

Legislative Council

Tuesday, 19 February 2008

THE PRESIDENT (Hon Nick Griffiths) took the chair at 3.30 pm, and read prayers.

RESIGNATION OF HON MURRAY CRIDDLE

Statement by President

THE PRESIDENT (Hon Nick Griffiths): Members, I have received a letter from Hon Murray Criddle in the following terms. The letter is dated 2 January 2008 —

Dear Mr President

I hereby wish to notify you that I tender my resignation effective as at 2 January 2008 as a Member of the Legislative Council.

HON WENDY DUNCAN

Swearing-in

THE PRESIDENT (Hon Nick Griffiths): Members, I extend a warm welcome to our guests today to the swearing in of Ms Wendy Duncan as a member of the Legislative Council for the thirty-seventh Parliament. This is subsequent to the resignation of Hon Murray Criddle, whose letter of resignation I have just read. The proceedings today will start with the reading of the commission authorising me to administer the oath. We will then proceed to the reading of the letter from the Electoral Commissioner. I will then call on the newly elected member of the Agricultural Region to be escorted to the table by the Usher of the Black Rod to read the oath and sign the book and the members' Roll. The member may then take her seat in the chamber.

Members, before I call on the Clerk to read out the letter from the Electoral Commissioner, I will read out the commission from His Excellency the Governor. It is to Hon Nicholas David Griffiths, President of the Legislative Council, and states —

I, the Governor, acting under the *Constitution Act 1889* section 22, authorise you, while you are the President of the Legislative Council, to administer the oath or affirmation of allegiance in Schedule E to that Act to members of the Legislative Council.

Members, I now invite the Clerk to read out the letter from the Electoral Commissioner.

[The Clerk of the Council read and tabled the letter from the Electoral Commissioner declaring Wendy Duncan to be the elected member of the Legislative Council to fill the vacancy in the Agricultural Region.]

[Hon Wendy Duncan took and subscribed the Oath of Allegiance and signed the Roll.]

LETTERS OF APOLOGY TO THE LEGISLATIVE COUNCIL

Tabling — Statement by President

THE PRESIDENT (Hon Nick Griffiths): I table a number of letters received in regard to a resolution of the house on Tuesday, 4 December 2007.

[See paper 3609.]

Order of the Day — Motion

On motion without notice by **Hon Kim Chance (Leader of the House)**, resolved —

That consideration of the letters be made an order of the day for a later stage of today's sitting.

BILLS

Assent

Messages from the Governor received and read notifying assent to the following bills —

1. Trans-Tasman Mutual Recognition (Western Australia) Bill 2005.
2. Criminal Code Amendment (Drink and Food Spiking) Bill 2007.
3. Electricity Industry Amendment Bill 2007.
4. Judges' Salaries and Pensions Amendment Bill 2007.
5. Local Government (Miscellaneous Provisions) Amendment (Smoke Alarms) Bill 2007.

6. Petroleum Amendment Bill 2007.
7. Waste Avoidance and Resource Recovery Bill 2007.
8. Waste Avoidance and Resource Recovery Levy Bill 2007.
9. Water Resources Legislation Amendment Bill 2006.
10. Road Traffic Amendment Bill (No. 2) 2007.

LEAD EXPORTS — PORT OF FREMANTLE

Petition

HON SIMON O'BRIEN (South Metropolitan) [3.41 pm]: I present a petition, containing 4 994 signatures, which is couched in the following terms —

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia are opposed to the export of lead through the Port of Fremantle.

Your petitioners therefore respectfully request the Legislative Council oppose the proposal from Magellan Metals Pty Ltd to export containerised lead concentrate through the port of Fremantle, as outlined in the Environmental Protection Authority's Bulletin Report No. 1276, as it would put the health of the Fremantle community and environment at risk and is a breach of the United Nations Basel Convention relating to the movement of hazardous cargo.

And your petitioners as in duty bound, will ever pray.

[See paper 3640.]

PAPERS TABLED

Papers were tabled and ordered to lie upon the table of the house.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

Twenty-fourth Report — "Cross-Border Justice Bill 2007"

HON SIMON O'BRIEN (South Metropolitan) [3.46 pm]: Mr President, I am directed to present the twenty-fourth report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the Cross-border Justice Bill 2007. I move —

That the report do lie upon the table and be printed.

Question put and passed.

[See paper 3641.]

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

Twenty-fifth Report — "Medical Practitioners Bill 2006"

HON SIMON O'BRIEN (South Metropolitan) [3.46 pm]: Mr President, I am directed to present the twenty-fifth report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the Medical Practitioners Bill 2006. I move —

That the report do lie upon the table and be printed.

Question put and passed.

[See paper 3642.]

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

Twenty-sixth Report — "Legal Profession Bill 2007"

HON SIMON O'BRIEN (South Metropolitan) [3.46 pm]: Mr President, I am directed to present the twenty-sixth report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the Legal Profession Bill 2007. I move —

That the report do lie upon the table and be printed.

Question put and passed.

[See paper 3643.]

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION*Twenty-fourth Report — “Town of Claremont Standing Orders Local Law 2007”*

HON RAY HALLIGAN (North Metropolitan) [3.47 pm]: I am directed to present the twenty-fourth report of the Joint Standing Committee on Delegated Legislation, “Town of Claremont Standing Orders Local Law 2007”. I move —

That the report do lie upon the table and be printed.

Question put and passed.

[See paper 3644.]

INDIGENOUS HOUSING FUND — ESTABLISHMENT*Notice of Motion*

Hon Shelley Archer gave notice that at the next sitting of the house she would move —

That this house —

- (1) Accepts and underlines the pre-eminence of the “Inquiry into the Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities”—the Gordon inquiry—and the need for an effective and speedy response from government.
- (2) Acknowledges the importance of the finding by the Gordon inquiry that the provision of adequate housing is a key factor in reducing pressure on families and hence reducing family violence and child abuse.
- (3) Recognises that, to date, well-intentioned policies implemented by successive governments to provide decent housing in Indigenous communities have failed and a new approach is required.
- (4) Stresses the urgency of the needs of Aboriginal communities.
- (5) Urges the government to establish an Indigenous housing fund to be administered by a board of trustees for the benefit of Indigenous communities, with the trustees to be appointed on the basis of their business, community and policy skills and their expertise and standing in the community.
- (6) Requests the government —
 - (a) allocate a minimum of \$150 million to support the Indigenous housing fund in the first three years of its operation; and
 - (b) establish clear and meaningful outcomes to be met by the trustees in the administration of the fund, but otherwise allow innovation and freedom from bureaucratic restrictions in the achievement of those outcomes.

REINTRODUCTION OF SESSIONAL ORDER*Urgency Motion*

THE PRESIDENT (Hon Nick Griffiths): I have received a letter from the Leader of the Opposition in these terms —

Dear Mr President

I hereby give Notice that pursuant to *Standing Order 72*, I intend to move today

“That this House calls on the Government to reintroduce the Sessional Order for this year’s sittings.”

In order for the Leader of the Opposition to move his motion at least four members will need to rise.

[At least four members rose in their places.]

HON NORMAN MOORE (Mining and Pastoral — Leader of the Opposition) [3.50 pm]: I move the motion. Members will be aware of a very serious bashing of a police officer in Western Australia recently. That incident followed a number of similar incidents over a period of time and there was serious concern in the community about the capacity of the legal system to deal with those matters. The Premier, as is his wont, along with the Attorney General, sought to blame the Legislative Council for the fact that some legislation had not been passed and said that the opposition was responsible for clogging up the program. He was then caught out when it was revealed that the legislation had been sitting in the Legislative Council since August last year, had not been brought on for debate and was not on the list of priority bills provided by the government to the opposition at the beginning of this year. The Premier’s claim that somehow or other the opposition was

responsible for the delay of the Criminal Law and Evidence Amendment Bill 2006 was shown up for what it really was. Since then the Premier has decided that he will continue to attack the Legislative Council and create the impression that somehow or other the opposition is deliberately delaying government legislation and that this is an inefficient chamber that is not doing its job properly. Today I want to spend a few moments responding to those allegations. I hope that the government members in this chamber might support me, because they are also members of the Legislative Council.

The first point I want to make very clearly for the benefit of those journalists who do not understand this is that the notice paper, the order of business and the bills we deal with are decided by the Leader of the House. Members here know that, but, regrettably, many others do not know that, including the Premier. The bills we deal with are the ones that the Leader of the House puts on the notice paper. There are very rare occasions when an opposition seeks to change that. As the Leader of the House would know, that happened a few times when he sat on this side of the chamber. The order of business was changed because on a couple of occasions recently the opposition had the numbers, but it is a very rare occurrence. Taking the business of the house out of the hands of the government is not something that I support as a general rule. I know that the Leader of the House does not support that either. That is the first point I want to make. We do not run the house; the government does.

The second point I want to make is that in my view this house is doing a very good job. Members of this house do an extraordinary job reviewing legislation, which is our main purpose for being here. The fact that we do a very good job is a result of the fact that we spend the time and energy looking at the legislation in detail and in many cases sending it off to a committee. The committees do a very, very good job. As I said to the media this morning, they probably do a better job now reviewing legislation than in any time I have been here. I would like the government to acknowledge that, because the government is part of that process.

The Premier has said that members here do not work enough hours. I point out again that the dates we sit are determined by the government, not the opposition. We get notified at the end of the year of the weeks that the house is going to sit the following year. We appreciate getting that notification in advance. We do not have any say in that. The government decides how many weeks we will sit. The hours we sit are decided by standing orders. We operate under standing orders that apply to all of us. Those standing orders determine which days we sit and what hours we sit on those days. For reasons that are unknown to me, we continue to operate under the standing orders when as a house we decided a number of years ago, early in this government's term of office, to change the way the house operates. We determined a number of different sessional orders. We tried out a number of different ways of doing business. We sat for four days a week for a while, sitting two weeks on and one week off. We then changed that. Until the end of 1996 we operated under a system that worked very well, in my view. It was a three day a week sessional order that provided increased time for the government to undertake its business. For reasons that are unknown to me, in 2007, even after I had asked the government to reintroduce a sessional order to give it more time to do its business, it refused to do it. At the end of last year I asked whether it would bring in a sessional order next year, and I got no response. Indeed, a motion has not been put forward to enable us to go back to the sessional order this year. However, the Premier is telling us that we are wasting our time and that we do not spend enough time on government legislation; yet it is the opposition, not the government, that has been arguing for more time for the government, and the government has deliberately not brought on the sessional order. I do not know why. It makes an absolute mockery, Mr Leader of the House, of what the Premier has been saying.

I now draw the attention of the house to the "Department of the Legislative Council: Annual Report 2006-07". I hope members will read that because it is very illuminating. On page 21, under a heading "Practice and Procedure", it refers to sessional and standing orders. It states —

The 2006 Sessional Orders maintained the traditional three day weekly sitting pattern, which included two evening sittings on Tuesday and Wednesday, but altered the times of sitting so that the House commenced sittings earlier on a Tuesday (3:00pm instead of 3.30pm), Wednesday (2.00pm instead of 4.00pm) and Thursday (10.00am instead of 11.00am). Set times were scheduled for concluding business so that the House rose at 10.25pm at the latest on Tuesday and Wednesday and at 6.00pm on Thursday, unless the Sessional Order was suspended. . . .

At the start of autumn sittings in 2007 the Government did not extend the Sessional Order that expired on 31 December 2006 under clause 12. As a result, the House sat for 28 hours less for the same period.

The next page contains a graph, with the heading "Comparison of days and hours under Standing and Sessional Orders (2006 and 2007)". I will not try to describe what that graph says; I suggest members look at it. However, the graph shows that under the sessional order, the number of days was the same, the number of sitting hours was greatly increased, the number of hours for government business was greatly increased from 57 to 76, and the government's time went from 44 to 48 per cent of the house's operation. That is a pretty illuminating statistic. However, page 23 is headed "Sitting hours under Standing Orders, Sessional Orders and Temporary Orders: 2001 to 2007". Again, a table shows the number of hours the house has sat under the various standing

orders, sessional orders and temporary orders we have had since 2001-02. At the bottom of that table is the comment —

The Sessional Orders and the absence of an Address-in-Reply debate resulted in a significant increase in time devoted to Government business time. This is represented in Figure 4.5 below.

That is on the next page. It is a very illuminating graph that shows the government's time as a proportion of the total time sat in the house under the three different orders we have had since 2000-01. There is no doubt in my mind—it is as clear as the nose on a person's face when looking at this graph—that the government had a lot more time for its own business under the sessional order. This is what the opposition has been arguing for. We have been knocked back by the government, and the Premier blames us because we do not sit long enough. That is just absolutely absurd. The Premier's comments, made for reasons that escape me, are plainly wrong.

We are putting to the government today a proposition that if members opposite believe and agree with what the Premier is saying, this is a way in which we can give members opposite more time to do government business and give them a chance to have more legislation passed than occurs under the standing orders that they seem to have chosen to implement in this house last year and this year. Therefore, we are putting forward to members opposite today a proposal to do something about the issues that the Premier thinks are important. He said yesterday, I gather, that we might have to sit for 40 weeks of the year. What I reckon should happen is that the Assembly should sit for 40 weeks of the year and spend a bit of time on the legislation it passes. That might save us a lot of time. However, the way the Assembly operates is that it whizzes through the legislation in five seconds flat and sends it here, knowing that this is where it will be properly scrutinised. That is our job anyway.

The Premier also has been arguing—along with the pseudo-Premier, the Attorney General—that the fact that 43 bills are sitting on the notice paper and have not been dealt with is somehow or other a logjam and is being caused by the opposition; that is, 43 bills, Mr President. Let me just read out the number of bills that were not passed and that were sitting in the Legislative Council in each of the last four years of the Court government. I mention those four years—even though I can go right back into history if the Leader of the House wants me to—because that was when the Court government did not have the majority in this house. The Labor Party, the Greens (WA) and the Australian Democrats comprised the majority. At the end of 1997-98 there were 53 bills not dealt with; 67 at the end of 1998-99; 84 at the end of 1999-2000; and 59 at the end of 2000-01. That was a result of the way in which the Legislative Council operated when you, Mr Leader of the House, sitting on this side of the house had the numbers! Currently, with the way in which the house is configured, when most of the time the government has the numbers in this house with the support of the Greens, the number of bills not dealt with by the end of last year was 47 — 43 government bills and four non-government bills, or private members' bills. If the government wants to deal with the non-government bills, one of them is mine; the Leader of the House might like to bring it on. Perhaps that is one of the bills Mr McGinty is in a hurry to deal with; who knows?

Hon Kim Chance: I am sure we can do a deal on that.

Hon NORMAN MOORE: That is how those guys opposite operate: "Let's do a deal."

The facts of the matter are very simple. This chamber has—I have the figures going back to 1983-84—always had a number of bills sitting on the notice paper at the end of each session that are not dealt with for all sorts of reasons. One reason is that they are no longer required because events have overtaken them; another is that they are too complicated and the government has decided not to deal with them because an election is coming up. Whatever the reason is, the bottom line is that the number of bills left on the notice paper in the last four years of the Court government was significantly more than the number of bills that are left on the notice paper now from last year. What I am saying to the Leader of the House is that he is doing pretty well; yet his parliamentary leader is still complaining about the way this house operates.

At some time I would like to hear the Leader of the House and his ministerial colleagues defend this chamber, because they are part of it just as we are. They are part of the way this chamber operates. I believe they have some regard for the place. I believe most members of the government in this chamber think we do a good job. I hope most of them were offended when their Premier came out with the absolutely outrageous statement he made yesterday. Members should read his press release; it is the ranting of somebody who has lost the plot and has to find somebody to blame. He was caught out by *The West Australian* over that particular piece of legislation and he has not been able to forgive anybody since. He has to spend every waking moment trying to somehow or other get across the message that all the faults and problems confronting Western Australia have been caused by the 34 people sitting in this place, or at least the people sitting on this side of the chamber. Obviously, the Premier does not understand what this chamber is all about.

The opposition is therefore calling on the government today to go down the path that the opposition has been advocating, and support reintroducing the sessional order. That will give the house more time to deal with government legislation, and I suspect we will get a far more efficient outcome than we are getting now. However, it is up to the Leader of the House. The Leader of the House has never been able to tell me why he did

not introduce the sessional order last year. I asked him many times. He just shook his head knowingly and expected that I would knowingly know why he did not want to do it. I still do not know, other than that we make a decision on motions on notice. If that is the reason, let us do a deal! The Leader of the House can talk about it if he wants to, but the interminable continuation of motions on notice that can go on for six months—as happened when we were in government, I might add; a complete abuse of the system, I must say, in retrospect—is an absurdity. We therefore overcame that absurdity by having a vote every second week on motions on notice. If that is the problem, tell us! However, if the government wants more time, it should take up our offer and bring in the sessional order, as it will get about 50 per cent more time for its business.

HON KIM CHANCE (Agricultural — Leader of the House) [4.04 pm]: I am happy to support the Leader of the Opposition's motion.

Hon Norman Moore: I should hope you would.

Hon KIM CHANCE: Yes, it is a great way to start the year, is it not?

I need to fill members in on a couple of things the Leader of the Opposition mentioned. One of those is that the Premier was caught out by *The West Australian*.

Hon Simon O'Brien: Caught out by us!

Hon KIM CHANCE: Or he was caught out by the Liberal Party. Let me do my mea culpa here—that was not the Premier's fault. He took the facts as he understood them to be. It is my fault that the Security and Related Activities (Control) Amendment Bill 2007 was not included on the original 19-bill list. It was supposed to have been a 20-bill list; it was not.

Hon George Cash: That is the Kevin Rudd excuse.

Hon KIM CHANCE: No. Members know that the Security and Related Activities (Control) Amendment Bill 2007 was on the daily bulletin last year.

An opposition member: That is the wrong bill.

Hon KIM CHANCE: Which bill are members talking about?

Hon Norman Moore: The Criminal Law and Evidence Amendment Bill.

Hon KIM CHANCE: Sorry, the Criminal Law and Evidence Amendment Bill 2006.

Hon Norman Moore: I can see why you are getting it confused.

Hon KIM CHANCE: All right, that bill. I thank the Leader of the Opposition for reminding me of that.

Hon Simon O'Brien: That problematic bill.

Hon KIM CHANCE: Yes, that problematic bill. Members know that it was on the daily bulletin at the end of last year. Members know that it was on the government's intended list of bills to deal with. The fact is that I did not include it with that list of 19 bills that I did rather hurriedly send out, and that was my fault, not the Premier's. People make mistakes; we are people.

