that the aim of this Bill is to protect the health and safety of people and the environment. A large number of my amendments are designed with those goals in mind. At no stage will my amendments, or any of my questions, be politically orientated, or be designed to frustrate the Government or do anything other than achieve the objects of the Act.

The parliamentary secretary contacted me to express his concern that the amendments that the Opposition is proposing will change the Bill so that it will fail to achieve the consistency between the federal and state Parliaments that it seeks to achieve. My response was that as a member of the Opposition, I am charged with the responsibility of ensuring that this Parliament passes the best legislation that is achievable. The changes I am proposing will simply mean that, in most instances, the office of the Gene Technology Regulator will need to apply a different set of standards or address a different set of concerns before making a decision about the various powers that are to be conferred by the Bill. The amendments will create an Act that is somewhat different from the Bill, but I believe they will result in a workable Act of Parliament, and that the federal Government and the Gene Technology Regulator will have no problem in accommodating those changes as they apply to Western Australia.

This clause states that it is the intention of the Parliament to form a nationally consistent scheme for the regulation of dealings with genetically modified organisms. I ask the parliamentary secretary, through his advisers, firstly, what are the differences between this Bill and the federal Act? Secondly, I have been advised by Dr Collins that a Bill dealing with this matter is before the New South Wales Parliament. Does the New South Wales Bill, or the Bill of any other State or Territory, differ from the federal legislation in any way?

The ACTING SPEAKER (Mr McRae) Order! The member directed his question to the parliamentary secretary, through his advisers. It is not possible for the advisers to enter into the debate.

Mr MASTERS: I understand that.. I simply wanted to put on record that one of the advisers had provided me with advice, and I am seeking confirmation of that advice, or other comments, through the parliamentary secretary.

Mr LOGAN: The changes in this Bill are to ensure that the uniform legislation provisions work correctly. I am advised that the New South Wales Bill is very similar to this Bill, although we do not have clear confirmation of that. The Department of Agriculture does not have a copy of that Bill yet, but it believes it is similar to this Bill.

Mr MASTERS: I acknowledge the parliamentary secretary's comment that the New South Wales Bill is very similar and that the Department of Agriculture believes there are no significant differences. I do not wish to dwell on this, but I have proposed an array of amendments, which the Government has advised me will not be accepted because it wants a nationally consistent scheme. However, when I asked whether the New South Wales Bill is existent, I was told that the Government believes it is. That is a vague answer. I obviously understand that the Government has the power to say that it does not like amendments and that it will not support them. However, the only publicly provided reason that my amendments will be rejected is that they will make this legislation inconsistent with the federal legislation. I have not been told what inconsistencies there are, if any, in any other State's or Territory's legislation. It would be more appropriate if the Opposition and the people of Western Australia were to provide with greater detail, or any detail, so that we could determine the level of national consistency between the various Acts and Bills. Clearly, that will have a bearing upon the determination with which I argue the case in support of my amendments.

I understand from the parliamentary secretary that there may not be a great deal of further information available about the level of consistency between the legislation in other States and Territories and the federal legislation.

Mr Logan: Would it help if I were to put on the record that the Victorian and Queensland Bills were passed without amendment?

Mr MASTERS: That is useful information and I appreciate it.

Mr Logan: My advice is that the New South Wales legislation is similar to this legislation; that is, it applies the commonwealth Act.

Mr MASTERS: Its legislative impact is identical.

Mr Logan: In essence, it is uniform.

Mr MASTERS: I appreciate that answer. I will allow that comment to control, to a certain degree, the determination with which I argue my case for the amendments.

Clause put and passed.

Clauses 6 to 9 put and passed.

Clause 10: Definitions -

Mr MASTERS: I move -

> Page 8, line 16 - To delete "an" and substitute "any".

This definition relates to the definition of a genetically modified organism. Paragraph (b) states -

> an organism that has inherited particular traits from an organism (**"the initial organism"**) . . .

I am concerned that there is a somewhat subtle, but reasonably valid, concern that the first reference to the term "an organism" merely means the first generation of organisms that have inherited a particular trait from the second reference to an organism, which is the initial organism. This is a sloppy definition. I understand what the parliamentary draftsperson has tried to achieve, but I am concerned that someone might suggest in a court of law that the first reference to an organism is to be restricted to the first generation of an organism that is derived from the initial organism. This amendment will clearly indicate to legislators, lawyers and anyone else involved in GMO dealings that any organism that has inherited traits from the initial organism will be, by definition, a genetically modified organism and, therefore, subject to this legislation. I invite the parliamentary secretary to advise me of any difficulties he sees arising from this very minor, but, in my view, profound technical change. I commend this small but critically important amendment to the House.

Mr LOGAN: The member is reading too much into this. If passed, this amendment would make no difference to the meaning of the paragraph. Officers of the Department of Agriculture, the minister and I have discussed this issue at length and we are clearly of the view that it would make no difference.

The member is concerned about the wording applying only to first generation genes. If the member were to read the entire definition, he would see that it explains itself. The reference to "an organism that has inherited particular traits from an organism" means any other organism, including those that have inherited traits. We are advised that this definition is sufficient to overcome the member's concerns.

Mr MASTERS: I will provide some background so that the parliamentary secretary understands my amendment. I am not a lawyer, nor do I pretend to be one, but I trust I have some credibility. I have a law enforcement background. I spent three and a half years with the then Department of Fisheries and Wildlife. I regularly appeared in Magistrate's Courts and other forums to argue cases relating to duck shooting, illegal nets and a range of other activities covered by the Wildlife Conservation Act and the Fisheries Act, which has now been repealed. After that I spent 15 months working for what was then the Department of Conservation and Environment. The number of cases were fewer, but on some occasions I was still required to read the Act that controlled the protection of the environment to see how it would impact on the day-to-day activities required for me to do my job. I then spent 17 years working for the mining industry, and I regularly went to the Warden's Court to argue my employer's case on matters relating to the Mining Act. I assure the parliamentary secretary that even though I am no lawyer, I have had some exposure to the law courts.

I also assure him that I move this amendment in all seriousness. I take what he says about it being a change of no consequence; however, the definition of a genetically modified organism has three substantial parts, and those parts are joined not by the word "and" but by the word "or". It is possible that someone could stand in a court and say that paragraph (a) of the definition, an organism that has been modified by gene technology, does not apply to a particular GMO because it is the second, third or tenth generation of the initial GMO. Under that argument, only the parent organism was modified by gene technology in the initial application of that technology; the later-generation GMO has not been modified by gene technology. If the lawyer is able to argue that paragraph (a) does not apply, paragraphs (b) and (c) may also not apply, because the word "or" is used at the end of paragraph (b). Will paragraph (b) apply in every case? My advice is that a clever lawyer may have a strong argument to say in court that paragraph (b) does not apply to subsequent generations of the initial organism. I appreciate that under paragraph (c), the regulations can declare anything to be a GMO. I do not have a problem with that; however, if we can do the job of the regulator now by making absolutely sure that the definition of a GMO clearly incorporates and includes every generation beyond the first generation after the initial organism, it will mean less work for the regulator or whoever else is charged with the responsibility of creating the regulations mentioned in paragraph (c).

Sometimes we do things because it will achieve a positive result, but there are also times when we do things because we are convinced an absence of negatives is associated with them. I think the application of this amendment would have a positive result, and I cannot see any negatives likely to flow from it. If "an" in paragraph (b) is changed to "any", and if no negatives are associated with that change - the parliamentary secretary says it would have no impact - the Government should proceed with it.

Mr LOGAN: I thank the member for his employment history. With due respect, that employment history does not add to the debate. The definition of a genetically modified organism is prescribed in simple English and is clear. Paragraph (a) refers to the principal genetically modified organism, paragraph (b) refers to any trait inherited from a manipulated GMO, and paragraph (c) refers to any other GMO that may or may not have been subsequently modified. That is crystal clear. My advice is that the amendment is irrelevant. The use of "any" or "an" makes no legal difference. If the member truly wished to make paragraph (b) clearer, he would have gone further than a simple word change from "an" to "any". He would have rewritten paragraph (b) to reflect what he is expressing in the Parliament. I assure the member that the amendment would not have any impact on this Bill whatsoever. The Government rejects the amendment.

Mr MASTERS: I will not prolong the pain. If the amendment would not make any difference, the Government might as well incorporate it, because it would not be any skin off its nose. However, I have lost that argument and will not pursue it.

I gave serious consideration to rewriting the definition. I tried to find a way of making absolutely sure that second and subsequent generations were included in the definition. However, from my experience in dealing with legislation in courts of law, I determined that the clause did not need a complete rewrite, but simply the amendment I put forward. However, it will not succeed and we need to move on.

Amendment put and negatived.

Mr MASTERS: I put on the record a small concern I had, which has been resolved. I raised with the minister's advisers an issue about the definition of the word "organism" on page 10 of the Bill. The definition requires that an organism be a biological entity. I am sure everyone has heard of mad cow disease in Britain, or bovine spongiform encephalopathy. That has been caused not by a biological entity but by a complex protein called a prion. To be honest,

I do not understand exactly what a prion is, but I understand that it is a self-replicating protein that is able, much like a virus, to enter an animal or human being and replicate itself using certain genetic and other biological processes within the affected organism. I was concerned that this Act should apply to prions - there are more than the one causing mad cow disease. The definition in the Bill is restricted to biological entities, which proteins are clearly not. I was concerned that prions would slip through the net. However, I have consulted with academia and people who know about prions, and they advise me that they are produced only by biological entities. Therefore, this definition will suffice to cover any issues that might arise from someone wanting to deal with prions that have an inherent risk to human health. Prions operate by manipulating the genetic structure of a biological organism or entity. This definition will cover that. Again, I put on record that I am happy with the definition of an organism.

I raise a separate issue that I have not yet raised with the parliamentary secretary or the advisers. I have received a list of 20 questions relating to the entire Bill from one of the farming organisations in Western Australia. That organisation told me that the definition of an organism as set out on page 10 of the Bill does not include dead straw. It applies only to living parts that are capable of reproduction or of transferring genetic material. For the information of this organisation, could the parliamentary secretary advise where in the Bill dead straw and other non-living parts of genetically modified organisms are covered, and are, therefore, subject to regulation?

Mr LOGAN: A non-living product is not a GMO. If the agricultural organisation is concerned about straw that may have been the product of a field trial, the Bill regulates such field trials. If the straw were the product of a genetically modified organism in the first instance - that is, the seed that grew into the plant - and then became straw after the crop were harvested, this Bill would deal with it as a product of a field trial, not as if it were dead straw, which is not a living entity and therefore cannot be manipulated.

Mr MASTERS: Is it therefore fair to say to the farming group that the definition on page 9 of a GM product - that is, "a thing (other than a GMO) derived or produced from a GMO" - indicates that dead straw, while not being an organism, can be covered by this Bill?

Mr LOGAN: Yes, it would be. The legislation will cover that, in the same way as I expressed it before. It is covered under field trials.

Clause put and passed.

Clauses 11 and 12 put and passed.

Clause 12A: Meaning of reckless -

Mr MASTERS: The farming organisation I mentioned made the statement that the meaning of reckless is not in the commonwealth Act. I have had discussions with the advisers about the broader issue of recklessness, and I believe this to be a very poorly worded clause, and reference to it is very difficult to understand in other parts of the Bill. Can the parliamentary secretary advise whether this clause is in the commonwealth Act? If it is not, could he advise why not, and why it is included in the state Bill?

Mr LOGAN: The word is not defined in the Western Australian Criminal Code. The commonwealth Act dealing with GMOs refers to the commonwealth Criminal Code Act, in which the term reckless is defined. Because the word is not defined in Western Australia's Criminal Code, the definition is inserted into this Bill.

Clause put and passed.

Clauses 13 to 20 put and passed.

Clause 21: Ministerial Council may issue policy principles -

Mr MASTERS: I move -

> Page 15, line 3 - To delete "both" and substitute "either".

This amendment is a bit pedantic. I am not sure if I am of limited intelligence or perception, but when I read this line the first time, I was confused as to whether clause 21(1)(aa) was trying to create separate geographical areas - one for GM crops and one for non-GM crops - or was saying that some geographical areas would include both. I find the use of the word "both" to be very confusing. I will read the relevant part -

> recognising areas, if any, designated under a law of Western Australia for the purpose of preserving the identity of one or both of the following -
>
> (i) GM crops;
>
> (ii) non-GM crops,
>
> for marketing purposes.

This is being somewhat pedantic, but an area cannot be both a GM crop area and a non-GM crop area. It makes sense to change the word "both" to "either", so that the part will read -

recognising areas, if any, designated under a law of Western Australia for the purpose of preserving the identity of one or either of the following -

(i) GM crops;

(ii) non-GM crops,

for marketing purposes.

It is very simple and straightforward, and I will not insist that the House divide on it, but it removes a little bit of ambiguity that could end up confusing local government and other people with an interest in having an area defined as either GM or GM-free.

Mr LOGAN: The member for Vasse should read paragraph (aa) in the context of the entire clause. It becomes very simple, when read in context. Clause 21(1) states -

The Ministerial Council may issue policy principles in relation to the following -

The intent of the clause is to allow the ministerial council to issue policy principles in defined areas. One of these areas is defined in paragraph (aa) -

recognising areas, if any, designated under a law of Western Australia for the purpose of preserving the identity of one or both of the following -

This provision allows the law of Western Australia to protect the identity of areas where GM crops are being grown, and those from which they are excluded. That is fairly straightforward and simple, and it relates to the ministerial council issuing policy principles. The amendment sought by the member for Vasse is grammatically incorrect, because what he is seeking would result in the paragraph reading -

recognising areas, if any, designated under a law of Western Australia for the purpose of preserving the identity of one or either of the following -

That is grammatically incorrect. If it were to be amended in the way the member for Vasse is seeking, the words "one or both" would have to be removed, so that the line would read "either of the following". For the reason that it is grammatically incorrect, and is irrelevant anyway, and the member's argument is not consistent with the objective of the clause, the Government rejects the amendment.

Mr MASTERS: I think the parliamentary secretary twice used the word "both" when referring to my amendment. I do not think he intended to say it the first time when he said "recognising areas, if any, designated under a law of Western Australia both for the purpose of . . .".

I do not want to take up too much time on this issue. The bottom line is that I see this as creating potential confusion. This is not an issue over which we will have a duel at dawn. I recognise that the parliamentary secretary is new to the parliamentary game. I understand he has raised this as a concern, and he is clearly outlining the Government's intention. That in itself may be referred to by a magistrate, judge or lawyers, who always want to understand the exact meaning of various sections of legislation.

We will not divide on this issue. One thought that went through my mind was an amendment to paragraph (aa), to delete the words after "for the purpose of preserving the identity of" and continue -

(i) GM crops; or

(ii) non-GM crops,

That is another option. I decided that to change the word "both" to "either" was a simpler way. If the wording should be "one or other of the following", then I plead guilty to not having been the greatest English student in my class at school. The amendment is there. If the Government does not wish to proceed with it, that is fine. It is in *Hansard*, and hopefully there will be no confusion when it is time for the ministerial council to issue its policies.

Amendment put and negatived.

Mr MASTERS: The question has also been raised that clause 21(1)(aa) controls areas of Western Australia for genetically modified or non-GM uses for the purposes of marketing. Can this be challenged as a limit to trade, particularly if the products are available in the eastern States but not to Western Australian farmers? It may not be possible to provide an answer to that question in this venue, because the advisers may not be the appropriate people to do so. Nonetheless, that issue has been raised by the farming organisation.

Although the ministerial council would have the ability to designate areas as GM-free or containing GM crops, I would have thought that it would do so only if asked by a State Government, a local government or some other entity that had some legislative power or ability. I did not think that this legislation would be challenged as a limit to trade. For example, if a farming group wanted GM crops in a particular area and was denied that opportunity because of a direction from the ministerial council, its fight would be with the local government body, the individual farmers in that

area, or the State Government; that is, whoever made the recommendation or the request to the ministerial council. It would be great if the parliamentary secretary could throw any light on this issue. If not, will the parliamentary secretary's advisers provide me with information on this issue over the next couple of weeks so that I can provide advice to the farming organisation?

Mr LOGAN: I cannot see how this specific clause could have any impact on the issue of trade in the way suggested by the member for Vasse. I remind the member that this clause states that when a State Government has designated areas under the law of Western Australia for the preservation of the identity of GM crops or non-GM crops for marketing purposes, an inter-governmental ministerial council may issue policy directions relating thereto. That is the intent of this proposed clause. It does not deal with the Western Australian law that recognises areas for the growing of GM crops and non-GM crops. It simply deals with the power of the ministerial council to issue policy principles in relation to an existing Western Australian law. I cannot see how that will have an impact on trade in the way suggested by the member for Vasse. In any case - and I think this is where the organisation has some concerns - if a genetically manipulated seed has been created that causes great concern to an agricultural organisation, or, for example, is wanted by the members of an agricultural organisation but then is objected to by the State Government, that is when the negotiation and argument takes place. The argument will take place between the growers and the Department of Agriculture or the Minister for Agriculture; it would not have any impact on this legislation, particularly this clause as written.

Mr MASTERS: I agree with the parliamentary secretary. I cannot see how this provision of the legislation will be a limit to trade. If the farming organisation has serious concerns, it might have to determine whether this sort of regulation is contrary to the federal and/or state Constitutions. I appreciate the comments by the parliamentary secretary. I would be grateful if the parliamentary secretary could request his advisers to provide me with later advice on this matter once they have had a chance to consider it and speak to other people. I am glad that I have had the opportunity to raise this issue.

Mr LOGAN: I note the concerns raised by the member for Vasse. I make a commitment that I will raise these questions with the minister and, if he thinks it is appropriate to respond, I am sure he will do so.

Clause put and passed.

Clauses 22 to 26 put and passed.

Clause 27: Functions of the Regulator -

Mr LOGAN: I move -

Page 17, line 21 - To delete "regulations" and substitute "regulation".

That is a typographical error and it should read -

(f) to provide information and advice to the public about the regulation of GMOs;

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 28 to 31 put and passed.

Clause 32: Person not to deal with a GMO without a licence -

Mr MASTERS: I move -

Page 20, lines 19 to page 21, line 7 - To delete the lines and substitute the following -

A person commits an offence by dealing with a GMO and the dealing is considered to be reckless, unless that dealing -

(a) is authorised by a licence;

(b) is not a notifiable low risk dealing;

(c) is not an exempt dealing; and

(d) is not included in the GMO Register.

I am not trying to be pedantic, but the wording in subclause (1) is very confusing. I have been told that the cause of my confusion is - not limited intellectual ability on my part I hope - that the State Government had to incorporate in this subclause reference to the term "reckless" recognising that it would not be present in the commonwealth Act for the reasons outlined earlier. This subclause contains 20 or so lines of what I find to be very convoluted and confusing parliamentary drafting. I have attempted to try to rewrite the subclause so that it contains approximately seven lines that indicate very clearly that dealing with genetically modified organisms that are not authorised or allowed in the four ways indicated would be considered to be reckless. I think that was the original intent of the legislation. If not, I seek some guidance from the parliamentary secretary. The present wording is very difficult to follow, and I have notated

that it is unnecessarily complicated. I am concerned that the regulator, lawyers or people who deal with GMOs will find it as confusing as I have.

Mr LOGAN: There seems to be a misunderstanding about "reckless", which I thought was cleared up in discussions on the definition of reckless. I reiterate that the definition of reckless has been included in this Bill because it is not defined in the Western Australian Criminal Code; whereas it is defined in the commonwealth Criminal Code. Contrary to the member for Vasse's suggestion, this clause is exactly the same as that which is in the federal Act. The federal Act refers to "reckless" because it is defined in the Criminal Code as does this Bill, because it is included in the definition of this Bill. It has not been changed. The member for Vasse should not misunderstand that this clause has been changed simply because of the differences between the definition of "reckless" in the commonwealth Criminal Code and in this Bill. Both pieces of legislation refer to "reckless". The clauses are exactly the same. The member's proposal would render the clause completely inconsistent with the commonwealth Act. It would create administrative and technical difficulties in the application of the commonwealth Act and, therefore, cannot be accepted.

Mr MASTERS: I do not mind being told that there is a problem with my amendment. However, I get a little disappointed - I will not say annoyed - when I am given a bland statement that the amendment is inconsistent and will create difficulties. With respect, I would like a little more background information than that. Paragraph (b) of clause 32(1) states that a person commits an offence if "the person knows that the dealing with the GMO by the person is not authorised by a GMO licence or is reckless as to whether or not the dealing is so authorised". I do not know what that means and I would be surprised if a lawyer would understand what it means. I shall make a third point. When I was briefed by the advisers in this place today, I was told that everything after the word "or" was added to the first part of paragraph (b) because the term "reckless" did not appear in any of Western Australia's legislation. It therefore had to be added appropriately throughout the legislation to clarify the meaning of "reckless" and the way in which the term referred to particular clauses of the Bill.

Paragraph (c) of clause 32(1) states that a person commits an offence if "the person knows that the dealing with the GMO is not a notifiable low risk dealing or is reckless as to whether or not the dealing is a notifiable low risk dealing". I believe I know the intent of the legislation but it has been worded in such a convoluted way that I believe it will cause enormous problems when it is applied in courts of law. We should not forget that we are not creating this legislation so that it can stand in the statute books and gather dust; we are creating legislation that will become a living, breathing document to go out to the wider community and be used to regulate and control GMO dealings in this State. As legislators we should be passing legislation that makes sense and does not deserve to be rewritten, and I for one am happy to make amendments to achieve that goal.

Will the parliamentary secretary clear up two matters? Are paragraphs (a), (b), (c), (d) and (e) in clause 32(1) identical to the commonwealth legislation? I was told that they are not. If they are identical, or even if they are not, will the parliamentary secretary tell me the meaning of "reckless" in paragraphs (b), (c), (d) and (e)? I believe I know what it means but I want clearly stated on the record exactly what the tacked-on reference to the word "reckless" means in paragraphs (b), (c), (d) and (e).

Mr LOGAN: Again, it comes down to an ability to read a Bill. The member for Vasse has indicated that I have not been in this Parliament very long. I do not know whether there is any inference in that comment.

Mr Masters: None whatsoever.

Mr LOGAN: However, I can read English and I believe clause 32(1) is very clear. If it is unclear, the member had better say so. I will read it again -

> (1) A person commits an offence if -
>
> (a) the person deals with a GMO, knowing that it is a GMO;

Mr Masters: I am not questioning that subclause; I have no problem with it. I have a problem with paragraphs (b), (c), (d) and (e).

Mr LOGAN: Subclause (b) reads -

> the person knows that the dealing with the GMO by the person is not authorised by a GMO licence or is reckless as to whether or not the dealing is so authorised;

That is fairly straightforward. If someone deals with a GMO knowing that it is not authorised or licensed, and manipulates GMO material regardless of the regulations or of having a licence, that person therefore commits an offence.

Mr Masters: Is the offence reckless because the person was not authorised or - the word is "or", not "and" - because the person was not authorised to do that dealing? The reference to the word "reckless" is confusing and I seek some clarity of it.

Mr LOGAN: I refer the member to the definition of "reckless" at the beginning of the Bill. We have been through this issue. The member asked what "reckless" meant and I have said that we had to define "reckless" because it is not

defined in the Criminal Code. The definition makes plain exactly what "reckless" is; that is, a person dealing with a GMO without a licence or not authorised; that person therefore commits an offence. The member should compare that definition with his amendment. That definition is straightforward, clear and defined. The member's amendment reads -

A person commits an offence by dealing with a GMO -

I know what a lawyer would do with that. The amendment continues -

and the dealing is considered to be reckless, unless that dealing -

The member then lists four items under which that dealing is not considered reckless. Lawyers would be able to drive a truck through that amendment! The first few words of that amendment are nonsensical. They read -

a person commits an offence by dealing with a GMO

I know that the clause preferred by the Commonwealth Government, all the other State Governments and the agricultural organisations and growers to ensure the security of manipulated GMO material is clause 32(1), because it is straightforward and simple. The member's amendment would create not only confusion but also the ability for a basic lawyer to drive a truck through it. The amendment therefore must be opposed.

Mr MASTERS: Again I have to politely say to the parliamentary secretary that I do not mind being told about the factual basis behind any errors that I have incorporated in the rewording of a clause. However, the parliamentary secretary said that the amendment could have holes driven through it and it would not work. I would like to hear from him about where the holes are and why it would not work. Before I invite the parliamentary secretary to do that, for the record I state that this amendment standing in my name does not seek to change or otherwise do anything to the word "reckless". I refer to the meaning of reckless in clause 12A, which clearly implies that a person is reckless if that person is aware of a substantial or unjustifiable risk associated with a GMO dealing. I am not trying to change that meaning. My amendment states that the dealing is considered to be reckless in four instances. No change has been made to the meaning of the word "reckless".