The Premier made the point that he is concerned that insufficient legislation is being passed through the Legislative Council, and it is axiomatic that that is the case. It is one thing to say that X number of bills were left on the notice paper in the last four years of the Court government. The Legislative Council managed to pass 43 or 44 bills last year. None of those bills was all that contentious. It was not as though we had a highly contentious bill that held us up for a long time. It was not a good performance. While the Leader of the Opposition did not say so, he actually agrees with that by means of saying that the sessional order would allow us to have better performance.

Hon Norman Moore: You are the one complaining about not having enough time. I am asking how you will have more time. I think we are doing pretty well.

Hon KIM CHANCE: I take the Leader of the Opposition's point that it takes time to properly review legislation. I believe we do a very good job of reviewing legislation, both here in the chamber and particularly in the committees. The Premier said that if the Legislative Council requires more time, it needs to sit for a longer period. The Leader of the Opposition is not in fact disagreeing. He is saying that there needs to be a process whereby more time is allowed for the government's legislation to be considered if we are to deal with the legislation which is before us and which the people of Western Australia, quite reasonably, are requiring us to deal with. I am happy to contemplate going back to the sessional order. The motion calls for this house to call on the government to reintroduce the sessional order. If it were only in the government's hands, we would still have a sessional order. There are issues around the 2006 sessional order with which we have problems.

Hon Norman Moore: Why don't you tell us what they are?

Hon KIM CHANCE: That is a matter for the Leader of the Opposition and me to discuss outside this place. I will not go into those in great detail. I will certainly not trawl over discussions that the Leader of the Opposition and I have had. I am happy to go through those issues and deal with them one by one. I believe a sessional order and the way it has worked in this house in previous years has been very successful. I am happy that this motion has been moved. It has cleared the air somewhat towards indicating the opposition's support for a sessional order. I am quite happy to —

Hon Norman Moore: I have asked you about seven times in the past 12 months whether you wanted one.

Hon KIM CHANCE: Yes, I understand that. However, as I have said, I will not trawl over discussions that the Leader of the Opposition and I have had about this particular issue.

Hon Norman Moore: I have raised it in the house.

Hon KIM CHANCE: I understand that, but, again, I will not be drawn on that question. I do not think the motion requires us to be drawn into the detail of it. I think the motion requires us to make a commitment to work through those issues. I am happy to go through the issues that the Leader of the Opposition and I have identified as bars to the creation of a workable sessional order. I think the sessional orders have worked well. There are other things that we can do, and I have had discussions with other members, most notably Hon Giz Watson, as well as the Leader of the Opposition, about the way we can improve the flow of business through this house. I am always ready to try to work through those issues so that members can have a business list in front of them that is far more predictable than that which they have had in the past, which is an issue that Hon Giz Watson has raised with me. However, other members have particular issues with the way in which business flows into the house and when we expect to finish business.

Hon Norman Moore: Your second list of priorities was different from the first list of priorities and they were given within two weeks of each other. I wish you would tell us what you want to do.

Hon KIM CHANCE: I provided a list of priorities that I have already conceded was missing one important bill.

Hon Norman Moore: No; the second list was different from the first list.

Hon KIM CHANCE: It was not; it was an additional list.

Hon Norman Moore: It had another five bills on it that weren't on the first list.

Hon KIM CHANCE: The list was prompted by advice from the Liberal Party—from its leader.

Hon Norman Moore: Prompted by the Attorney General saying, "Get my bills done, Mr Leader."

Hon KIM CHANCE: It was not, actually. If the Leader of the Opposition goes back into history, he will find that it was the Liberal Party that said very publicly in response to our invitation to each of the groups in this house to consult on these bills, "No, we want these bills done." We said, "Okay; that is what we will do", and so we brought all the law and order bills forward so that we could deal with them. They are listed first on the notice paper. I do not know how much consultation the Liberal Party needs on this matter; perhaps we should have started that process a little earlier. At least now we know what the two major parties are intent on dealing with. The Liberal Party said that it wants to get this legislation through. We agree with it; we think that is fine. I am happy to support the motion moved by the Leader of the Opposition.

HON SIMON O'BRIEN (South Metropolitan) [4.12 pm]: I am delighted that the honourable Leader of the House supports the motion of the Leader of the Opposition, which calls on the government to reintroduce the sessional order for this year's sitting. It is a pity that, under standing order 72, an urgency motion does not get put to a vote or achieve resolution. However, I look forward to the honourable Leader of the House giving notice that he intends to introduce a motion to enable the adoption of a sessional order at the earliest opportunity.

Hon Kim Chance: I will.

Hon SIMON O'BRIEN: That is excellent; we have achieved something. Fortunately, we have not run out of time for debate today. This very well conceived motion moved by the honourable Leader of the Opposition was brought about by a very unfortunate and dishonest incident that involved no less a figure than the Premier of this state in extremely offensive circumstances. We had a disgraceful situation—a terrible situation—involving a callous and cowardly assault on one of our police officers. Members on both sides of the chamber will be aware of that shocking incident. We were extremely distressed by news of the attack. We also reserve a particular form of determination that the people who are responsible for such assaults on our law enforcement and other public officers shall not go unpunished and we are determined to show our empathy with those who risk life and limb while serving on our behalf. It was a pathetically poor shot taken publicly by the Premier to try to make out that somehow it was this house's fault, and somehow the Liberal opposition's fault, that there was not some harsher remedy available on the books to deal with the authors of such grave offences.

The Premier was shown to be an absolute fraud in the remarks he recently made. We were able to produce the evidence to show that it was not we who delayed the bill in question, which is the Criminal Law and Evidence

Amendment Bill 2006. In summary, this bill was brought into another place in similar circumstances in response to another incident of assault against a public officer back in 2006. In due course it made its way from another place to this place. It was read in and was being dealt with in this house in March 2007. The lead speaker from the opposition, Hon Donna Faragher, had already completed her remarks in the second reading debate, indicating the support of the opposition for the bill. It was on 20 March 2007 that Hon Giz Watson moved during the course of her second reading contribution that this bill be referred to a committee for inquiry and report. It was the government that supported that referral. On three occasions the committee reported to this house seeking an extension of time in which to deliberate. The committee was dominated not by the opposition but by the government. On each occasion the house—bear in mind it is the Greens and the government that have the numbers to decide such things—gave extensions of time. In due course the committee tabled its report. Hopefully, we will get on to that report today, which is in the stack of papers I have beside me, because we are keen to proceed with it. The committee reported in August 2007. The bill has not been brought on for debate by the Australian Labor Party government, headed in this place by the Leader of the House, at all since then.

The other day, during the course of the public furore over the matter I referred to in my opening remarks, which is the assault on the police officer with such devastating impact, the Premier himself made the snide, awful, contemptible remark that somehow this house and the opposition, the Liberal Party in particular, were responsible for holding up this bill. That is absolutely untrue. This bill has been available to the government to bring on on any day it has liked since August of last year, and the government has failed to do so. The Leader of the House has just told us that it was given priority throughout the last weeks of last year's sitting. Rubbish! That is absolute rubbish! That is not true.

Hon Kim Chance: That is not what I said either.

Hon SIMON O'BRIEN: The Leader of the House said it was included on the business paper.

Hon Kim Chance: Yes.

Hon SIMON O'BRIEN: Let me tell you, sir, it was not! These are the consecutive sitting weeks in reverse order: in the week of 4 to 6 December it was not included in the order of business. In the week of 27 to 29 November it was not included in the order of business. In the week of 20 to 22 November it was not included in the order of business. In the week of 13 to 15 November it was not included in the order of business. In the week of 23 to 25 October, yes, it was included in the order of business, but the priority given to it by the government, referring to orders of the day that were bills, meant that it was seventh out of 11 or 12. Some priority that was! All this time this government led by this Leader of the House was bringing on other business.

What was the Labor Party trying to do? It was desperately trying to get rid of some factional ex-member of the Labor Party. That is what the Labor Party devoted all the house's time to. Now, in 2008, the Premier says that somehow the opposition has been holding up the legislative program! It is blatantly untrue! To compound the damp insult and falsehood, since the Premier was exposed as a fraud for his remarks, he has continued to assail this house, including all members sitting opposite on the government benches, with the same false allegations that we are somehow failing to deal with this particular piece of legislation. Is not the deafening silence from the government benches interesting? Government members know damn well that their Premier has been caught out in a lie, and they are ashamed of him because he persists with that arrogant lie.

By letter dated 21 January, the government, via the honourable leader of the government in the Legislative Council, conveyed to all members its legislative priorities for the 2008 autumn session. It is a long list of bills, and I can tell members that the Criminal Law and Evidence Amendment Bill 2006 is not among them. It is as simple as that!

Hon Kim Chance: I already explained our position on that.

Hon SIMON O'BRIEN: Yes, it was because the Criminal Law and Evidence Amendment Bill 2006 did not have any priority. It is as simple as that!

Hon Kim Chance: No; I said I made a mistake—so hang me.

Hon SIMON O'BRIEN: I can accept that, but I think the Leader of the House made a bigger one when he sent members another letter, dated 15 February, headed "Update on the Legislative Priorities for the 2008 Autumn Session of the Legislative Council". All of a sudden the Criminal Law and Evidence Amendment Bill 2006 is top of the wozza, and there are a lot of other bills on the priority list that were not there previously.

Hon Kim Chance: That's right. That's what we were invited to do by your parliamentary leader, Troy Buswell.

Hon SIMON O'BRIEN: The Leader of the House is being disingenuous, with respect —

Hon Kim Chance: I don't think so.

Hon SIMON O'BRIEN: The fact is, the Premier was caught out in a lie.

Hon Kim Chance: No, he didn't tell a lie.

Hon SIMON O'BRIEN: Yes, he was. He was caught out in a lie!

Hon Kim Chance: I made a mistake, and I think what you have said is unparliamentary, and you might like to correct that.

Hon SIMON O'BRIEN: I think what the Premier said outside this place is disgraceful. If the Leader of the House refuses to apologise or to stand up for this house —

Hon Kim Chance: I think you should correct that term.

Hon SIMON O'BRIEN: Correct which term?

Hon Sue Ellery: The unparliamentary term.

Hon Kim Chance: I will do it formally, if you like.

Hon SIMON O'BRIEN: The Leader of the House can do what he damn well likes, because he has gone down in my estimation!

Withdrawal of Remark

Hon KIM CHANCE: Hon Simon O'Brien called the Premier a "liar", or implied that he told a lie. I believe that that is outside the standing orders of this house.

The PRESIDENT: There is no doubt that that expression is unparliamentary.

Hon SIMON O'BRIEN: Mr President, I apologise and withdraw.

Debate Resumed

HON GIZ WATSON (North Metropolitan) [4.23 pm]: The Greens support the urgency motion. I have a limited amount of time, but it has been said that, whichever party has been in government, the Greens have tried to be cooperative in dealing with issues of the order of business, which bills are dealt with and how the business is organised. That has occurred since I have been in this place. We have made what we believe are some other helpful suggestions about a cooperative approach to deciding which bills are not contentious. That is probably something that can still be addressed, because it goes to the same question of how we can ensure that bills are passed in an efficient way, while at the same time giving them the necessary scrutiny. At the end of the year, there is always a kind of rush of 10 bills on the last day, all of which probably could have been dealt with in a more timely fashion over several months. The Greens have attempted to raise this issue with the Leader of the House. I am not suggesting the Leader of the House is not interested in discussing these things. I believe it would help to have business management meetings more frequently, even if it was only once every six weeks. The Greens (WA) would be happy to identify the bills we believe we could deal with expediently. I sense that the Liberal opposition would also be in favour of that. I reiterate the point that has been made about the priority list of bills that has been provided. On Friday, when we received the second group of priority bills, indicating which bills —

Hon Norman Moore: At five o'clock in the afternoon.

Hon GIZ WATSON: That is right—on Friday at five o'clock in the afternoon. The list indicated nine bills that the government wished to prioritise during the first two sitting weeks. It is absolutely the government's prerogative to do that, but I was then left with five bills that I did not know about until last Friday afternoon, and which I now have to deal with during the first two-week session.

Hon Norman Moore: They weren't on the previous priorities.

Hon GIZ WATSON: They were not on the previous list; that is why I did not know about them. It would have been helpful to have known about them a bit earlier. As a small party, it is virtually inhuman to expect the Greens (WA) to adequately look at five bills over the weekend and, possibly, Monday. That is an issue.

It is really unfortunate for this issue to become politicised because I think it tends to break down the goodwill that usually operates in the house, although I understand that we are in politics and that these things happen. However, I was deeply offended by the criticism from both the Premier and Hon Jim McGinty on this issue, because when the upper house is falsely accused of delaying important legislation, it reflects upon the Greens (WA), the Liberal Party and the government. I do not think the criticisms were accurate. The reality was that the Criminal Law and Evidence Amendment Bill 2006 could have been dealt with quite expediently last year because the Standing Committee on Legislation had done its work. I might correct the Deputy Leader of the Opposition's suggestion that the committee sought an extension three times; it happened only once. According to the executive summary of the committee's report on the bill, only one extension of a couple of months was sought. I do not think it was actually unreasonable to take a bit of time over a complicated bill that dealt with criminal matters.

The Greens (WA) offer assistance and cooperation in any further discussions outside the chamber about how to improve the efficiency of the passage of bills. We are quite happy to move to sessional orders. It would suit the Greens (WA), as it would provide non-government time to debate private member's bills. We are therefore enthusiastic about a return to sessional orders, which would also have the advantage of giving the government more time for government legislation.

The Greens (WA) have regularly raised the issue of speaking times. I know it is a debatable point, but we still argue that 45 minutes of speaking time is more than necessary for any given bill. The Greens (WA) have always discouraged speakers being given unlimited speaking time. I do not suggest that that particular provision has been misused in recent years; that is not the issue.

The final point I wish to contribute to the issue of the workload and output of the Legislative Council concerns the research capacity provided by the Parliamentary Library. I sent to the Leader of the House—I also sent copies to the Leader of the Opposition and the Leader of the National Party—a proposition for the library to be funded to provide research notes for all members, as happens in the Parliaments of New South Wales, Victoria, Queensland, Tasmania and South Australia, and the federal Parliament. With regard to members being prepared for debates in a timely fashion and being given assisted capacity for research, I think that will also be a great additional asset for the Legislative Council. I know that has been raised before, but I put that also on the record. If we combine those recommendations, we will find that we will be able to deal expediently with those matters that can be dealt with expediently and spend the appropriate amount of time on bills that need some time to consider. Some bills are about very serious matters and can be complicated. I do not think the “run rate” or the number of bills we churn out is necessarily the way to judge how we serve the best interests of democracy and the state anyway. Actual figures do not give us much; it is a matter of how serious a bill is. We can deal with a bill in five minutes or spend, say, two weeks on it. We, as members of Parliament, are in the best position to judge how much time should be spent on legislation.

HON HELEN MORTON (East Metropolitan) [4.30 pm]: I support the motion moved by the Leader of the Opposition and raise a couple of issues about what I think could improve efficiency. Those issues relate to what happens to bills before they get to this place. One of the recommendations to get more bills passed was that the Legislative Council sit for more hours. However, if a commitment were made by the government to improve the way bills are drafted in the first instance and improve the quality of work undertaken in the other place before bills get here, we would not hear the Premier making the stupid and ill-informed comments we read in the press the other day. The Premier made a statement about the government not being able to control the upper house. In some respects, other than the agenda and the sessional orders, that is correct. He is saying that the Council does not operate as a rubber stamp. Thank God it does not operate that way. The best example of the types of bills that have been introduced into this place was the Machinery of Government (Miscellaneous Amendments) Bill. Even though it had been introduced in this place, in seeking to draft amendments we were trying to amend bills that had been repealed up to three years ago. No-one in the other place, or the government advisers, had bothered to find out about that repealed legislation before the bill was presented to this house.

The government can do a helluva lot of preparatory work before bills reach this place if it wants to achieve better and more efficient outcomes. I think the Premier has a problem with the amount of time bills take to pass through this house. The length of time is a direct result of the sloppy and ineffective work done by the government in cobbling together ideas and somehow expecting the Legislative Council to rubber stamp that work. I for one believe that members here will not do that. It is not only the members on this side of the house who agree that we should not be acting as a rubber stamp. Perhaps an easy way to demonstrate the poorly drafted legislation is by pointing out the number of amendments that have been made by the respective parties in the past three years. In 2005 in the Legislative Council the government proposed 92 amendments, the Greens 38 and the Liberals 41; in 2006 the government proposed 276, the Greens 118, totalling 394, and the Liberals 104; in 2007 the government proposed 281, the Greens 23, totalling 304, and the Liberals 13. I ask members: why are hold-ups occurring? They are occurring because sloppy legislation is arriving in this house. Not only the opposition recognises that the legislation is sloppy and needs an enormous number of amendments to make it acceptable, but also government members recognise that when the legislation reaches here it is in a really bad way.

Hon Ken Travers: A lot of those amendments would have been made as a result of negotiations with the other parties. They may have been moved by the government but they resulted from discussions with the other parties in this chamber.

Hon HELEN MORTON: Regardless of how amendments are made, the number of amendments reflects that the legislation is pretty sloppy by the time it gets here.

Hon Ken Travers interjected.

The PRESIDENT: Order! If Hon Ken Travers wants the call, he can have it when Hon Helen Morton has finished speaking.

Hon HELEN MORTON: Thank you, Mr President. In 2001, 41 bills were passed with seven amendments; in 2002, 64 bills with 20 amendments; in 2005, 44 bills with 19 amendments; in 2006 that increased to 78 bills with 34 amendments; but in 2007 it dropped to 44 bills with 11 amendments. Amendments to three of those bills are still waiting to be dealt with in the other place. Where is the hold-up? I will go on to another area of concern to me—the work done by committees. The amount of work done by committees is a result of the state in which bills arrive at this house. In 2005-06, 73 hours of Legislative Council committee hearings and 84 hours of Legislative Assembly committee hearings were recorded by Hansard. In 2006-07, 114 hours of Legislative Council committee hearings and 125 hours of Legislative Assembly committee hearing were recorded. In 2007-08, up until 31 December 2007, 97.5 hours of Legislative Council committee hearings and only 19 hours of Legislative Assembly committee hearings were recorded. The number of hearings recorded by Hansard in 2005-06 was 36 in the Legislative Council and 36 in the other place. In 2006-07 there were 60 in the Legislative Council and 48 in the other place. In 2007-08, so far, there have been 42 Legislative Council committee hearings and 12 Legislative Assembly committee hearings. Why is the council doing so much more work and having to deal with so many more amendments? It is because the bills arrive in this place in such a sloppy fashion. The work done by the government involves cobbling together any old ideas and throwing them together in the form of a bill. It then expects the Legislative Council to simply rubber stamp the legislation. Thankfully for the people of Western Australia, that is not happening.

HON ROBYN McSWEENEY (South West) [4.37 pm]: In 2001, when I was first elected to this place, standing orders were in force. I later had the benefit in 2005 of sessional orders. I preferred the sessional order system, and I made an adjournment debate speech asking why the government did not sit down and consult all the parties, as it had done previously. Clearly, there was more productivity back then. Some of the press articles about the Premier's words have amazed me. One such article reads —

HAVING lost control of the upper house after a Burke scandal, Alan Carpenter has urged the WA opposition to pass pending legislation and be more efficient.

There are National Party and Greens (WA) members in this chamber, and an Independent. Then there is the opposition—the Liberal Party. The Premier seems to hit out only at the Liberals. The article continues, further on —

“We should say goodbye to the days when the upper house of the West Australian parliament is used simply to frustrate the legislation, used for opportunistic political purposes,” Mr Carpenter said.

“What I'm saying is that the days when we accept the complete inefficiency of the upper house of the state parliament, or that it be used as a purely political football, are going to come to an end.”

Those days came to an end a long time ago, if the upper house was indeed ever used to frustrate legislation. The Premier said that nine pieces of legislation were identified for passage. Only four of those pieces of legislation were listed last year. He said that, instead of sitting for 21, 22 or 23 weeks, the upper house should sit for 35, 36 or 40 weeks each year. I hope that was said in jest, because there are only 52 weeks in a year, and that sitting schedule would leave us just 12 weeks in our electorates. I believe it was said in jest or sarcasm, but once it was said, the opposition gets the bad headlines, when the problem is that the legislation is poorly drafted. I remember, as does Hon Kim Chance, the Environmental Protection Amendment Bill 2002, which required some 140 amendments. It was a shocking piece of legislation, and three years later we were still arguing the toss over it. One of the bills on the list is the Parental Support and Responsibility Bill 2005. That bill was poorly drafted and poorly worded. It went to a committee, which did a lot of work on it, and then came back to the house.

Hon Ken Travers: You still oppose the bill.

Hon ROBYN McSWEENEY: No, the bill is wrong, and we are still having discussions about it. Hopefully, those discussions will be to the benefit of parents and children, when we finally get through with consulting and discussing it. That is what we do in this place. We sit down with all the parties, and we discuss legislation. The Premier is claiming that the Liberal Party is holding up legislation. That is clearly untrue. Hopefully there will be another government scandal somewhere down the track, because scandals seem to be coming out of the woodwork a lot lately, and I am sure that will happen again.

I refer to a news article dated 14 July 2004 and headed “WA Govt angry at ‘sluggish’ Upper House”. The article states in part —

A Western Australian Government Minister has launched a scathing attack on the state's Upper House, saying its level of productivity this year has been appalling.

It seems that every time the government wants to make a point or divert attention from itself, it attacks the upper house as though it is some sort of joke in the community. The upper house is not a joke. It does really important work. I am proud of the work I have done while I have been a member of the upper house. The work that Hon Sue Ellery and I did on the foster care assessment report, and in looking at how the Department for Community Development had become unmanageable, was very important. That work would not have been done

had there not been an upper house. The upper house is certainly very necessary, and I am very proud of the work that we do. The word needs to be sent to the other place and to the Premier that he should stop attacking us, because in doing so he is attacking not only the Liberals, but also the Greens and the Independent member. He is also attacking the government side. He is actually saying that members opposite are also hopeless. That is wrong. There are good people on the Labor side. The Greens are very good at looking at legislation and are very thoughtful —

Hon Giz Watson interjected.

Hon ROBYN McSWEENEY: The Greens are very concerned about legislation. We all are. That is why we are members of this house. Mr Carpenter should stop his ranting and raving, because most people realise that it is just that—ranting and raving. I hope that Hon Kim Chance will take what I have said on board, and that we can all sit down and do some consulting and get some sessional orders back into this place that will work more effectively than the standing orders currently work. A bit of consultation will not hurt.

HON NORMAN MOORE (Mining and Pastoral — Leader of the Opposition) [4.42 pm] — in reply: I thank the Leader of the House for agreeing so readily to this very sensible proposition. However, I am very sorry that he did not tell us why we have not been operating under the sessional order for the past 12 months. I am also very sorry that he did not tell us why the Premier has chosen to attack this house for not working hard enough. The Leader of the House knows that the opposition was prepared to continue with the sessional order after 2006 to give the government more time. It is the government that is claiming that it does not have enough time. It is not us. The government has said that it needs more time. Therefore, we have said that we will go along with the sessional order, for two reasons. The first is that it will give the government more time for its legislation. The second is that it will also give the opposition more time. At the moment, the opposition is given one hour a week for opposition business—that is the one hour that we are using now—and that is it, apart from motions on notice, which can drag out for generations.

Hon Ken Travers: You are saying you are willing to give us more time. This afternoon is a classic example of how you are wasting time. There have been four speakers from your side, and they have all said the same thing. After you spoke, the other three speakers added nothing new to the debate. We could have gone onto orders of the day by now.

Hon NORMAN MOORE: I was wondering when Hon Ken Travers would be making his contribution.

Hon Ken Travers: I had intended to make a contribution if no-one else from your side did, but I did not want to delay the debate, because I want to get on with orders of the day.

Hon NORMAN MOORE: I have to say that Hon Ken Travers has changed his tune since he has changed sides. Hon Ken Travers should look at what he did when he was sitting on this side of the house. Hon Ken Travers knows, and the Leader of the House also knows, about the times when the then opposition would take the business of the house out of the government's hands, and how it would refuse to deal with legislation until we had dealt with a particular motion. I remember how I would move that the house now deal with order of the day such and such, and how the opposition would vote against it. We could not even deal with the government's legislation—we could not even get the debate going—because the then opposition would not allow us to. Members opposite said, "We will deal with your legislation when you have dealt with this particular motion we want passed". Therefore, do not give me any rubbish about that, Mr Travers, because my memory is long! I know that what we are doing now will provide the government with a better opportunity to achieve what the Premier thinks he needs to achieve. At the same time, it will give us more time to promote arguments under private members' business, and it will provide certainty for members about when things will happen. That was why the sessional order was introduced in the first place. One day, Mr Travers will tell me why he did not bring it in last year. The leader did not; Mr Travers might. I think I have a fair idea and I said it in my speech earlier: the government does not want a resolution in respect of motions on notice. It is as simple as that. If that is the reason, then just say it!

Hon Ken Travers interjected.

Hon NORMAN MOORE: We have put forward a very compelling argument today about how well the Legislative Council works, why it is here and its purpose. Some of the statistics provided by members, particularly Hon Helen Morton, are very compelling: the number of amendments that are moved in here and the amount of time spent in committees. If the government does not want its legislation scrutinised properly, then say so. If Mr Carpenter simply wants this house to pass his legislation without scrutiny, just say so. If the government does not want the Legislative Council, just say so! However, members opposite cannot have it both ways. The bottom line is very simple: the government does not want its legislation scrutinised. It is looking for an excuse for an early election down the track and an obstructionist Legislative Council might just be part of that scenario—who knows?

Hon Ken Travers: How does that work under the current act?

Hon NORMAN MOORE: If the member is going to ask questions like that, I simply cannot help him.

Hon Ken Travers: Exactly! You know as well as I do —

The PRESIDENT: Order, Hon Ken Travers! The Leader of the Opposition has very limited time.

Hon NORMAN MOORE: I would have been quite happy to give my five minutes over to Hon Ken Travers to make the speech he is trying to make in my time. I would have loved to hear him explain why he did not have a sessional order last year and why he has changed his mind now. I presume he has changed his mind: does he agree with the leader?

Hon Ken Travers: I always agree with the leader.

Hon NORMAN MOORE: He always does as you tell him! Is that what happens? I thank the Leader of the House for agreeing to at least contemplate a sessional order. I hope he will tell his leader, the Premier, that these things can be done; that the opposition has suggested it and has been doing so for the past 12 months. That might overcome some of the Premier's problems, but I doubt it because he will always try to find some reason to blame somebody else for the mistakes that his government is making.

Motion lapsed, pursuant to standing orders.

POISONS AMENDMENT REGULATIONS (NO. 4) 2007
“WORKCOVER WA GUIDES FOR THE EVALUATION OF PERMANENT IMPAIRMENT”,
SECOND EDITION
HEALTH (AQUATIC FACILITIES) REGULATIONS 2007
OCCUPATIONAL SAFETY AND HEALTH AMENDMENT REGULATIONS (NO. 4) 2007

Withdrawal from Notice Paper

By leave, on motion without notice by **Hon Ray Halligan**, resolved —

That motion for disallowance 113, Poisons Amendment Regulations (No. 4) 2007; motion for disallowance 114, “WorkCover WA Guides for the Evaluation of Permanent Impairment”, Second Edition; motion for disallowance 115, Health (Aquatic Facilities) Regulations 2007; and motion for disallowance 116, Occupational Safety and Health Amendment Regulations (No. 4) 2007, be withdrawn from the notice paper.

LOCAL GOVERNMENT (RULES OF CONDUCT) REGULATIONS 2007 — DISALLOWANCE

Discharge of Order

On motion without notice by **Hon Ray Halligan**, resolved —

That order of the day 528, Local Government (Rules of Conduct) Regulations 2007 — Disallowance, be discharged from the notice paper.

NON-CORONIAL POST-MORTEM EXAMINATIONS CODE OF PRACTICE 2007 — DISALLOWANCE

Discharge of Order

HON RAY HALLIGAN (North Metropolitan) [4.51 pm] — without notice: I move —

That order of the day 529, Non-Coronial Post-Mortem Examinations Code of Practice 2007 — Disallowance, be discharged from the notice paper.

The PRESIDENT: I note that we have come back a bit early in the piece—what with the date being 19 February. However, would Hon Ray Halligan care to inform the house as to why he has moved his motion?

Hon RAY HALLIGAN: Thank you, Mr President. I inform the house that the concerns of the Joint Standing Committee on Delegated Legislation have been satisfied.

Question put and passed.

SHIRE OF WILUNA HEALTH LOCAL LAWS 2007 — DISALLOWANCE

Discharge of Order

HON RAY HALLIGAN (North Metropolitan) [4.52 pm] — without notice: I move —

That order of the day 549, Shire of Wiluna Health Local Laws 2007 — Disallowance, be discharged from the notice paper.

By way of explanation, I advise the house that the concerns of the Joint Standing Committee on Delegated Legislation have been satisfied.

Question put and passed.

CRIMINAL LAW AND EVIDENCE AMENDMENT BILL 2006*Second Reading*

Resumed from 21 March 2007.

HON GIZ WATSON (North Metropolitan) [4.53 pm]: Eleven months ago, during my second reading contribution, I moved that the Criminal Law and Evidence Amendment Bill be referred to the Standing Committee on Legislation. I do not wish to make any further second reading comments. I am satisfied that the Standing Committee on Legislation has done a good job. On behalf of the Greens, I am happy to move to the committee stage of the bill.

HON GEORGE CASH (North Metropolitan) [4.53 pm]: The Criminal Law and Evidence Amendment Bill is of significant importance to the Legislative Council. The bill has met with significant delay after first being introduced in the Legislative Assembly nearly two years ago. We have just completed a debate in which a number of opposition members carefully and succinctly outlined how the government has failed to bring on legislation that it could have had passed at a time when the opposition was prepared to deal with it. The Leader of the House acknowledged that he made a mistake and that he has failed. He very much wanted to accept the blame that can be levelled at the Premier about the Premier's false comments, which were published recently, about the progress of this bill through the Legislative Council. Having said that, I want to get on with the bill because it has significant importance and it can be passed tonight if the minister handling the bill is in a position to answer the questions that we ask about its various parts. Too often ministers in this place are incapable of answering reasonable questions, and at times that incompetence has led to bills being delayed while ministers run to the other place to take instructions on particular matters.

Members will be aware that the Criminal Law and Evidence Amendment Bill 2006 seeks to amend a number of acts. The first is the Criminal Code, the second is the Criminal Procedure Act 2004, and the third is the Criminal Appeals Act 2004. The fourth significant act that this bill seeks to amend is the Evidence Act 1906. Clearly, the Criminal Law and Evidence Amendment Bill contains a number of consequential amendments that will need to be passed to change a number of other acts.

The opposition last spoke on this bill on 20 March 2007. Hon Donna Faragher, the lead speaker on behalf of the opposition, outlined the opposition's views on the Criminal Law and Evidence Amendment Bill. On the same day, Hon Simon O'Brien also spoke on this bill, and it was subsequently sent to the Standing Committee on Legislation for its consideration and report.

The committee has made a considerable number of very worthwhile amendments. I am pleased to add that, in the main—that is, in most cases—the government has seen the value of the committee's recommendations and has agreed to amendments that will put into effect the various changes that the committee recommended. It is also fair to say that when a bill is sent to a standing committee of the Legislative Council, it is, in almost all cases, dealt with in a bipartisan manner. In this particular case, Labor Party, Liberal Party and Greens (WA) committee members agreed on the various aspects of the amendments contained in the committee report. In some cases, only the Liberal Party and the Labor Party committee members agreed to specific amendments because the Greens (WA) had some issues, which they will no doubt raise in committee, about particular aspects of amendments. However, overall, it was a bipartisan committee and the substance of the bill was dealt with in a bipartisan way.

I acknowledge the work of the Standing Committee on Legislation in raising issues which clearly reflect the views and aspirations of the wider community and which, in my view, make the substance of the bill more relevant to real life in our community. That is the benefit of the committee system that we have in the Legislative Council.

I agree with what members who spoke during the urgency motion earlier today said about the way in which bills often leave the Legislative Assembly. I have previously said that some ministers in the Legislative Assembly deal with bills in a very offhand way; indeed, amendments suggested in the Legislative Assembly are often not given reasonable consideration or are rejected out of hand. It is interesting that the government deals with proposed amendments in the Legislative Assembly in that way because, in due course, the bill is transmitted to the Legislative Council, and the government then expects the Legislative Council to carry out its proper role of scrutinising legislation in a proper way to ensure that when the bill leaves the Legislative Council, it is in a reasonable form; that is, it has undergone proper scrutiny and amendments, where necessary, have been offered.

I have made the point before about ministers in the Legislative Assembly who send bills to the Legislative Council in anticipation of the Legislative Council acting in the role of a smash-repair or panelbeating shop, whereby it sends the bills back to the Legislative Assembly in better shape than they were sent to this place in the first place. At times I think that is demonstrated by the fact that, of their own volition, government ministers often find it necessary to introduce major and often numerous amendments to bills after their passage has been completed in the Legislative Assembly. I would suggest that that fact alone is often attributed to the

incompetence of government ministers in the Assembly to thoroughly understand the impact of their own legislation. I also think that is a sign of a lazy and tired government.

Debate interrupted, pursuant to standing orders.

[Continued on page 86.]

QUESTIONS WITHOUT NOTICE

FAIR EMPLOYMENT ADVOCATE — WORKCHOICES

1. Hon NORMAN MOORE to the minister representing the Minister for Employment Protection:

I refer the minister to the position of Fair Employment Advocate. What has the advocate, Helen Creed, been doing since the change of commonwealth government, which has removed the government's basis for creating the position—that being to highlight any complaints against WorkChoices?

Hon SUE ELLERY replied:

I advise the honourable member that there has been a fire on the 12th floor of Dumas House. Due to the evacuation, the minister has not been able to approve answers in time for today's question time.

WITTENOOM — MINING TENEMENTS

2. Hon NORMAN MOORE to the Leader of the House representing the Minister for Resources:

I refer the minister to the government's effort to close the town of Wittenoom.

- (1) Are there any existing mining tenements or applications for tenements in the area around Wittenoom that would be deemed a health risk area?
- (2) Will those tenements or applications be extinguished for health risk reasons; and, if not, why not?

Hon KIM CHANCE replied:

I am happy to advise that the answer to this question has not been affected by the fire on the 12th floor of Dumas House.

- (1) Yes, there are three granted mining tenements and five exploration licence applications in the area around the town of Wittenoom designated within the "asbestos management" special category FNA 7376 in the Department of Industry and Resources' computerised plan system Tengraph.
- (2) No. Special conditions have been imposed on two of the granted tenements within the "asbestos management" category, requiring the licensee to submit a plan of proposed measures to safeguard the environment and human health before commencing any ground disturbance activities. The above conditions will be applied to any future mining tenements granted within the area of FNA 7376. The third granted mining tenement is temporary reserve 5616H—Iron Ore (Wittenoom) Agreement Act—and the company has submitted an asbestos management plan.

INDIAN OCEAN DRIVE PROJECT — STAGE 2

3. Hon SIMON O'BRIEN to the parliamentary secretary representing the Minister for Planning and Infrastructure:

I refer to the joint press release of 4 December 2007 by the minister and the Premier about stage 2 of the Indian Ocean Drive project, which advised that the stage would be "directly managed by Main Roads".

- (1) What does the term "directly managed by Main Roads" mean?
- (2) Has Main Roads WA been appointed as the contractor for this \$125 million project?
- (3) If so, did Main Roads WA tender for the contract?
- (4) Is Main Roads WA pre-qualified to tender for the project in the way that other tenders are required to be?

Hon ADELE FARINA replied:

I thank the honourable member for some notice of this question. Unfortunately, the answer has been impacted by the fire in the evacuation of Dumas House. I am sorry but I am not able to provide the member with an answer today.

WORKING WITH CHILDREN CARD — STATE ADMINISTRATIVE TRIBUNAL DECISION

4. Hon ROBYN McSWEENEY to the Minister for Child Protection:

I refer to a question without notice asked on 15 November 2007 about a State Administrative Tribunal decision to overturn the Department for Child Protection's recommendation that a convicted sex offender not be able to coach children.