I ask the parliamentary secretary for a third time to explain in clear, simple and non-legal English language what paragraph (b) means when it states that a person commits an offence if the person is reckless about whether or not the dealing is so authorised. I have tried to simplify it so that the parliamentary secretary can understand my confusion and respond to it. I will give another example. Paragraph (c) states that a person commits an offence if the person is reckless about whether or not the dealing is a notifiable low risk dealing. Under subclause (1)(c), is the person reckless if the dealing is a notifiable low-risk dealing, or is the person reckless if he or she deals with a genetically modified organism and it is not a notifiable low-risk dealing? Once again, I must express my confusion at the way in which the parliamentary draftspeople have put this together, because I am not sure what is the intent.

Debate interrupted, pursuant to standing orders.

[Continued on page 5541.]

The SPEAKER: Before we proceed with question time, I acknowledge the presence in the gallery today of His Excellency Jean Fournier, the Canadian High Commissioner to Australia.

[Applause.]

QUESTIONS WITHOUT NOTICE

HAKEA PRISON, BANNED ITEMS

544. Mr JOHNSON to the Minister for Justice and Legal Affairs:

I refer the minister to the arrest of a convicted prisoner at Hakea Prison yesterday for arranging a kidnapping from his prison cell.

(1) Will the minister explain how the prisoner was able to access a mobile phone and use it to make thousands of unmonitored calls in a supposedly maximum security prison environment?

(2) Given the recent arrest of a guard at the prison for smuggling drugs and other banned items into the jail, when will the minister act to stop the influx of drugs and other items into our jails?

Mr McGINTY replied:

(1)-(2) A number of significant measures have been undertaken, of which I am sure the member for Hillarys is aware, to address this chronic problem of drugs in prisons. About 70 per cent of the people who are in prison are there for a drug-related crime. Therefore, people who take drugs into prisons in order to feed that habit, in my mind, are engaging in one of the most despicable undertakings imaginable. That is particularly the case when somebody who is in a position of authority, such as a prison officer, is involved.

I was appalled when I was made aware that Brett Maston had been charged with masterminding a kidnapping from his prison cell. He is a special profile offender - one of the most serious offenders in prison in this State.

I have asked the Department of Justice for a comprehensive report on this issue - maybe it arrived this morning - and the way in which it arose. My understanding is that there is a connection between the mobile phone and the crime that has allegedly been committed by Mr Maston, and the arrest of the prison officer on charges of bringing drugs and mobile phones into the prison. However, it is a sensitive matter. On both fronts, charges have been laid, and they are due to go before the courts. They will test the veracity of the evidence in respect of each of the matters and the connection between the two.

However, my concern is how someone could make a seemingly large number of calls when that person is one of the more serious offenders in the prison system. We need to be able to stop that dead in its tracks. It happened. It should not have happened. I am waiting for a report from the Department of Justice, and we will act with a great sense of urgency on it.

When Labor came to power, the issue of drugs in prisons was a pressing one. I am sure it was for the previous Government as well. Members will recall an occasion on which I arranged to have the prisons drug unit stop all visitors going into Hakea one Sunday afternoon, with the unit's sniffer dogs there to detect people who were carrying drugs into the prison. On that occasion, a vast array of drugs and drug-related paraphernalia were seized from visitors who were going into the prison.

As a result of that and my awareness of the acute problem there, a shortcoming in the law was revealed; that is, that there is no power for the prison authorities in this State to ban from visiting prisons someone whom they know has been constantly trying to get drugs into prisons. We gave an undertaking on that occasion that we would amend the law in Western Australia to give the prison authorities power to ban people known to be associated with the importation of drugs into prisons. That power does not exist at the moment. The Government will bring legislation on that issue into this Parliament, and I hope it will enjoy the support of both sides.

I will make another point, and then I will happily take the member for Hillarys' interjection. At that time, there was some criticism that we were focusing on the friends, relatives and family of prisoners, and it was said that we should start looking at the activities of staff and of contractors who visit the prisons. Again, it is my understanding that the arrest that was recently made of the prison officer was the product of considerable ongoing surveillance, going back over a number of years, and the use of technology to ascertain for sure that that was the day on which he would bring the drugs into the prison. Prior to that, there was a belief that that activity warranted investigation. Therefore, we were intent on making sure that when we moved, we would catch someone red-handed; otherwise, we would have blown any prospect of ever ultimately obtaining the evidence and, therefore, a conviction.

I do not wish in any sense to prejudge the trial or the right of this prison officer to have his case determined in a court. We have acted in the strongest way possible under the Prisons Act; that is, to suspend him without pay. We have received a request that he be paid while he is facing these charges, and that request has been emphatically rejected.

Mr Day: I think you were of the view that police officers should not be suspended without pay, if I recall correctly.

Mr McGINTY: That is a matter appropriately directed to the Minister for Police. In a situation like this, my adamant view is that when facing charges of that nature, suspension without pay, or even stronger action if it were allowed under the Prisons Act, is the appropriate action to take.

Mr Johnson: I agree with the minister. I can understand somebody smuggling drugs and a mobile phone into the prison, but when a prisoner is able to make thousands of calls and recharge that phone time and again, without being detected, something must be wrong in the prison system. What will you do about that?

Mr McGINTY: The first thing I will do is to get a comprehensive report from the prison system stating that this is what happened and how it happened. I also want from the prison system details of specific steps that can be taken to stop it occurring again. One of the most serious prisoners in this State has been able to mastermind an extremely serious crime from behind bars. I give the House this commitment: the people associated with that crime will have no mercy from this Government. They will have the book thrown at them. We will pursue to every last point the capacity of the State to act against the people associated with that crime and to put in place in the prisons appropriate steps to make sure that the likelihood of that recurring is nil.

BUSINESS MIGRANTS

545. Mrs MARTIN to the Premier:

Is there any evidence to show that Western Australia is attracting an increasing number of Australia's business migrants?

Dr GALLOP replied:

I thank the member for the question. I am pleased to advise this House that Western Australia now leads the nation in the rate of permanent residency business migration. In the first quarter of this financial year, Western Australia

attracted 102 permanent residency business migrants. That represents 32 per cent of all arrivals and it saw our State overtake the traditional leader, New South Wales, which attracted 24 per cent of new arrivals. Queensland attracted 20 per cent of business migrants and Victoria attracted 17 per cent. I am advised that September was a particularly busy month. Western Australia processed 58 business migrants, the majority coming from Indonesia, and the remainder from Zambia, China, Zimbabwe, Kenya, the United Kingdom, Israel, South Africa and Singapore. It is good news for Western Australia. Figures provided by the commonwealth department indicate that the new migrants will inject $166 million into our economy. The State Government supports business migration through the Small Business Development Corporation. Last year, eight applications were approved through the scheme. In four months of this year, 45 approvals were given to a total value of $57 000.

Why do people increasingly choose Western Australia? It is a great place to live and has a good climate and lifestyle. The second reason people choose to live in Western Australia is its strong tradition of support for multiculturalism. Western Australia has led the way over many decades in ensuring that everyone in the State, no matter what their background, gets a fair go and in making sure that people who are inclined to racism are told in no uncertain terms that it is not part and parcel of our community. Let me put this into political context: the alliance created between the Liberal Party and One Nation is a job-destroying alliance. The National Party and the Labor Party stand rock solid in this Parliament in placing One Nation at the bottom of how-to-vote cards. The Leader of the Opposition has undermined his own credibility and the credibility of his party with his alliance with One Nation. He is sending a clear signal to the rest of the world that the ranting and raving of One Nation on multiculturalism is acceptable. That is a job-destroying message. Western Australia is a great State within the Australian federation; it is also a great region within the global economy. If we are to create jobs and opportunities for the future, our multicultural policies will play a key part in it. The Leader of the Opposition is willing to compromise that commitment, and by so doing, destroy job opportunities for Australians.

GOVERNMENT'S ENERGY POLICY, IMPACT ON MERREDIN

546. Mr DAY to the Minister for Energy:

I refer to a media release issued by the minister on 7 November 2001 in which he implies that voters in the Merredin electorate would benefit from Labor's decision on electricity prices in regional areas.

(1) Will the minister confirm that the Merredin electorate is covered by the south west interconnected grid system?

(2) Will the minister confirm that uniform tariffs in Merredin have never been altered and that the Government's decision will have no impact on electricity prices in the Merredin electorate?

Mr RIPPER replied:

(1)-(2) I am amazed that a member of the Liberal party would ask a question on regional policy because the Liberal Party, and in particular the Leader of the Opposition, has been well and truly put on the spot by the Leader of the National Party. This is what the Leader of the National Party says about the Leader of the Opposition -

> The fact is that Mr Barnett represents a city electorate and a city-based party. He has always put the interests of the city and economic rationalism above the needs of country WA and nothing has changed.

The Leader of the National Party goes on to say -

> His johnny-come-lately act will not wash with the people of Merredin," . . .

I am amazed that the opposition spokesperson on energy would ask a question about anything to do with regional policy. The Leader of the Opposition demonstrated his contempt for the regions by imposing higher electricity prices on growing regional businesses. We pointed out to the people of Merredin that the Leader of the Opposition is a very recent convert to support for the regions. In his previous capacity as Minister for Energy he did the regions down. He might not have done Merredin in particular down, but he did the regions in general down through his energy policies.

GOVERNMENT'S ENERGY POLICY, IMPACT ON MERREDIN

547. Mr DAY to the Minister for Energy:

I ask the minister to name one customer in the Merredin electorate who will stand to benefit directly from the Government's decision.

Mr RIPPER replied:

Support for the uniform tariff and for country people benefits all the regions. The point I make is this: the Leader of the Opposition, when in government, demonstrated his contempt for the people of the regions by imposing higher electricity prices on their growing businesses. Does the Leader of the Opposition still support the policy he followed when he was the Minister for Energy? He does! He still supports the policy.

Several members interjected.

Mr RIPPER: The Leader of the National Party has got him in one! He is not only a Johnny-come-lately, he has not even come to support the regions. The Leader of the National Party slightly under-emphasised the point; he is not only a Johnny-come-lately, but also he does not support the regions even today.

STATE FINANCE, CREDIT RATING

548. Mr HILL to the Treasurer:

Will the Treasurer advise the House of the status of the State's credit rating?

Mr RIPPER replied:

I am extremely pleased to confirm that the rating agency Standard and Poor's has confirmed the State's AAA credit rating. Moreover, it confirmed it with a stable outlook. The ratings agency believes that the AAA credit rating will continue into the future. We have doomsaying from across the House; members opposite have talked down the State's credit rating and economy. I have been waiting for this day; I have been waiting for the rating agency's judgment. The rating agency has confirmed our AAA credit rating.

Several members interjected.

The SPEAKER: Order, members! I cannot hear the Treasurer's response. I am sure members on my left want to hear his answer.

Mr RIPPER: I can understand why members opposite talked down the State's credit rating. No doubt, they reflected on their own performance. I visited Standard and Poor's in Hong Kong. I spoke to it about the record of the State. We have to live down the legacy of the previous Government. We have to overcome the souring of the relationship between the ratings agencies and the State as a result of the policies of the previous Government.

Several members interjected.

The SPEAKER: Order, members!

Mr RIPPER: The Leader of the Opposition might interject and try to shout me down, but this is the point: he left us with four operating deficits, two forecast deficits and a rate of growth in debt that was accelerating to a position that was incompatible with the State's AAA credit rating. The ratings agencies are, unfortunately, sceptical about the State because of the legacy left by people like the Leader of the Opposition. The agencies have a problem with the State.

Mr Barnett interjected.

Mr RIPPER: The Leader of the Opposition ought to listen to this because he has done damage to the State. He has done damage in two ways: first, through the legacy he left us and, secondly, through his doomsaying about the economy. He ought to start acting in the interests of the State. Naturally the ratings agencies are sceptical because they have had experience of a State Government of Western Australia - the Court Government. That Government failed to live up to its financial management targets. This Government has set itself targets. It has had the AAA credit rating confirmed, but it is not going to rest on its laurels. Financial management is a day-to-day, week-to-week, month-to-month and year-to-year issue. It is the responsibility of every minister in the Government every day. We intend to maintain our commitment to our financial management targets. International economic uncertainty imposes additional challenges on the Government, but it has exercised financial restraint and its financial management policy has been vindicated by Standard and Poor's.

I will conclude on the Leader of the Opposition. The Leader of the National Party has seen him for the fraud that he is and the ratings agencies also understand what a fraud he is on these issues.

Mr Barnett interjected.

Withdrawal of Remark

Mr RIPPER: By interjection the Leader of the Opposition has accused me of lying to the Parliament, and I think he should withdraw.

Mr DAY: The Leader of the Opposition did not make any accusation; he asked a question by way of interjection. There was no accusation or assertion.

Mr BARNETT: I asked the Deputy Premier whether he lied, because he made a claim that Standard and Poor's had commented to him about me and I asked him whether that was the truth. In effect, did he lie about that?

Mr KOBELKE: The issue is not whether or not a statement is true; the fact is that the Leader of the Opposition used unparliamentary language. On that basis, he should be asked to withdraw.

The SPEAKER: Order, members! I did not hear the comment. If the Leader of the Opposition accused the Treasurer of lying, I ask him to withdraw it. If he did not say it, I will take his word on it.

Questions without Notice Resumed

EDUCATION, CLASS SIZES FOR PREPRIMARY TO YEAR 3

549. Mr MASTERS to the Minister for Education:

I refer the minister to the Labor Government's pre-election pledge to support the class-size ratio for the years preprimary to year 3 of no more than 24 per class. Why has no specific funding been allocated for this commitment?

Mr CARPENTER replied:

I thank the member for the question. I get some sensible questions from the member and this is one of them.

Mr Johnson: We would like to get some sensible answers.

Mr CARPENTER: I could spend all day on my feet picking off the member every five minutes if he wants me to. The member should just keep out of it for his own sake.

Mr Barnett: We are saving you for later.

Mr CARPENTER: I am glad that we heard the interjection of the Leader of the Opposition, because he knows the answer to this question.

Mr Barnett: I reduced class sizes.

Mr CARPENTER: He reduced class sizes! The member for Vasse should have asked the question of the Leader of the Opposition! When we came to government, we were left with a commitment by the previous Government, which we said we would honour, that class sizes in the years that were mentioned would be reduced to 24 by 2003. We were also left with the fact that that commitment -

Mr Masters interjected.

Mr CARPENTER: They would be; they have not been. We were left with a commitment that was completely unfunded.

Mr Barnett: Broken promise!

Mr CARPENTER: Any politician in the run-up to an election campaign can walk out onto the front steps of the Parliament -

Several members interjected.

Mr CARPENTER: We could walk out onto the front steps of Parliament and make any outrageous promise or assertion we wanted and then, after losing or winning the election campaign, we could say that we did not have the money. That is exactly what the previous Government did. It reduced class sizes in the first instance; that is correct and I congratulate the Leader of the Opposition for that. However, I discovered that he did that without funding it properly. Because of the reduction in class sizes in schools in the electorate of the member for Vasse, and because there are no additional resources to manage that reduction, classes are now being conducted in former wet areas and on verandas. Is that the case?

Mr Masters: Yes.

Mr CARPENTER: It is unbelievable that an approach like that could have been pursued by the previous Government. To manage the sort of situation that the member is confronted with in his electorate, and which many other members are confronted with in their electorates, we have said that we will honour that commitment. It is good educational policy to reduce class sizes in those early years. It will happen and it will be funded. We have picked up the policy that the previous Government promised to implement. We will implement it and we will pay for it.

EDUCATION, CLASS SIZES FOR PREPRIMARY TO YEAR 3

550. Mr MASTERS to the Minister for Education

As a supplementary question, recognising that the minister said that it will be funded, can he give an indication as to when it will be funded, because the minister representing him in the Legislative Council informed that House that funding was outlined in the forward estimates?

Mr CARPENTER replied:

That commitment of $11 million, along with the $17 million commitment for the unfunded capital works program, which the previous Government left us with, and the $32 million unfunded commitment for laptops, is being found out of existing resources. It is funded, and it will happen. We have taken, as we should in government, a responsible approach to the delivery of our election commitments, unlike the previous Government. I know the way the previous minister worked. Fair enough, he got away with it. He would make a promise, go to the Treasury and say that he wanted that money, and it would happen. However, that is not the way to run government. What happens in the end is that there are massive operational deficits, and that is what happened. That is why the previous Government had such big operating deficits. That is the way it operated the health budget. Government cannot be run that way. That is the

difference. I support the educational thrust of reducing class sizes and providing laptops. However, it must be done in a way that is sustainable.

Mr Barnett: We did.

Mr CARPENTER: No, the Leader of the Opposition did not.

Mr Barnett: We did. Everything that I promised was delivered.

Mr CARPENTER: The education budget consistently ran over, and the Leader of the Opposition went to Treasury and asked for more money year after year. He cannot do that, because, sooner or later, the music stops and someone must pay the bill.

Mr Masters interjected.

Mr CARPENTER: The funding is now in the budget.

Mr Masters: In the current budget?

Mr CARPENTER: It will come into effect in 2003; it is not funded this year. The funding is now in the budget; it has been found from existing resources.

Mr House: Is it in the forward estimates?

Mr CARPENTER: If the member wants to talk about the forward estimates, does he think the forward estimates mean anything?

Mr House: Is it in the forward estimates?

Mr CARPENTER: Does the member think that the forward estimates mean anything?

Mr House: You are indicating that they do.

Mr CARPENTER: I think that forward estimates mean something. I think people need to know what money a Government has to fund its commitments for each of the four years of government. The previous Minister for Education thought they were meaningless. That is a little window into the psyche that created such huge economic and financial problems for the previous Government. It is a problem that we will not repeat.

LOCAL ROADS, 50 KILOMETRE PER HOUR SPEED LIMIT

551. Ms QUIRK to the Minister for Police and Emergency Services:

I read with interest that one local council could save up to $500 000 a year in costs after the implementation of the 50 kilometre per hour speed limit on local roads. Can the minister outline the initiative's benefits to the community?

Mrs ROBERTS replied:

I thank the member for the question and for some notice of it. I also commend the member for Girrawheen on her strong interest in all road safety matters. An article in the *Southern Gazette* recently reported that an engineering report of the City of Belmont indicated that it would save $500 000 in the course of the year because of the introduction of the 50 kilometre per hour speed limit. This morning I announced the introduction of the 50 kilometre per hour speed limit on local streets all over the State, commencing on 1 December. This initiative has met with overwhelming support from the community, especially from local councils. The member is quite right: local councils will make enormous savings through fewer road crashes on local roads. This initiative is not about saving money; it is about saving lives. The launch of the initiative today is testimony to the fact that the Government does not pay lip-service to road safety; it is achieving it. More than 50 Western Australian lives will be saved over the next 10 years following the introduction of this new road safety initiative on local roads. These are the roads where the majority of Western Australians live, the streets where older people go to the corner shop, and where children play in their front gardens. These are the streets where one-third of all fatal and other serious road injury crashes occur. There are many benefits to the community. It is a great initiative, because not only will the costs of road trauma be reduced but also many lives will be saved.

KALAMUNDA DISTRICT COMMUNITY HOSPITAL, CLOSURE

552. Mr DAY to the Minister for Health:

I refer to the minister's statement that this Labor Government was not elected on a platform of closing down hospitals. Given that the recent Labor-commissioned review of metropolitan health services, which was undertaken by Dr W. Beresford, states under the heading "Future of Kalamunda Hospital" that, in the longer term, this facility should be closed, I ask -

(1) Can the minister categorically rule out the closure of Kalamunda District Community Hospital now or in the future?

(2) Will the minister arrange for Dr Beresford to visit the Kalamunda hospital to meet with the staff and local residents to discuss the future of the hospital?

Mr KUCERA replied:

(1) The configuration of all health services is being examined as part of the Government's process of developing an excellent health system in this State and to underpin the system that already exists. I have not seen the full report which raises the issue of hospital closures. Many reports kick around government on every day of the year. The Government will go forward and develop the reforms in health that I have already outlined. They will be done properly, rationally and sensibly.

(2) No. That is Dr Beresford's view; it is not my view.

KALAMUNDA DISTRICT COMMUNITY HOSPITAL, CLOSURE

553. Mr DAY to the Minister for Health:

I am a little concerned by the minister's answer. I asked the minister whether he could categorically rule out the recommendation contained in the substantial document that I understand has been provided to him. Can the minister categorically rule out the closure of Kalamunda District Community Hospital now or at any time in the future?

Mr KUCERA replied:

I have already answered that question. A reform process is in place which involves the configuration of all health services throughout this State. I have already made that clear. In relation to the writing of reports, I expect people within the health service to continuously write reports.

EASTERN WHEATBELT HEALTH SERVICE, FUNDING

554. Mr WALDRON to the Minister for Health:

Given the public comments made yesterday by the chairman of the Eastern Wheatbelt Health Service that the service will have a $900 000 shortfall this financial year -

(1) Can the minister assure the House that basic clinical needs in the eastern wheatbelt will not be compromised?

(2) Will the minister commit to table in this House, by the end of the year, the budgets of all regional health services in Western Australia for the past financial year and this financial year, together with a list of the new health and administrative functions regional health services have been given for this financial year and the cost of those new functions?

Mr KUCERA replied:

(1)-(2) The estimates committee and budgeting processes have been a traditional part of government in this State and I suspect that all members of this House have made good use of those processes. All the forward estimates and costings are in the budget papers. I suggest that members read them. I see no need to table individual issues. Budgets and the outcomes of hospital services vary from time to time. In relation to the broad thrust of funding in health for rural budgets -

Mr Board interjected.

The SPEAKER: Order, member for Murdoch!

Mr KUCERA: Thank you, Mr Speaker. As I have said on a number of occasions in this House, there was an eight per cent across the board increase in health funding for rural budgets. I do not know of any other agency that received that kind of increase. I do not know of any private industry within this State that received that kind of increase and was asked to manage within its budget process. I have drawn a line in the sand with the various boards and hospital managers. For the first time for a number of years in this State, the hospital boards and managers have been asked to responsibly manage the money provided by taxpayers, which the community relies upon them to spend wisely. I am asking them to properly manage their budgets for the first time in many years. A bilateral process has been instigated with the Department of Health. The reform process is moving forward with the country boards. I ask them to manage properly and sensibly.

REGIONAL HEALTH SERVICES, HEALTH AND ADMINISTRATIVE FUNCTIONS

555. Mr WALDRON to the Minister for Health:

Can the minister table a list of the new health and administrative functions regional health services have been given for this financial year and the cost of those functions?

Mr KUCERA replied:

I am happy for the member to put that matter on notice. I will supply those details. It is a complicated issue. The vast majority of managers whom I have met so far are responsible; their boards are looking towards providing the best services. It is a tight budget year; nobody denies that or that pressure is being placed on all parts of the health service. However, I expect hospital boards to supply the services for which the Government has funded them.

NATIONAL PARKS, NAMING COMPETITION

556. Mr WATSON to the Minister for the Environment:

Can the minister outline the stage at which the public naming competition is at for the new national parks that will be created under the Government's policy to protect old-growth forests?

Dr EDWARDS replied:

I thank the member for the question and for his interest in this undertaking. On World Environment Day I announced a public naming competition for the first six national parks that the Government will create under the policy of protecting old-growth forests and creating 30 new national parks. The Government was keen for the community to have a sense of ownership of these national parks and that it be involved in the process of setting up and naming them. The competition was announced to name six national parks - those near Preston River, the Greater Beedelup National Park and the national parks surrounding Mt Frankland, Mt Lindsay and Mt Roe. I am happy to announce that 135 submissions have been received. It is clear from those submissions that some people have done a lot of work.

Mr House: Was there one from Wilson Tuckey?

Dr EDWARDS: No, Mr Tuckey did not make a submission. We will not go into what he would have named them. One thing I am pleased about is the way in which local people have got together with indigenous people to get information about indigenous meanings of certain areas and how that might be translated into a name for a national park. I am also pleased that a number of schoolchildren have taken part. That demonstrates that young people are vitally interested in the environment. The Conservation Commission of Western Australia will now work through those names and pick out the best and most appropriate. The State Geographic Names Committee will also be involved. I thank those people who did what was obviously a lot of research and went to a great deal of trouble to come up with some very good suggestions.