- (1) The department appealed the decision by SAT to grant S a working with children card. SAT upheld the department's appeal, and a successful stay of that decision was given. I was told that a negative notice was issued and remained in effect, and that the person was prohibited from working with children. Was this negative notice issued and on what date was it issued?
- (2) On 16 February, *The West Australian* reported that a volunteer T-ball coach was allowed to continue working with children during the appeals process but that an order was made yesterday—that is, 15 February—that placed that on hold until SAT's next ruling. Was this the same person named as S in the above ruling?
- (3) If yes, why was Parliament told that a negative notice had been issued, as in the answer to the question asked on 15 November?
- (4) If it is S, was he able to continue working with children until the article appeared in *The West Australian* on 16 February, which would have allowed him to continue working with children for the past three months, when the public believed that he was issued with a negative notice?
- (5) Was a notice of intent served on C, and did this take place when the department appealed the SAT decision?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

- (1) In the case of S, the department issued a negative notice on 27 April 2007. S then lodged an appeal of this decision with the State Administrative Tribunal, which ordered the department to issue S with an assessment notice. The department has commenced an appeal to the Supreme Court's Court of Appeal, which has not yet been heard. On 31 October 2007, the Court of Appeal ordered a stay of the decision by SAT to issue an assessment notice to S. This means that S cannot work with children until this appeal is decided upon.
- (2) No. The T-ball coach was referred to by the State Administrative Tribunal as case C.
- (3)-(4) Not applicable.
- (5) The department commenced the appeal against the SAT decision of C under the appropriate Supreme Court (Court of Appeal) Rules. As required by these rules, the appeal notice was served on C. After service, C lodged with the Court of Appeal a notice of the respondent's intention.

The recent judgement in case C by the Court of Appeal is greatly welcomed. This appeal decision supports the government's intention to prohibit from child-related work people who have escaped conviction for child sex offences due to a technicality or the difficulties in presenting evidence from young victims. The Supreme Court has also clarified that the interests of the child are the paramount criteria in making decisions regarding the issuing of working with children cards. Although the appeal in the case of S is yet to be heard, this first Court of Appeal decision regarding case C and the working with children legislation and related decision making is a very positive one that will provide important guidance for SAT in the future.

WETLANDS — RAMSAR REGISTER NOMINATIONS

5. Hon GIZ WATSON to the parliamentary secretary representing the Minister for the Environment:

On 2 February 2008, World Wetlands Day celebrated the importance of wetlands around the world.

- (1) Why has the government failed to honour its 2001 election promise to make further nominations of WA wetlands to the Ramsar register?
- (2) Is the minister aware that his three predecessors promised to progress the nomination of a further eight WA wetlands and that the Department of Conservation and Land Management—the Department of Environment and Conservation, as it is now—prepared documentation on these?
- (3) In 2006 the minister informed the house that documentation was in preparation. What is the current status of that documentation?
- (4) Are these nominations being blocked by pressure from mining interests?
- (5) Will the minister reiterate his government's assurance that he will honour these commitments of the Labor Party in this term of office?
- (6) If no to (5), when?
- (7) If yes to (5), when?

Hon SALLY TALBOT replied:

I thank the honourable member for some notice of this question. The Minister for the Environment and for Climate Change has provided an answer in the following terms —

- (1) The Department of Environment and Conservation is preparing nomination documentation for eight candidate sites under the convention on wetlands, known as the Ramsar Convention. Since the government announced its intention, the nomination process has changed and now requires a detailed technical document called an ecological character description and a management plan to accompany any nomination. An ecological character description and a management plan have been completed for Lake MacLeod. Local pastoral lessees have expressed concerns with the nomination and have given their support to participation in a management group to implement the management plan ahead of progressing the nomination. An ecological character description and a management plan have been completed for Lake MacLeod. Local pastoral lessees have expressed concerns with the nomination and have given their support to participation in a management group to implement the management plan ahead of progressing the nomination. An ecological character description will be completed for the tributaries of the lower Blackwood River by mid-2008, and the Department of Environment and Conservation anticipates that a management plan will be completed by the end of 2008. It is intended that two further candidate sites will have management plans completed in 2008—the Cape Range subterranean waterways and the Millstream pools. The minister will progress nominations when documents required by the Australian government are completed and adequate consultation has been undertaken.
- (2) Yes.
- (3) See the answer to (1).
- (4) No.
- (5)-(7) See the answer to (1).

DEPARTMENT OF EDUCATION AND TRAINING REVIEW

6. Hon PETER COLLIER to the Leader of the House representing the Premier:

I refer the Premier to the review of the Department of Education and Training conducted by Public Sector Management in 2007.

- (1) Will the Premier table the review of the Department of Education and Training?
- (2) If no, why not?

Hon KIM CHANCE replied:

I thank Hon Peter Collier for providing notice of the question.

- (1)-(2) It is not standard practice to release functional reviews of departments. They are internal government documents that require cabinet consideration.

INVOLUNTARY MENTAL HEALTH PATIENTS

7. Hon HELEN MORTON to the minister representing the Minister for Health:

- (1) Please indicate to which minister the following bodies are responsible: the Chief Psychiatrist; the Mental Health Review Board; the Council of Official Visitors; the Health Consumers' Council WA; the Office of Health Review; the Director of Public Prosecutions; and the Mental Health Law Centre?
- (2) Is there any other body not listed which may be responsible for reviewing decisions of the Metropolitan Health Service Board in relation to involuntary mental health patients' treatment?
- (3) If yes to (2), please list indicating to which minister these bodies are accountable?

Hon SUE ELLERY replied:

I am sorry, I do not have the answer to that question. I have signed off on one question today but not that one.

TEACHER RECRUITMENT — INTERSTATE AND OVERSEAS

8. Hon GEORGE CASH to the minister representing the Minister for Education and Training:

I indicate that the Minister for Education and Training has proposed that some interstate and overseas qualified teachers be able to receive special incentives, including a one-off payment, to encourage them to join the teaching staff at the Western Australian Department of Education and Training.

- (1) Will the minister provide the criteria for such incentives and payments?

- (2) What is the monetary value of these special incentives, including the one-off payment?
- (3) Is it intended that interstate or overseas qualified teachers be paid salaries greater than current teachers; and, if so, by what amount?
- (4) Will these special incentives create a two-tier payment system for interstate or overseas qualified teachers when compared with WA qualified teachers?
- (5) How many interstate or overseas qualified teachers have joined the teaching staff of the WA Department of Education and Training as a result of these special incentives in the past three months?

Hon LJILJANNA RAVLICH replied:

I thank the honourable member for the question. Unfortunately, I do not have a response for Hon George Cash. I have asked for it to be doubled-checked and if it is somewhere, I will certainly present it by the end of question time.

MENTAL HEALTH PATIENTS — SHIRES OF BUSSELTON AND AUGUSTA-MARGARET RIVER

9. Hon BARRY HOUSE to the minister representing the Minister for Health:

I have a question for the Minister for Health, but I assume that has gone up in flames, so I will ask it tomorrow.

The PRESIDENT: No. I do not know.

Hon BARRY HOUSE: I ask —

- (1) How many locally based staff from the Department of Health counselled people with mental health problems in Margaret River —
 - (a) during 2005-06;
 - (b) during 2006-07; and
 - (c) currently?
- (2) How many social workers conduct home visits in the Shires of Busselton and Augusta-Margaret River?
- (3) How often do these social workers visit homes on their own?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

- (1) The number of locally based staff from the Department of Health who counselled people with mental health problems in Margaret River is —
 - (a) during 2005-06, 4.3 full-time equivalent staff;
 - (b) during 2006-07, 5.3 FTE staff; and
 - (c) currently, 5.3 FTE staff.

Currently there are 14 mental health staff, including a consultant psychiatrist and a medical officer, who provide services including counselling to people with mental health problems in the Vasse-Leeuwin region.
- (2) Currently, there are 3.9 full-time equivalent social workers-1.6 FTE within the community health service and 2.3 FTE within the mental health service-who conduct home visits in the Busselton and Augusta-Margaret River shires.
- (3) Social workers visit homes on their own on an as required basis following an assessment of the client's needs and in compliance with relevant occupational health and safety legislation.

WALLABIES — CULLING

10. Hon BRUCE DONALDSON to the parliamentary secretary representing the Minister for the Environment:

I understand that a culling program of wallabies is occurring on North Island; that is, the Abrolhos Islands.

- (1) What process is being used to cull the wallabies?
- (2) Is 500 wallabies the number to be culled?
- (3) What are the reasons for the culling?
- (4) Does culling take place on an annual basis?
- (5) Who is responsible for undertaking and overseeing the culling?
- (6) Who authorises this culling?

Hon SALLY TALBOT replied:

I thank Hon Bruce Donaldson for some notice of this question. The minister has provided the following answer —

- (1) Since 2005 the Department of Environment and Conservation has implemented three strategies to reduce the grazing pressure of the introduced tamar wallaby population on North Island —
 - (i) a research program using sterilisation of females through hormonal implants that was completed in mid 2007;
 - (ii) the removal of approximately 60 animals to educational institutions for research purposes; and
 - (iii) the shooting of remaining animals.
- (2) Removal of all tammars from the island is necessary. The cull in the week of 4 February 2008 indicated that fewer than 25 animals remain on the island.
- (3) Five wallabies were introduced onto North Island in 1985 and the population reached more than 450 animals. The species was not found on the island previously. In 2003 the North Island community, through the Abrolhos Islands Management Advisory Committee, raised concerns with the department about the impact of overgrazing by the tammars. The cumulative impacts of grazing have led to the loss of vegetative cover and a severe decline of plant species that are the preferred food of the wallabies. Removal is necessary to ensure the regeneration of the vegetation of the island and the protection of species, such as the painted button-quail.
- (4) The culling takes place when no fishers are living on the island and will continue until all tammars have been removed.
- (5) The Department of Environment and Conservation oversees the culling of the wallabies on the island by a professional shooter.
- (6) The Department of Environment and Conservation and the Department of Fisheries.

FUELWATCH — REGIONAL PRICES

11. Hon KEN BASTON to the parliamentary secretary representing the Minister for Planning and Infrastructure:

I refer to the manner in which the daily fuel payments paid by the Public Transport Authority to school bus contractors is calculated and note that the price of fuel in Kununurra consistently exceeds the average regional price.

- (1) Is the minister aware that FuelWatch can supply average fuel prices by individual town; and, if yes —
 - (a) can the minister explain why daily fuel payments are not calculated using average fuel prices for individual towns; and
 - (b) if no, will the minister consider changing the calculation of daily fuel payments by using average prices for individual towns?

Hon ADELE FARINA replied:

I thank the honourable member for some notice of the question. Like the answers to some of the other questions that have been asked today, the fire at Dumas House, from which all occupants were asked to evacuate, has had an impact on the answer to this question. It has been impossible to provide an answer to this question.

197 ST GEORGES TERRACE — FIT-OUT TENDER

12. Hon RAY HALLIGAN to the minister representing the Minister for Housing and Works:

I refer to tender RFT2584007 dated 31 January 2008.

- (1) What staff are involved in Level 4, 197 St Georges Terrace?
- (2) How many staff will be affected by the fit-out?
- (3) When did this office last undergo a fit-out or refurbishment?
- (4) What was the cost?
- (5) What is the purpose of the latest fit-out?

Hon LJILJANNA RAVLICH replied:

I thank the member for some notice of this question. Unfortunately, due to the fire on the twelfth floor of Dumas House, I am not in a position to be able to provide the honourable member with a response.

GENETICALLY MODIFIED CANOLA

13. Hon ANTHONY FELS to the Minister for Agriculture and Food:

I refer the minister to the world record prices achieved this week for Roundup Ready canola by Canadian farmers and the lack of any transparent premiums to Western Australian farmers. Will the minister concede that Western Australian farmers are disadvantaged by not having an opportunity to grow Roundup Ready canola in some districts, which would create a greater return to them than would any other crop or alternative land use?

Hon KIM CHANCE replied:

It is certainly true that prices for Roundup Ready and other genetically engineered forms of canola are at record levels. Indeed, canola prices worldwide are reflecting the prices paid for all oil seeds, and the prices are very high. Of course, this applies equally to non-GE canola; it is just that canola prices are very good. Hon Anthony Fels said that there was no demonstrable premium for non-GM canola. I know that that statement has been made. It is not difficult to prove that a premium exists for one type of commodity; it is difficult to establish the reason for the existence of the premium. My information is that landed at port, Australian non-GM canola has commanded a price premium of -4 870 a tonne—that is about \$A50 a tonne—consistently over the past 12 months. It is difficult to determine whether that premium has been paid because Australian canola is non-GM or for some other reason. However, there is certainly a premium in the market. The member may also ask whether that is a sufficient premium even if it were all as a result of the crop being non-GM canola, and I am not sure that I could answer that question either.

Hon Anthony Fels: Is that Western Australian or Australian?

Hon KIM CHANCE: It is Australian canola.

Hon Anthony Fels: Is the price different between east and west?

Hon KIM CHANCE: Yes, prices are different east to west. They vary, but the price I quoted was, I believe, the cost, insurance and freight price in Japan.

Hon Anthony Fels: Is that ex-Newcastle or Fremantle?

Hon KIM CHANCE: That does not matter; it is the CIF price that I am quoting at port Japan. At port destination is the only way we can determine the differences in handling costs and freight costs. It is an interesting question, particularly now that Victoria and New South Wales have made a decision to adopt the technology. Although very little GE canola will be grown in either of those states next year because there is not adequate seed, in the season after next we will be able to determine whether a difference exists. Leaving aside the issue of market premium, which I have acknowledged is difficult to determine, the absence of field-scale trials in Australia has made it extremely difficult for us to come to any reliable estimation of the potential benefit from the adoption of Roundup Ready or any other GE form of canola. We are trying to encourage that in Western Australia, and I hope we will now see it happen on a much broader scale in New South Wales and Victoria. However, access to the facts will be extremely helpful because farmers are asked to make a big financial decision whether to adopt the technology and whether to commit to the technology-use agreement with the company Monsanto in the case of Roundup Ready. It is a very expensive decision to make. Farmers would want to make that decision on the basis of some trial information, which at the moment is absolutely denied to them.

DUNGEON YOUTH CENTRE — FUNDING

14. Hon DONNA FARAGHER to the Minister for Youth:

I refer to the Dungeon Youth Centre in Ballajura.

- (1) Is the minister concerned that the centre's special project funding, obtained through the Office for Children and Youth, will expire at the end of March; and that if it is not renewed, the centre's services will reduce to just four hours a week?
- (2) Will the minister consider recurrent funding of the centre; and, if not, why not?

Hon LJILJANNA RAVLICH replied:

I thank the honourable member for some notice of this question.

- (1) The Dungeon Youth Centre successfully applied for a one-off special project grant in March 2007 to run the computing, educational, recreation, employment and life skills program which incorporates a series of programs and activities designed to create an environment in which young people can empower themselves and seek independence. The special project grant application form and guidelines clearly state that the funding period is for up to 12 months only.
- (2) The community service grant program is the only recurrent funding program within the youth portfolio. The budget for this program is fully allocated, and there is no capacity to provide the Dungeon Youth Centre with recurrent funding at this time.

GERALDTON PORT

15. Hon BRIAN ELLIS to the parliamentary secretary representing the Minister for Planning and Infrastructure:

I refer to the minister's reported comment on ABC regional radio on 6 February that the government may look at compensating companies that have suffered financial loss due to delays at the Geraldton port.

- (1) By what means is the government identifying and assessing —
 - (a) the number of businesses affected; and
 - (b) the amount of financial loss suffered by each?
- (2) When will this assessment be completed?
- (3) If the assessment is already completed, what was the nature and the cost of each loss?
- (4) When will compensation be paid?

Hon ADELE FARINA replied:

I again advise members that the Minister for Planning and Infrastructure is unable to provide any answers to questions without notice today because she had to evacuate Dumas House. She was unable to provide answers within the prescribed time owing to the fire at Dumas House.

LOGUE BROOK DAM — USE AS RECREATIONAL FACILITY AND POTABLE WATER SUPPLY

16. Hon GEORGE CASH to the Leader of the House representing the Minister for Water Resources:

I ask on behalf of Hon Nigel Hallett —

- (1) Has the government considered implementing risk management strategies, rather than risk avoidance, to balance the increasing need for water with the recreational and social needs of Western Australians at an accessible facility close to Perth such as Logue Brook?
- (2) What consideration has the government given to implementing a pilot program to assess the compatibility of selected recreational pursuits with a potable drinking water supply at Logue Brook?
- (3) What studies have been undertaken, if any, to assess the cost to upgrade the filtration/chlorination system to permit dual use of Logue Brook Dam as both a drinking water supply and a recreational use facility?

Hon KIM CHANCE replied:

I thank Hon George Cash on behalf of Hon Nigel Hallett for providing notice of the question.

- (1) The decision on Logue Brook took into consideration all options and has applied the option that will deliver reliably safe, good quality drinking water for now and the future to protect public health. Alternative recreation opportunities will be investigated and created through the south west recreation master plan. There are many examples of recreation being excluded from drinking water supply reservoirs, including in Sydney and Melbourne.
- (2) The government undertook extensive consultation on Logue Brook, and the decision was made to secure Logue Brook for irrigation and drinking water. A pilot program was not recommended due to the concerns about protection of public health.
- (3) Given the health risks involved and current policy, no detailed costings have been undertaken for water treatment.

RISKCOVER — 2006-07 ANNUAL FUND REPORT

17. Hon NORMAN MOORE to the Minister for Government Enterprises:

I refer the minister to the failure of RiskCover to produce its annual fund report for 2006-07.

- (1) What has caused the delay in the preparation and release of the report?
- (2) What steps, if any, have been taken to ensure more timely report preparation for the current financial year?

Hon LJILJANNA RAVLICH replied:

I thank the member for some notice of this question.

- (1) The RiskCover fund report is a RiskCover initiative developed as a part of customer service, primarily for the benefit of RiskCover fund managers. Although December of every year is RiskCover's target date for publication, there is no statutory time limit for distribution. It should be noted that the financial

information included in the RiskCover fund report is a replication of that required by law and published in the Insurance Commission's annual report for 2006-07, which was tabled in Parliament in September 2007. The RiskCover fund report 2006-07 has now been printed, and is being distributed this week.

- (2) December will continue to be the target date, as stated in response to question (1).