SOUTHERN TRANSPORT CORRIDOR, GERALDTON, CONVEYOR BELT SYSTEM

557. Mr EDWARDS to the Minister for Planning and Infrastructure:

I refer to the proposed southern transport corridor in Geraldton.

(1) Is the Government considering a proposal to construct a conveyor belt system to link the Narngulu industrial estate with the port at Geraldton as an alternative means of delivery to a southern transport corridor?

(2) If so, can the minister tell the House what impact the consideration of this proposal would have on the time line and financing of the southern transport corridor?

Ms MacTIERNAN replied:

(1)-(2) A proposal was put forward to the Government by a member of the community through the local council. The local authority asked the Government whether it thought there was any merit to the conveyor belt proposal. We undertook to find out whether there was any such conveyor system in operation. Some suggestion had been made that conveyor systems were in place in Europe; however, we have not been able to locate one, despite an extensive search. We have spoken to some industry players, particularly from the resource industry. It is clear that if a conveyor belt system were used, separate conveyor belts would be needed for each product that was transported, even for different classes of mineral sands. This suggests to the Government that it is unlikely that this proposal would be economically feasible or would provide the advantages that were initially suggested. I can assure the member for Greenough that the Government has not, in any way, set aside or delayed the work on the planning for the southern transport corridor. The two matters have gone in tandem. To date, the Government has been unable to find any comparable models.

QUESTIONS ON NOTICE, UNANSWERED

558. Mrs EDWARDES to the Premier:

Pursuant to Standing Order No 80, when will I receive an answer to question on notice No 764?

Dr GALLOP replied:

I do not have advice on that question, but I will seek it from the department and get back to the member for Kingsley this afternoon.

QUESTIONS ON NOTICE, UNANSWERED

559. Mrs EDWARDES to the minister representing the Minister for Housing and Works; Local Government and Regional Development:

When can I expect an answer to question on notice No 762?

Ms MacTIERNAN replied:

We understand -

Several members interjected.

The SPEAKER: Order, members!

Mr Barnett: This is before the reshuffle. This might be your last chance.

Ms MacTIERNAN: The only person whose job is at risk in this place is the Leader of the Opposition. No-one is more disloyal, treacherous, and prepared to put the State's future on the line for self-interest than the Leader of the Opposition. I understand that an answer to the question has been prepared, and will be made available tomorrow.

GENE TECHNOLOGY BILL 2001

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 32: Person not to deal with a GMO without a licence -

Debate was adjourned after an amendment had been moved

Mr MASTERS: Obviously I am having trouble getting my message across to the parliamentary secretary, and I am not sure whether it is his fault or mine. I will rephrase the question one last time, and pick one scene to summarise: a person commits an offence when he knows his dealing with the GMO is not notifiable low-risk dealing or is reckless as to whether it is a notifiable low-risk dealing. Can the parliamentary secretary explain, without quoting the legislation, what clause (1)(c) means in relation to "reckless" and whether the dealing is a notifiable low-risk dealing even though it is not a low-risk dealing as stated in the first part of paragraph (c)? If I can have a simple, plain English explanation I will die a happy man.

Mr LOGAN: I will try to put this as simply as I can. The structure of this clause is simple, and I have read it out for the member.

Mr Masters: I would like the parliamentary secretary to look at me and tell me what it means.

Mr LOGAN: I understand what the member is asking. For the purposes of explaining how this clause would be read by a regulator or by someone in a court of law when an offence has occurred, and not by the member for Vasse, it is structured in this way: a person commits an offence if he transgresses paragraphs (a), (b), (c), (d) or (e). The issue that the member raised about paragraph (c) is straightforward. A person commits an offence if that person knows that dealing with the GMO is not notifiable low-risk dealing or is reckless, which is defined in (b). A person is reckless in his behaviour as to whether the dealing is a notifiable low-risk dealing when either he knows it is not a low-risk dealing or he does not know and continues on recklessly manipulating that GMO material. That is the reason we defined "reckless".

Mr Masters: I refer to the definition of the word "reckless". Am I correct in my interpretation that a person is always reckless in his or her dealings?

Mr LOGAN: No. This clause does not say that. All it says is that if a person's behaviour in dealing with the GMO material is such that it comes under the definition of reckless, it becomes an offence. The member's amendment reverses the onus. He has said that every dealing with GMO is reckless unless it complies with those four paragraphs. The member has reversed the onus of the offence, which is the reason the Government cannot accept the amendment. If we applied this amendment in the way the member suggests, the matter would become utterly confusing and would make Western Australia a laughing stock.

Mr HOUSE: I listened with interest to the parliamentary secretary's explanation. I was happy to accept it until he tried to define the word "reckless". I am in favour of the Government's position, except that I am now confused about his definition. In answering a question from the member for Vasse, the parliamentary secretary said that reckless was defined in the Criminal Code.

Mr Logan: No; it is defined on page 12 of the Bill.

Mr HOUSE: Did I mishear the parliamentary secretary? Is he referring specifically to the definition on page 12 in this Bill?

Mr LOGAN: That is correct.

Mr MASTERS: Is the parliamentary secretary saying that paragraphs (b) to (e) each has two parts: one part that says that a person commits an offence if he does something that is not allowable and a second part that says that dealing is reckless in some way? Everyone is shaking their head. I have no problems in accepting that a person is committing an offence if in the case of paragraph (b) the person knows the dealing is not authorised. That is clear. I cannot understand what the rest of the clause means, and I refer to the wording "or is reckless as to whether or not the dealing is so authorised". If the dealing is not authorised as is stated in the first part of paragraph (b), is the Bill saying that dealing then becomes reckless if the dealing is authorised? I am sorry; I am confused. I have not had a clear answer, so I will not pursue it any further.

Mr LOGAN: It is an offence if it is done knowingly or simply recklessly though not knowingly. It is an offence if it is done knowingly in breach of the principles, directions and guidelines or simply straightforward recklessly; that is, the person knew it was a breach but was reckless as to the way in which he carried that out. The member for Vasse is right; there are two sections - knowingly and recklessly.

Mr MASTERS: I will paraphrase what the parliamentary secretary is saying: in paragraph (a) both parts relate to "knowingly" but the second part is "reckless" if the person is aware of a substantial risk that the circumstances exist or would exist. Is that right?

Mr Logan: Yes, and goes ahead and does that dealing recklessly; then, in terms of the person's behaviour, page 12 defines reckless behaviour.

Mr MASTERS: The intention behind paragraphs (b) to (e) is to define simple offences of dealing when a person is not authorised by licence, not a low-risk dealing, and not an exempt dealing. However, there are four additional offences, each one linked to what I just read out, and those extra four are reckless dealing if there is knowledge on the part of the offender that there is a substantial or unjustifiable risk. Is that right?

Mr Logan: Yes, it can be seen that way.

Mr MASTERS: I apologise for taking up the time of the parliamentary secretary and the House. The fact that it has taken this long to achieve an understanding of the clause means that it is not good parliamentary drafting. My amendment would not achieve the desired goals. I seek leave to withdraw it.

Amendment, by leave, withdrawn.

Mr HOUSE: I move -

> Page 21, lines 11 to 16 - To delete the lines and substitute the following -
>
> (2) Penalties for any offence under this Act shall be contained in regulations pertaining to section 193.

Having dealt with legislation in the past, I know that it is very difficult to include in the legislative program Bills to update penalties when required. When time has elapsed in the enactment of legislation that has been through this Parliament in previous years, it has impeded the proper punishment of offenders. Regulations are a much better way of putting penalties into legislation. They can be updated quickly. The House still has the ability to move against regulations, if they are updated and the Parliament of the day does not like them. A committee process examines such legislation in this Parliament. A much better way of handling all legislation would be to include penalties in regulations, because we can deal quickly and easily with an increase in penalties and not have to bring the whole legislative process back to the House.

Mr LOGAN: I acknowledge the practicality of including penalties in regulations; I will not argue with the member for Stirling about that. The reality is that the penalties for the offences have been structured nationally. This is uniform legislation to comply with the commonwealth legislation. Each State that has adopted the provisions of the Gene Technology Bill has exactly the same penalties in its legislation. I would not argue with the practicality of amending penalties by way of regulation, if a State Government saw fit to do so. However, I imagine that to maintain consistency nationally when dealing with genetically modified organisms, the offences would be discussed at the intergovernmental committee, agreed to by the ministerial council and then applied to each State. I do not know the reasoning behind the minister's discussions. The member for Stirling might be able to inform us because he was involved in the process. I do not know why the penalties are included in an Act, rather than in regulations. Nevertheless, to ensure consistency between our state legislation, other state legislation and the commonwealth legislation - we have discussed this with the minister - we must continue to include the penalties for the offences in the Act.

Mr HOUSE: I am surprised that the parliamentary secretary said that he had discussed the matter with the minister. I did not realise he would have done that. I was about to say that it demonstrates the importance of having a minister in charge of legislation rather than a parliamentary secretary, because the minister has the authority of the Cabinet to make a decision quickly at the consideration in detail stage. I understand the parliamentary secretary's difficulty in not wanting to do that and, therefore, cause a problem with his ministerial boss. However, the argument he has given is a nonsense. As I understand it, we must comply with the federal legislation, which this legislation does, but there is no requirement for us to include penalties in the Bill rather than in regulations. Indeed, we could comply with the Act and still have lesser or greater penalties than those in other States. We do that in a range of areas. It is commonsense to put all penalties in regulations. I have always argued that. The legislation that I had carriage of reflected that towards the end of my term as minister. It makes good sense. I do not accept the argument that we need to do it because somebody in the Commonwealth said to do it. People drafting legislation tend to put it into the legislation because it occurs to them at the time. They might think it is the way to go. I do not intend to take the matter any further, except to say that perhaps the parliamentary secretary should talk to the minister between now and this legislation's being debated in the upper House. It makes procedural sense.

Amendment put and negatived.

Clause put and passed.

Clause 33 put and passed.

Clause 34: Person must not breach conditions of a GMO licence -

Mr MASTERS: I move -

Page 23, line 13 - To insert after "has" the following -

or can be reasonably expected to have

Subclause (2) states -

A person covered by a GMO licence commits an offence if . . .

It is followed by paragraphs (a), (b) and - I emphasise "and" - (c), which states -

the person has knowledge of the conditions of the licence

If this were an either/or clause, people would be committing an offence if they intentionally took an action or omitted to take an action or if they knew that the action or omission contravened the licence. However, paragraph (c) contains the presumption that the person must have knowledge of the conditions of the licence. The proposition is fairly simple: a person can stand up in a court of law and say, "Your honour, I had no knowledge of the conditions of the licence. Yes, I may have been the licensee or I may have been the person covered by a GMO licence." A million and one different excuses could probably be provided by a person covered by this clause to explain why he or she did not have knowledge of the conditions of the licence. For that reason my amendment simply suggests that a person committing an offence under subclause (2)(a) and (b) cannot simply say that he did not know - remembering that ignorance is no defence in law - that he should have taken an action, omitted to take it or otherwise. If the amendment is passed, subclause (2) will read, in part -

A person covered by a GMO licence commits an offence if . . .

(c) the person has or can be reasonably expected to have knowledge of the conditions of the licence.

I believe that if the amendment is successful, it will put the onus very clearly back on the shoulders of the person who holds the GMO licence or anyone who is employed by or in a responsible position with the holder of a GMO licence. As I said, ignorance is no defence. We need to send a message to the wider community that all people who work and deal with GMOs have a significant responsibility. They should not accept whatever they may or may not have been told by the licence holder or the person in charge. All people who are covered by GMO licences should be held responsible. The onus is on them to clearly understand and know the conditions of their licences. Therefore, this amendment would convey that level of responsibility to the people covered by GMO licences. The amendment would also make it more difficult for someone to say that he had no knowledge of the conditions of the licence. If my memory services me correctly, other parts of this Bill state that a person must have knowledge of the conditions of the licence. However, without the wording of the amendment incorporated in clause 34(2)(c), we are making it unnecessarily difficult for the Gene Technology Regulator to do his or her job.

Mr LOGAN: I knew where the argument of the member for Vasse was leading until he said that the onus should be on the people covered by GMO licences to make themselves aware of the conditions. That is not the case; the onus is on the holder of the licence to ensure that the people who work under that licence are aware of the conditions. Clause 63 of the Bill requires that. It is not the case, as the member implied, that the onus is on the employee who works under the holder of the licence. The onus is on the holder of the licence, which, in many cases would be the employer. The employer must educate the people who work under that licence. Employees must be made aware of the dangers, the safety concerns and the necessary precautions to take when working with genetically modified material. The onus is on the holder of the licence. For example, an incident may occur involving GM material in which an offence takes place and the licence holder and the employee who works under the licence are taken to court by the Gene Technology Regulator. If, in his defence, the employee told the court that he was unaware of the conditions, the court would determine whether the employee had been educated and made aware of the dangers and precautions required when working with genetically modified material. The result would turn on the facts of the case. Either the employee was or was not made aware of those conditions. Subclause 34(2)(c) as it is written covers that issue. I understand the member's argument; however, I suggest that the member's amendment would add no benefit to clause 34(2)(c).

The inference drawn by the member is wrong. The onus is on the holder of the licence to ensure that the employees who work under that licence are made aware of the dangers and precautions required when working with genetically modified material. If the holder of the licence did not make the employees aware of those conditions, he would be committing an offence. If an employee working under the licence is aware of the dangers and the precautions that must be taken when working with genetically modified material, yet still recklessly carries out a task that causes an incident, he will have committed an offence. The legislation is clear about that. If an employee's defence in a court of law is

that he was not made aware of the dangers of a task and the holder of the licence did not make him aware of the conditions, the case would turn on the facts as to whether he was aware.

Mr MASTERS: I thank the parliamentary secretary for that information. Earlier, I mentioned that I had spent 17 years in the mining industry. For eight of those years I was employed in a role that required me to undertake induction courses for people who joined the mining company. I am trying to bring some real-world experience into the debate. For example, Fred Bloggs might have been told on a Monday that he was hired for a job and would be required to start work the following day. He may write himself off that night and get absolutely blotto. The next morning he would arrive for his first day of work knowing that it is not important because it is only an induction. I say that tongue-in-cheek, because I know induction courses are important; however, often people wrongly believe these courses inform them of things that they will learn on the job. In this example, Mr Bloggs has written himself off on the Monday night and has started work on Tuesday. An induction course was held on Tuesday morning and the first thing Mr Bloggs did was go to sleep. I have seen Woodside Petroleum's induction room, which can accommodate up to 50 or 60 people. It would be easy for someone in that situation to fall asleep or to not pay attention. The instructor would believe that he was passing on the knowledge of the conditions of the licence when in fact nothing had registered in Mr Bloggs' brain.

I will provide members with another example. Mr Bloggs might have been out on the grog the night before the induction. At the crucial moment during the induction course when the instructor is about to tell the inductees the most critical things they must or must not do during an experiment, Mr Bloggs feels sick and rushes outside for two minutes to empty his stomach before returning a refreshed person. If Mr Bloggs then did something wrong, he would need only two or three other inductees to provide witness statements in a court of law to the effect that they and Joe Bloggs were at the induction course, but that Mr Bloggs left during the crucial two minutes and that they had no knowledge of his having been made aware of the conditions of the licence. In other words, the Government is creating a window of opportunity for someone who should have knowledge of the conditions of the licence but who creatively, either honestly or dishonestly, makes an excuse to explain that he did not have such knowledge. I accept what the parliamentary secretary said earlier. In that situation the onus would then be on the holder of the licence and he would be in even more severe trouble than he might otherwise be. However, my point is not only must we catch those extra people who should know of the conditions of the licence, but also we must inform anyone who is covered by a GMO licence in any shape or form that they are playing with very serious stuff.

I will repeat this argument later during debate on other clauses in which I have the same concern. If a person did something wrong and a GMO escaped into the environment, it would be like, for example, kookaburras, weeds or dieback fungus; once it is gone, it will always be in the environment. The genie will be out of the bottle. In most instances, if a GMO is released into the wider environment, we will have to live with it forever. To add the words "or can be reasonably expected to have knowledge of the conditions of the licence" to this amendment would send a powerful but important message to everyone covered by GMO licences that this issue is profoundly serious. I just heard a rainbow lorikeet fly overhead, but I will not talk about that pest. The amendment would let employees who are covered by the GMO licence know that they must take their jobs and their responsibilities very seriously. If they did not take their jobs and their responsibilities very seriously, they would be covered by an amendment to the Bill that says that they should have or should be reasonably expected to have knowledge of the conditions under which they work.

Mr LOGAN: I am aware of the member's point. He must have been at some of the same induction courses I have attended. I was required to attend a significant number of induction courses in my former employment. The member is correct; one could probably walk into any induction course for engineering, oil and gas or construction projects and find that some people are not paying attention. They could be asleep or might not understand the information being provided. If an accident were to occur in the real-world example that the member cited, the onus still rests with the employer, not the employee. It rests with the employee only if it is proved that he knew that what he was about to do was unsafe and deliberately chose to do it anyway. At all other times, the onus is on the employer. If a person gives as an excuse that he was asleep during the induction course, the onus is still on the employer. The employer is obliged to ensure that those attending such an induction course are not asleep, that they are aware of what they are being told and that they are capable of passing a test designed to establish whether they have understood the instructions.

This legislation is even more specific, in that the onus is on the holder of the licence, but any person who knowingly deals recklessly with genetic material can also be held responsible. If that person was unaware of the precautions that had to be taken in that part of the process, that would be an acceptable argument to put in defence. Nevertheless, the holder of the licence is deemed to have committed the offence. In that case, the holder of the licence would have to prove that he took all reasonable steps to ensure that the person involved understood what he was doing.

The member referred to the person asleep. If a person defends himself using that argument, and the holder of the licence argues and proves that he was unaware that the person was asleep during the induction course dealing with the processes to be used when handling genetically modified material, and the judge accepts that, so be it; nothing can be done. At the end of the day, the onus is not on the person working under the licence. That is no different in any other employment situation. The onus is on the holder of the licence. That person must ensure that people working under that licence are well aware of the processes to be used when working with that material. This legislation sets that out clearly.

Mr MASTERS: Some years ago a friend of mine was picked up while driving very drunk. He appeared to be sober and he was picked up for speeding. He was told he could opt to attend a session on how to drive responsibly or pay a fine. Of course, he attended the education session. He arrived at the venue as drunk as a skunk and, as soon as the lights went out so that participants could watch a video, he climbed out the window and went home. I am not suggesting that people involved with GMOs will behave with that degree of irresponsibility. I will explain my point using a fictitious example. If I were driving a car with a defective speedometer at 70 kilometres an hour in a 60 kilometres an hour zone and I was booked for speeding, it would not be a defence that the speedo was wrong or that a mechanic failed to repair it. The fact is that I was doing 70 kilometres an hour in a 60 kilometres an hour zone. Accordingly, I would be required to pay a fine and incur a demerit point. In a similar situation, a person working under a GMO licence not only should have knowledge but also should strive to obtain it. These workers should have that responsibility imposed on them by this legislation. They should be required to obtain that knowledge if they are dealing in any way with a GMO or working under a GMO licence.

The parliamentary secretary has made an interesting point about someone standing in a court of law and saying that he did not have knowledge of the conditions of the licence, so the onus should revert to the licensee. The licensee may well be subject to prosecution anyway. If two people are responsible, two people should be found guilty and be required to pay the appropriate penalty. The holder of a GMO licence cannot plead ignorance of the conditions of the licence. He must know those conditions. It is almost inconceivable that someone would be granted a licence and then plead that he did not know the conditions of that licence. That will not happen.

If the licence conditions are breached, the buck always stops with the licence holder. However, I will provide the parliamentary secretary with a realistic example of what might happen in a laboratory in which a range of people are dealing with GMOs. I am referring to a laboratory rather than a field trial. The GMO licence might contain a condition that two doors must always be closed between the laboratory and the greenhouse, cage or enclosure holding the GMO. That might have been made very clear at the induction course or a copy of the licence conditions might have been provided by the licence holder. However, if a person were to hold open the two doors separating the natural environment from the laboratory environment, he would be breaching a GMO condition. There may have been many reasons for doing it; for example, another laboratory worker might have wanted to pass through the doors with an armload of boxes. Doing the gentlemanly thing, the worker might have opened the doors and, in the process, inadvertently or otherwise contravened the licence. The onus must be on everyone covered by the licence, not only the licence holder, so that they take reasonable steps to become knowledgable about the conditions of the licence. It is very simple.

Mr LOGAN: Working backwards from the points made by the member for Vasse, I firstly suggest that he visit one of the laboratories dealing with GM material, because doors being held open, letting genetic material waft off into the atmosphere simply does not occur. Getting into a laboratory dealing with GM material, for a start involves going through an airlock. It is like entering a spacecraft. A series of sealed doors form an airlock to ensure that the very thing the member for Vasse was talking about does not occur. Cross-pollination from one piece of GMO to another is also impossible, because all GMOs are kept in temperature-controlled, airlocked cupboards and sealed shelving.

The example given by the member for Vasse of the person who accidentally exceeds the speed limit, not knowing that the car's speedometer is faulty, and then tries to use that an excuse, has nothing to do with knowledge. People either know or do not know how to deal with genetic material and any incident that occurs as a result of that. In the example given by the member for Vasse, the driver may not be aware that a technical fault exists with the speedometer. The speeding is not a direct result of either knowing or not knowing, so that cannot be used as an analogy. The member for Vasse's argument that, if an incident occurs, a penalty should apply equally to both the holder of the licence and the person working under that licence, does not take into account the benefits of holding a licence. A fee is paid for the licence, the licence confers benefits, and profit can be made from holding that licence. With those benefits comes responsibility, and that is what the Bill sets out. The holder of the licence has responsibilities, and should he fail to meet those responsibilities - which include informing people working under the licence, such as employees or contractors - he commits an offence. If the licence holder has complied with those responsibilities, and yet a person working under the direction of the licence holder knowingly causes an incident with genetic material, that person also commits an offence, and the Bill deals with that situation. I cannot see how any of the examples given by the member for Vasse can undermine the wording in the legislation, and I cannot see how adding the words proposed in the member's amendment will add any weight to the implementation of the legislation.

Mr MASTERS: I assume the parliamentary secretary drives a car, and that he has done so for a number of years. I also assume that he has regularly driven at speeds of 70 kilometres an hour or more.

Mr Logan: Have you been checking my drivers licence?

Mr MASTERS: I did not say he was driving at that speed in a 60 kilometres an hour zone, just that he had driven at that speed. If he is driving at 70 kilometres an hour in a 60 zone, and his speedometer is broken, he is guilty of an offence, because among other things, as an experienced driver he should know when he is driving beyond the limit. He may be overtaking other cars, the sound of the engine may be different, and the handling characteristics of the car may be

affected, along with a range of other things. The mere fact that he did not know that the speedometer was broken, or was reading 20 per cent below the actual speed, would not absolve him of the responsibility of using his better judgment, commonsense and experience to appreciate that he is actually travelling at 70 kilometres an hour in a 60 zone. Exactly the same principle applies here. A person who is working in an environment covered by a GMO licence must know the conditions of the licence. That person must know the conditions, and if he does not, he must take the trouble to find out what those conditions are. The parliamentary secretary has obviously been instructed not to accept the amendment, so I will not labour the point. I will simply ask for one final response. Will the parliamentary secretary tell me what harm would be done to the day-to-day workings or application of this legislation, if this amendment were passed? If the legislation contained a reasonable expectation that holders of a licence must know the conditions of a licence, how would that detract from the workings of the legislation, and how would it make it worse than it currently is?

Mr LOGAN: I indicate once again that a comparison of the provisions of this legislation with speeding while driving a car is irrelevant. There is no comparison between the two. It is a ridiculous assumption. The answer to the member's question is quite simple. The proposed amendment shares the onus of responsibility between the holder of the licence and the person working under the holder of the licence, so that they share the penalty equally. The Government does not agree with this, as I have indicated before. A legal distinction must exist between the person working for the holder of the licence and the holder of the licence. That is one of the benefits of holding a licence. That is why the Bill is structured in this way, and why the Government does not accept the amendment.

Mr MASTERS: Just for the record, I do not believe that the amendment would in any way diminish the responsibility that would lie on the shoulders of the holder of the GMO licence. I am referring to two different people, one being the holder of the licence, the other a person covered by a licence, presumably an employee of some sort. The parliamentary secretary has quite rightly pointed out that the person holding the licence has a responsibility, and I am simply suggesting, through this amendment, that all the people covered by a GMO licence, not excluding, but in addition to, the holder should have a reasonable expectation placed on their shoulders that they obtain knowledge of the conditions of the licence. Considering the profound and permanent implications for human health and safety, and the protection of the environment, should a GMO escape into the environment when the regulator and the community do not want that to happen, extending the onus of responsibility from the licence holder to all the people covered by the licence is entirely fair and reasonable.

Amendment put and negatived.

Mr LOGAN: I move -

Page 23, line 19 - To delete "(3)" and substitute "(2)".

Page 23, line 21 - To delete "subsection (1)" and substitute "this section".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 35: Person must not breach conditions of a GMO licence - strict liability offence -

Mr MASTERS: I move -

Page 24, line 9 - To insert after "has" the words "or can be reasonably expected to have".

This refers to a person being required not to breach the conditions of a GMO licence and is a strict liability offence. The subclause states that a person covered by a GMO licence commits an offence if -

(c) the person has knowledge of the conditions of the licence.

My argument is the same as for the previous amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 36 to 44 put and passed.

Clause 45: Regulator must not use certain information in considering licence application -

Mr MASTERS: I move -

Page 29, after line 8 - To insert the following -

(2) While fully protecting the identities of applicants, the Regulator is to take reasonable steps to inform the first person of the application by another person in an attempt to overcome or reduce the need for identical or similar information to be duplicated by subsequent applicants.

This clause is to ensure that the regulator cannot use information provided by applicant No 1 when some time later applicant No 2 seeks a licence for a somewhat similar or potentially identical purpose. The words on page 29 of the Bill read -

> the Regulator must not take that information into account for the purposes of considering an application by another person for a GMO licence, unless the first person has given written consent for the information to be so taken into account.

The regulator is not required under this clause to let applicant No 1 know that applicant No 2 may require the information that was provided by applicant No 1 some time prior to the knock on the door from applicant No 2. I imagine that we are talking about very technical, potentially expensive and time-consuming data that may need to be gathered by an applicant to satisfy the regulator that his GMO process can be done safely and appropriately. Under this clause, the regulator must ensure that information is not passed on from one to the other unless the first person has given written consent. However, nothing in this clause requires the regulator, without identifying applicants, processors or the technical information that might be required, to say to applicant No 1 that another applicant is seeking a licence very similar to his licence; therefore, they could perhaps communicate and come to an arrangement that will see applicant No 1 get a lot of money back for the work he has done. Potentially, applicant No 2 will be saved money, time and effort by not having to re-invent the wheel.

My amendment requires that the regulator take reasonable steps to advise the first applicant that money, time and effort can be saved by both applicant No 1 and a subsequent applicant by avoiding potential duplication of knowledge and information. The parliamentary secretary has advised me that the Government will not accept this clause. Does the parliamentary secretary accept that there is no onus on the regulator to do anything to advise applicant No 1 that applicant No 2 can do a deal and save a lot of money, time and effort?

What harm might come from the adoption of this clause, which simply requires the regulator, while fully protecting the identities of all applicants, to discourage duplication of time and effort by applicant No 2 when the wheel has already been invented by applicant No 1?

Mr LOGAN: Is the member for Vasse suggesting that the regulator should tell the holder of a licence to alter genetic material in a unique way when another person is seeking a licence to undertake exactly the same process?

Mr Masters: I do not wish the term "applicant" to be restricted to people who are in the process of applying for a licence. From my reading of the clause, an applicant can still be considered an applicant even after he has been granted a licence. My intention is that applicants and successful licence holders should be referred to as "the first person of the application".

Mr LOGAN: This is a confidentiality clause; it is not a patent registration clause. It is not about acknowledging the similarities between proposals to get a licence to genetically modify material and having a patent over that process. It has nothing to do with that. The member for Vasse appears to be attempting to address that in his amendment, which seems to be a sort of patent provision whereby he is saying that if the wheel has already been invented, why should we reinvent it? That has nothing to do with this clause, which deals with confidentiality. It is right and proper for a regulator to treat the information he receives confidentially.

A person may come along to gain a licence for the purposes of dealing with genetically modified organisms, and maybe he has a process. He may wish to open up a laboratory or to do a field trial - I do not know. I will use the example to which the member for Vasse has alluded. This person may have a process of genetic manipulation. That person applies only for a licence. Another person may also apply for a licence. It appears to the regulator that the second person has exactly the same process as the first person. This clause states that the regulator shall not take the first person's information into account when considering the second person's application for a licence, unless the first person has given written consent for the information to be so taken into account. It is not up to the regulator to control competition. The effect of it is that the regulator can deal only with an application for a licence on the grounds presented before him. He must deal with the information confidentially, particularly if, as the member says, it is commercial information, unless the first applicant consents to that information being provided to the second applicant.

I imagine, particularly given the competition in GMO manipulation, that any person seeking a licence to do GMO work would say clearly, "No way. I'm not providing that form of information to the second applicant. He will probably get a competitive jump on me." The way the clause is structured is quite proper. The member for Vasse's amendment seeks to achieve something that this clause does not deal with.

Mr MASTERS: One of the groups of people that is opposed to GMOs is environmentalists or greens, and the target of their unhappiness is corporations like Monsanto. I hope that the parliamentary secretary has not accepted that this Bill is only about regulating corporations. As I said at the conclusion of the second reading debate last week, gene technology and genetically modified organisms apply to not only corporations and industry, but also academics, the general public, farmers and a wide range of people who are involved in dealings and in understanding a whole range of matters. There may be cases in which the "first person" may be a corporation that does not want to allow its knowledge, information and patents to go to a second party. However, with the greatest respect, that is just one small

part of the GMO picture. Overwhelmingly in Western Australia, most of the work that has been done with GMOs is, as I understand it, conducted at the universities; that is, research.

The clear image that I have in my mind is of two universities. For example, the University of Western Australia school of agricultural sciences may want to do an agricultural trial with a GMO of some sort. Three months later, the Murdoch University school of veterinary science may say to the regulator that it wants to do something. The regulator is the only person who knows that Murdoch University wants to do almost identical work to the work of the University of Western Australia. In theory, there is no commercial confidentiality. However, two universities, both of which are struggling for funds, have the ability to say that they do not want to share knowledge. Nothing in the amendment or in clause 45 requires that knowledge to be shared. All that my amendment says is that the regulator is the only person who has a reasonable chance of knowing that there are two applicants - or one might be a licence holder, and the second one might be an applicant; therefore, the second one would be the applicant - and that there is information that should be common to both applications, or a licence and application. By talking to applicant one or licence holder one in such a way as to protect identities, the regulator can benefit both parties.

I repeat that two universities may have limited funding budgets. The regulator may say to them, "Okay, you want to deal with a genetically modified canola. Everyone in the game knows that canola is a close relative of wild radish. Wild radish is a plant that now grows wild in Western Australia." Therefore, the regulator tells applicant one that it must gather all the details about the movement of genetic information from canola to wild radish everywhere else in the world, and then come back and convince the regulator that its field trial is safe to the environment and to people, and poses no health risks to people. Obtaining that sort of information could be a major task.

I spent a number of years working as a consultant representing proponents. I would go to the Department of Environmental Protection with a proposal. To assist me and my clients, the public servants there would say to me that that information had already been created by another consultant or another proponent. It was not confidential but it was proprietary knowledge. By their passing on that information, as a consultant I knew that I could make someone else an offer to buy, beg, borrow or steal the information that had already been created. Why should we reinvent the wheel? It must be remembered that the regulator is the only person who knows that effort and knowledge is duplicated. The regulator would have the power to get the two people together only if both parties agreed to get together.

Mr LOGAN: This Bill does not deal with the mass production of widgets off a production line; it deals with manipulation of genetic material, which is experimental in its nature and which may or may not be successful. However, the information about how to undertake the processes, and the success of those processes, is securely guarded because of competition, the commercial nature of those processes and any benefits that arise therefrom. It is absolutely binding on the regulator to recognise that fact, and to ensure that the information in any application for a licence is dealt with sensitively and is kept confidential. In dealing with a second application, the regulator cannot pass on the information of the first applicant unless there is written consent from the first applicant. In this day and age - the member for Vasse knows how ruthless it is in the genetically modified organisms market - that consent probably would not be given and for good reason. That is why it is absolutely important that the regulator deal with that commercial information in a confidential manner.

To answer the second point raised by the member for Vasse about replicating the wheel, the regulator is not there to determine competition in the GMO marketplace. It is not his role to determine that a particular type of process has been invented and it is the only one that will be used. If another person comes along with the same process, the regulator will not inform the second applicant about the first applicant's information unless the first applicant agrees to it. In that instance, the regulator may issue licences to both, assuming that they have met all the tests, conditions and codes of conduct that are required of them. It is not the regulator's role to determine who does or does not make money out of commercial information. I find it strange indeed that a Liberal Party member is running that line, because it is anathema to the philosophy of the Liberal Party.

Mr MASTERS: I am sorry, but I said to the parliamentary secretary that I was specifically not talking about industry, and I gave a specific example. I have spoken to gene technology researchers at Curtin University of Technology and they absolutely agree with the proposition that I am putting forward. The parliamentary secretary should try to get the Monsanto-type bogy out of his mind. Without giving away confidential information, proprietary information that is covered by patents, or the identities of applicants or licence holders, the regulator is the only person who knows when two applicants, or one licence holder and an applicant, must gather the same information to qualify in the regulator's mind as having a fit and appropriate experiment to allow a licence to be granted for dealings in GMOs. I cannot understand why the parliamentary secretary is apparently not prepared to accept that what I am talking about is nothing to do with industry; industry might be involved in the periphery. However, like the parliamentary secretary, I suspect that industry will say that the other company can take a running jump as it is not interested in helping. Monsanto would not be interested in helping another company involved in GMOs. However, as the regulator is the only person who knows when a duplication of information and effort is required, there is no reason that this amendment should not require the regulator also to fully protect identities and information that will go to the licence applicants or the licence holders and to ask whether they want to do a deal, so that both can benefit financially.

Unless the parliamentary secretary has been living on a different planet from me, he would know that all universities are currently under financial constraint. Researchers I have spoken to at Curtin University have said that it is absolutely bloody stupid for the regulator to be the only person with the knowledge of a request or a requirement for duplication of information, yet the regulator is not directed by this legislation to try to broker a deal and see whether there is some way in which, for example, two universities could mutually benefit each other by the first giving written consent for the second to have the information gathered by the first.

I seek leave to amend my amendment. In the first line of my amendment, immediately after the word "applicants", I seek to insert the two words "and licensees".

[Leave denied.]

Mr MASTERS: Not only the parliamentary secretary, but also the Leader of the Government are being pig-headed by not accepting the amendment to my amendment.

Mr Barnett: It demonstrates legislation being handled by someone with limited parliamentary experience.

Mr MASTERS: I very politely made that comment earlier.

Mr Barnett: Maybe he needs to be given time to learn a bit more about Parliament.

Mr Logan: Stick to pig-headed; it is much easier.

Mr Barnett: When you learn to respect this place, you will gain respect from people in this Chamber. When you treat the Parliament like that, you will be treated accordingly.

Mr MASTERS: All I can do is use my time and make the point that -

Mr Barnett: Smart alecs in Parliament do not succeed.

Mr Kobelke: Exactly; you know it well.

The ACTING SPEAKER (Mrs Hodson-Thomas): Order, members! The member for Vasse has the floor.

Mr MASTERS: This amendment makes a genuine attempt to improve the legislation in a way that will put a small additional workload on the shoulders of the regulator, but which potentially could create enormous financial and logistical benefits for research at such universities. However, the Government does not want it.

The ACTING SPEAKER: I am having difficulty hearing the member for Vasse.

Mr LOGAN: I continue my opposition to the proposal. I repeat that I have not mentioned Monsanto or any company or commercial operation. The member for Vasse alluded to the fact that that was in my head when I responded to his argument.

Mr Masters: Check *Hansard*; that is what you have been saying.

Mr LOGAN: No; I have not referred to any particular company. I am talking about what might possibly be commercial information; it could be research information. I am not arguing the point with the member. Nevertheless, it is sensitive information. They were the words I used. It is information that is sensitive to the organisation that made the application; it could be a university, as put forward by the member for Vasse. Nevertheless, competition is extreme between universities, as outlined by the member for Vasse, given that funding is reliant on that level of competition. For those reasons, it is crucial that the regulator deal with this information sensitively and keep the information confidential.

The point that the member for Vasse made about passing on that information is still available under the proposal in the Bill, if the first applicant agrees in writing. I do not understand the member's complaint. The amendment he has moved would not only confuse it dramatically, but also add nothing to the Bill. It has the hallmarks of patent legislation, as opposed to legislation dealing with the clause as written; that is, the regulator must deal with information both sensitively and confidentially, and for good reason.

Mr MASTERS: We are talking to each other, but one of us is not listening, and I do not know whether it is the parliamentary secretary or me. Nothing in the amendment that I moved forces the regulator to hand over commercially confidential information. It refers to nothing other than the knowledge that one person needs that is potentially the same information that the first one has already gathered. The only onus on the regulator is to ensure the information is passed on to a second person.

Debate interrupted, pursuant to standing orders.

HMAS *SYDNEY*

Motion

MR SWEETMAN (Ningaloo) [4.01 pm]: It is my pleasure today to be involved in this debate. I move -

That -

(1) this House pause to remember the service and sacrifice of the officers and crew of HMAS *Sydney* lost in the battle with the German raider *Kormoran* on 19 November 1941 off the coast of Western Australia between Geraldton and Carnarvon;

(2) that this House recognise and applaud the efforts of the communities of Carnarvon and Geraldton for diligently tending and honouring the memory of those who gave their lives in defence of this State and nation; and

(3) that this House request the State Government and the Federal Government on the sixtieth anniversary of the sinking of the *Sydney* to support Mr Mike McCarthy and the WA Museum in their efforts to locate the final resting place of both HMAS *Sydney* and the raider *Kormoran*.

So much still remains to be said, even after 60 years. At approximately 5.30 pm on Monday, 19 November it will be exactly 60 years from when the HMAS *Sydney* first sighted the German raider *Kormoran* somewhere off the cost of Carnarvon. It is fitting that today, considering the controversy over the years, and, regrettably, some of the controversy that has developed in the past 12 to 18 months between Geraldton and Carnarvon, that we talk through some of these issues. I will attempt to ensure that from this day on - the sixtieth anniversary of the sinking of the *Sydney* - we will in some way overcome a lot of the mystery and controversy surrounding the sinking of the *Sydney* and ensure that this does not signal the start of further controversy about how our State and towns within our State remember and preserve the memory of the *Sydney*.

For those in the House who are not acutely aware of the circumstances surrounding the sinking of the *Sydney*, I will briefly go through the circumstances. HMAS *Sydney* was returning from the Sunda Strait where it had escorted a transport ship, the *Zealandia*, which was on its way to Singapore carrying cargo and troops - the 8th Division. The *Sydney* was on its return voyage from that trip and was only a little over a day out of Fremantle. It is believed that approximately 160 nautical miles south of North West Cape the *Sydney* first saw the *Kormoran*. It did not know it was the *Kormoran* at that time. It was approximately 15 miles from the German raider when it first saw it. At the time it saw the vessel, the *Sydney* altered course and headed in what was generally a westerly direction. The *Sydney* then made chase. The *Sydney* was capable of about 32 knots; the *Kormoran* was capable of about 18 knots, but because of some malfunction in its engines was capable of only 16 knots. It did not take long before the *Sydney* started to close in on the *Kormoran*. I understand from the records that at about 9 000 or 10 000 yards, the *Sydney* was signalling "identify yourself". Through the use of lights, signals and other communications, the information that came back from what turned out to be the *Kormoran* was that it was the Dutch ship the *Straat Malakka*, which was a merchant ship. The *Sydney* did not believe there was any enemy craft within those waters, so it did not have sufficient reason to be suspicious other than it knew there was a war on and there had been sightings in the Indian Ocean of some German ships previously in 1941, so it had reason to investigate further.

Obviously, as the *Sydney* was searching its books to identify the *Straat Malakka* and, as it got closer to what it was given to believe was a Dutch merchant ship - to all intents and purposes that is what it looked like - it continued to insist that the vessel identify itself. Through some bumbling and fumbling of flags and signals the *Kormoran* bought time as the *Sydney* was lured closer to the raider. When the *Sydney* was within about 1 200 metres, it was clear that Captain Burnett, the captain of the *Sydney*, was becoming increasingly anxious that he had not had the secret code back. There was a code in the books by which they would signal certain letters by lights, and it was up to vessels to respond to the secret code - to put the letter either side of the two letters that were beamed out by the signal. The vessel was unable to do that, so by this time it was action stations on the *Sydney*, as it was on the *Kormoran*. However, the *Kormoran* still looked like a merchant ship. Then at a distance of approximately 1 200 metres with the *Kormoran* heading in a generally westerly direction and the *Sydney* heading in the same direction, slightly astern of the *Kormoran*, the *Kormoran* identified itself as being a German raider, and the screens and hatches that covered the guns were peeled away, folded back and the *Kormoran* was able to fire one of the first salvos in the battle. Almost simultaneously the *Sydney* returned fire. Whether by luck or simple good drilling, the *Kormoran* was able to inflict heavy damage on the *Sydney* in the first couple of salvos. The *Kormoran* took out sections of the bridge, which no doubt would have crippled the main command centre on the ship; fire started almost immediately; the communications network was wiped out and there was interruption to the electrical systems on the *Sydney.* That may be why the *Kormoran* was able to get away five separate salvos firing starboard into the port side of the *Sydney* before the *Sydney* could get off its second salvo. I understand that it was during the second salvo that the *Sydney* fired that it severely damaged the *Kormoran*. One of the six-inch shells landed in the engine room of the *Kormoran* and immediately set off a fierce fire. That battle started at about 1830 hours or 6.30 pm in our time and lasted for only five minutes. Something like 10, 12 and some say 13 salvos were fired from the *Kormoran* into the *Sydney*. It is believed that over 550 six-inch shells were fired at the *Sydney*. It is estimated that somewhere between 40 and perhaps as many as 60 of those shells were direct hits on the *Sydney,* as well as one torpedo from the torpedo hatches on the *Kormoran* that struck the *Sydney* towards the bow section of midship. The *Sydney* was critically wounded in a five-minute battle that took place at very close quarters - only 1 200 metres apart, a distance that advantaged the German raider *Kormoran*. In fact, the *Kormoran* evened up the

scales to some extent even though it was outgunned, outmanned, outweighed by the size and sophistication of armaments on the *Sydney*. The *Sydney* then dropped astern. It was bowed down at the front, had already started to list, and it was losing speed. It fell astern of the *Kormoran* and by this stage the *Kormoran* was also almost totally immobilised, only making two or three knots as it headed in a generally westerly, south westerly direction. Some of the survivors said that when the *Sydney* was turning to port - it turned nearly 90 degrees and was about to cross the stern of the *Kormoran* - they thought it was putting itself into a position to fire torpedoes. It has not been confirmed whether the *Sydney* was able to fire torpedoes at the *Kormoran*. However, it certainly passed to the stern of the *Kormoran* and was last seen going in a southerly direction, still heavily bowed down at the front and listing to a point at which both props on the *Sydney* could be seen in the heavy swell as it wallowed and limped its way off into the distance. It is assumed that later that night the *Sydney,* like the *Kormoran*, sank. An effective search did not begin until about four days later because naval intelligence did not believe that there was any threat in the Indian Ocean. It was waiting for the *Sydney* to renew wireless transmission with it to work out its exact position.

The first survivors of the *Kormoran* landed on the mainland six or seven days later in their life rafts. That created a lot of consternation in Carnarvon at that time because the word was that the first of the *Sydney* survivors had landed. There was great merriment in Carnarvon and preparations were being made for parties to welcome back the survivors of the *Sydney*. Of course, they were disappointed when they found out that the 103 people who had been picked up - 46 came ashore at 17-Mile Well and 57 at Red Bluff, approximately 60 or 70 kilometres north of Carnarvon - were from the *Kormoran*. They were held in Carnarvon for some time before being moved to Harvey where they were interned, or so I believe. I do not know where they went from there, but during that time they were heavily interrogated, and much of the information that was gleaned during that time was not released until recently. A lot of work has gone into trying to identify the final resting place of the *Sydney*. That is the controversy and the mystery of the *Sydney*, and to some extent much of it is unanswered even today.

I am proud of the efforts that the community of Carnarvon has made over a long period. The culmination of Carnarvon's effort to ensure that the memory of the *Sydney* did not fade was the 1981 erection of a cairn at High Rock on Quobba Station, which marked the fortieth anniversary of the sinking of the *Sydney*. The sinking of the *Sydney* is duly commemorated, and each year there is a pilgrimage back to that cairn on the day, or as close to the day as is possible, to remember those who lost their lives in the sinking of the *Sydney*. Every person who is doing an investigation of the sinking of the *Sydney* inevitably finds his or her way to Carnarvon to talk to the Carnarvon folk, the naval association and the Returned Services League. Over a long period, Carnarvon has developed a belief that it, to some degree, has responsibility for and ownership of the heritage and history that belongs to the *Sydney*.

One of the reasons I wanted to move this motion was so that I could stand in Parliament today with my colleagues, the members for Greenough and Geraldton, and say that I and the people of Carnarvon support the erection of this memorial in Geraldton, regardless of the hurt that the people of Carnarvon might feel. I got a call from a minister in the previous Government who said that Cabinet was looking at the idea of providing $200 000 for the erection of this memorial. I said, "Just give us five minutes". I spoke to some of the key people in Carnarvon, such as those involved in the RSL and those who had been responsible for much of the work that had been done on the *Sydney* about these issues, and although they were unhappy that they would somehow lose their significant relationship with the *Sydney*, they accepted that it was a decent and appropriate thing to do, and if Geraldton had the wherewithal to do it, then good on it. Much of the controversy over recent times has been too public, and it has involved Carnarvon people criticising Geraldton, undeservedly, for robbing them of their heritage.

Mr McRae interjected.

Mr SWEETMAN: Going back nearly 18 months, I received a call from a minister who said that Cabinet was looking at a proposal to put in a third of the cost to provide a lasting memorial to the *Sydney* in Geraldton. I was asked how that would go down with the people in my electorate, and I said that I would find out. I agreed, reluctantly in one respect, that it was an appropriate thing to do, and I got the backing for it to go ahead. While I was trying to get $4 500 through various funding submissions to build a disabled access route to the memorial cairn at High Rock, Geraldton was off sourcing $600 000 to provide a lasting and significant memorial to the *Sydney*.

Geraldton is doing a grand thing, and I understand that by the time the monument is finished, the cost will have blown out to over $900 000. However, it will be very significant. On behalf of the people of Carnarvon - as their elected representative I can be considered their attorney on occasions like this - I say that the memorial is a good thing. I believe that the Leader of the Opposition is going to Geraldton to look at the memorial at the weekend. I want to ensure that every community does its part, and that the member responsible for the Geraldton electorate and I, as the representative of the Carnarvon constituents, give an undertaking that there will not be any controversy over who remembers the *Sydney* and where it will be remembered. We must make that commitment. If we can find the final resting place of the *Sydney,* I am sure that there will be lasting healing, and we will be able to preserve the dignity of the sacrifice and service made by the captain, officers and crew of the *Sydney*. In fact, we should find the final resting place of both vessels. No-one wants to be macabre about this issue and try to retrieve anything that is on those vessels. Wherever they are, they are war graves. I am not in favour of marking them once we find them. We will have the

coordinates to allow people to dive with cameras to film whatever needs to be filmed to help answer some of the unanswered questions about this battle and the sinking of the *Sydney*.

Mike McCarthy, the curator of the WA Maritime Museum, and Wes Olsen, author of one of the most definitive works on the *Sydney*, are almost certain that the *Kormoran* and the *Sydney* lie within a circle of about 25 kilometres. After collating and cross-referencing information, they believe that the *Kormoran* will be found easily. It will be a relatively inexpensive task. They believe that if they find the *Kormoran,* that will be a testimony to some of the evidence about the final resting place of both ships, evidence about which they have been suspicious for so long. However, because they believe it will be easier to find the *Kormoran*, they will be able to then use that as a reference point to locate the *Sydney*.