BAIL CONDITIONS — CURFEWS

18. Hon GIZ WATSON to the minister representing the Minister for Police and Emergency Services:

Regarding the enforcement of bail conditions that include curfew requirements for children, I ask —

- (1) Is the minister aware that the police have a practice of making curfew checks between midnight and 3.00 am as part of monitoring bail conditions?
- (2) Is the minister aware that this is extremely disruptive to entire households, particularly households with very young children, as well as the child subject to the curfew, who has to be woken up and presented to the police for sighting?
- (3) Will the minister conduct a review of this practice?
- (4) If no to (3), why not?

Hon JON FORD replied:

I thank Hon Giz Watson for some notice of the question. The Minister for Police and Emergency Services has supplied the following answer —

- (1) The police advise that the majority of curfew checks are conducted between 6.00 pm and midnight. Notwithstanding this, individual circumstances may dictate the necessity to perform checks outside of these times. Prolific offenders who are under court orders are subject to constant risk assessments. Where there is an identified risk of offences occurring between midnight and 3.00 am, the offender may be subject to checks at these times.
- (2) While police recognise that checks may be disruptive, there is an onus on police to enforce court orders and ensure public safety.
- (3)-(4) No. Prolific offender management is already subject to constant review by police.

QUESTIONS ON NOTICE — PROCESSING

Statement by Leader of the House

HON KIM CHANCE (Agricultural — Leader of the House) [5.30 pm]: I advise that I have been advised by the Premier that he will be unavailable to process questions tomorrow or Thursday of this week.

QUESTIONS ON NOTICE 5635, 5653, 5646, 5706

Papers Tabled

Papers relating to answers to questions were tabled by **Hon Ljiljanna Ravlich (Minister for Local Government)**, **Hon Sue Ellery (Minister for Child Protection)**, and **Hon Adele Farina (Parliamentary Secretary)**.

QUESTION ON NOTICE 5628

Answer Advice

HON ADELE FARINA (South West — Parliamentary Secretary) [5.34 pm]: Pursuant to standing order 138(d), I inform the house that the answer to question on notice 5628, asked by Hon Paul Llewellyn on 15 November 2007 to the parliamentary secretary representing the Minister for Planning and Infrastructure, will be provided by 28 February 2008.

CRIMINAL LAW AND EVIDENCE AMENDMENT BILL 2006

Second Reading

Resumed from an earlier stage of the sitting.

HON GEORGE CASH (North Metropolitan) [5.34 pm]: Prior to question time, I was making the point that a significant amount of legislation arrives in the Legislative Council from the Legislative Assembly needing amendment. On many occasions, it appears that the minister in the Legislative Assembly uses the Legislative Council to make good the errors of legislation found after the bill leaves the Legislative Assembly. I made the point that that reflects on the competence of the ministers, but in my view it is also a sign of a tired and lazy government with tired and lazy ministers who do not seem to care about the form of legislation as it passes through the Legislative Assembly. I also made the point—it was certainly underlined by the Leader of the

Opposition when he read from the statistics of the Legislative Council's annual report—about the number of amendments the government proposes in this place for its own bills. I go back a few years to the time when Sir Charles Court was Premier. If a minister of his government had made as many amendments to a bill in the upper house as the current government now regularly makes, Sir Charles Court would have directed that the bill be withdrawn and that the responsible minister reapply himself to the total substance of the bill and, if necessary, reintroduce it in the proposed amended form, so to speak, so that the whole process would start afresh and the minister would be on top of the bill.

This brings me to the Premier's recent outburst in which he totally misrepresented the passage of this particular bill in the Legislative Council. He alleged that the opposition was failing to deal with the bill. Of course, we know that the Leader of the Opposition, Mr Troy Buswell, was quick to identify to both the Premier and the government that the bill was not making progress in the Legislative Council for the reason that the government in this house had not made it a priority bill. It was not until a police officer was badly injured in the northern suburbs of Perth that the government decided it had better look as though it was doing something. The Premier came out and said, "We want to deal with the bill; it is all the opposition's fault." That turned out to be a gross error of fact, and *The West Australian*, under a banner headline on Thursday, 7 February 2008, highlighted the Premier's attempt to maliciously denigrate the Legislative Council in order to protect himself from any criticism of the government's failure to make this legislation a priority. I remind members of the banner headline that appeared on the front page of *The West Australian*. It stated —

Premier caught out on police assault laws

One cannot be caught out to any greater degree than when one attempts to say that the opposition is holding up the progress of a bill when the bill is not even on the government's priority list.

I have indicated that the opposition is keen for this bill to pass through this house. I will not go on any further about the way in which the government has mismanaged the business of this house, other than to say that I hope the government, particularly the Premier, recognises the gross error of fact that has been made. Perhaps the Premier will be big enough to apologise for that error.

I return to the bill. The bill seeks to do a number of things. Firstly, it seeks to widen the application of and increase the penalties relevant to an assault on a public officer. Secondly, it seeks to provide right of appeal for the prosecution when it can be shown that a trial judge has made an error of fact or law during a trial in which the jury has entered a verdict of acquittal. Thirdly, the bill continues the already commenced procedural changes to sexual assault cases as part of the sexual assault reform package. The first major amendment is to section 297 of the Criminal Code. As members will be aware, section 297 of the Criminal Code deals with grievous bodily harm. That offence is set out in section 1 on page 27 of the code. The definition of the term "grievous bodily harm" reads, in part —

... any bodily injury of such a nature as to endanger, or be likely to endanger life, or to cause, or be likely to cause, permanent injury to health;

Currently, section 297 of the Criminal Code deals with GBH. The application of the first paragraph, to become subsection (1), is a general application of the offence, with a penalty of imprisonment for 10 years. The second paragraph, which will be subsection (2) involves GBH in the course of stealing a motor vehicle, the penalty for which is increased to 14 years. The third paragraph, which will become subsection (3), widens the scope of section 297 to include circumstances of aggravation, which are defined in section 221 of the Criminal Code. As part of the circumstances of aggravation, victims over the age of 60 years are included and the penalty for circumstances of aggravation that relate to section 297 is a penalty of 14 years' imprisonment.

The proposed amendment in the bill before us again widens the scope of section 297 to include GBH when a victim is a public officer performing the function of his office or employment. Section 1 at page 29 of the Criminal Code shows the scope of the term "public officer". I will not read out the whole definition because it is fairly lengthy and wordy. However, it includes a significant number of people within the community. It includes the following —

- (ad) a person exercising authority under a written law;
- (b) a person authorised under a written law to execute or serve any process of a court or tribunal;
- ...
- (d) a member, officer or employee of any authority, board, corporation, commission, local government, council of a local government, council or committee or similar body established under a written law;

By virtue of the act, the term "public officer" is very wide. However, because the Standing Committee on Legislation was in tune with public views, it decided a number of categories of "person" should be included in the legislation. Some are private health sector workers, court security officers and prison officers and volunteer

state emergency workers. They are mentioned in fairly broad terms in the report itself. I say to the government that it has done a good job in agreeing to that recommendation. A proposal is on the notice paper by the Minister for Child Protection to, in fact, widen the class of person that will be protected under section 297 of the Criminal Code to include ambulance officer, a member of a Fire and Emergency Services Authority unit, a State Emergency Services unit or a Volunteer Marine Rescue Services group within the meaning of those terms in the Fire and Emergency Services Authority of Western Australian Act 1998 and when the victim of the offence is a person who is working in a hospital or is in the course of providing a health service to the public.

That, in itself, is a very wide application of the class of person to be covered by this amendment. The Minister for Child Protection also proposes to include the victim of an offence when the victim is a contract worker within the meaning given to that term by the Court Security and Custodial Services Act 1999, who is providing court security or custodial services under that act, or the victim of the offence is a contract worker within the meaning given to the term under section 15A of the Prisons Act 1991, who is performing functions under part IIIA of that act. The government has done a very good job of picking up the amendment as recommended by the committee. However, the Minister for Child Protection has now identified an area of contract workers, particularly under the Court Security and Custodial Services Act 1999. The definition of "public officer" is very wide, but it seems to me that a number of contract workers under the Prison Act, as well as under a number of other acts, should be covered by this legislation. I think the minister is identifying prison officers because the committee itself identified contract workers in the prison system. I invite the minister to give consideration to other contract workers. For instance, some of the security officers at Parliament House work for contractors. I use that as a general example because not all staff at Parliament House are covered by the definition of "public officer". We will need to take some other areas into account.

The other area not covered by the amendment at this stage is a person acting in aid of a public officer. Members will be aware that when police officers are required at times to enter the fray and, if necessary, make an arrest, they sometimes call upon members of the public to assist them. However, at times, members of the public, without being called upon, also move in to assist public officers; police officers in particular, but no doubt this extends to public officers generally. We should consider in the committee stage whether the definition in section 297 should extend to any person who is acting in aid of a public officer defined by the proposed amendment. I leave that with the minister for the time being.

I read in the newspaper the other day that Constable Matthew Butcher, who was recently assaulted in the northern suburbs and suffered significant injuries, was making a recovery. I am pleased that the officer is recovering. That incident has been raised by the media, and the Commissioner of Police has made certain comments about the number of assaults suffered by police officers in recent years. I also read in the newspaper recently that certain persons had been convicted of assaulting police officers and had received spent conviction orders from the court. It seems to me that in cases of assaults on public officers—I should not distinguish police officers from other public officers, but they are in the front line of battle, so to speak—we should give consideration to an amendment to section 39 of the Sentencing Act 1995 to prevent spent conviction orders being given for offences under section 318 of the Criminal Code. There should be a mandatory prison term for anybody who assaults a police officer, unless it is a very trivial assault, which is a possibility given the wide definition of the word "assault" and the degrees of assault covered in the Criminal Code. I will leave those comments with the minister so that she can consider them as we move into the committee stage.

In concluding my comments on section 297, I say thank goodness for the Legislative Council committee system, which has enabled proper scrutiny of this bill. With the amendments proposed by the committee, the bill will better reflect community standards. I hope the government gives some consideration to preventing spent conviction orders for offences under section 318.

Clause 6 of the bill deals with section 313 of the Criminal Code, which covers the offence of common assault. The bill proposes to broaden the application of this section to include common assaults committed in circumstances of racial aggravation. We agree with the proposed broadening of the scope of the offence of common assault. The proposed penalty for a common assault in circumstances of aggravation is imprisonment for three years and a fine of \$36 000; or, in any other case, imprisonment for 18 years and a fine of \$18 000.

Clause 9 of the bill deals with section 318 of the Criminal Code, which covers the offence of serious assault. Currently, section 318(1)(d) deals with assault of a public officer who is performing a function of his office or employment, or on account of his performance of such a function. The bill proposes to widen this section to include a serious assault on a public officer by virtue of his status as a public officer. In other words, the public officer will not be required to be actually performing his duties at the time the alleged offence is perpetrated. It is proposed to widen section 318 even further with the insertion of a new paragraph (e) that will include circumstances in which the offender is armed, or is in company with another person or persons. The proposed penalty is imprisonment for 10 years if the offender is armed, or is in company with another person or persons; or, in any other case, imprisonment for seven years. In the case of a summary conviction, the proposed penalty is imprisonment for three years and a fine of \$36 000. The current penalty is imprisonment for 10 years. The

proposed new penalty is also imprisonment for 10 years, or, in certain cases, for seven years. It is fair to say that at first reading this would appear to be a reduction in penalty. However, it is necessary to consider the amendments that were made to the Sentencing Legislation Amendment and Repeal Act 2003. Those amendments, which went through this Parliament in 2004, abolished the previous automatic one-third remission period. Therefore, the amendments that are before us tonight will in effect increase the current penalty by about one-third. Therefore, on today's scale, a penalty of imprisonment for 10 years would be the equivalent of imprisonment for approximately 14 years under the old scale, which included the automatic one-third remission, and a penalty of imprisonment for seven years would be the equivalent of imprisonment for approximately 9.5 years under the old scale. Therefore, when the 2004 amendments are taken into account, the proposed new penalty is an increase on the old penalty.

Clause 10 of the bill deals with section 321A of the Criminal Code. That section is headed "Child under 16, sexual relationship with". It is proposed to repeal section 321A and replace it with a new section 321A, which will be headed "Child under 16, persistent sexual conduct with". The old wording talks about a relationship. The new wording talks about persistent sexual conduct. Section 321A states that —

... a person has a sexual relationship with a child under the age of 16 years if that person, on 3 or more occasions each of which is on a different day, does an act in relation to the child which would constitute a prescribed offence.

There was an interesting case in Queensland some years ago that was considered on appeal to the High Court. The High Court citation for that case is *KBT v R* [1997] HCA 54 (1997) 191. In that case, the High Court considered an application of section 229B of the Criminal Code of Queensland. I indicate that the Queensland Criminal Code and the Western Australia Criminal Code are similar but not the same. Section 229B of the Queensland Criminal Code and section 321A of the Criminal Code of Western Australia deal with the same matter generally. This particular case in Queensland involved an appeal against a conviction for maintaining a sexual relationship with a child under the age of 16, contrary to section 229B(1) of the Queensland Criminal Code.

At page 3 of *KBT v R* [1997], Brennan CJ, and Toohey, Gaudron and Gummow JJ, noted —

The trial judge, Dodds DCJ, instructed the jury that, to convict the appellant of maintaining a sexual relationship contrary to s 229B(1) of the Code, they "must be satisfied beyond a reasonable doubt that on at least three occasions within the time frame charged, the [appellant had], for instance, unlawfully and indecently dealt with the child." He did not, however, instruct them that they had to be satisfied of the same three offences on the same three occasions.

The Queensland Court of Appeal held that there should have been a direction to that effect but dismissed the appeal as it related to the offence under section 229B(1) because, in its view, there was no substantial miscarriage of justice. However, the High Court believed that under the wording of section 229B(1) of the Queensland Criminal Code—as it then was—there was a need for the jury to be satisfied that the three particular offences were in fact the same three offences commonly agreed to across the jury; that is, there had to be unanimity in their decision on the specific charges. Therefore, if there were 10 different incidents, the High Court said that the jury had to find on at least three of those occasions that they all agreed that the offence had been carried out. As a result, it was determined that there was a need for the jury to unanimously agree.

Hon Ed Dermer: Do you find it extraordinary that only one occasion would not be sufficient for a conviction?

Hon GEORGE CASH: This is an offence under 229B(1) of the Queensland code. The fact is that if it was only one offence, the offender could be charged with a different offence in another area of that act. This section deals with persistent sexual conduct, so it is much more serious, given that it happened on at least three separate occasions, than, say, on a single occasion. There would have been an opportunity under another part of the act with one offence, and one would no doubt find unanimity within the jury, but this was a more serious matter in that the person was accused of not just three offences; there were a considerable number. The issue was that at the time of the conviction the jurors did not all agree on the same three specific occasions. The various judges made comment in the High Court that under the present wording of 229B(1) there needed to be unanimity.

Our act is written in very similar terms, so it is important that we provide the opportunity for a jury considering a matter in which there are more than three offences alleged, to come to the decision that on at least three occasions the offence was committed, but take away from it the need to have a unanimous view on each of the offences. Therefore, if there were 10 offences, so long as all members of the jury agreed that on at least three separate occasions the offence was committed, that would be sufficient under the proposed amendment to section 321A. We can say that the proposed amendment to section 321A will enable a conviction to be obtained if the jurors find beyond reasonable doubt that the accused committed the sexual acts against a child under the age of 16 years on at least three separate occasions within the alleged period, notwithstanding that the jurors may not have reached unanimity on each of the three occasions. The opposition agrees with that general proposition.

Sitting suspended from 6.00 to 7.30 pm

Hon GEORGE CASH: I now move to part 4 of the bill, which deals with amendments to the Criminal Appeals Act 2004. In part the amendments create a statutory right of appeal by the prosecution in certain circumstances, recognising that the Criminal Code and some other statutes already contain provisions that vary the general principle of double jeopardy. One particular part of the amendment deals with the principle of double jeopardy. I note that section 17 of the Criminal Code already provides a defence to a charge to a former conviction or acquittal. It reads —

It is a defence to a charge of any offence to show that the accused person has already been tried, and convicted or acquitted upon an indictment or prosecution notice on which he might have been convicted of the offence with which he is charged, or has already been convicted or acquitted of an offence of which he might be convicted upon the indictment or prosecution notice on which he is charged.

Variations to the general principle of double jeopardy exist for good reason. I will deal with the amendments to section 24 and 25 of the act, which are dealt with in clauses 34 and 35 of the bill, recognising that clause 41 also amends the prosecution's right to appeal certain sentences. With regard to the legal principle of double jeopardy, it is convenient to understand the expression of double jeopardy and to recognise the High Court's recent views on the issue. After reading the decisions of the High Court, there is no doubt that it continues to jealously guard any diminution of the principle, except by express statutory intent. A number of decisions of the High Court refer to the need for statutory change if there is to be any change to the principle of double jeopardy. For the convenience of this debate, it is fair to say that double jeopardy occurs when a person is subjected to prosecution on more than one occasion for the same crime or unlawful conduct. In a Queensland case known as *R v Carroll* [2002] HCA 55, the High Court dealt with the question of double jeopardy at length. As a matter of convenience, I note that the NSW Parliamentary Library Research Service prepared a paper some years ago on the question of double jeopardy when the New South Wales government was considering changes to the principle of double jeopardy. That report specifically referred to the case of Carroll. The briefing paper noted —

Raymond Carroll was charged with the murder of a 17 month old girl, Deirdre Kennedy, whose body was found in Ipswich, Queensland, on 14 April 1973.

. . .

Carroll was convicted of murder but appealed to the Queensland Court of Criminal Appeal. On 27 November 1985 the Court allowed the appeal and entered a verdict of acquittal, finding that the evidence was insufficiently strong to sustain the conviction.

In 1999 Carroll was charged with perjury. The Crown alleged that Carroll had given false evidence at the murder trial by testifying that he did not kill Deirdre Kennedy. The defence applied to stay the proceedings, arguing that they were an abuse of process and in contravention of the rule against double jeopardy, but the application was dismissed.

. . .

The jury found Carroll guilty of perjury. He appealed to the Court of Criminal Appeal which again quashed the conviction and entered a verdict of acquittal.

The Crown was granted leave to appeal to the High Court . . . The Court unanimously held that the proceedings for perjury should have been stayed because they were an abuse of process.