I encourage the Premier to support the WA Maritime Museum in its efforts to relocate these two vessels; to play a part in ensuring that both Geraldton and Carnarvon are united in the way they preserve the memory and pay homage to the sailors of the *Sydney;* and to encourage a drawing together of the two communities. Perhaps the Premier could visit Memorial Avenue in Carnarvon where plaques have been erected and trees planted for each of the 645 officers and crew who were lost on the *Sydney*. A lot of work has been done and the celebrations continue. I will return to Carnarvon on Saturday and continue to participate in the commemoration services that have been organised by the various groups in Carnarvon to pay homage and recognition to the service and the sacrifice that those people on the HMAS *Sydney* paid for us.

DR GALLOP (Victoria Park - Premier) [4.19 pm]: On 19 November 1941, somewhere off Steep Point between Geraldton and Carnarvon, the HMAS *Sydney* was engaged by the German armed cruiser the *Kormoran* and sunk. I note the description of those events by the member for Ningaloo from the best evidence that is available to him on that issue. All 645 crew members on the HMAS *Sydney* were lost. That battle remains the greatest single loss of life in Australian naval history, and therein lies the significance of this tragedy. To this day, that loss is felt not only by the friends and family of the crew, but also by the nation. In particular, the people of Western Australia feel that loss.

It is interesting to note that in 1999, the report by the federal parliamentary inquiry into the loss of the HMAS *Sydney* recommended that a memorial be constructed in Western Australia. The two potential sites for such a memorial were Geraldton or Carnarvon. Geraldton was a potential site because the HMAS *Sydney* visited there a number of times, the last time less than four weeks before she was lost. Carnarvon was a potential site because the survivors of the *Kormoran* found their way there after the battle, which was described very well by the member for Ningaloo. Both of those towns have been keen to provide a memorial. In Geraldton, the provision of a memorial has been facilitated by the Geraldton Rotary Club, which has had financial support from the Commonwealth and State Governments, the Lotteries Commission of Western Australia, the City of Geraldton, the Rotary Club of Geraldton and the friends and relatives of the crew. The rotary club has also had a huge amount of in-kind support from the community and businesses in and around Geraldton. That memorial will be officially opened on Sunday.

The memorial includes a domed roof of silver gulls that represent the souls of the 645 men who lost their lives. Also, a black granite wall of remembrance bears the names of those men, an eternal flame symbolically keeps their spirits alive, and a bronze figure of a waiting woman represents all the loved ones who were left behind and to whom the memorial is dedicated. That memorial is a credit to the community of Geraldton, which has joined together to fund and build it. I am very proud that the State Government also made a significant contribution towards the cost of that memorial, which will become one of the most significant memorials in Australia. I urge all members to visit it. It overlooks Geraldton and the sea. and is a truly magnificent commemoration of the 645 men who lost their lives. The sculptured woman is looking out to sea waiting for her loved ones to return; however, they did not return.

My family is from Geraldton. When my mother was a young woman, she met the crew of the HMAS *Sydney* at the local yacht club dances that were held for the visiting servicemen and women. My grandfather worked on the Geraldton wharf and only four weeks before the tragedy was called to duty to allow the HMAS *Sydney* to leave from Geraldton.

Carnarvon has also played an important role. The member for Ningaloo mentioned the memorial cairn that was built on the coast in 1981, 40 years after the tragedy. Importantly, in and around Carnarvon, people have taken a real interest in the issue. The local historians have gathered a lot of evidence. Next door to the one-mile jetty in Carnarvon is a wonderful museum that has pictures and photographs of the history of Carnarvon. The historians and the local community of Carnarvon have kept the issue alive in a way that brings them credit. As a living monument to the 645 servicemen, the community of Carnarvon built a memorial avenue. That monument is the result of the efforts of the Shire of Carnarvon, the Carnarvon Chamber of Commerce and the community in that area. I pay tribute to the work done by the community and those organisations. Unfortunately, I could not attend the opening of that memorial on 10 November. My ministerial colleague, Hon Tom Stephens, attended and, on behalf of the Western Australia community, congratulated Carnarvon for the construction of that avenue. Along the avenue will be planted 645 trees. It is hoped that every tree will be planted and adopted by a family member or friend of a deceased officer. Each plaque will state the name, age, rank and serial number of each naval officer. This is a tremendous memorial, and the community of Carnarvon is to be congratulated. There is a direct link between the events of 1941 and the towns of Geraldton and

Carnarvon. Both of those communities are contributing to a memorial and both will play a role in keeping this story alive in memory of those servicemen who lost their lives.

On Friday, 16 November, the Royal Australian Navy will convene a seminar to discuss the possibilities of where to locate the HMAS *Sydney*. The seminar includes an oral history session, an archival session, a technical session and an oceanography session. The Western Australian Museum is assisting the navy to provide facilities at the Western Australian Maritime Museum to hold that seminar. Great interest has been expressed in this seminar and the capacity of the hall has been fully booked, such is the level of interest in this issue.

I congratulate the member for Ningaloo for raising this matter in Parliament. It is important that he has done so. I congratulate the people and the communities of Geraldton and Carnarvon for putting memorials in place. I urge all members of Parliament to take an interest in this matter and to visit Carnarvon and Geraldton to see the work that has been done. Let us hope that the further work of the technical experts, including the oceanographers and naval experts, will provide more evidence to take us closer to the solution to what has been a mystery that has haunted the Australian people for 60 years.

MR EDWARDS (Greenough) [4.27 pm]: I commend the member for Ningaloo for raising the matter of the HMAS *Sydney* and I commend his articulate description of the events of the battle of that day as written by Wes Olson. Some of my remarks will include issues raised by the member for Ningaloo and the Premier. I respect the remarks made by the Premier about the HMAS *Sydney*.

The sinking of HMAS *Sydney* in 1941 remains one of today's greatest sea battle mysteries. Remembering the deaths of those 645 men who served on her final voyage should focus our attention on trying to ascertain what happened in her final moments. Enough has been written about that story to know the probabilities of what happened; however, we do not really know about her final moments. As the Premier recognised, over the years, the communities of Geraldton and Carnarvon have claimed that the HMAS *Sydney* disappeared off their coastlines. That remains a battle of wits. However, one hopes that with the construction of these memorials, the situation will change. I am not lending any argument to either of those claims, but I congratulate both communities for not allowing the memory of the disaster of HMAS *Sydney* to die.

The member for Ningaloo and the Premier spoke about the efforts of the people of Carnarvon to raise a memorial to and a means of recognition of the men of HMAS *Sydney*, with both the cairn at Quobba, which I have seen, and the planting of the 645 memorial trees. I draw the attention of the House to the memorial being completed in Geraldton. It is arguably one of the most magnificent memorials in Western Australia. I claim some ownership of it, because in another life I was the president of the Shire of Greenough. I am aware that my parliamentary colleague the member for Geraldton intends to speak on this matter, and I do not want to take away from anything he has to say. However, as the shire president, I argued very forcibly for a contribution of $50 000 towards the cost of constructing the memorial. We now have a very worthwhile memorial in Geraldton.

The construction of the memorial was achieved through the hard work of the Rotary Club of Geraldton. Richard Larriera, a local physiotherapist, was the president of the club when the idea first emerged. He was looking for a project the Rotary Club could support. He heard a discussion or some conjecture about the HMAS *Sydney*, and he was walking from his office into his reception area when it suddenly hit him that it would be a great idea to build a memorial to those who died on the ship. That was the birth of the project. Many other characters in the Geraldton and Greenough area have been involved over the years, and Glenys McDonald is one such person. She has a passion for the history of the HMAS *Sydney*. In fact, if members have a day to spare, they should ask her what happened, how it happened and her thoughts about it. Many people from various groups were interested in the topic and drove the project.

More than $700 000 has been raised. The coalition State Government of the day made two contributions - one of $75 000 and another of $40 000; the City of Geraldton contributed $50 000; the Shire of Greenough contributed $50 000; the Rotary Club contributed $20 000; the federal Government, through a Department of Veterans' Affairs grant entitled "Their sacrifice - our heritage", contributed $200 000; the Lotteries Commission recently contributed $200 000; the public contributed $25 000; and Western Power contributed $15 000. In addition, Golden West Network Ltd donated $10 000 worth of advertising time and Western Power donated the electrical network for the memorial.

As has already been mentioned, the site includes a memorial wall, a cupola - which has 645 seagulls - and the *Waiting Woman* statue. The member for Geraldton may be able to confirm that a 60-foot high silhouette of the bow of HMAS *Sydney* is to be erected. The cupola contains 645 seagulls because at the first memorial service held on Mt Scott, during the minute's silence after the bugle was sounded, a flock of silver-backed seagulls flew over from the north west. Those watching had an eerie feeling; it raised the hairs on the back of my neck. I do not think there were 645 birds - the number was probably nearer 100 - but to this day I have not seen another seagull in the area.

It is important that we remember the sacrifice that those 645 men made in the defence of their country. I am aware that a degree of resentment has built up between Carnarvon and Geraldton about the funding of each town's memorial. That is sad. I hope that my contribution and those of the members for Ningaloo and Geraldton about the respective memorials will focus attention on the most important factor; that is, that both are dedicated to the memory of the men

who were killed in the action between HMAS *Sydney* and the German raider *Kormoran*. I agree with the member for Ningaloo that it is important we remember that point.

Much has been said about what really happened to HMAS *Sydney* and her final resting place. I recommend that members read Wes Olson's book *Bitter Victory*. His assessment of the battle is very detailed and is based on information gathered from German sailors. He and the curator of the Western Australian Maritime Museum, Michael McCarthy, are keen to find *Kormoran*. As the member for Ningaloo said, if they can find it - they seem to think they can - presumably it will provide some clues about HMAS *Sydney's* resting place. I do not believe that we should bring her to the surface, but I would like to know where she is and what happened. That would perhaps end the great mystery that has surrounded the ship for so long. I support the motion moved by the member for Ningaloo on this the sixtieth anniversary of the sinking of HMAS *Sydney*.

MR HILL (Geraldton) [4.35 pm]: I support the motion. I cannot add much more to the topic, apart from details of my history lesson with Glenys McDonald over the past six months. She is constantly reminding me of the debate and what has happened in the past.

The men of the HMAS *Sydney* comprised one-third of the Royal Australian Navy personnel killed in action during the Second World War. Those men came from communities throughout the country. I support the members for Ningaloo and Greenough. We are one community from Carnarvon and Geraldton, and I look forward to continuing that relationship.

MR PENDAL (South Perth) [4.36 pm]: I support the motion and congratulate the member for Ningaloo. Glenys McDonald is a formidable woman. About seven or eight years ago she contacted me to talk about HMAS *Sydney*. That contact led to questions being asked in this House and followed this Parliament's agreeing to appoint two successive select committees - a Legislative Council committee was appointed in 1992 to inquire into the *Batavia* incident and a Legislative Assembly committee was appointed in 1994 to inquire into ancient shipwrecks off the coast of Western Australia. In turn, that prompted Glenys McDonald to contact me. As a devotee of the HMAS *Sydney* mystery and based in Geraldton, she provided members with data indicating that the first engagement between the two vessels may have occurred off the coast of Northampton on the night of 19 or 20 November 1941. That first engagement was visible off the coast between Northampton and Geraldton. There is a sting in the tail of my contribution. I will be brief, but this story has a good lesson for everyone.

Glenys McDonald has amassed an enormous amount of information. She had documents indicating that the Western Australia Police Service had information that was capable of throwing considerable light on what happened. The vessel may have sunk off the coast of Carnarvon, but it appears from the evidence she has gathered that the first engagement happened off the coast of Northampton. On her behalf, in 1996 I asked questions of the then Minister for Police. I asked whether the daily occurrence books for the Northampton and Geraldton Police Stations covering that night were still held by the Police Service or in some archive. If they were not, I asked whether the minister could say why they were missing. On 20 August 1996, in response to the question of whether the daily occurrence books of the Police Department still existed, the minister replied -

> No. Retention and disposal schedules were not in place at the time. The officer in charge of the police station would have disposed of the records with approval from the secretary of the Western Australian Police Department at the time.

This is relevant because, in this decade alone, this Parliament has legislated on two separate and major occasions for the protection of archival and documentary material. A Bill was introduced in 1992 to protect the royal commission into WA Inc, and to determine what would happen to its records. Another Bill was piloted through this place at this time last year by the then Minister for the Arts, and supported by everyone in the House. That legislation put in place for the first time very strict regimes for the control and preservation of public records. Herein lies the sting in the tail. It was the firm belief of many people involved in research into the loss of the *Sydney* that, had the daily occurrence books maintained by the Northampton and Geraldton Police Stations on the night of 19 November 1941 been retained, they may have thrown some light on the engagement that took place off the Northampton coast that night. They are convinced that the first engagement was off the coast there, and that the *Sydney* then took all of that time to sink. If anyone needed confirmation of the value of secure public records, this incident alone provides that. Many people tend to disregard the topic, and think it is mainly for fuddy-duddies and crackpots like me, who happen to be interested in historical records. The story of the *Sydney* might have been told earlier and in a more comprehensive way had those occurrence books been available.

The member for Geraldton placed in context the enormity of the tragedy of losing so many people in one action. To place it in parliamentary terms, the number of people lost in the *Sydney* that night is roughly the same as the number of members who comprise the House of Commons in London. The impact of seeing a huge Parliament like that wiped out can only be imagined. It rivals the population of some of the smaller and medium-level towns in Western Australia. I congratulate the member for Ningaloo. It is one of the most tragic moments in the history of Australia and Western Australia. Were it not for the fact that we were very cavalier in the way we treated our public records, in particular those held by the Police Service, we might be much closer today to the truth about the *Sydney*. The loss of those

records was a sad occurrence, and it was an even sadder moment when 645 men were lost with the *Sydney* on the night we commemorate today.

MR McGOWAN (Rockingham - Parliamentary Secretary) [4.44 pm]: I congratulate the member for Ningaloo for putting forward this motion. He did so in a non-political fashion, and with the best of intentions. It is terrific that he has put forward a motion to commemorate and remember a period of Australian history that all should be aware of.

Last Sunday in my electorate, I attended a Remembrance Day ceremony, which was attended by many veterans of World War II. On that occasion I thought about Australia's military history, which has been a major factor in tempering the way we see ourselves as a nation, our current place in the world, and the way Australians treat one another. The concept of mateship is born out of the military experience of Australians throughout the world. Australia's military history has demonstrated a number of things about the character and strength of the nation. It may be a cliche, but it is widely acknowledged throughout the world that wherever Australians participate in military action on the world stage, they always perform above and beyond the call of duty. They are always seen as the bravest and the most reliable; as people who always do their bit. This image has been borne out ever since Australia has been participating in foreign conflicts. The country's first such experience was in 1865, and since then Australia has been involved in 14 conflicts.

Australia has always taken a world view of its experience overseas, and Australians have always seen themselves as playing a role. Account must be taken of the period in which that role was played, by which I mean the historical norms of the time in which the conflict took place. The events surrounding the *Sydney* resulted from Australia taking this world view of what it saw as the right thing to do to protect other countries from the scourge of fascism and Nazism. Australia's world view, and its bravery and participation, have always come at a very great cost. Approximately 100 000 young Australians have perished in wars, which has often meant a great cost to those left behind. Women in Australia have traditionally borne the brunt of the loss of many husbands, brothers, sons, and often daughters. The scale of that cost has meant that no community has been unaffected by events in either of the world wars, or other military experiences throughout the world.

I once visited the battlefields of the First World War, on the western front in France and Belgium. Those places create a sense of the enormity of the conflict. In some places, Australians perished, not in their hundreds, but in their tens of thousands. In the Somme valley in France is the field of the famous battle of Pozières, which was part of the battle of the Somme in July 1916. Approximately 5 000 Australians died in a couple of weeks during that momentous conflict around the village of Pozières. The area in question is only a couple of acres. In these areas is a monument, a place where Australians have participated, and the final resting place for many of them. The cemeteries in that part of the world are legendary. I am sure that members have seen photographs of them, but to be actually there to see cemeteries containing the graves of tens of thousands of young men from Britain, Australia and other commonwealth countries, as well as from Germany, is an opportunity to experience and remember what took place.

Of course, no such burial place exists for HMAS *Sydney*. There is no such site by which to commemorate and remember the young men who perished. The sinking of the HMAS *Sydney* was an unparalleled tragedy, as the member for Ningaloo so eloquently pointed out. It was a famous ship named after the World War I cruiser that defeated the HMAS *Emden*, another ship that belonged to Western Australia's history. Earlier in the Second World War she was involved in a famous action in Australian naval history when she defeated an Italian light cruiser in the Mediterranean Sea, known as the *Bartolomeo Colleoni*, if my memory serves me correctly. The HMAS *Sydney* has been commemorated since by two later warships, an aircraft carrier that transported troops and supplies to Vietnam and a frigate now in the Royal Australian Navy with the name HMAS *Sydney*.

The loss of the *Sydney* was an unparalleled tragedy in Australian naval terms. It occurred during a time of national fear and concern not previously experienced in our nation's history. When the HMAS *Sydney* went down on about 19 November 1941, it closely followed a two-month period during which Australia went from a country at war in Europe to a country at war at home. Only two or three weeks later, on 7 December, Australia entered into a war with Japan that threatened our very existence. They were very concerning times for everyone in our country. The Prime Minister at the time, John Curtin, another Western Australian, had been in office for a matter of weeks when he received the news that the *Sydney* was missing; yet the Government waited for between 11 and 14 days in the hope that she would show up somewhere along the coastline of Australia or in some of our Indian Ocean territories. Unfortunately, that was not to be.

When he made the horrific announcement to the nation that 645 of our sailors and officers had disappeared without a trace and apparently had been killed, no community throughout Australia was unaffected. Two weeks later we were involved in the Pacific war with Japan during which other calamities occurred such as the falling of Singapore, tens of thousands of Australian troops being killed, wounded or captured and the threat to our existence.

It is a very important period in our history and one that we must commemorate. That is occurring with the various memorials we heard about in Carnarvon and Geraldton. It is important that we acknowledge those memorials and provide an opportunity for the people who were most closely affected by those events such as family members - sons,

grandsons and grand-daughters - and friends to visit and remember their grandfathers or great-grandfathers who perished in that very tragic event.

I will not enter into the arguments about how the *Sydney* was lost. However, I support efforts to locate her final resting place. I am aware that when naval ships transit that part of the world, they turn on one of their sonar instruments to see whether they can pick up a reading of any ship that may be lying on the seabed. To date I do not think they have been successful in finding her. I hope the *Sydney* is found simply to provide some comfort to the families and relatives of people who were lost on board and to answer the mystery of her location. I do not think that finding the *Sydney* will determine how she was lost. It is clear how she was lost. However, it would provide an opportunity to put to rest many of the questions in the minds of those people with an interest. The love of fathers and brothers does not dim over 60 years. They remain an ever-present reminder in a great many people's minds. I hope those people's minds are put to rest. If and when we find the HMAS *Sydney*, I hope it will provide a great opportunity to remember what those people did for all of us in such a trying period.

MR BARNETT (Cottesloe - Leader of the Opposition) [4.54 pm]: The member for Ningaloo has done a great service to this Parliament by raising this issue in this way and for giving such a detailed account of his understanding of the events surrounding the loss of HMAS *Sydney*. I congratulate the members for Greenough, Geraldton and Rockingham for their contributions to this debate.

I recall as a young boy in Perth hearing my parents speak a little about the war years. Generally they spoke about the Catalina flying boats on Crawley Bay and occasionally the Italian prisoners of war. My background provided no sense of how much of the war impacted on Western Australia. Gradually over recent years - "Australia Remembers" has been part of that - there has been a growing acknowledgment of the World War II bombing raids to the north of our State, the submarine presence and the HMAS *Sydney* itself. It was an immense tragedy and a significant event in Australia's military and wider history, which should be respected, remembered and always honoured. The communities of Carnarvon, Geraldton and other towns along the coastline have done this nation a great service by their attention to this piece of our history. The fact that it was commemorated in Geraldton last Sunday is important and I congratulate everyone who made that memorial possible. It was a great recognition of a very sad part of our history. This Parliament has done the right thing by formally recording that brief moment in our history.

MR SWEETMAN (Ningaloo) [4.56 pm]: I am grateful to the members who participated in the debate in this Chamber. If at any stage it appeared that I tried to give my view about the final resting place of the *Sydney*, that was not what I meant to do. Over a long period since prior to 1980 when a lot of this information became available, there was speculation that the HMAS *Sydney* could have sunk anywhere within the area from Fremantle to the tip of North West Cape and up to 600 nautical miles off the coast. That area has shrunk; until recently there has been a general belief that the *Sydney* sank up to 600 nautical miles off the coast. That belief has changed recently, primarily through the work of people like Mike McCarthy and Wes Olson. Since he wrote his book and even in his presentation in Carnarvon last Saturday evening, Wes Olson has said that he is now confident, based on his computations and the evidence he has collected, that he had the wrong information and he has recently changed his mind to believe that its location is further to the south west than he first thought. He has done an enormous amount of work as an investigator, he has applied a clinical investigative rationale to his assessment of the facts and he has pragmatically collated his views. I am happy to go along with him. His belief is that if it is near a community, it is closer to Kalbarri than Geraldton, Carnarvon or Shark Bay. That is very interesting. That correlates with the anecdotal evidence of the survivors of the *Kormoran*, who indicated that the last they saw of the *Sydney* was a glow on the horizon just prior to midnight as she maintained her course and headed in a southerly direction. People believe that the sighting of the *Kormoran* by the *Sydney,* 160 nautical miles south of Exmouth was wrong and that the sighting and ultimately the engagement occurred considerably further south. The ship continued in a southerly line, albeit very slowly.

It has been a pleasure to participate in this debate. I thank all my colleagues, and with my colleagues the members for Greenough and Geraldton and our communities ask that at the conclusion of this debate we observe a minute's silence in commemoration of the sacrifice the *Sydney* crew made for this State and country.

Question passed, members standing.

SOUTHERN METROPOLITAN RAIL LINK ROUTE

Motion

MRS HODSON-THOMAS (Carine) [5.01 pm]: I move -

> That this House condemn the Government for its failure to consult with professional bodies and the general public on the preferred route for the southern rail link and for limiting the terms of reference of the Perth City Railway Advisory Committee to the proposed section of the rail link between the Narrows Bridge and the Perth central business district.

In speaking to the motion, I raise a number of issues and matters that are extremely important to all residents affected by the Government's proposal to re-route the southern rail line. As members know, the change of route will bring the rail line down the middle of the Kwinana Freeway, over Mt Henry Bridge, under Canning Bridge, along the Kwinana

Freeway over the Narrows Bridge and into the central business district via William Street. The new route along this stretch has raised concern and a great deal of criticism from many people in the wider community. To date, the community thought that it would have an opportunity to raise its misgivings through the consultative process that the minister had previously advocated.

The Minister for Planning and Infrastructure's media statement of 31 October entitled "City rail options to be examined" would have given readers some hope - a false hope, I might add - that she is interested in consulting with the wider community and professional bodies. However, upon close examination and scrutiny, it is clear that the minister has no interest in the views of those in the wider community. I will illustrate this by quoting from the minister's media statement. It states -

> . . . the committee will ensure that a wide range of opinions were examined and that the State Government made the best decision.

The minister goes on to say -

> "However, I acknowledge that there are some alternative views which need to be explored.
>
> "To do this I've brought together an independent group with a broad range of expertise to look again at all the options, before we finalise the master plan."
>
> Ms MacTiernan said the committee's tasks were to:

- seek the views of interested parties;
- evaluate options and recommend a preferred rail alignment and station locations through the city; and
- advise on strategies for minimising disruption during the construction phase.

Those options deal only with the way in which the rail line will enter the central business district, and not with whether it will come along the Kwinana Freeway and along our foreshores. The minister said, as I have already articulated, that the views of interested parties will be sought. I am not convinced that the minister is committed to this. I will elaborate on that further during this debate.

The committee's terms of reference require it to consider budgetary restraints and the necessity to complete the south west railway by 2006. A further examination of the advertisement that appeared in *The West Australian* of Monday, 5 November reveals that public submissions have been invited. I was particularly alarmed by the total lack of regard for and consultation with the wider community and professional bodies, and that the option was limited to dealing with only the entry into the CBD. The terms of reference are narrow. They are as follows -

> 1. develop criteria, evaluate options for and provide recommendations on:
>
>   a) the alignment of the line through the Central City area; and
>
>   b) station locations in the Central City.
>
> 2. recommend management requirements to ameliorate the impact of the rail in construction and in operation.
>
> In evaluating options, the Committee is to consider social, economic, environmental, planning and financial implications, as well as relevant land use and transport planning issues.

I believe that the minister has clearly been reacting to the adverse publicity she has received from many of those interested parties in the central business district, who will obviously be impacted by this ill thought-out route. I, too, have the same concerns that those retailers, property owners, the City of Perth and others have about the rail line's entry into the city. It alarms me that the minister is ignoring the concerns of the wider community and of professional bodies. As I said before, I am not convinced that the minister is committed to seeking the views of interested parties, especially as the minister is adamant that the rail line will come down the middle of the freeway - so much so that she is quoted in *The West Australian* of 1 November as saying -

> "What is absolutely locked in stone is that the rail line will come up through the centre of the freeway into the centre of the city," . . .

How can the minister claim that a wide range of opinions will be examined when the outcome has already been determined. On a reading of a number of press clippings on the rail line, it is evident that there are grave concerns and criticisms about its entry into the central business district. Clearly, the minister has reacted to those concerns and vocal criticisms. I believe that is why there has suddenly been this belated setting up of the Perth City Railway Advisory Committee.

Dr Peter Nattrass, the Lord Mayor, has certainly been vocal, and I have a number of quotes from Dr Nattrass. An article in *The West Australian* of Saturday, 14 July states -

> Dr Nattrass said the council opposed strongly the William Street option and wanted the Government to retain the original Kenwick link plan, which had been fully planned and costed.
>
> "The William Street route will create a disastrous visual impact on the city foreshore. It will create another physical barrier . . . and cause severe disruption to the city centre, particularly in terms of traffic and access to adjoining properties," . . .

In *The West Australian* of Monday, 16 July, an article headed "Rail Tunnel" states -

> Perth Lord Mayor Peter Nattrass was scathing of the proposals.
>
> He said they would make plans for purpose-built bus lanes running from Murdoch to the freeway and into the city busport redundant. . . .
>
> He said the William Street tunnel would create another physical barrier which would impede any attempt to improve access to the foreshore.

An article in *The West Australian* of Tuesday, 17 July states -

> PERTH Lord Mayor Peter Nattrass has vowed to fight the State Government's decision to re-route the Perth to Mandurah rail link.
>
> He said yesterday he would not be alone in his campaign.
>
> Dr Nattrass promised united opposition to the plan. He said the City of Perth would be joined by Rockingham, Kwinana, Melville and South Perth councils.
>
> He blasted the State Government for a lack of consultation and accused it of creating a blight on the beauty of the city by running the rail line over the Narrows Bridge and along a section of the river foreshore.

An article in the *Sunday Times* of 19 August 2001 states -

> Mayor Peter Nattrass has called it an eyesore, a blight on the city and a barrier that will keep people away from the Swan River foreshore.

An article in *The West Australian* of Friday, 14 September headed, "Threat seen in city rail links" states -

> The State Government should rethink the city leg of the Mandurah to Perth rail link because the proposed route would damage the city's retail heart, Perth's biggest retailers claim.

Another article headed "Rail process attacked" with the subheading, "We weren't consulted, say experts" in *The West Australian* on 28 October states -

> Eight professional bodies have condemned the process used to determine the route of the new southern rail link.
>
> Organisations such as the Institute of Engineers, Royal Australian Institute of Architects, City Vision and Institute of Urban Studies say they did not have any involvement in the billion-dollar development.
>
> In a communique, they voiced some concerns as:
>
> - The new line will not enter Perth central station and therefore not be integrated with the Midland, Fremantle and Armadale lines.
> - The southern rail link on the Perth foreshore will be an eyesore.
> - The line will not add to the economic value of the city.

It goes on. They are highly critical of this decision.

Yesterday, I received an e-mail from Ms Dianne McLeod from Convention Link. Ms McLeod's e-mail demonstrates her concerns about the minister's decision to re-route the rail link. I thought it appropriate to read her e-mail, which she sent the minister, particularly because the minister still has not replied to that e-mail, nor to any other correspondence that she has sent the minister. Her e-mail reads -

> Minister MacTiernan,
>
> Further to my many requests for information on your proposed Freeway Rail Plans, again, I am still awaiting replies.
>
> Perhaps when you finally decide to answer, you could include your responses to the following:
>
> a) if your Government is spending $88M+??? to removing the Railway from the Geraldton foreshore, why are you hell-bent on adding one to the Perth foreshore?
>
> b) can we please have an ACCURATE cost to your plan to tear up the busway and re-build a railway line.

c) can we please have an ACCURATE cost of building another bridge alongside the Mt Henry bridge? All of the costs we are seeking need to also include the loss to industry and business due to delays and disruptions during the building phases. Could we also have an ACCURATE cost of altering the Narrows Bridge yet again?

d) Assuming you are able to railroad (no pun intended!) legislation through Parliament AGAINST the wishes of the people, what are the costs involved in ALL of the Government Departments currently working on your projects, which may/may not go ahead due to public protest? After all, we - the taxpayers - are funding Mr Peter Martinovich and his Department with his expensive expansive? plans. Whilst it is recognised Government Departments need to keep people in work, surely the work on the previous plan and infrastructure already implement, must come at a huge cost to us all?

e) Why are we continuing to build a busway, when it will be replaced in another couple of years with a railway line?

f) Does Dr Gallop seriously believe creating a public railway eyesore along our foreshores will bring him or you any votes? Public Transport systems are surely supposed to improve with the Freeway Busway project? or have I missed something?

g) Peter Martinovich talks about passengers from the Roethorpe Retirement Village. Why would they use a Railway line, which is miles away from them, when they have buses collecting them almost at their front doors? Surely this is bureaucracy gone mad?

h) Can you tell me how long it has been since you and Dr Gallop travelled along the Freeway as far as the Mt Henry Bridge?

As always Minister, I look forward to receiving your long awaited comments.

Dianne McLeod.

The Government's proposed rail advisory committee is too little, too late. The minister's proposed establishment of this committee is certainly nothing more than a charade - an absolute sham! Consultation should have occurred before the re-routing of the southern rail link, especially given the significant change to the route and particularly given the significant amount of public consultation that took place when we were in government.

Ms MacTiernan: Can you elaborate on when your consultation took place, because that is a key critical point? Can you describe the sequence that your Government went through?

Mrs HODSON-THOMAS: I will do that for the minister shortly.

Mr McGowan: That is all it would take.

Mrs HODSON-THOMAS: That is all it would take, but I will go through that shortly.

If the minister had been listening to some of the other comments I have made in this place previously, she would have heard about that consultation, so she should not feign ignorance suddenly.

If the minister were truly committed to consultation, she should have put her plan to run the rail line down the middle of the freeway and into the city centre to the community before making the decision. I think that is why people are highly vocal and highly critical of the minister's decision. The minister can shake her head. There are enough people shaking their heads at the Minister for Health about his appalling behaviour; however, I will stay on this motion at this point.

Mr Kucera: I do not see many people in Mandurah and Rockingham shaking their heads. The people who desperately need transport are not shaking their heads. The people who are worried about pollution in this State are not shaking their heads.

Mr Pendal interjected.

Mrs HODSON-THOMAS: He has indeed; he certainly has enough problems there.

This decision has the potential to be a major disaster and an atrocious legacy to the State. Frankly, if the minister wants to get it right, proper consultation is imperative. She talks in one breath about having a six-month consultation process; yet she has set up a committee that will meet for maybe only three or, at best, four months to hear the concerns of the people in the community. Is that not true? The editorial in *The West Australian* on Wednesday, 18 July states -

> Planning and Infrastructure Minister Alannah MacTiernan says that the Government will start a six-month consultative period and that changes in detail are possible. It is odd, then, that it has already made the final decision on the rail's route.

This rail line will cut off the river foreshore from the city. All the work that the previous coalition did when it was in government - regardless of whether the Government now thinks that was good, bad or indifferent - was done very well. The rail line down the middle of the Kwinana Freeway into the central business district -

Mr McGowan interjected.

Mrs HODSON-THOMAS: The member for Rockingham should go to the library and do some research and then make his own speech.

The minister has only now decided to seek people's opinions, but, as I said, she has limited it to the rail line entry into the central business district. That is only because she has been highly criticised by many people. She should wait until the people in the southern suburbs start to understand the impact this will have on them; then she can watch the backlash. The minister has put in place impossible constraints that will impede the committee's ability to perform its task properly. I am most concerned that this is not a genuine endeavour to provide the members of the wider community with a consultation process that allows for all of their concerns to be aired, considered and properly dealt with.

There are many reasons that the general public should be consulted about this very important infrastructure project. There are many unanswered questions that need serious consideration and further examination. By excluding the wider community and other professional bodies that can contribute to that consultation, the minister will not win over those she hopes will ultimately support her. It is typical of her posturing and riding roughshod over those in the community whom she appears to have deemed irrelevant and should not be given the opportunity to be represented or consulted.

Ms MacTiernan: Which southern suburbs are concerned?

Mrs HODSON-THOMAS: I am getting to that. The minister is quite clearly out of step with the wider community and she is backing away from the commitment that she made on many occasions to consult widely. I have already made mention of the article in *The West Australian*. There are many unanswered questions, which must be answered to give the community some comfort that those matters are being dealt with in a genuine and open way. For example, the community has concerns in relation to safety issues. Over the weekend a motorist rolled her vehicle on the rail track at Glendalough. I will quote from an article in *The West Australian* of Monday, 12 November 2001 headed "Freeway crash brings train to a halt", which reads -

> A motorist escaped with only minor injuries yesterday after her vehicle crashed through a safety barrier on the Mitchell Freeway at Glendalough and rolled on to the railway line.
>
> The woman, aged about 60, was travelling south about 2pm when she lost control of her Toyota LandCruiser near the Powis Street off ramp. The safety barrier - designed to keep cars away from trains - collapsed on impact and her vehicle rolled several times before coming to a halt on its roof.
>
> . . .
>
> Passengers on a train which was forced to stop at the crash site had to wait for about 50 minutes for a bus to arrive.
>
> Transport Minister Alannah MacTiernan said the accident would be investigated to determine if safety improvements were needed.

Mr Bradshaw: It is obvious they are needed.

Mrs HODSON-THOMAS: They are.

The driver was extremely fortunate not to have been seriously injured in that accident, and I am pleased she is safe. The accident highlights the real concern that I and others in the community have about the southern rail line, that it will be housed in this 10.2 metre median with the proposed bi-directional bus lane along the eastern side of the Kwinana Freeway between Canning Bridge and the city. As the article stated, it is not the first time an accident has occurred at Glendalough. I have real concerns about the southern rail line, given its close proximity to both the bi-directional bus lane and motorists travelling along the Kwinana Freeway. This project will exacerbate the congestion and add to the community's real concern about safety, and certainly motorists will be concerned about their safety as well.

The coalition Government recognised and worked towards alleviating the congestion along the Kwinana Freeway. We set about major public investment in our freeways to get it right. This investment will be compromised and impeded by this poorly thought out planning disaster that will both aggravate congestion and bring with it further lengthy delays and disruptions for many years to come. It compromises the sound investment made by the coalition to alleviate traffic congestion.

Ms MacTiernan: Can you explain how congestion will be increased?

Mrs HODSON-THOMAS: The minister will have an opportunity; she will have her day.

Several government members interjected.

Mrs HODSON-THOMAS: There will be plenty of answers. However, I would like to make some points first. Commuters who do not have access to the railway will still have -

Several government members interjected.

Mrs HODSON-THOMAS: Members want me to answer the minister. We will lose one lane when we apply a bi-directional bus lane on the eastern side of the Kwinana Freeway - if that is what the minister determines - so of course there will be congestion. How easily do members think motorists will drive along the freeway after they lose an extra lane? Do they think motorists will suddenly disappear and the Tardis will appear and suck up all the cars?

Several government members interjected.

Mrs HODSON-THOMAS: I am sure people will take the train. We all want to see more commuters use public transport, but this is about getting it right. This minister is not prepared to listen to the concerns of those in the community who want to be heard on this occasion. This State needs major infrastructure, but the minister has to get it right. This is the minister who talks about public consultation, but only when the result is what she wants.

Mr McRae: You did not turn up for the ratepayers meeting?

Mrs HODSON-THOMAS: I was very ill that weekend; that is the only reason I did not attend.

Several government members interjected.

The SPEAKER: Order!

Mrs HODSON-THOMAS: Mr Speaker, I can hold my own. Government members can make as many interjections as they like. I thank you for your protection, but I will hold my own in this debate.

It is a matter of concern that the minister is backing away from the need to consult widely with the general community and professional bodies that she appeared committed to initially. People residing in South Perth, Como, Mt Pleasant and other areas are exasperated and annoyed that they are being excluded from the process. The many people who have contacted me over the minister's rail link are concerned that they are not being given a genuine opportunity to be part of that consultative process. They have concerns about noise and the visual impact on their local environment. They feel aggrieved, and rightly so, by the process.

This is typical of the minister's arrogance and her total disregard for the community, and is clearly another low for her. There is absolutely no standard of integrity in this process. It appears consultation is fine as long as the minister gets an outcome that is to her liking. As I have said before, it flies in the face of the Government's commitment to accountability. I am certain that the minister will face a major backlash from the general community if she continues to railroad her project upon the people of Western Australia who are not being given an opportunity to be heard.

The SPEAKER: Before I give the call to the member for South Perth, for the benefit of new members I draw to their attention that during debates one of the rules we apply is that reading from documents should be limited to a few lines, and the document should be paraphrased. I hope that members bear that in mind.

MR PENDAL (South Perth) [5.26 pm]: I support the motion moved by the member for Carine. I congratulate her, in the time that has been available, for her exposition. I particularly want to touch on two elements: first, the second part of her motion in which she seeks to condemn the Government for "limiting the terms of reference of the Perth City Railway Advisory Committee to the proposed section of the rail link between the Narrows Bridge and the Perth central business district." Secondly, I will touch on a fear that I have - I will adduce some evidence for this - that we are seeing today the repetition of all that was bad about the WA Inc years.

The first part of the motion that I will address seeks to condemn the Government for limiting this review to the impacts of the railway on the Perth side of the equation. The Minister for Planning and Infrastructure appeared on television the night the Government announced this review. To her credit she said something along these lines - if these were not the words it is their spirit: "I do not think we have got it wrong, but if we have, this is an opportunity in relation to the Perth side to get it right." If the Government has the capacity - even a one per cent capacity - to get it wrong in relation to the Perth side, equally the Government has the capacity to get it wrong about the South Perth and Como side of the equation. The first thing I ask of the minister - as she has had the courage to bring about a review of the way this will impact on the central business district - is that she widen the scope of that review to take into account its impact on South Perth, Como and Salter Point. There are other options, and I will touch briefly on some of those before I resume my seat.

I fear that the Government is running the risk of returning to the worst excesses of WA Inc. I ask members who were here during that time, and even those who were not, to cast their minds back and consider why WA Inc occurred. WA Inc occurred, essentially, because people set out to cut corners and to eliminate those trusted and tried protocols that are used in government to assess the spending of government funds. WA Inc was not necessarily about corruption; it was about cutting all the corners, using people outside the public sector, and arriving at conclusions where one trod on those time-honoured processes and procedures. We are heading down the same path with this issue, and I will provide evidence to support this claim. Incidentally, getting information about this matter from the Government is like pulling teeth. From a Government that came to office on a serious commitment of accountability we have seen nothing but a lack of accountability and information, and a refusal to answer questions. I have questions on the Notice Paper from as far back as August which have not been answered.

Ms MacTiernan: They will be answered within three months.

Mr PENDAL: The implication of the member for Armadale's interjection is that I have to wait virtually until the end of this session - when we leave Parliament and the year has drawn to a close - before I get answers to questions I have asked. I will not weary the House by going through them.

Ms MacTiernan: How many questions have we answered?

Mr PENDAL: The Government has answered about one-third of the questions that I have asked. I do not want the member for Armadale to provoke me today. I made a resolution to ensure that she focuses on this issue before she makes a complete muck of it. If the Government is satisfied with answering a third of the questions that I have asked over the past three months, then it has a very low benchmark for accountability in this Parliament, even though it was elected to office on its great commitment to accountability. Mr Speaker, take it as read; I have a bundle of questions going back to 27 August 2001 that remain unanswered. Other questions were submitted on 5 and 11 September.

Mr Kucera: They are all the same.

Mr PENDAL: I wish the member for Yokine, the Minister for Health, would stick to the job that he has been given and try to do that job properly. Not many people in the community feel that he is on top of his job. Therefore, for the member to sit there and make interjections about another portfolio -

Mr McGowan: You said that you were not going to be provoked!

Mr PENDAL: That is right; I will not be provoked.

Take it as read that the level of accountability in the answering of questions is abysmal and hypocritical, and this will revisit the Government in the future.

The Government has answered question on notice 828, which I asked on 8 August 2001. It has taken the Government from 9 August to 5 November - three months - to provide an answer to my simple question. I asked this question so that I could get a handle - I want to ask the minister to address this when she responds - on the extent to which Treasury has been involved in this process. I said earlier that WA Inc happened because the Government of the day decided to abandon all our time-honoured procedures. This proposal has not been assessed by Treasury. The only assessment made before the minister took the matter to Cabinet on the second Monday in July was by the expenditure review committee. The proposal was submitted one day prior to Cabinet's meeting on the second Monday in July. On that fateful Monday, the Government spent an additional $300 million. I will provide members with the sequence of events. On 9 August, I asked the Treasurer when the proposal had been received by Treasury. I wanted to get an idea whether, the week after the Government was elected in February, the proposal was submitted, and, four or five months later, finally given the tick. That was not the case. After reading the Treasurer's answer, I can understand why he took three months to respond to my question. Part two of the answer stated -

> The proposal to re-direct the route was not submitted to Treasury.

It was not submitted to Treasury!

Mr Barnett: You would think that the Government would have had an interest in it.

Mr PENDAL: One would think so - it is only $300 million. When I received this answer on 5 November, I was bedazzled by the fact that the proposal was not submitted to Treasury. It was only this morning when I was preparing for this debate that I paid greater attention to the second part of the answer which states -

> It was submitted to the Expenditure Review Committee by the Minister for Planning and Infrastructure on 12 July 2001.

Members may ask what is the significance of this, and I will tell them. The following Monday, the Premier and the minister made the announcement. The twelfth of July was a Thursday. If we take out the Saturday and Sunday - I presume that Treasury and others do not work on those days - there was only one day in which this proposal could have been assessed by the three members who comprise the expenditure review committee. In the first place, we have established that the proposal was not submitted to Treasury. This is an extraordinary reversion to the days of WA Inc. I have checked and learnt about what is colloquially known as the 10-day cabinet rule. In the ordinary course of events, a cabinet submission is circulated and put on an agenda 10 days out from when Cabinet hopes to make a decision, so that it has all the data in front of it. That is not what happened. By the Government's own admission - this sank in only this morning - the proposal to redirect the route was not submitted to Treasury. Members cannot tell me that that is not a reversion to the days of WA Inc. Secondly, the proposal was submitted to the expenditure review committee by the Minister for Planning and Infrastructure on 12 July. It seems then that the Treasurer has told an untruth, because the answer to part four of my question states -

> The Expenditure Review Committee made a recommendation to Cabinet, which was approved on 23 July 2001.

That is wrong. According to the Premier's press release of 16 July - three days after its sole reference to the expenditure review committee -

> Premier Geoff Gallop today unveiled a bold new vision to build a direct rail link between Mandurah and Perth.
>
> Dr Gallop said the Cabinet today approved a redirection of the rail line . . . .

What I have been told by Treasury is contrary to the facts. The Treasurer is referring to something that look place a week later. I have no doubt that the proposal went back to Cabinet a week later as people started to wake up to the fact that they had to cross a few t's and dot a few i's. However, by then the horse had already bolted. The $300 million commitment had already been made. I repeat to members that it was not made as a result of the careful scrutiny on the part of the people in this State. I am interested to know what John Langoulant's role has been in all this. How can the Under Treasurer be the head of a Treasury in which he apparently has no say about expenditure of that magnitude?

Mr Barnett: He will be one of the public servants who will end up wearing this.

Mr PENDAL: He will. This morning I read reports in the newspaper about possible cabinet reshuffles and about the Chairman of the Public Accounts Committee being put into Cabinet. If there are to be any changes, he should get his teeth into this process and answer the question before he leaves that job. He should represent Parliament and ask the Auditor General how we can commit this State to the expenditure of another $300 million to put a railway through my electorate, which will have all sorts of other implications that I do not have time to go into today. We know there will be $300 million worth of implications because the Court Government committed $900 million to this project and this Government has committed $1.2 billion. I have never had a problem with the extension of the rail link to Mandurah; I agree with it. Nobody in Western Australia would disagree with it.

Mr McRae: You said that you did not want it in your backyard.

Mr PENDAL: I challenge the member for Riverton and the Government to be as outrageous and radical as London was 100 years ago. There is a thought! One hundred years ago they sank the damn thing!

Mr McRae: What was the population of London 100 years ago?

Mr PENDAL: The population of Perth will not get any smaller in the next 100 years. The member who interjects has some cabinet aspirations, and he should remain silent. The government members who get involved in this look very ordinary. If members opposite cannot see the warning signs in politics, some of them will be out of here quicker than they think.

Several members interjected.

Mr PENDAL: No, I am not. I thank the member for Eyre. He is a very restraining influence around this place. He has been dudded by his own Government. The Government has committed $300 million of taxpayers' money -

Ms MacTiernan: Can you explain that figure? I am somewhat puzzled by it.

Mr PENDAL: I am not surprised that the minister is puzzled.

Ms MacTiernan: Where did the member get the figure of $300 million from?

Mr PENDAL: I got it from the Government's announcement.

Ms MacTiernan: Where did you get the Court Government's figures from?

Mr PENDAL: I got those figures from the Internet, which is the same source from which I obtained Premier Geoff Gallop's announcements this morning. Is that a reasonably good source?

Ms MacTiernan interjected.

Mr PENDAL: I have only a limited time to debate the matter; therefore, the member can listen for a change. If government members are not alarmed by the fact that this proposal was not submitted to Treasury, they have a limited life span. The expenditure review committee possibly learnt of the expenditure of $300 million on the Friday, only one working day prior to the cabinet decision that was made on the 16th. This is a repeat of WA Inc. The Government will rue the day it made that decision. All I ask is that it stops the process and widens the scope of the review into the impact on the Perth central business district so that South Perth and Como are included, and that the matter be sent to Treasury. If the Government wants to protect the interests of this State and avoid another WA Inc catastrophe, it should refer these matters to Treasury.

MS MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [5.44 pm]: I presume that the member for South Perth is using the same web site that saw Natasha Stott Despoja stumble so graphically when she cited Afghanistan as a country that offers more generous working conditions for women than Australia. However, when queried about that issue - given that women in Afghanistan are not allowed to work - she had to confess that her information was from a 1997 web site. I am being generous to the member for South Perth. I presume that he is being honest when he tells us that he got his information from a web site. However, I also presume that he must have got it

from a 1997 web site because this Government will not spend an extra $300 million on the rail project. Frankly, this project will cost slightly less than the amount that had been set aside by the previous Government.

Mr Pendal: Are you seriously saying that burrowing under Perth will not add to the cost?

Ms MacTIERNAN: Our project has been costed at $1.2 billion, and the member acknowledges that. If we are wrong, that will be demonstrated when the master plan is released in February 2002. However, we are confident that we have got it right. Time will tell whether or not we have. The previous Government had set aside $1.147 billion for the rail link and $70 million for the second stage of the busway project. We are putting the funds for stage 2 into our rail project. Therefore, there is no $300 million differential. Effectively, the same amount of money is being spent on our project as would have been spent on the previous Government's project.

If that is the level of analysis we can expect from the member for South Perth, I am not surprised at some of the advice he is getting from his constituents. A letter from the *Community Comment* in November states -

> It is time Phillip Pendal stopped playing at dinosaurs or he too will become extinct.
>
> I am tired of reading that a rail line down the centre of the Kwinana freeway will be disastrous for South Perth and will isolate us further from the river.
>
> South Perth is already isolated from the river by an eight lane freeway and a two lane bus route, and is suffering ever increasing air pollution and noise as the volume of traffic on the freeway increases.

That is very good advice for the member for South Perth. The letter continues -

> Far from his totally negative attitude to the rail link, Phillip Pendal should be seeking to ensure that it will give maximum benefit to the people of South Perth by offering us rail access to Perth City Railway station and by ensuring that the building of the rail link goes hand in hand with a swinging increase in all day car parking costs in Perth City centre to discourage all day business commuters from driving to the city.
>
> In the long run we will benefit by -

Point of Order

Mr BARNETT: Mr Speaker, I refer to your earlier ruling about lengthy quotations.