That is a very limited understanding of what the Carroll case was about. It raised a need for various governments in Australia to look at the question of double jeopardy. In the case of Carroll, the High Court made a number of statements about the question of double jeopardy through various judges. For instance, at paragraph 9 of the decision, Gleeson CJ and Hayne J noted that the expression "double jeopardy" can give rise to difficulty if the sense in which it is being used is not made clear. They refer to the case of *Pearce v The Queen* wherein it stated —

"The expression 'double jeopardy' is not always used with a single meaning. Sometimes it is used to refer to the pleas in bar of autrefois acquit and autrefois convict; sometimes it is used to encompass what is said to be a wider principle that no one should be 'punished again for the same matter' . . . Further, 'double jeopardy' is an expression that is employed in relation to several different stages of the criminal justice process: prosecution, conviction and punishment."

Their honours pointed out that a criminal trial is very much an accusatorial process: the state has tremendous resources available to it and they talk very much about the need for finality in respect to the decisions of trials. At paragraph 84 Justices Gaudron and Gummow said —

In Australia, "double jeopardy" is not an independent doctrine of avoidance, which, for example, would found a demurrer to a count or a stay application. The law's aversion to placing an individual twice in jeopardy of criminal punishment for the one incident or series of events reflects a broader precept or value. This finds diverse application through doctrines of estoppel and merger, in the pleas of autrefois

acquit and autrefois convict, and in principles respecting abuse of process, the admissibility of evidence, and sentencing.

McHugh also made a comment at paragraph 120 that it was a fundamental rule of the criminal law that no man is brought into jeopardy of his life more than once for the same offence.

The briefing paper that I referred to earlier entitled “Double Jeopardy”, produced by the NSW Parliamentary Research Service, set out in paragraph 5.2 arguments against changing laws on double jeopardy and at paragraph 5.3 it set out arguments in favour of changing laws on double jeopardy. I want to very quickly refer to some of those issues. With respect to the arguments against changing the laws on double jeopardy, it raised the question of the importance of finality, saying that there was a potential for abuse of power by the state, emotional and psychological stress on the defendant, and that the laws should not be used to encourage police investigations to allow the competence of an investigation and prosecution to be used as an excuse for calling a person again on the same charge. It refers to adverse publicity, the erosion of the presumption of innocence and other issues. At paragraph 5.3, arguments in favour of changing the laws on double jeopardy are presented. One argument was in respect of the question of justice; that the system of justice would be brought into disrepute if offenders evaded conviction. The paper refers to victims’ rights and technological developments, and states that laws should evolve over time and that there need to be safeguards.

On that issue, I think that it should be made very clear at the moment that the amendments before the house refer to easing the rule of double jeopardy in favour of the prosecution only in a case in which it can be shown at trial, once an acquittal has been entered, that the trial judge made an error of fact or an error of law. When that occurs, the prosecution will be entitled to go back again, so to speak, and appeal the case with a view to initiating a new prosecution. It seems to me that that is a limited easing of the principle of double jeopardy. I think that most of the community would agree with the principle that when a judge is shown to have made a mistake in either law or fact, the prosecution should be allowed to again charge that same person with the same offence.

There is, of course, a changing notion in the community about the wider area of double jeopardy. Although it is not before us today, I think there will be a need in a few years for the Parliament to look at the wider question of double jeopardy; in particular, the scientific evidence that is available through DNA. I know that some years ago Hon Bruce Donaldson and another group of members completed a very substantial report on the use of DNA in Western Australia. Of course, that is now part of our law. That DNA testing has thrown up a number of opportunities for the Crown, in cases in which it has not previously charged, to go back and bring people to justice.

Mr Deputy President (Hon Ray Halligan), could I have a few more minutes under the standing order? I seek leave to continue for a few minutes. I want to finish some comments on double jeopardy.

[By leave, member’s time extended.]

Hon GEORGE CASH: I thank the house for its consideration. I just want to finish some comments on the wider question of double jeopardy, indicating that we support the proposed changes to sections 24 and 25 of the act.

I said earlier that I believe that in the not too distant future—perhaps in a few years—the WA Parliament will in fact have to recognise advances in science and respond to community views. I think that that will require changes to the current common law—clearly, that will have to be by statutory intervention—when it can be shown that later incontrovertible evidence is available that could identify a perpetrator of the crime. Notwithstanding an earlier acquittal, the community will, in my view, demand that the statute law be changed to enable prosecutorial action to be taken to ensure that justice is not only done, but also seen to be done. However, I think there must be some limits on the changes that are made. It seems to me that if there is to be any wider easing of the principle of double jeopardy, in the initial stages at least it should be restricted to crimes attracting a sentence of 14 years, although there will be arguments in the community that that figure should be perhaps 20 years or life. I think there will also be a need for the Director of Public Prosecutions to certify that any application to quash a previous acquittal is demonstrably in the interests of justice and also that a court is satisfied that the new evidence is so compelling as to make the previous acquittal unsafe. Again there is a lot of discussion around the world on the easing of the principle of double jeopardy, and a number of papers are available for members to look at to better understand the question. I would suggest that when the time comes for the Parliament to consider a wider easing of the principle of double jeopardy, members may be interested to read the submission of the New South Wales Council for Civil Liberties and the University of New South Wales Council for Civil Liberties. The submission, dated 17 February 2004, was made to the Model Criminal Code Officers Committee on the issues of issue estoppel, double jeopardy and prosecution appeals against acquittals. I believe the information in the submission at least provides a number of different points of view on just where we should be going on the question of double jeopardy.

I return to the particular amendments. The opposition agrees with the amendments proposed to sections 24 and 25 of the Criminal Appeals Act 2004. They are narrow, as I have said, inasmuch as they refer only to an acquittal

that has been entered and it is later shown that the judge made an error of law or fact. In respect of the other amendments, I note that it is proposed to insert new section 35A in the act relating to the accused's reasonable costs of being legally represented in the Court of Appeal when the accused is retried on a particular matter. That is an important addition to the act and very necessary. I also note the amendment in clause 41, which will reword section 41 of the act in relation to sentencing and re-sentencing on appeal. The amendment should address the issues that have been raised in this matter.

In closing, I indicate that discussion on part 5 of the bill, dealing with the Evidence Act 1906 and in particular the issues of expert evidence and other issues relating to the mental impairment of certain persons, has been well covered in the Standing Committee on Legislation's report, and I certainly support the committee's recommendation for the inclusion of an amendment to ensure that a trial judge gives a warning to a jury about certain admissible expert evidence. I also support the committee's recommendation that the evidence of mentally impaired people be distinguished from the evidence of children. Although I support the recommendation, I acknowledge the advice from Hon Donna Faragher that a uniform evidence bill is in the pipeline. What that means, I do not know. I think it means that it is coming into the Parliament at some time, but when, I am not sure. Perhaps later on in committee that can be investigated and we can discuss that amendment at that time. In the meantime, I indicate my support for the bill. The opposition is keen that its passage be completed. Again I say I am pleased that the government has picked up on the amendments to be made to the legislation. I believe that they will save a lot of time and that they indicate the government is listening and recognising the good work of the committees of the Legislative Council.

HON SUE ELLERY (South Metropolitan — Minister for Child Protection) [7.48 pm] — in reply: I thank members for their contribution to the debate. I want to briefly provide reply to some matters that were made in the second reading debate before the bill was referred to the committee by Hon Donna Faragher and Hon Giz Watson. I will then talk about the government's response to the committee report and then address a couple of issues that were raised by Hon George Cash this evening.

In respect of the matters that were raised in the second reading debate prior to the bill being referred, Hon Donna Faragher asked a question in her contribution about the proposed amendments around double jeopardy, in particular around three specific instances. Those three instances were in respect of, firstly, the prosecution for an administration of justice offence connected to the original trial; secondly, a retrial of the original or similar offence where there is fresh and compelling evidence for a restricted set of very serious offences; and, thirdly, a retrial of the original similar offence where the acquittal is tainted for the offences punishable of at least 15 years. This bill provides a limited right of appeal to the state—a statutory right of appeal against a verdict or acquittal on a trial before a judge and jury relating to offences that carry a maximum penalty of 14 years' imprisonment or more. The result of clause 34 will be an additional 82 offences in the code and other legislation will attract a limited right of appeal. Those offences were set out in one of the appendices of the ninth report of the Standing Committee on Legislation. The government intends, in due course, to progress reform to the principle of double jeopardy outside this bill and will address those three specific scenarios when considering that legislation.

Hon Donna Faragher also queried the reason that the bill did not define who could constitute an expert for the purposes of the proposed amendment in clause 10 to section 321A of the Criminal Code, as apparently is the case in the New Zealand jurisdiction. The Western Australian laws have worked very well in giving the judges discretion to determine whether, in any particular area of evidence, a person is an expert. The government considers that rather than deviate from it, it is appropriate to adopt the principle relating to the new type of opinion evidence that is provided for in clause 10.

Hon Giz Watson, in her contribution before this bill was referred to the Legislation Committee, sought clarification on the identification of a public officer in considering the proposed amendments to section 297 of the Criminal Code. She raised a concern that an accused person could unwittingly incur a significant additional penalty if that person committed an offence against a person who is an off-duty public officer. If such a person is off duty at the time of the offence, the high penalty regime in the proposed amendment has no application. The proposed amendment to section 297 of the Criminal Code provides that to attract the higher penalty, the prosecution is required to establish that a public officer was performing his or her duties as a public officer.

I thank members of the Standing Committee on Legislation for their work in considering this bill. I indicate to the house that the government has accepted seven of the eight recommendations. In respect to recommendation 8, to which Hon George Cash referred to in his contribution, the government is of the opinion that it would be problematic to insert into this bill the language that clearly delineates between the provisions applying to a child and a person who is described as mentally impaired. It would simply be repetitive and certain parts of it would become redundant. Therefore, it would not be a user-friendly way to tackle that issue. As Hon George Cash said, the government is now working on uniform evidence legislation. The Attorney General has given me the authority to indicate to the house that it is the government's intention to include those provisions in that bill, which will be a uniform bill.

Recommendation 3 of the committee's report did not suggest an amendment but asked for the government's view on a matter, and I am able to provide its view now. Before I do so, I will read recommendation 3 to the house. That recommendation states that during debate on the Criminal Law and Evidence Amendment Bill 2006, the responsible minister explain why proposed section 321A(12) of the Criminal Code is required given the effect of proposed section 321A(6) of the Criminal Code. The response is that proposed section 321A(12) is, in effect, the same provision as section 321A(9). In dealing with charges against an accused under section 321A, it is contemplated that the usual course would be to utilise proposed section 321A(6), which provides that an accused may be charged with prescribed offences on the same or different indictment as a charge for persistent sexual conduct, a practice that is currently prohibited by section 321A(4) of the Criminal Code. Proposed section 321A(12) addresses a particular occasion that will, if the accused is found not guilty of persistent sexual conduct, allow a court to convict an accused person of a prescribed offence committed in the period specified in the charge established on the evidence at trial. The reforms to section 321A of the Criminal Code are intended to address the difficulty in successfully prosecuting those kinds of offences. Proposed section 321A(12) repeats the provision in proposed subsection (9) and is not considered to be superfluous. It is anticipated that proposed section 321A(6) will be more widely referred to in future proceedings, but proposed section 321A(12) will still perform a valuable function, permitting an accused person to be convicted of a prescribed offence established on the evidence when the only charge against the accused is for persistent sexual conduct with a child.

The government has accepted the recommendations in the committee report, with the exception of recommendation 8, and I have given a commitment in respect of recommendation 8.

In his contribution, Hon George Cash asked to what extent do we take the opportunity to extend the increased penalties to other criteria of workers; for example, contract workers and security officers. He went on to ask about a member of the public who might be called upon or who might volunteer to provide assistance to one of the named officers in going about his or her ordinary business. It is worth putting in context that those people are protected at law now by assault provisions; they just will not be subject to the elevated penalties that are intended in this bill. I am not sure that this is the right point in the debate for us to consider extending those criteria further, given that this bill has been before a committee and the committee has considered and made a recommendation about the extent to which the group ought to be extended. Certainly, the government believes that the matter has been considered, and the committee recommended an extension and it agrees to that extension.

I thank members again for their contributions to the debate and commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Ray Halligan) in the chair; Hon Sue Ellery (Minister for Child Protection) in charge of the bill.

Clause 1 put and passed.

Clause 2: Commencement —

Hon DONNA FARAGHER: Subclause (3) relates to clause 13 of the bill. I understand that clause 13 is taken to have been repealed in response to act 59 of 2006. My question is procedural. If it has already been repealed and there is an amendment on the supplementary notice paper that when we get to clause 13 we oppose that clause, should we not be deferring this clause at this stage?

Hon SUE ELLERY: Yes, the government agrees we could do that. It is now redundant.

Hon GEORGE CASH: The question was whether we should adjourn further consideration of clause 2 until after we have dealt with clause 13, because once we deal with clause 13 we can delete clause 2(3).

Hon SUE ELLERY: I was saying yes to the proposition that we defer consideration.

The DEPUTY CHAIRMAN: Is that the proposal being put by the minister?

Hon SUE ELLERY: I thought the honourable member was moving the motion, but I am happy to move that we defer consideration of clause 2 until after consideration of clause 13.

Further consideration of the clause postponed until after consideration of clause 13, on motion by Hon Sue Ellery (Minister for Child Protection).

[Continued on page 98.]

Clause 3 put and passed.

Clause 4: Section 1 amended —

Hon GEORGE CASH: Clause 4 deals with section 1 amended and reads —

Section 1 is amended by deleting the definition of “circumstance of aggravation”.

Could the minister indicate why this definition is being deleted from the section 1 definitional clauses and whether it is because individual circumstances of aggravation appear in other areas of the act?

Hon SUE ELLERY: It is because that definition is redundant. There are several places throughout the bill where definitions appear. The first that is brought to my attention is section 221.

Clause put and passed.**Clause 5: Section 297 amended —**

Hon SUE ELLERY: I move —

Page 4, lines 12 and 13 — To delete the lines and insert instead —

- (d) the victim of the offence is —
 - (i) an ambulance officer; or
 - (ii) a member of a FESA Unit, SES Unit or VMRS Group (within the meaning given to those terms by the *Fire and Emergency Services Authority of Western Australia Act 1998*); or
 - (iii) a member or officer of a private fire brigade or volunteer fire brigade (within the meaning given to those terms by the *Fire Brigades Act 1942*),
who is performing his or her duties as such; or
- (e) the victim of the offence is a person who —
 - (i) is working in a hospital; or
 - (ii) is in the course of providing a health service to the public;
 or
- (f) the victim of the offence is a contract worker (within the meaning given to that term by the *Court Security and Custodial Services Act 1999*) who is providing court security services or custodial services under that Act; or
- (g) the victim of the offence is a contract worker (within the meaning given to that term by section 15A of the *Prisons Act 1981*) who is performing functions under Part IIIA of that Act,

This amendment is in response to the committee’s recommendation that people in the private sector who perform essential or community services and who are subject to attack should be protected, and that attacks on those people should be treated just as seriously as attacks on the public officers originally named in the bill.

The committee recommended that clause 5 be amended so that proposed section 297(4) of the Criminal Code will include private sector health workers; for example, nurses and doctors, court security officers, prison officers and volunteer emergency service workers. The increased penalty of 14 years’ imprisonment for the offence of inflicting grievous bodily harm on officers is also extended to those people included in the proposed amendment. Those officers include ambulance officers, and members of a Fire and Emergency Services Authority unit, State Emergency Service unit or Volunteer Marine Rescue Services group under the Fire and Emergency Services Authority of Western Australia Act 1998. Also included are members, or officers, of a private or volunteer fire brigade who are performing their duties, persons working in a hospital, a person who is in the course of providing a health service to the public, a contract worker who is providing court security services or custodial services under the Court Security and Custodial Services Act and a contract worker under section 15A of the Prisons Act 1981 who is performing functions under part IIIA of that act.

Hon DONNA FARAGHER: The opposition supports this amendment. During my contribution to the second reading debate on this bill, I raised the issue of the defined set of private sector workers who essentially perform a public service, such as doctors and nurses who may work in private facilities, and who, in my view, should be afforded the same protection as is provided to public officers. The bill already provides for ambulance officers to be included. I understand that the Criminal Code, as it stands, covers train operators, ferry operators and taxidrivers, who are not necessarily public officers. As the minister noted, this matter was picked up by the committee, which felt that extending the coverage to a defined set of workers was warranted. Just as the opposition supports the need to provide greater protection to public officers, it believes that this is an important measure and supports the amendment.

Hon GIZ WATSON: The Greens also support this amendment. The Standing Committee on Legislation had an extensive discussion about this amendment. It grappled with the principle that it was trying to embed in this amendment now proposed by the government. From my point of view, it was a matter of recognising that when measures are put in place to protect those who put themselves in harm's way in their public duty, there is just as good an argument for extending that protection to others in a range of occupations, and the committee discussed that. I appreciate that the government has taken on board the committee's recommendation, and the Greens are happy to support the amendment.

HON GEORGE CASH: As Hon Donna Faragher has indicated, the Liberal Party opposition supports the amendment. However, I again raise with the minister the issue of contract workers. At the moment, the contract workers referred to in the proposed amendment relate to those within the meaning of the Court Security and Custodial Services Act 1999 and the Prisons Act 1981. I have indicated my view that contract workers may in fact be a wider body of people than is nominated in those two acts. Can the minister indicate why other contract workers who fulfil similar roles—not similar functions—are not included in this amendment?

Hon SUE ELLERY: As I indicated in my response to the second reading debate, I certainly hold the view that although at some point there may be an argument about the matter referred to by the member, we need to start from the context that if these workers are subject to an assault, they are already protected by the laws that exist around assault. Given that this matter was substantially debated by the committee—indeed, Hon Giz Watson has reiterated that the committee gave considerable thought to what the range of occupations should be—and that since I made those comments I have been further advised that there has been no suggestion by the committee, by any of the people consulted by the Director of Public Prosecutions for the report he prepared for the Attorney General on penalties for serious assaults, or by any of the people consulted when the bill was drafted, that any additional group of contract workers should be covered, we need to draw a line at some point. It is appropriate that the critical workers in health, ambulance, emergency and corrective services are seen to be the most apt for the extended definition. Given the length and breadth of consideration that has been given to this matter by both the committee and interested stakeholders, we think the bill adequately covers the identified classes at this stage.