The SPEAKER: I was just about to stand. I refer the minister to my previous statement that when documents are referred to, they should be limited to a few lines and should be paraphrased.

Debate Resumed

Ms MacTIERNAN: I am sorry, Mr Speaker, I thought you were concerned about members reading their speeches rather than quoting from documents.

In any event, that was some salutary advice for the member for South Perth from one of his constituents, Suzanne Shield. She is not alone. Another letter expresses the view that -

> On another matter, the very few people who "may" be affected by the proposed South Perth railway line really should think about the greater good, including Phillip Pendal.
>
> Suppose a train went through every ten or fifteen minutes.
>
> During that time at present hundreds of vehicles including many large, noisy trucks traverse the freeway.

Even the good burghers of South Perth, whose interests the member for South Perth claims he is advancing, do not unanimously support his position. People can see that it is nonsense to complain about the impact of a train travelling down the middle of a freeway. Many in South Perth can clearly see the advantages of dealing with the causes and not simply the symptoms of congestion. If only the member for South Perth had been as vocal in his opposition to the duplication of the Narrows Bridge, he might have attracted more support.

Mr Pendal: I was.

Ms MacTIERNAN: He was terribly effective in his representation of his constituents!

Mr Pendal: I was as vocal then as I am now. I was equally outspoken when the Court Government tried this stunt back late in 1996. It tried this.

Ms MacTIERNAN: That is nonsense. I have completely scotched the argument that the Government has allocated an extra $300 million. The facts are clear: this is exactly the same amount of money. It is a combination of the $1.1 million that the previous Government allocated - that amount is in its projected figures - and the $70 million allocated for stage 2 of the busway project. There is absolutely no credence to that argument.

The second argument was that a grave impropriety had occurred because this matter had never been considered by Treasury. This issue was examined on three separate occasions by the expenditure review committee.

Several members interjected.

Ms MacTIERNAN: I understand that the member for South Perth has never been in Cabinet. That has caused him a certain amount of distress and anxiety, and some uncharitable people might say that it has resulted in a degree of bitterness. He can be forgiven for not understanding the process. Ministers are required to lodge submissions with the expenditure review committee a week in advance. The documents are then examined by Treasury, which then produces its report. Treasury officials attend the expenditure review committee meetings and make comments about proposals. This project has been through the committee process three times.

Mr Pendal: It has never been to Treasury.

Ms MacTIERNAN: These documents are submitted to the expenditure review committee.

Mr Pendal: That is correct.

Ms MacTIERNAN: They are then provided to Treasury, which has an opportunity to make submissions at a committee hearing. In addition, Treasury is represented on the Perth urban rail development steering committee, which produces the submissions that are lodged with the expenditure review committee. At every stage, Treasury has been intimately involved in this process. It also has representatives on the steering committee that produces the documents that are submitted to the expenditure review committee. This project has been to the committee three times; it has been analysed to within an inch of its life.

Although the public transport benefits of the direct route were self-evident from the start, people questioned whether the project could be completed within budget. Therefore, it was subjected to the most rigorous analysis before it was signed off. That is why it took until July for it to be finalised. It did not go to Cabinet only once - we provided Cabinet with a number of briefings and submissions to ensure that it was fully informed. We had to get the Treasury approval and the analysis. We also had to ensure that the expenditure review committee and the Cabinet were confident that this could be done within the budget framework before we would be given approval to go ahead. There is absolutely no basis to the charge that this proposal has not been financially analysed.

Mr Pendal: That is not Treasury. That is untruthful. Your own Treasurer contradicts you!

Ms MacTIERNAN: That is not true.

Mr Pendal: He said that. Look at the answer. He has sprung you!

Ms MacTIERNAN: This went to the expenditure review committee repeatedly. The Treasurer is a member of that committee and he has access to the documents and makes comments -

Mr Pendal: It is not Treasury.

Ms MacTIERNAN: - to ensure the value of that expenditure. I have dealt with that issue.

Mr Pendal: This will haunt you all your days in Cabinet.

Ms MacTIERNAN: The Government has no difficulty being completely open about these processes. Getting that approval was a lengthy process. People were concerned that we would be able to do this within that cost framework. Of course, there are always limits to what one can do in that environment. At the end of the day, it will require the completion of the master plan process that we are now undertaking to determine whether those projections are correct. As I said, we will know in February whether the cost projections that we made on the basis of the best available advice have held up to the more rigorous scrutiny of the master plan process.

I was waiting for the member for Carine to present her analysis of the consultation process undertaken by her Government that she promised to provide.

Mrs Hodson-Thomas: You should have listened to another debate in which -

Ms MacTIERNAN: I must refer to another debate!

Mrs Hodson-Thomas: - I went right through the master plan.

Ms MacTIERNAN: I thought I heard the member say that she would get to it. I was waiting for her to do so, but unfortunately she did not. I will fill the breach and let members know what happened.

Some time in July 1995, the Cabinet announced the extension of the existing rail system from Kenwick to Mandurah and confirmed its in-principle intention to extend the urban rail system to Jandakot by 2005. It then said that it would engage in a master plan process to examine the detail. It took the coalition Government two years to get the funding together to commence the master plan process. The strategic decision was made in 1995 and preparation of the master plan commenced in 1997. We saw the previous Government -

Mr Barnett: Are you saying that the master plan process commenced in 1997?

Ms MacTIERNAN: Yes.

Mr Barnett: When was the decision made by the coalition Government?

Ms MacTIERNAN: In July 1995.

Mr Barnett: Would that not indicate that the planning was done prior to that?

Ms MacTIERNAN: No; it indicates an unacceptable delay in progressing this process.

Mr Barnett: No.

Ms MacTIERNAN: The key point is that no consultative mechanism was put in place prior to the strategic decision made in July 1995 that the rail link would be taken out via Kenwick, adding that critical 12 minutes to the journey time south of Glen Iris. Having made that decision, the previous Government hung about for two years doing nothing. It then decided to commence the master plan phase. During that phase, it talked to all the local councils about the detail. That is exactly what this Government has done.

Mrs Hodson-Thomas: When did you talk to the local councils? It was after you made your announcement. You wrote to the Mayor of Rockingham telling him that you would not make a decision until the council had been consulted. Then you made a decision without consultation.

Ms MacTIERNAN: We have had many discussions and extensive consultation with representatives of the City of Rockingham.

Mrs Hodson-Thomas: I do not forget these things.

Ms MacTIERNAN: I will leave the discussion of Rockingham to the member for Rockingham, because he is the chair of the committee -

Mrs Hodson-Thomas: Is the minister too embarrassed?

The SPEAKER: Order, members! The minister has the floor.

Ms MacTIERNAN: I am not the least bit embarrassed about this project. In fact, I find it extraordinary that the members opposite can keep flogging a dead horse in the way they are doing. There is no support for their proposal out there, except from a few vested interests. It may well be that the owners of Westfield Carousel shopping centre in Cannington might support their proposal, but not many others. The members for Riverton, Rockingham and Mandurah know what their communities are thinking. The member for Carine represents the northern suburbs. Her constituency is serviced by a direct rail link that she does not want the people of the southern suburbs to have. The Opposition's proposal is like saying that, when the rail line reaches Carine, it must do a detour via Bassendean before coming into the city. That is exactly how sensible it is. Members can imagine what the constituents of the northern suburbs would think of that idea, but that is the kind of thing the Opposition would be delivering.

I was listening very closely to the contribution of the member for Carine, because, as I seriously wanted to address the comments of the member for South Perth, so I wanted to address those of the member for Carine. She said she would outline her consultation strategy, but that did not happen. She also said that she would outline what the other options were. I am puzzled about what these other options might be.

Mrs Hodson-Thomas: I did not actually say anything about other options.

Ms MacTIERNAN: Yes, the member did. We will have a look at the *Hansard* tomorrow. My recollection is that the member for Carine said that there were other options. Her basic question, as I understood it, was why the Government had allowed the advisory group process to take place on the city of Perth and not on the points south. Presumably she is talking about taking the rail line down the freeway and over the Narrows Bridge. It is quite clear that there have always been a number of alternate routes available through the city. The report that the Government released identified five possible routes. Work had been done on the costs and advantages of each proposal. The Government did not say that there was only one alternative. The assessment was made that, of those alternatives, the one down William Street provided the best set of benefits for the whole community. The Government still believes, and all the advice it has had from the land use and transport planners agrees, that that is still the case. A group of other people took the opposite view. Seeing they were not particularly happy with the consultation process currently under way - they obviously wanted something that gave them more scope for revisiting the other alternatives - the Government put in place a committee of independent people of considerable standing, expertise and understanding in a range of areas, and asked them to look at these options. As the member for Carine pointed out, the Government thinks it has got it right, and if that is the case, it will be vindicated by this committee. If it turns out that the Government got it wrong, it is no big issue. This is not a question of ego. If the Government got it wrong, another route will be chosen. It is quite open about that. However, there is absolutely no prospect that the Government has got it wrong in taking the railway down the freeway. It would be absolutely ludicrous to set up a panel to look at these mythical options. The only alternate option, other than going via the North Pole, that has been proposed during this debate has been the proposal to sink the rail line on the Narrows Bridge. That option comes at the small cost of about $800 million - certainly no less than $500 million. The member for South Perth tells us that that is not a problem. I am not surprised that the Liberal Party decided not to make him a cabinet minister, if he believes that spending $500 million to save the views of a couple of hundred people is an acceptable strategy.

Mr Pendal: If the cost is spread over 24 years, it will add only $36 million each year.

Ms MacTIERNAN: It will add $500 million to the cost of the project. The member for South Perth is asking the Government to spend $500 million to enhance the views of a small proportion of his electorate. There are many other worthwhile transport projects around this State that the Government would be funding before that one. If the Government had the luxury of another $500 million - over whatever period - there are many other public transport initiatives it would be undertaking. The member for South Perth is behaving with absolute selfishness.

Mr Pendal: If the Government had thought like you 100 years ago, we would not have a trans-Australian railway line, and we would never have had a pipeline to Kalgoorlie.

Ms MacTIERNAN: The member for South Perth cannot distinguish between vision and fantasy. What he is talking here is fantasy, not vision. To come up with a proposal that is so ludicrously outside the resources of the State really does not bear thinking about. I have explained to the member for Carine - who is so interested in the debate and learning about the issue that she is once again not present in the Chamber - that the reason a rail advisory group is looking at the options in the centre of Perth, is that a number of alternatives can realistically be considered. There is not just one way to do that, but there is no realistic alternative to taking the rail line down the centre of the freeway. I can tell the members for South Perth and Carine that the Government will not compromise the quality of this public transport system for the communities in the south west suburbs. For the communities of Thomson Lake, Rockingham, Mandurah and others, the Government will deliver a first-class, not a second-class, system.

Several members interjected.

The ACTING SPEAKER (Mr Edwards): Order!

Ms MacTIERNAN: The Government has clearly demonstrated the reasons it has implemented the rail advisory group. There were long quotes from the Lord Mayor, dating back to July. Interestingly, there are no quotes from the Lord Mayor more recently, because he has accepted the process, and supported the Government in the appointment of this rail advisory group.

Mr Omodei: What about the eight groups that objected to the Government's lack of consultation?

Ms MacTIERNAN: In response to the concerns raised by those groups - the member for Warren-Blackwood might have been down in Manjimup and not listening to what has gone on in the last couple of months - the Government has appointed a rail advisory group.

Several members interjected.

The ACTING SPEAKER: Order, members! The minister has the floor.

Ms MacTIERNAN: The rail advisory group has been appointed; it includes engineers, it has on it a representative from one of the senior engineering firms in Perth, representatives from the planning profession, from the Property Council of Australia and from city business. That group has been well received and it will get on with the job of looking at the options that are available throughout the city area. We think we have got that right, but we are happy to subject ourselves to the scrutiny of such a group. We are not compromising on the quality of transport that we will deliver to the people of the south-western suburbs.

MR McGOWAN (Rockingham - Parliamentary Secretary) [6.10 pm]: I am pleased that the Opposition has brought on this motion on the southern suburbs rail link. It is just terrific. I ask members to bring it on every week. The more they bring it on and the more time we spend in private members' business debating this issue, the happier I and the members for Peel, Cockburn, Mandurah and Riverton will be.

Several members interjected.

The ACTING SPEAKER (Mr McRae): Thank you, members! Order!

Mr McGOWAN: Mr Acting Speaker, I am ecstatic that this motion has been brought on now. I have spoken on this issue about four times, either as a matter of public interest, private members' business or in general debate. It has provided me with more and more opportunities to say what a terrific decision it was to take the railway up the freeway into Perth.

Mr Pendal interjected.

Mr McGOWAN: I will get to the arguments put by the member for South Perth. I always thought he was an old-style Tory, a man who believes in the principles of Edmund Burke, but he is actually a nimby - a lightish-green, slightly pink nimby.

Mr Pendal: A green, pink nimby? Mr Acting Speaker, can I take a point of order on that?

Mr McGOWAN: I always had a sort of romantic view of the member for South Perth.

Several members interjected.

Mr Pendal: What? I take a point of order on that. You just keep over there!

Mr McGOWAN: He wanders around the place in his suits and he strikes me as the sort of bloke who should wear a bow tie. I met him once wandering around the streets of Melbourne - he was looking at the architecture - and we discussed heritage together and all that sort of thing. He is an old-style Tory, but if one scratches that thick Tory skin, he will find that underneath he is a greenish, pinkish nimby, who is concerned -

Several members interjected.

Mr McGOWAN: He is obviously more concerned about the views of a select group of people in his electorate than he is about a decent, comprehensive public transport system for the people of Western Australia. But that is all right. I know what it is like to be fighting for an electorate, and I expect that the member for South Perth will probably be -

Mr Pendal: You did not fight for yours. They took the Rockingham loop away from you and you rolled over. They took your $100 million loop and they stuck it in central Perth.

Several members interjected.

Mr McGOWAN: I will address that point, if I can have a bit of silence. The loop that came into Rockingham was only about a kilometre long. The extension of the rail line on the surface through the city of Rockingham was about five kilometres long. The member is constantly complaining -

Mr Pendal: I am not complaining; you should be.

Mr McGOWAN: Just hear me out. The member is complaining all the time about the rail link going on the surface through South Perth and Como.

Mr Pendal: Correct.

Mr McGOWAN: The member says that I should support it going on the surface through Rockingham. Somehow I have been dudded, in that it will not go on the surface through Rockingham. On balance, I am very happy with the decision made by the Government, and I am willing to go anywhere and argue it.

Mrs Hodson-Thomas: The next Minister for Planning and Infrastructure!

Mr McGOWAN: Now that the member for Carine has interjected, I will ask her: if she were elected to government, would she change this decision to take it up the freeway into Perth?

Mrs Hodson-Thomas: No, I would stick to the Kenwick route. I would continue with the Kenwick route.

Mr McGOWAN: What is the point of view of the Leader of the Opposition?

Mr Barnett: I will speak in this debate, but on all the information that has been compiled, the Kenwick route is superior. However, if this Government wishes to revisit that, which it is entitled to do, we are saying it should be done properly.

Several members interjected.

The ACTING SPEAKER: Order! The member for Rockingham has the floor.

Mr McGOWAN: The member's answer is that he would like to see it go through Kenwick. Is that correct?

Mr Barnett: That was the decision we made. We believe it was the proper decision.

Mr McGOWAN: And the member still does?

Mr Barnett: On the information provided to this stage, I still do. If you wish to revisit it, you must do it properly. I suspect when you revisit it, you will end up back at Kenwick.

Mr McGOWAN: If the member were elected, on the information available, he would change the decision that we have made.

Mr Barnett: On the information to this point, yes.

Mr McGOWAN: Terrific. I wanted to go over a couple of things. The motion refers to consultation, and the consultation the Government went through to change the decision made by the previous Government. When the decision was announced in the southern suburbs of Perth for the route to go through Kenwick, it was opposed, it was disapproved of and it was hated by the people who live in my electorate and the electorates of members to my right - the members for Peel, Mandurah and so forth. It was absolutely hated. The previous Government announced that decision without doing any consultation. The former Labor Government decided that it should go through via Fremantle. However, the Court Government was elected and said it would go through Kenwick. A two-year period followed after which the previous Government launched a master plan document with the line going through Kenwick. There was never any consultation on taking the rail line through Kenwick and there was never any consultation with the people who live in my community and the other communities in the southern suburbs. They felt that somehow they were being treated as second-class citizens, because the rail line to the communities in the northern suburbs, the eastern suburbs, the south-eastern suburbs and Fremantle follow a direct line to the city. They felt that a direct route should link the people of those communities with the city. The rail line connecting the electorates of the members for Hillarys, Carine and

Kingsley with the city does not take a massive detour before it reaches its destination, and that was because of the visionary decision made in the 1980s by the Labor Government.

Mrs Hodson-Thomas: Is the member for Rockingham not concerned that this railway will be running 10.2 kilometres down the median strip in the middle of the freeway? That is what I have been saying all along to the Minister for Planning and Infrastructure.

Mr McGOWAN: Australia produces the best engineers in the world. That was demonstrated with the construction of the northern suburbs railway. In modern times, despite modern techniques, building a railway is a complex process; nonetheless, it is possible. The old suburban line through Victoria Park to Armadale has level crossings and runs alongside suburban streets. The methods of today were not available then. Although those railways were built much more quickly in those days, they could not provide a fast, high speed, efficient transport service for the burgeoning outer suburbs.

Members opposite have a decent rail line that links their communities with the city. My community does not have that rail link and we want to have the same facilities as members opposite.

Mr Pendal: Everybody agrees that you should have it.

Mr McGOWAN: I suspect there are a group of people in the member for South Perth's electorate who are concerned about the rail line. However, when it is built they will use it in the same way as people in the northern suburbs use their railway.

Mrs Hodson-Thomas: At this time, consultation has been only with people in the CBD. Where is the consultation with people in the South Perth-Como areas?

Mr Whitely interjected.

The ACTING SPEAKER (Mr Edwards): Order!

Mr McGOWAN: As part of the process, consultation is being undertaken. If I were to discuss the Minister for Transport's faults, I would not suggest that lack of consultation was one of them.

Mr Hyde interjected.

Mr McGOWAN: As the member for Perth said, and as we all know, the minister has no faults! Of all the things we could accuse her of, being non-consultative is not one of them. She organises seminars about road trains, consults on planning decisions and addresses meetings about the future of Hope Valley and Wattleup. She is the most consultative minister we have ever had.

Several government members: Hear, hear!

Mr McGOWAN: I do not understand how members opposite can accuse her of not consulting people.

Several members interjected.

The ACTING SPEAKER: Order!

Mr McGOWAN: That consultation process will be undertaken. When the southern rail link is finished it will be seen as visionary because it will provide a decent, high-speed rail link for 400 000 people living in the southern suburbs of Perth. It will remove a potential problem created by the previous Government by its plan to build a rail link along a route that was not supported by the people of that area.

I suspect the people in the electorate of the member for South Perth will grow to like and use the railway. As we know, there will be a station on the border, which they will grow to like. The people of South Perth and Como have expressed fair concern about the railway affecting their property values. However, as can be borne out around the world, having a property in close proximity to a rail line improves property values. Although those residents may be upset now, for which I do not blame them - people get upset about all sorts of things - they will appreciate this decision in time. One of the legacies of this Government will be the decision to provide a decent rail link for the people of this area.

I was interested to learn that if the Opposition were elected to government it would reverse that decision. I am sure the people of my electorate will be very interested to know that. I will ensure they are informed. I will even pick up the Leader of the Opposition and drive him to my electorate so that he can put his view on this matter to a public meeting. As a result, no doubt he will no longer allow any more motions of this type to be brought forward in this Parliament.

MRS EDWARDES (Kingsley) [6.24 pm]: I support the motion, which refers to the minister's failure to undertake necessary community consultation. During the estimates debate I recalled that when the Narrows Bridge was being built, Bessie Rischbieth took her trademark brolly with her and enlisted the support of a large number of people and became well known for her fight to conserve the Swan River foreshore. The minister's proposal to put the rail along the foreshore will effectively stop pedestrian access between the Perth city area and the foreshore. The proposal to suspend

the rail line will create visual pollution, which people will have to look over, under or around to see the foreshore. It will be nothing less than an act of vandalism. I can see Bessies and their brollies out in the thousands to once again fight for the Perth foreshore.

The Local Government Planners Association believes that government transport planners should take local government planners more seriously. They believe that they best understand local issues and how vehicles and pedestrians move around, particularly in the central business district. They have the technical knowledge for assessing the options. When the association knew that the Government was looking at changing the railway route, it thought it would be consulted. However, much to its dismay, the announcement was made public long before then. The concern at the time was about other options that had been considered. An announcement was made in July and only in October a report was written on the options in the CBD area; the minister referred to five of them.

Another option favoured by many professional planning bodies and associations, not just local government planners, is to build the rail to run west to Parliament House and past Parliament House, linking in with the Perth central station. That would have a number of advantages compared with the William Street approach. I will show the differences between the two. Planning cannot be for the short term; it must be on a long-term basis.

In response to the member for South Perth's comments about sinking the railway and the roads along the South Perth foreshore, the minister said it would cost $500 million or $800 million. During the estimates debate I suggested that rather than planning to build the rail along the Perth foreshore the minister should consider sinking Riverside Drive, as the coalition Government had proposed and on which it had consulted the community. People wanted to drive along the river foreshore because they liked looking at it; therefore the amount of road proposed to be sunk was shortened. However, it would have created a wonderful pedestrian link down Barrack Street, to Barrack Square and the foreshore. It is a shame that people do not have better access to the Perth foreshore than they now have, although the Bell Tower has encouraged more people to visit the area. The patronage of restaurants and shops has improved markedly. The Bell Tower is a success story on its own. It is a shame that stage 2 has been not only put on the backburner but also halted because the extension of Barrack Square to the little beach, which was also supported by the City of Perth, would have provided better access for people to the Perth foreshore.

I return to the point about long-term planning as against short-term planning. The minister is stuck in a short-term planning mode, as she has not considered any of the wider options that may require a 15 to 25-year time frame for sinking the railway, the freeway and Riverside Drive. She is proceeding to put the railway in her proposal without considering that the community of Western Australia may want to consider the options.

Also, one advantage of the convention centre that Western Australia would have over the other States to attract people here is the visual connection with the Perth foreshore, the Swan River and the lights in South Perth. The people attending the convention centre would not want a railway travelling directly past their windows. Members may recall the design of the convention centre. It had a wonderful reception area outside the main hall which had a fabulous 180-degree view of the Perth city, the belltower, Barrack Street jetty, the Swan River and Kings Park. If the Government is going to destroy that view with a railway up in the air and a train going past every now and then, it will take away some of the attractiveness of the convention centre. There are a number of reasons for not putting the railway down a route in front of the Perth foreshore. It is short-term planning and does not take into account longer-term planning.

I turn from the visual pollution and aesthetic side of the railway to the opinions of some of the professional bodies in town. A conference was held a couple of weeks ago of all professional groups who decided to submit a plan in opposition to the railway. They have grave concerns about the railway travelling up William Street. In fact, they employed an engineer to undertake a comparison of the Government's proposal with a railway station at Parliament House linked to some of the new business districts in West Perth and Perth central railway station. People are moving out of the centre of the city between Barrack and William Streets because rents are lower in some of the new developments in the west end of town. One advantage of their proposal is that it would link Midland, Armadale, Joondalup and Fremantle. However the option of taking a railway up William Street would mean that there would be a brand new station ten minutes walk from Perth central railway station. The train will therefore travel up and down the south west railway route with no link to any other station. I do not know what the patronage figures will be.

There are two problems with the Government's proposal. First, it will change the way in which pedestrians use the central business district. Planners tell me that is against 30 years' practice of planning in this city. In fact, a Danish town planner, Jan Gehl, recommended that Perth's central area be stretched to break out of the narrow confines of the core between Barrack and William Street. Therefore, contrary to city planning principles, all of a sudden we will have a new railway station in the City of Perth, not linked with any other railway. I do not know of another city in the world that does that; it does not make too much sense. Not only will the route of the railway change the pedestrian pattern of behaviour but also the railway network will not be used efficiently. There may be no increased patronage if the rail goes up and down the south west route. Railway carriages would be used if the railway were linked to the Perth central station because it would have patronage to Joondalup, Armadale, Midland and Fremantle. However, the Government's proposal has the potential for empty carriages travelling up and down some routes at times. That also is not an efficient use of the railways in the south west area of Perth.

The planners raised another issue in their comparison of the William Street and Parliament House routes. The paper issued by the minister in October comparing the options stated that taking a railway past Parliament House would be unsuitable because part of Mounts Bay Road would need to be sunk. That is not necessarily true. It is one option. However, the engineering consultant employed by the professional bodies that I referred to said that it was not the only option if the Government wished to take the railway past Parliament House. The minister has often quipped, "Who really wants to come to Parliament House?" That is not the point. It would be a new railway station for the people who work in the western side of the city and who would provide valuable patronage to the railway.

In the alternative routes considered there would be no need for overhead poles and wires. If the Government is concerned purely about aesthetics, it does not need to use overhead poles and wires. That option, again, has not been considered. The engineering consultant said that the option of a link going past Parliament House would reduce the cost by about $50 million. That is maybe not a big deal when one considers the amount of money we are talking about; however, it must be taken into account.

While we are talking about costs, members should not forget that with the William Street option there would be disruption to vehicular traffic and pedestrians. Planners have told me that once a disruption occurs to a particular area, people do not return to use it. Again, they believe the city cannot afford that loss. There will be therefore a level of disruption and the potential of losing some traffic. Members might say that they do not want traffic in the city centre. If that is the basis of the Government's proposal, let us debate that as a reason for getting vehicular traffic out of the city centre. There will also be a greater level of disruption with the preferred route that the professional planners referred to as a cut and paste style of railway. I had not heard of that before; however, obviously the development of the railway and tunnel will involve a greater level of disruption to people and take longer to build than taking it past Parliament House.

Mr Hyde: Member for Kingsley -

Mrs EDWARDES: Can I keep going, please? The member for Perth can have his say in a minute.

Mr Hyde: No, you have raised the matter. Would you then say the Northbridge tunnel was a mistake?

Mrs EDWARDES: Not at all. I am talking about William Street, which is a different area. The member has raised a good point. Another point that the planning and engineering consultants made was that one should not build the railway in an area where there is no opportunity to value add. There will be no value adding by using the William Street proposal but taking the railway past Parliament House would provide a chance for value adding with the buildings, businesses and the like there. Similarly there has been value adding in Northbridge, and there will continue to be value adding in the less-developed areas, with the use of the Northbridge tunnel and lower values creating opportunities for civic improvements and a greater scope to capitalise on that work.

Mr Kucera: Where is the issue in this debate? The minister has already said that she is examining those options.

Mrs EDWARDES: Can I continue, please?

The issue is that the options were not considered before the Government's announcement. The William Street option was considered to be the preferred route. The minister has not given any indication that she is prepared to move on that option. She has established a committee with all the professional bodies as members of that committee. Given the work that has already been started, I believe that valuable options will come from that - ones that will not be to the minister's liking. Therefore, that will be the real test of what the minister will do in a consultative -

Mr Kucera: It just goes to show that -

Mrs EDWARDES: No, I do not have time for interjections, Minister for Health. I will conclude by reading a couple of paragraphs. I am keeping in mind a previous speaker's comments tonight. However, I have not quoted or read anything else during my address. It is important to have the consultation before making an announcement, because to change the proposals afterwards costs money and causes embarrassment. I quote from a speech to a forum of professional bodies by the President of the Local Government Planners' Association (WA Division). He said -

> It is obvious that the William Street option was selected on the flimsiest of information. Masterplanning studies that are now being carried out are running concurrently with detailed engineering design of the William Street route -

Therefore, nothing has stopped. The planning and the design of the William Street route is still going ahead. It continues -

> and will only justify the detailed design of the chosen option after the event. The only public consultation will be to determine such things as access for the disabled and the design of stations to address safety and security. Options to the William Street route are not being examined, simply because there is no time to do that . . .
>
> In my lifetime, there have been two examples in the past -

Points of Order

Mr McRAE: The Leader of the Opposition raised a point of order about a government speaker who quoted far less than the member for Kingsley has already done. If we are to establish those rules for debate and impose them in the course of this motion, they should apply to both sides. I request that the member either comply with the standing orders, which state that a member should selectively quote and paraphrase, or desist from quoting a page-long document.

Mr DAY: The Leader of the Opposition took a point of order earlier. However, I think he was primarily seeking to draw attention to the fact that the same point of order had been taken against the member for Carine. Without wanting to perpetuate this issue excessively, he was really asking for a degree of consistency. A fair degree of latitude was shown to the minister regarding the documents from which she quoted and the length of those quotes. It does not strike me that the member for Kingsley has exceeded the degree of latitude that was shown to the minister.

The ACTING SPEAKER (Mr Edwards): I take due note of the member for Riverton's point of order. Sadly, I was not in the House when the earlier point of order was raised by the Leader of the Opposition. However, I will give some latitude in this case. I ask, though, that the member for Kingsley keep the quote reasonably brief.

Debate Resumed

Mrs EDWARDES: I do not want to offend any members opposite. However, I hope that other debates and answers to questions, particularly dorothy dixers, also adhere to the same rules.

There were two examples. One was a proposal in the 1960s when the inner-ring freeway was planned for the city's foreshore. It was supposed to go through Langley Park and the Supreme Court Gardens. It led to Australia's first freeway revolt. After professional institutes had banded together and demanded that the Government reassess what it was doing, the plans were changed. The second example is the Burswood bridge and the freeway that was proposed to be constructed through East Perth. City planners again had a major role in demonstrating the advantages of relocating the freeway to its current location, to provide for the rejuvenation of East Perth. In both those instances, the Government took a lot of convincing. After it had made the original decision, the plans were changed following professional advice. Professional groups banded together and got the people behind them. I say to this Government that to put that railway in front of the foreshore and along William Street has a lot of downsides. There are many pluses in going the other way past Parliament House. The planners say that 20 years later, they are facing exactly the same debate.

Their other concerns have been about the cost of the William Street option. Although the master plan is still to be done, the costs to date have not taken into account any of the indirect costs associated with the William Street option, such as constructing the tunnel and taking the railway through it. Those indirect costs relate to reprogramming traffic lights, provision of closed circuit television security cameras, pedestrian segregation from major vehicular traffic routes, reorientation of street furniture and signs, and myriad other city infrastructure associated with railway stations. Inevitably, those costs will vary widely according to the route location and the design of the railway. The engineer who was employed did not take long to do a preliminary assessment. It took only one week to come up with a valuable comparison between the two options, and to point out that the William Street option is not the only option but that other options could be considered. The option with greater value and value adding and greater scales of economies and efficiencies is the one that would take the railway past Parliament House.

MR TEMPLEMAN (Mandurah) [6.45 pm]: Like the member for Rockingham, I am always pleased to talk about the preferred rail route, which is the one that was announced by the Minister for Planning and Infrastructure a number of months ago. I am pleased to comment on this matter as it affects the electorate of Mandurah and the electorates along the southern corridor. The decision made a few months ago was very well received by the people of Mandurah. It was overwhelmingly received because of its importance to the fastest-growing region in Western Australia, and to the fastest-growing city in Australia over the past decade.

Unlike some other members, I will not quote from any documents. However, one of the key groups that commented immediately after the decision was made was the Mandurah Peel Region Chamber of Commerce. It acknowledged that the Gallop Labor Government had made a decision of crucial importance to the economic betterment of the Mandurah and Peel region communities. It acknowledged that the government decision, unlike the previous Government's decision on the rail route, is important and crucial to the future economic and social growth in the city of Mandurah and, indeed, in the wider Peel region.

The front page of the *Mandurah Mail* had three key comments from the Mandurah Peel Region Chamber of Commerce, the City of Mandurah and me. The voices were in unison. This was a welcome decision. It was welcomed overwhelmingly because it was a sensible decision and the preferred decision of communities in that area. When I walked in the streets and talked to people in the city of Mandurah and in the wider community, they all said the same thing: finally the Government had made the sensible decision. They said that it would be important for them in accessing employment opportunities outside the region. I have mentioned in this House previously that 40 per cent of the work force travels outside the region to access its employment. This is a cleaner, greener and more environmentally

friendly option for those people, and for future generations who will seek employment outside the region. For that reason, it is an important decision.

The rail link issue has been around for a long time in Mandurah. In the past, both parties have kicked it around. Had the Lawrence Government been re-elected in 1993, I would now be able to travel by train from Mandurah to Parliament House. The Labor Government made a promise in 1993 that, if re-elected, that railway line would be constructed. I am sure it would have been. I will tell the House why. The members on the other side of the House have no credibility on rail transport and they know it. Let us look at history. Let us look at what they did. Who closed the Perth to Fremantle rail link? The Liberals did! Which Government reopened it? The Labor Government. Which Government electrified the rail system? The Labor Government, not the Liberals. Which Government made sure that the northern suburbs - many of which are represented by members opposite - got an extended and electrified rail system? Not a Liberal Government; it was a Labor Government. Members opposite have no credibility on matters of public transport and they have no credibility on rail transport and passenger transport. The Labor Government is the one that delivers passenger rail links to people in need of them. People in Rockingham, Cockburn and Mandurah deserved to be treated the same as people in the northern suburbs. Why should they not demand and receive a rail link? They live in the fastest-growing corridor in the State. Under the Gallop Labor Government they will be treated the same. They will receive a rail link that goes directly up the freeway; not one that is diverted where it is not wanted. It will go straight up the freeway; that is what people want. It will mean that people in the area, who are suffering high unemployment, will have better opportunities. They will be able to access opportunities in further education and recreation.

Mrs Hodson-Thomas: When?

Mr TEMPLEMAN: Come down and see. Come and talk to the people. They would love to see the member there. The member would be shouted down in Mandurah. People down there know that this decision is sensible. Whenever they get a Liberal member talking about public transport or what the Liberal Party can deliver with rail transport, they do not believe him. The Liberal Party does not have a history on rail; it has no credibility on this issue. If Liberal members want to go to Mandurah and talk about rail transport they can, but they will be laughed out of town as they have no credibility. This is a clean, green decision. It will ensure that Mandurah gets a very important transport link. The Labor Government will deliver it.

I am looking forward to the day when the rail link comes to Mandurah. People will flock to welcome it. The Labor Government will deliver it; not a Liberal Government because the Liberals do not believe in it. The people of Mandurah know that the Labor Government believes in it. That is why the Government will deliver it to them in 2006.

MR MARSHALL (Dawesville) [6.52 pm]: The address by the member for Mandurah would have to be the greatest piece of hogwash that I have heard. He talks about what people did not get with the rail track. Before we gave Mandurah its performing arts centre the member was unheard of. He did a few courses in acting. The House has just seen an act. It would not have won an Academy Award. I think that, as a little boy, the member played by himself too much and did not reach adolescence. That was a lightweight performance. The member should look at the people around him. He is surrounded by people who are successful. The member spoke on nothing at all; he threw his arms around as though he were on a stage of the performing arts centre. For the people the member represents, it was a disgrace. The member represents about 14 000 in his electorate of Mandurah. I represent people in the Mandurah area that keep it alive. I represent 18 000 people. All the people that count are in the peripheral areas; the member has only the hub. He has been talking on behalf of all the people down there and he is wrong. After many years of broken promises and fidgeting by Labor Governments, the coalition Government said there would be a rail track to Perth. Everyone, including people in the member's electorate, were ecstatic.

The member was part of a Labor-oriented council. Three members of that council had a shot at entering this House as a member. The member has beaten them all. The mayor could not do it and the other bloke, John Hughes, could not do it. The member did it. I congratulate him for at least getting his nose in front. It will be a short term occupancy if he keeps talking about the people of Mandurah in a collective way without consulting them. The people of Mandurah are disappointed at the delay. They were content to have a rail track to Perth and travel to Perth in 50 minutes. I want the rail track to be in place by 2005. The Government's rail track is now a dream. We have all heard the member for South Perth: none of the councils agrees that the Government is doing it the right way. I have a small wager with the - for the moment - Minister for Planning and Infrastructure that the track will not be finished by 2006. When it is not, we will then see what is the member for Mandurah's so-called collective opinion of the people of Mandurah.

I was taught years ago that one does not have to shout to be heard. I remember that well. When one speaks the truth about accusations that are incorrect, one speaks at a lower ebb. The truth does hurt.

The proposal to put the rail link through Kenwick was accepted by everybody in the Mandurah area. They were thrilled. The proposal was first-rate. The proposal to go through Rockingham was debatable because of objections by the City of Mandurah. We accommodated both: a track through Rockingham and a direct line. It would have given the same type of resourcing to the metropolitan area and all the things that go with it such as scholastic advantages and employment opportunities.

Members who have visited the United States may have travelled on Amtrak. Passengers are able to sit back, read newspapers and have a coffee or a meal on the journey. The difference between travelling times of 50 minutes and 59 minutes is infinitesimal to the considerations of the people of Mandurah. The member for Mandurah should think about all the people of Mandurah and not just his very small electorate. He represents 14 000 people as opposed to my 18 000.

MR BARNETT (Cottesloe - Leader of the Opposition) [6.57 pm]: A lot of attention was paid to the planning of the southern rail link during the time of the previous Government. It made a sound decision on the information provided. I recognise and respect the right of an incoming Government to review a decision of a previous Government. The point of the debate is that the minister responsible should have announced that the Government was going to review the decision; it should then have taken six months or a year to do that, so that it was done properly. That has been the failure of this debate. The minister said that the Government may have got it wrong. I believe the Government has got it wrong. The one point I want to record in this debate is, how wrong does the Government have to get it? Is a $100 million mistake getting it wrong? Is it $200 million, $300 million or $400 million? I will be generous: if the minister is more than $100 million out, we will demand her resignation.

MR McRAE (Riverton) [6.58 pm]: I was just packing up, as I thought the Leader of the Opposition would have more to say. I thank him for allowing another minute of debate.

Mr Barnett: Sit down then.

Mr McRAE: The member does not get any better the longer the day goes on. The problem with the Opposition - and the member is the leader - is that it has form on this issue. In more than 50 years not one metre of rail line in this State has been built by a Liberal Government - not one metre! The Liberal Party is in deficit, because it took away the Fremantle railway line. It has form this evening and it still cannot deal with the truth about efficient public transport systems.

Mr Barnett: Your constituents will be very upset over your stand on this.

Mr McRAE: I have one minute left and I will make one point about the line that the Minister for Planning and Infrastructure has taken. It confirms absolutely that the master plan being developed now, which will prove or disprove the viability of this line, rests on some key fundamentals of public transport. There must be directness, efficiency and frequent services to make public transport viable in urban systems. We know that the via-Kenwick link would take 28 minutes from Jandakot to Perth, 45 minutes from Rockingham to Perth and 60 minutes from Mandurah to Perth. The direct route that this Government has proposed will save 43, 26 and 20 per cent respectively.

Debate interrupted, pursuant to standing orders.

House adjourned at 7.00 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

WA REFERENCE HERBARIUM, FUNDING

916. Mr Masters to the Minister for the Environment and Heritage

(1) I refer to the department of Conservation's User Pays survey for the Western Australia Reference Herbarium and ask is the Minister aware of the Herbarium's survey and statement that it is receiving reduced Government funding?

(2) Does the Minister agree that a user pays system must be brought in to assist the Herbarium's budget problems?

(3) If a user pays system is instituted, will Government agencies, including the Department of conservation, be required to pay fees as Category A or B users?

(4) Does the Minister agree that introducing an annual membership would significantly enlarge the amount of money needing to be allocated to membership administration, thus negating part of the justification for introducing annual fees?

Dr EDWARDS replied:

(1) A survey was recently undertaken by staff of the Department of Conservation and Land Management as part of an in-service management course. The aim of the survey was to evaluate community attitudes to a possible implementation of a user pays system for the Reference Herbarium. The Western Australian Herbarium has a number of services to provide with limited funds so must explore the possibility of recovering costs from some client groups for services such as the Reference Herbarium.

(2) The survey results showed strong support for the ongoing operation of the Reference Herbarium but there was general opposition to a user pays system except in certain situations. When the survey results have been analysed, a report and recommendations will be prepared for consideration by the Corporate Executive of the Department.

(3)-(4) These decisions will not be made until a final report on the outcomes of the survey has been considered by the Corporate Executive of the Department.

NATIVE PLANTS AND ANIMALS, THREATENING PROCESSES

918. Mr Masters to the Minister for the Environment and Heritage

(1) What are the major threatening processes placing Western Australia's unique plants and animals at risk of extinction?

(2) Is information available on how many species of plants and animals are at risk as a result of each of these major threatening processes?

(3) If yes, will the Minister list the threatening processes and indicate the number of species of native plants and animals believed to be at risk from each process?

Dr EDWARDS replied:

(1) The major threatening processes affecting threatened species in Western Australia are:

decline in the extent and condition of natural habitats

salinity and waterlogging resulting from rising water tables

predation by introduced predators

dieback resulting from introduced plant diseases, especially Phytophthora species

competition and crowding out by introduced plants

overgrazing by introduced herbivores

inappropriate fire regimes

direct disturbance by human activity.

Climate change is also recognised as a threatening process.

(2)-(3) In most cases there are several different processes affecting a threatened species and it is not always possible to quantify the contribution of each process. Analyses which seek to quantify the contribution of various threatening processes have been published from time to time and I refer the Member to the Department of Conservation and Land Management's 1998 publication 'Western Australia's Threatened Flora' which includes such an analysis for flora at pages 15-16. Currently 135 animal taxa and 337 plant taxa are specially protected

under the Wildlife Conservation Act 1950 as being likely to become extinct (ie. threatened) in Western Australia. In addition, 13 species of animals and 17 species of plants are listed as 'presumed to be extinct'.

MINISTERS OF THE CROWN, STAFF DETAILS

964. Hon. C.L. Edwardes to the Minister for Police and Emergency Services

I refer to the answer to question on notice No. 36 in respect to the Minister's Office and ask will the Minister provide details as to which officers in her office are term of government, seconded and permanent public servants?

Mrs ROBERTS replied:

All officers are Term of Government except the following:

Sheridan Catt	Contract temporary
Leanne Meerwald	Seconded permanent public servant

HERITAGE, REGIONAL HERITAGE ADVISERS AND HERITAGE LISTS WITHIN TOWN PLANNING SCHEMES

1092. Mr Edwards to the Minister for the Environment and Heritage

(1) In reference to the Significant Issues and Trends listed on page 743 of the Budget Estimates for 2001/02, what funding source is available to Local Government for the introduction of positive incentive schemes in establishing heritage lists within town planning schemes?

(2) Given that the identification and conservation of regional heritage places continues to present a significant challenge to this State, how much funding is allocated to the Regional Heritage Advisors programme in the 2001/02 financial year?

(3) How many Regional Heritage Advisors are currently employed by the Heritage Council?

(4) How many hours per month are allocated for the employment of each of the currently employed Regional Heritage Advisors?

(5) How many hours per month will be allocated for the employment of Regional Heritage Advisors in the 2002/03 financial year?

(6) What future funding will be available to the Regional Heritage Advisors programme over the next three years?

Dr EDWARDS replied:

(1) There is no funding source available. The suggestion being made in the Issues and Trends chapter is that Local Government self-funding of such schemes is desirable. There are many examples of it happening in the Eastern States, although it is less common in WA.

(2) The amount allocated in the Heritage Council's budget this year is $180,000 representing an increase of $85,000 over previous years.

(3) Four Regional Heritage Advisors are employed by the Heritage Council of Western Australia servicing 4 regions and 2 services supporting individual local governments (Albany and Kalgoorlie-Boulder).

(4) There are 16 hours per month allocated for each of the services, except for the Kalgoorlie-Boulder service which stands at 22 hours per month.

(5) The number of hours that will be provided is dependent on the extent to which local governments are prepared to commit to the program from 2002. Discussions between the Heritage Council and a number of local governments are in the preliminary stage, and will be progressed over the next 2-3 months.

(6) The future level of funding is likely to be similar to that budgeted in 2001/02.

GOVERNMENT DEPARTMENTS AND AGENCIES, REGIONAL BUYING PREFERENCES

1142. Mr Masters to the Minister for Justice and Legal Affairs

(1) In additional to the broad-ranging State Government policies which allow Government agencies to favour regional suppliers of goods and services over Perth-based suppliers, (e.g., an ability to accept tenders from regional suppliers that are up to 10% higher than Perth-based tenderers), do the agencies for which the Minister is responsible have their own, additional policies or directives on regional buying preferences?

(2) Do the Government agencies for which the Minister is responsible have 'buy local' policies or programs so that, where reasonable and practical, preference is given to the use of local suppliers of goods or services rather than restricting or preferencing metropolitan suppliers?

(3) Do the Government agencies for which the Minister is responsible assess logistical implications and difficulties associated with the provision of goods or services by suppliers located in towns that are remote from the areas in which the goods or services are to be used when choosing successful tenderers?

(4) Do the Government agencies for which the Minister is responsible routinely request local suppliers of goods and services to submit tenders when new or renewing contracts are being let?

Mr McGINTY replied:

DEPARTMENT OF JUSTICE

(1) No. The Department applies the mandatory 'Buy Local Policy' administered by the State Supply Commission. The policy requires public authorities to adopt a ‘buy local first’ philosophy.

(2) No, the only policy applied is the 'Buy Local Policy'.

(3) No. Logistics costs however do form part of the regional supplier’s bid, to which the regional business preference is applied.

(4) Yes.

DIRECTOR OF PUBLIC PROSECUTIONS

(1) No.

(2) No.

(3) No.

(4) No. The Office of the DPP draws its corporate service from Department of Justice and adopts their prevailing policy.

ELECTORAL COMMISSION

(1) No.

(2) No.

(3) No.

(4) Not applicable. The Western Australian Electoral Commission has no regional offices.

EQUAL OPPORTUNITY COMMISSION

(1) The E.O.C. does not have additional policies or directives to supplement existing State Government policies regarding buying local.

(2) The E.O.C. only operates within the Perth metropolitan area and therefore seldom encounters situations where goods and services are sought from regional suppliers.

(3) Not applicable as the E.O.C. only operates within the Perth CBD.

(4) No.

LEGAL AID WA

(1)-(2) The Legal Aid Commission’s existing purchasing policies generally support regional purchasing preferences. The relevant policies are currently being upgraded which will provide greater local procurement considerations.

(3)-(4) Yes, wherever possible.

OFFICE OF THE INFORMATION COMMISSIONER

(1)-(4) When purchasing goods generally or through the tender process, companies listed on the Department of Industry and Technology panel of contracts are used and are usually local (Perth based). This office has no additional policies in relation to specifically directing purchases outside the metropolitan area.

OFFICE OF THE INSPECTOR OF CUSTODIAL SERVICES

(1) No.

(2) Not applicable as the agency only operates within the Perth CBD.

(3) Not applicable as the agency only operates within the Perth CBD.

(4) Yes.

PEEL DEVELOPMENT COMMISSION

(1) This Commission operates strictly in accordance with the State Supply Commission policy guidelines which outlines a ‘value for money’ selection criteria for the supply of goods and services. The Commission does not use additional policies, directives or preferences in this area.

(2) As above.

(3) As above.

(4) Commission tenders for the supply of goods and services are advertised in the local, and where appropriate, regional newspapers.

SOUTH WEST DEVELOPMENT COMMISSION

(1) No. The SWDC does not have policies or directives in regard to local purchasing beyond those applied across the State Government.

(2) Yes. The SWDC incorporates the Buy Local Policy in its purchasing procedures as a basis for giving preference, where possible, to local suppliers.

(3) Yes. The SWDC does assess the logistics of using suppliers remote from the area in which the goods or services are to be used.

(4) Yes. The SWDC routinely requests local suppliers of goods and services to submit tenders when new or renewing contacts are being let

SALINITY, ENGINEERING PILOT PROJECTS

1153. Dr Constable to the Minister for the Environment and Heritage

(1) I refer to the new funding allocations for salinity in the State Budget papers 2001/2 and ask are any of the proposed engineering pilot projects for drainage and pumping located in the Wheatbelt?

(2) If yes to (1), where in the Wheatbelt will the proposed pilot projects be undertaken and what kind of work will those projects involve?

(3) If no to (1), where are the proposed pilot projects to be undertaken and what kind of work will those projects involve?

Dr EDWARDS replied:

1. The locations for the engineering pilot projects have not yet been determined, but will include parts of the wheatbelt.

2. N/A.

3. As I have said in (1) the locations have not yet been determined, but it is likely they will involve evaluation of deep drainage, groundwater pumping, safe disposal, arterial drainage and relief wells.

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