Hon GEORGE CASH: I thank the minister for her response. I agree that the definition of the term “public officer” will, with the inclusion of the minister's amendments, be extremely broad. However, I make the point that there may be a need in future to give greater consideration to the particular area of contract workers. I think other contract workers may be identified who could also rightfully fall into this category. It is true that the committee did not identify them; it is equally true, as the minister has indicated, that this is a first step and, I might say, a very good step. The classification is now extremely broad. When I think about the definition of a victim of an offence as being a person working in a hospital, it is a far wider definition than I would have understood the committee to have anticipated when it was preparing its report. However, I will leave with the minister the fact that in due course a wider range of contract workers may have to be given consideration. I say again that the current amendment is very helpful.

I ask the minister whether she will make further comment in respect of persons who are acting in aid of those who are designated as public officers, and the other persons who it is proposed will now be brought within section 297. It is true, the minister said, that any person acting in aid of a public officer is already protected under the Criminal Code by way of other offences, but the penalties are not as significant as those proposed in this section. Can the minister explain the general policy behind the decision not to bring persons acting in aid of a public officer into this category?

Hon SUE ELLERY: As I indicated in my response to the second reading debate, we start from the position that anyone who is subject to an assault is already protected by certain laws. In this bill we are debating the policy in which we say that those people whom we employ to put their lives on the line are entitled to extra protection. As important as it is to provide that protection, we need also to send a signal to the community that those people act on behalf of all of us, and we take very seriously the fact that they put their lives on the line. The policy position is that the bill is about protecting those people and sending a message to the community about the value that the community places upon those people. Of course, people who assist those people in some sort of physical fracas, crisis or whatever would do so voluntarily. While I do not diminish their contribution in putting themselves at risk, those people whom we employ and ask to swear an oath to protect the public every day by putting their own physical being at risk are the people whom the policy of this bill is directed towards.

Hon GEORGE CASH: I understand the points made by the minister. I do not see a great distinction between a person who is invited to assist a public officer but is not necessarily employed as such, and a person who is employed as a public officer and suffers grievous bodily harm and is therefore entitled to the protection of a 14-year sentence imposed on a perpetrator. Grievous bodily harm is grievous bodily harm, and when it is committed in circumstances in which a public officer is acting but calls for assistance, I would have thought the person who provides the assistance is entitled to the same protection. I know it is already covered by the act, but I am saying that I do not see a significant distinction between those who are public officers and those who come to the assistance of public officers when they are called upon, or for that matter if they voluntarily go to the assistance

of a public officer. The minister has made a point, and I have made my point, which at least is on record so that, in due course, it may be reviewed.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 6 to 8 put and passed.

Clause 9: Section 318 amended —

Hon SUE ELLERY: I move —

Page 5, lines 25 to 27 — To delete the lines and insert instead —

or

(h) assaults —

(i) an ambulance officer; or

(ii) a member of a FESA Unit, SES Unit or VMRS Group (within the meaning given to those terms by the *Fire and Emergency Services Authority of Western Australia Act 1998*); or

(iii) a member or officer of a private fire brigade or volunteer fire brigade (within the meaning given to those terms by the *Fire Brigades Act 1942*),

who is performing his or her duties as such; or

(i) assaults a person who —

(i) is working in a hospital; or

(ii) is in the course of providing a health service to the public;

or

(j) assaults a contract worker (within the meaning given to that term by the *Court Security and Custodial Services Act 1999*) who is providing court security services or custodial services under that Act; or

(k) assaults a contract worker (within the meaning given to that term by section 15A of the *Prisons Act 1981*) who is performing functions under Part IIIA of that Act,

This amendment is similar in nature to the one the committee just debated in relation to clause 5. The government supports the committee's recommendation to extend the maximum 10-year penalty to assaults on private sector health workers, court security workers, prison officers and volunteer State Emergency Service workers.

Hon DONNA FARAGHER: The opposition supports this amendment. As the minister has pointed out, it is similar to the amendment to clause 5 just passed. We again believe that this is an important measure. I have a question about proposed paragraph (j), contained in clause 9(e) on page 6, which states —

in any other case, to imprisonment for 7 years.

Can the minister explain for the parliamentary record the reasons that there appears to be a reduction in the sentence from 10 years' imprisonment, as is presently provided in section 318, to seven years? I understand that this may relate to the truth-in-sentencing legislation, but perhaps the minister can explain it for me.

Hon SUE ELLERY: The honourable member is right; this change relates to the so-called truth-in-sentencing provisions. The penalty was set before 2004. The Sentence Administration Act 2003 provided for a one-third reduction in penalties, which would have meant that the penalty would be less than seven years. By making the penalty seven years under truth in sentencing, it is actually higher than it would otherwise have been.

Hon GEORGE CASH: Section 318 of the Criminal Code deals with serious assaults. As Hon Donna Faragher indicated, the Liberal Party agrees with the amendment moved by the minister, which was in part recommended by the Standing Committee on Legislation. I want to raise an issue that I acknowledge cannot be dealt with by an amendment to the Criminal Code, but it involves the sentencing of those who commit offences under section 318, which deals with assaults on public officers. On occasions, those offenders can be granted a spent conviction order by a court. I am aware that members of the police and the wider community are very concerned that a court can make a spent conviction in respect of such a serious offence. It has been put to me that section 39 of the Sentencing Act should be amended by adding a subsection to the effect that a court sentencing an offender for an offence under section 318 of the Criminal Code shall not make a spent conviction order, to highlight the seriousness of an assault on a public officer. I note with interest that the Commissioner of Police has been

reported in the past few days as also raising questions about the sentences that are handed down by the courts for assaults on police officers. We all are aware of some recent cases of alleged assaults on police officers. I invite the minister to comment on the proposition that I am advancing that spent conviction orders not be able to be made in respect of offences under section 318.

Hon SUE ELLERY: I am not the Attorney General, and I am not speaking on his behalf, but I can say that the courts would generally issue a spent conviction order only for what would be characterised as a trivial matter. It is fair to say that the government does not regard an assault on a public officer as a trivial matter. Therefore, the government would be concerned if what the member has described is happening. Of course, if that is happening, the matter would be subject to appeal. The government's position is that an assault on a public officer is a serious matter and as such should not fall into the pool of matters that can be dealt with by way of a spent conviction order.

Hon GEORGE CASH: In that case, would the government consider an amendment to the Sentencing Act that would remove the discretion of the court to make a spent conviction order in respect of an assault under section 318 of the Criminal Code?

Hon SUE ELLERY: I believe the government would generally be reluctant to remove the discretion of the courts. As I have said, I am not the Attorney General, but I can give the member a commitment that I will note that this matter has been raised in the debate, and I will pass that on to the Attorney. As a general principle, the starting position is that we would be reluctant to remove the discretion of the courts.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 10: Section 321A replaced —

Hon SIMON O'BRIEN: I have read the committee report with great interest. I note that recommendation 3 requests an explanation about the new provisions that will replace section 321A of the Criminal Code. Although it does not make a specific recommendation for amendment, perhaps the minister could explain why one of the proposed subsections is required. Has that matter been addressed?

Hon Sue Ellery: The matter was addressed in my reply to the second reading debate. Would you like me to go over it again?

Hon SIMON O'BRIEN: Yes, please.

Hon SUE ELLERY: The honourable member obviously missed my exceptionally erudite response to this issue.

Hon George Cash: We missed that one! We noted your response, but it was not an erudite one.

Hon Simon O'Brien: I was hoping for an erudite response.

Hon SUE ELLERY: The member will get one.

Proposed section 321A(12) is, in effect, the same provision as section 321A(9). In dealing with the charges against somebody under section 321A, the normal process would be to utilise proposed section 321A(6), which provides that an accused may be charged with prescribed offences on the same or different indictment as a charge for persistent sexual conduct, a practice that is currently prohibited by section 321A(4) of the Criminal Code. Proposed section 321A(12) addresses a particular circumstance—if the accused is found not guilty of persistent sexual conduct—that allows a court to convict an accused person of a prescribed offence committed in the period specified in the charge established on the evidence at the trial. The reform is intended to address the difficulty in successfully prosecuting these particular kinds of offences. Proposed section 321A(12) repeats the provision in section 321A(9). It is not considered to be superfluous. It is anticipated that proposed section 321A(6) will be the more widely referred-to provision in future proceedings. Proposed 321A(12) will perform a valuable function in permitting the accused person to be convicted of a prescribed offence established on the evidence when the only charge against the accused is for persistent sexual conduct with a child.

Clause put and passed.

Clauses 11 and 12 put and passed.

Clause 13: Section 570 amended —

Hon SUE ELLERY: I move to oppose the clause.

On 1 July 2007, the Criminal Investigation (Consequential Provisions) Act 2006 commenced. Section 26 of that act repealed chapter LXA, which contained sections 570 to 570H of the Criminal Code.

The proposed amendment to section 570 of the Criminal Code to remove a specific reference to the medium for an audiovisual recording is achieved in the criminal investigation act, and this clause is no longer necessary. That makes clause 13 redundant, so it should be deleted. We will be opposing the clause.

Clause put and negated.

Postponed clause 2: Commencement —

The clause was postponed at an earlier stage of the sitting after it had been partly considered.

Hon GEORGE CASH: It seems to me that subclause (3) can now be deleted because it has no effect now that we have deleted clause 13. I think it would be appropriate for us to move that subclause (3)—that is, the words on lines 9 through to 13—be deleted.

Hon SUE ELLERY: I move —

Page 2, lines 9 to 12 — To delete the lines.

Amendment put and passed.

Postponed clause, as amended, put and passed.

Clause 14 put and passed.

Clause 15: Section 14 amended —

Hon DONNA FARAGHER: Clause 15 reads —

Section 14(1) is amended by deleting “authorised” and inserting instead —
“ approved ”.

What is the difference between “approved” and “authorised”, and why is there the need for a change?

Hon SUE ELLERY: This corrects an original drafting error in the use of the two terms.

Clause put and passed.

Clause 16 put and passed.

Clause 17: Section 50 amended —

The DEPUTY CHAIRMAN (Hon Ray Halligan): There is an amendment in the name of the minister.

Hon SUE ELLERY: It is not really an amendment. We are going to oppose the clause, and I would like to put on the record why we will do that. We think that there is a better, more effective way to achieve the desired changes to procedure, and that is subject to amendment of section 55, which is set out in my amendment to clause 18. Therefore, that makes this clause redundant.

The DEPUTY CHAIRMAN: Members will be aware that it is only a matter of not agreeing to this clause if they agree with the minister.

Clause put and negatived.

Clause 18: Section 55 amended —

Hon SUE ELLERY: I move —

Page 12, after line 1 — To insert —

- (1) Section 55(2) is amended by deleting “either a summons, a court hearing notice, or an approved notice, notifying the accused of the court date,” and inserting instead —
“

a court hearing notice, or an approved notice, notifying the accused of that date and that the court may deal with the charge in the accused’s absence if the accused does not appear on that date,

”.

- (2) Section 55(3) is repealed.

As I just indicated, this amendment seeks to deal with section 55 of the Criminal Procedure Act 2004, which allows a court to deal with a charge in the absence of the accused and a written plea of guilty. The amendments to section 55(2) mean that the accused is notified. In the event that he or she does not appear on the next court date, the court may deal with the charge in his or her absence. Therefore, it is about ensuring that the accused is notified.

Amendment put and passed.

Clause, as amended, put and passed.

The DEPUTY CHAIRMAN (Hon Ray Halligan): Members would be aware now that we are dealing with supplementary notice paper 145, issue 4. Does any member wish to speak to any clause prior to clause 28?

Hon GIZ WATSON: By way of assistance to the minister, I might just advise her that there is only a small additional amendment that I had omitted to put on the supplementary notice paper, which is why there is another supplementary notice paper. Because everybody else knows, I thought it might be useful for the minister to know as well!

Hon Sue Ellery: Yes; thanks!

Hon GIZ WATSON: It relates to a minority comment I made in the report. The only additional change is to clause 35.

The DEPUTY CHAIRMAN: We will reach that shortly.

Hon GIZ WATSON: I realise that was out of order but I just thought I should explain it.

Clauses 19 to 27 put and passed.

Clause 28: Section 143 amended —

Hon SUE ELLERY: I indicate that the government will oppose the clause, as a result of recommendation 4 of the Standing Committee on Legislation that the clause be opposed. The committee was of the view that there was insufficient reason to amend the provision. The committee's thinking around that is set out on page 49 of the committee's report. Clause 28 proposed to narrow the scope of defence counsel's opening address by amending the provisions so that an accused person would be entitled to give an opening address to the court that would outline the accused's defence, rather than the accused's case. The amendment was designed to better reflect the original intention of the provision, which arose from the recommendations of the 1999 Law Reform Commission's review of the criminal justice system. The committee held the view that there was insufficient data to support that amendment. The government does not disagree with that; therefore, we will oppose clause 28.

Hon DONNA FARAGHER: I indicate that the opposition also supports the government's proposal to oppose this clause. As has been mentioned, clause 28 deals with the restriction on defence opening addresses. The proposition was opposed by the Criminal Lawyers' Association. I think it is fair to say that the research done by the committee also found that there appeared to be insufficient reason to amend section 143(2) of the Criminal Procedure Act; therefore, we agree with the government.

Hon GIZ WATSON: The Greens (WA) will also support the deletion of this clause. Obviously we were also supportive of the recommendation of the Standing Committee on Legislation. However, I thought that it might be useful to put on the record that the committee noted on page 47 of the report at paragraph 3.17 —

The Committee's inquiries as to the general duration of defence opening addresses revealed that no statistics are kept in this regard. Rather, the Chief Judge indicated that her concerns about the amount of time taken for some defence opening addresses are based on a combination of her own experiences and anecdotal information. Her Honour advised the Committee that:

Very few accused persons act for themselves in the District Court but if they do they are given a degree of latitude.

[With respect to defence counsel] ... I have received a number of complaints on this very issue about some counsel from a number of Judges.

Spark & Cannon, which provides court reporting services, advised the Committee that it did not maintain records of the duration of opening addresses in criminal trials.

However, it did provide the following information:

From experience, a "normal" criminal trial of two to three days would see the State open for around half an hour and on most occasions, except where admissions are made, the accused does not open.

In more serious matters the State may well address for up to three hours. The accused generally opens as well. However, it is usually for a significantly less [sic] time.

It was therefore on the basis of that information that we felt the case for this clause had not been made out, that it could probably be handled in another way and that we needed a provision as restrictive as this amendment. I appreciate that the government has taken that on board, and we will also oppose the clause.

Clause put and negatived.

Clauses 29 to 33 put and passed.

Clause 34: Section 24 amended —**Hon GIZ WATSON:** I move —

Page 19, after line 17 — To insert —

(2) After section 24(4) the following subsection is inserted —

“

In the case of an appeal under section 24(2)(da), the Court of Appeal must refuse to grant leave to appeal if leave to appeal is sought in relation to an acquittal resulting from a retrial under this Part.

”.

The Standing Committee on Legislation took some time to investigate whether there can be an appeal against acquittal by the state. A chapter of the committee's report deals with this in some detail. Pages 78, 79 and 80 of the report indicate that while the majority of the committee was supportive of the government's proposed amendments, I took a different view. The committee investigated whether this issue raised a question of offending the principle of double jeopardy. The committee discussed this issue in a lot of detail, and the report covers that very well. I was of the view that whereas this amendment does not offend that principle specifically, it does offend the matter of providing finality.

My amendment would ensure that there could be only one appeal and not a series of appeals. That was a concern of the committee's and it was debated at great length in the committee. It was put to the committee that there would be only one appeal. My argument was that if that is the case we should make it explicit. I will refer to a couple of the committee's comments that elaborate on this matter. Page 78 of the committee's report, under “*Committee Comment*”, states —

4.80 The Committee acknowledges that “an erroneous decision is capable of disappointing community expectations with respect to the conduct of the criminal justice system”.

All members of the committee agreed with that comment. The committee also noted that —

. . . the DPP's frustration with Attorney General References that are “*a waste of resources ... and pointless*”. These may correct the law on a particular point after a trial has concluded and the accused acquitted, but do not result in the retrial of that acquitted person.

4.82 The Committee (by a majority comprising Hon Graham Giffard, Hon Sally Talbot, Hon Peter Collier and Hon Donna Faragher) is of the view that the proposed amendments, in capturing the type of erroneous cases described by the DPP, will ensure that if a new trial is ordered, it will proceed on corrected points of law and fact.

4.83 The Committee (by a majority . . . —

Comprising the same members —

consider that error of fact is not too broad a ground of appeal, given that the Court of Appeal will ultimately determine the issue.

The Court of Appeal currently grants appeals from offenders against decisions under section 23 of the *Criminal Appeals Act 2004* and appeals from prosecutors against decisions by Judges in relation to charges of indictable offences under section 24 of the *Criminal Appeals Act 2004*.

4.84 The Committee has reservations with the establishment of a legal framework characterised by a potentially endless stream of prosecution appeals and retrials against an acquitted person. ‘

That is the point about which I felt very strongly. It is noted in the report that the other members of the committee also had reservations. The report continues —

The Committee is of the view that if the DPP wants to appeal more than once, then the DPP should be required to justify to the Court of Appeal the reasons for further appeals.

4.85 The objective of the legislative proposal is to enable a judicial error of law or fact to be redressed. The Committee notes evidence from Tasmania that endless prosecutions have not occurred. Therefore, while the majority of the Committee endorses clause 34, the majority would not expect there to be more than one retrial.

It is important that that point is reiterated again in this debate. The report continues —

4.86 The Committee (by a majority . . . —

Comprising the same members I mentioned previously —

concur with the DPP that clause 34 is “*merely saying that if you have an erroneous verdict, justice and the victims are entitled to have a proper verdict*”.

A minority of the Committee —

That was me —

does not concur with this view because it is undesirable to give latitude to the DPP as this may allow the State to repeatedly attempt to convict an acquitted person. A corollary of this is to increase the prospects of that person being wrongfully convicted, cause emotional suffering to the person, reduce the finality and efficiency of criminal proceedings and reduce the incentive for efficient investigations.

This amendment would give effect to my comment in the committee report that the possibility of a retrial on an error of fact or law should be limited to one appeal. The words of amendment 2/34 give effect to that. Mr Deputy Chairman, would you like me to read out the words?

The DEPUTY CHAIRMAN (Hon Ken Travers): I am happy to read them out before I put the question.

Hon SUE ELLERY: The government does not support the amendment moved by Hon Giz Watson and shares the analysis of the majority of the committee. The bill allows for the Court of Appeal to have discretion to order a retrial, and the government considers that to be adequate protection against the possibility of the overzealous pursuit of prosecutions. The right to appeal should not be further constrained by an arbitrary adoption of challenging only the first acquittal on judicial error. However, I note that the honourable member seeks some assurance about the practice of the Director of Public Prosecutions. I refer to the “Statement of Prosecution Policy and Guidelines 2005” published by the Office of the Director of Public Prosecutions. Under the section on retrials, the practice document states —

Where a second jury disagrees the public interest would rarely require a third trial of the accused person and special reasons to justify that course will be necessary.

That is the practice restriction that the DPP operates within and applies to his office. The policy generally is to prosecute an accused up to three times, regardless of whether the retrial is because of a hung jury or a successful appeal by the accused, and the DPP does not propose to change that approach. To say that there can be only one prosecution appeal in any case leaves any second judge effectively immune from criticism and the state and the victim powerless to achieve justice in the particular circumstances of the case. The government will not support the amendment.

Hon DONNA FARAGHER: I thank the minister for her comments about the Director of Public Prosecutions’ practice guidelines, because that assists the opposition in relation to this matter. It is fair to say that this is perhaps the most contentious clause in the bill. There are inherent difficulties in dealing with the concept of limited prosecution right of appeal, given its association with the notion of double jeopardy; albeit, I would refer to it as baby steps in comparison with double jeopardy reform per se when dealing with fresh and compelling evidence and the like. Hon Giz Watson has noted quite correctly that the committee was united in not wanting to see an endless stream of prosecution appeals and retrials of an acquitted person. Hon Giz Watson has, however, raised some concerns about this clause as it currently stands. Notwithstanding those concerns, the opposition is not inclined to support the Greens’ amendment on the basis of three things. First, it was not the majority view of the committee, and the matter was extensively canvassed by the committee. Secondly, there is to be a new clause 51, which is on the supplementary notice paper, that will provide for a review of the operation of this part. That is a very sensible amendment that reflects a committee recommendation, which was in part due to the concerns that the committee did not want to see an endless stream of prosecution appeals. It gives us an opportunity in five years to assess the operation of this part. As the minister has stated, in any case there will be a limit, albeit it is not prescribed in the legislation per se. However, it is prescribed in the Director of Public Prosecutions’ practice handbook, so there will be a limit in effect. On that basis, although not discounting the concerns raised by Hon Giz Watson, the opposition is not inclined to support the amendment.

Hon GIZ WATSON: I want to put on the record that other jurisdictions have a restriction in that they allow for only one appeal. The standing committee’s report at page 60 refers to that, in particular the United Kingdom Criminal Justice Act 2003, which came into operation on 4 April 2005. The committee observed two things when looking at and comparing that legislation. It applies to only very serious crimes. Under the UK act there are 20 qualifying offences, all of which carry a maximum sentence of life imprisonment. The prosecutor can make only one application for retrial and must obtain the written consent of the DPP. The DPP can give that consent only if he is satisfied that there is new and compelling evidence against the acquitted person and that it is in the public interest for the application to proceed. Similarly, New South Wales legislation contains a provision that limits an appeal to a single retrial. Therefore, it is not a totally novel approach to suggest that it be made explicit in legislation that a retrial be limited to one chance. I note Hon Donna Faragher’s comments that there

will be a commitment to a specific review period. It gives us some comfort that we will have the opportunity to revisit this before too long. However, I am much more attracted to the approach that has been adopted in the UK both in limiting the retrial to only a single retrial and on the question of the offences captured under the legislation. A little later I have an amendment in regard to that, which is the one I forgot to put on the supplementary notice paper but which we now have in front of us for debate. I recognise that this amendment will not get the support of the chamber but I would still argue that if it is the stated intention, there is no reason it should not be explicit in the bill.

Hon GEORGE CASH: As indicated by Hon Donna Faragher, the opposition supports the amendment in the name of the minister and does not support the amendment proposed by Hon Giz Watson. In my second reading contribution I made the point that if the principle of double jeopardy were in the future relaxed more than is proposed in the bill, the issues raised by Hon Giz Watson would have a lot of merit. I have already said that if, for instance, scientific evidence in the form of DNA is to be a reason for relaxing the principle of double jeopardy, the Parliament in due course needs to look at which category of offences it should relate to; whether the threshold should be, for instance, imprisonment for 14 years, 20 years or life; and other matters. Hon Giz Watson referred to the United Kingdom model, which, of course, is wider than just a judge-made hearer of fact or law when an acquittal has been entered. I understand why Hon Giz Watson made her comments, but in this case—and I think Hon Donna Faragher referred to it as baby steps —

Hon Donna Faragher: Correct.

Hon GEORGE CASH: Correct. The principle of double jeopardy is being relaxed in a very, very narrow area, and in my view it is not unreasonable. It is also not unreasonable to allow multiple opportunities for the prosecution if the judge makes an error of fact or law at trial and an acquittal is entered. It would seem to be an unhealthy situation if it arose, but that is why the Director of Public Prosecutions has guidelines. If it should occur, there are guidelines to cover it at this stage.

In respect of the wider application of the relaxation of the principle of double jeopardy there are a lot of other areas that Parliament must consider. Members may wish to look at the New South Wales submission by the Civil Liberties Association, because that raises a number of issues that should be taken into account in due course should Parliament consider a wider application of the relaxation of the principle of double jeopardy.

Amendment put and negatived.

Hon GIZ WATSON: I will ask one question about line 15 of this clause, which states —

... during the trial the judge made an error of fact or law in relation to the charge;

Is there a specific reason why it is limited to “an error” rather than “errors”? There might be a technical reason why it is expressed in that way, but I seek the minister’s clarification on that because there may be more than one error.

Hon SUE ELLERY: I am advised that the Interpretation Act treats the singular the same as the plural. There is no distinction, in effect.

Clause put and passed.

Clause 35: Section 25 amended —

Hon GIZ WATSON: I apologise to the house for providing this amendment to clause 35 rather late in the piece.

The amendments standing in my name at 13/35, 14/35 and 15/35 all relate to clause 35 and reflect my minority comments in the report of the Standing Committee on Legislation. On pages 80 through to 81 I commented on the range of offences that should be captured by this legislation. At the top of page 81 I suggested that if we look at the UK by way of comparison, because it is a weakening of the principle of double jeopardy, it should be reserved for the most serious of offences. The proposition is that we change it from matters that include imprisonment for 14 years, to matters that include imprisonment for 20 years or more, or life imprisonment. Perhaps I will speak to that amendment first.

The DEPUTY CHAIRMAN (Hon Ken Travers): I think Hon Giz Watson said earlier that the amendments were all linked, so if the chamber is happy to accept it, I am happy to put all of her amendments together, so she can speak to them all now.

Hon GIZ WATSON: On the basis of the clarification I sought and received on clause 34 in relation to whether there was any need to have a plural—that is, “or errors”—I will not move amendment 14/35, because that question has been answered. However, I move —

Page 19, line 25 — To delete “14” and insert instead —

20

Page 19, line 28 — To insert after “charge” —

which eliminated or substantially weakened the prosecution case

The intention is to make it absolutely clear that errors in law or fact are not the only grounds for a retrial. The amendment seeks to restrict the grounds on which a retrial could occur in relation to a charge which eliminated or substantially weakened the prosecution case. It is saying that there was an error in fact or law and that the error was such that it eliminated or substantially weakened the prosecution case. I can certainly imagine cases in which there might have been an error in a more technical sense, but it did not substantially weaken the prosecution case. That is the kind of caveat that I seek to put on this clause. To move towards a system in which there is the capacity for the state, via the Director of Public Prosecutions, to order a retrial is quite a substantial step. The Greens (WA) argue that it should be very clearly limited to cases in which the likelihood of a successful prosecution has been either eliminated or substantially weakened by an error in fact or law. There are two elements. Firstly, it should apply to the more serious offences. Secondly, when the Greens made a comparison between the number of offences that apply in this bill and the number that would apply in similar legislation in the UK, we found 20 offences in the UK legislation. The number of offences captured by this proposed legislation is closer to 80 or 90. Perhaps the minister might be able to clarify how many offences are encompassed under this bill. I seek to restrict the seriousness of the offence and to require that it be shown that the error in fact or law has eliminated or substantially weakened the prosecution case. Those are the two amendments I have on the supplementary notice paper.

Hon SUE ELLERY: In a sense, this is a similar argument to the one that we just had. The government supports the position adopted by the majority in the committee. It will not support the amendment. The honourable member made reference to the United Kingdom model. I think the comment was made by Hon George Cash that the UK model has a different trigger, or a broader base in that sense, so the member is not necessarily comparing apples with apples in seeking to apply those provisions directly to this legislation. The number of offences is 82.

Hon Giz Watson: The Standing Committee on Legislation report lists them.

Hon SUE ELLERY: Yes; we just spent a few minutes at the table trying to find the list. I understand the point the honourable member is making. However, we do not accept that the UK model is so easily transferable into our system because of the substantial trigger differences. For those reasons, the government will not support the amendment.

The second part of the honourable member's amendments to clause 35—15/35—reads —

Page 19, line 28 — To insert after “charge” —

which eliminated or substantially weakened the prosecution case

I am directed to clause 38 of the bill, which goes to section 33 on page 20 of the Criminal Appeals Act 2004. It sets out to insert the following subsection —

(2a) Even if a ground of appeal might be decided in favour of the prosecutor, the Court of Appeal may dismiss the appeal if it considers that no substantial miscarriage of justice has occurred.

That might go some way to meeting the honourable member's objectives.

Hon DONNA FARAGHER: The opposition concurs with the view of the government on this matter. We believe that reserving this measure for offences attracting a penalty of 14 years' imprisonment or more is appropriate. In relation to inserting the words “which eliminate or substantially weaken the prosecution case”, if there is an error of fact or law, it is just that, and I would presume that the Director of Public Prosecutions would suggest in his application that the case had been substantially weakened by an error of law or fact by the judge. Having said that, as the minister has indicated, there is an additional provision in clause 38 that will go some way to addressing the concerns raised by Hon Giz Watson. The opposition is not inclined to support the amendment.

Hon GIZ WATSON: This is probably the appropriate point to raise another question, since we are now raising the issue of the Court of Appeal. Whereas the clause referred to by the minister does give some comfort, there is a real risk that the publicity associated with the first trial and the acquittal on appeal would make a fair retrial exceedingly difficult. As I understand it, there is no requirement for the Court of Appeal to take into account whether a fair trial is likely before ordering a retrial. Is that correct?

Hon SUE ELLERY: I am advised that the courts have the inherent obligation to ensure that, whether it is a trial or a retrial, a person is able to get a fair trial, and they take measures accordingly to take that into account. Further, a trial can be stopped part way through if there is evidence that the person's capacity to get a fair trial has been compromised, and that has happened.

Amendments put and negatived.

Clause put and passed.

Clauses 36 to 40 put and passed.

Clause 41: Section 41 amended —**Hon SUE ELLERY:** I move —

Page 21, line 20 — To insert after “matter” —

, including any material change to the person’s circumstances,

This amendment relates to recommendation 5 in the report of the Standing Committee on Legislation. The committee recommended that this clause be amended to expressly enable the Court of Appeal to take into account any materially changed circumstances of an offender. Clause 41 of the bill amends section 41 of the Criminal Appeals Act 2004, which governs sentencing or re-sentencing on appeals. The committee’s recommendation will not in any way undermine the policy that underlines this amendment. Therefore, the government supports this amendment to allow the Court of Appeal to take into account any changes in circumstances that may have arisen since the original proceedings took place.

Hon DONNA FARAGHER: The opposition supports the amendment. The committee report notes the concern of the Chief Justice that the clause as it currently reads would preclude a court from taking into account any hardship that might flow to an offender from being twice exposed to a judicial determination. The Chief Justice gave the following possible scenario, which is outlined in paragraph 4.96 of the report, at page 82 —

If a non custodial sentence was imposed at first instance, and the State procrastinated in the prosecution of its appeal, so that by the time the appeal came on for hearing the offender’s circumstances had materially changed (eg: married, undertaken a substance abuse programme, remained in permanent employment, or from another perspective, had been convicted of and sentenced for other offences etc) those changed circumstances, which in a sense flow from the fact of the earlier sentence, should in my view be taken into account by the Court at the time of re-sentence.

As the minister has indicated, the committee was of the view that clause 41 should be amended to enable the Court of Appeal to take into account any material changes in the circumstances of the offender. Therefore, I am pleased that the government has indicated its willingness to accept recommendation 5 of the committee through this amendment.

Hon GIZ WATSON: The Greens (WA) also support this amendment, and appreciate the fact that the government has accommodated the committee’s recommendation.

Amendment put and passed.**Clause, as amended, put and passed.****Clause 42 put and passed.****Clause 43: Section 36BE inserted and consequential amendments —****Hon SUE ELLERY:** I move —

Page 22, after line 27 — To insert —

- (3) If evidence described in subsection (2) is admitted in a trial by jury, this section does not affect any duty of the trial judge to warn the jury about any matter relating to the complainant’s evidence; but any such warning must be consistent with that evidence.

Recommendation 7 of the committee was that the government amend clause 43 of the bill to ensure that trial judges give a warning to the jury in relation to admissible expert evidence. We support the committee’s recommendation, because it will provide greater clarity and ensure that the trial judge remains responsible to provide guidance and warnings to the jury.

Hon DONNA FARAGHER: The opposition supports this amendment. During the committee’s deliberations, the Chief Justice also raised some concerns about this clause. Those concerns are detailed from paragraph 5.19 of the report, at page 91 onwards. I do not intend to go through those concerns, except to say that the opposition supports the amendment, because it will ensure that the legislative intent is clear.

Amendment put and passed.**Clause, as amended, put and passed.****Clauses 44 to 46 put and passed.****Clause 47: Section 106C replaced —**

Hon DONNA FARAGHER: This proposed new section associates mentally impaired witnesses with child witnesses and their ability to give unsworn evidence. The committee received submissions about this matter from the Public Advocate and the Disability Services Commission. I refer to page 95 of the committee’s report, which deals with the Disability Services Commission’s submission. It reads —

The Disability Services Commission was critical of the Explanatory Memorandum to the Bill, which states that “*mentally impaired persons are likely to encounter difficulties in understanding and engaging in formal court proceedings in much the same way as young children*”:

It is not modern practice in the disability field to encourage the view that a person with a mental impairment is the same as a child. There are many causes of mental impairment in adults... The life experience and functioning of these people may be widely disparate and some may be married with children themselves. What they share is a reduced capacity to participate in the complex court situation ...

... it would be preferable to include separate sections for people with mental impairment, rather than to include them under the same section as children.

The opposition is sympathetic to the concerns outlined by the Disability Services Commission. It supports recommendation 8 of the committee’s report, which recommends that the government amend the Criminal Law and Evidence Amendment Bill 2006 so that the Evidence Act 1906 distinguishes between the evidence of mentally impaired people and the evidence of children. I thank the minister for her explanation in her summing up of the reasons that the government is not inclined to support that recommendation and her assurance that the recommendation will be implemented in a uniform evidence bill. What is the status of the drafting of the uniform evidence bill and when is it likely to be introduced into the Parliament?

Hon SUE ELLERY: Before I answer Hon Donna Faragher’s question, I will make some remarks about why the government does not support recommendation 8. I am not unsympathetic to the views put to the committee by the Public Advocate and the Disability Services Commission. As a daughter of a parent with a disability, I think it is appropriate that we respect the dignity of people with intellectual disabilities by recognising that they are adults and that they ought not be prescribed and treated in the same way as children. I am not unsympathetic to that argument. The government is also supportive of that notion. However, to implement that by introducing repetitive provisions would considerably increase the complexity of the legislation. We would need to make numerous consequential amendments and undertake further cross-referencing. There is a better way to implement the advice given by the Disability Services Commission and the Public Advocate; namely, to completely reformulate the relevant provisions. The provisions of the Evidence Act, which have worked really well for child witnesses—in fact, they have become a benchmark for other jurisdictions in Australia—could be redesigned by allowing various innovative procedures to be available in the courts when taking evidence from particular witnesses. A uniform evidence bill is currently being drafted with a view to it being introduced into the Parliament later this year. I am not able to give a more specific date. The government has undertaken to clearly distinguish between the obvious and legitimately different categories of witnesses. Parliamentary counsel has been instructed to implement recommendation 8 in the new legislative provisions.

Hon DONNA FARAGHER: I thank the minister for her response. I acknowledge the issues that have been raised by the government, the most important of which is the undertaking that recommendation 8 of the committee will be delivered in full through the development of the uniform evidence bill and its introduction later this year. One of the concerns we had was that if this bill were five years away, that would not be acceptable. Given that it would appear that it will be introduced later this year, the opposition is willing to forgo an amendment to implement recommendation 8. I again place on record the fact that the opposition supports the committee’s recommendation. I will certainly be looking out for the uniform evidence bill and ensuring that the provisions are included.

Hon GIZ WATSON: The Greens acknowledge the government’s commitment to amend this bill in a global way to address the issue of language and appropriateness as raised by the Disability Services Commission and the Public Advocate. It was quite well made. Language is important. We accept that there is a better way of resolving this by amending it in the upcoming bill that will be introduced in the Parliament. We are happy to accept that explanation and look forward to a more global proposition.

Clause put and passed.

Clauses 48 to 73 put and passed.

Clause 74: *Wildlife Conservation Act 1950* amended —

Hon SUE ELLERY: I wish to explain why the government will oppose this clause. Clause 74 proposed to delete a superfluous “the” in what was then the latest reprint in section 27B of the Wildlife Conservation Act 1950. However, that act was reprinted on 6 October 2006 and section 27B was amended to delete the superfluous “the” because it was a grammatical error. Therefore, this clause is redundant.

Clause put and negatived.

Clauses 75 to 80 put and passed.

New clause 21 —**Hon SUE ELLERY:** I move —

Page 12, after line 26 — To insert the following new clause —

21. Section 75 amended

(1) Section 75(4) is amended as follows —

(a) in paragraph (b) by deleting “issue any document necessary;” and inserting instead —

“

may issue a summons, court hearing notice or approved notice, as the case requires;

”;

(b) in paragraph (c) by inserting after “document needed” —

“

(including a document referred to in section 139 or 155)

”.

(2) After section 75(9) the following subsection is inserted —

“

(10) An approved notice issued to a person under this section must be served on the person in accordance with Schedule 2 clause 2, 3 or 4.

”.

This new clause complements the amendments made to the Criminal Procedure Act 2004 in clause 18 of this bill. Clause 18, as amended, deletes section 55(3) of the Criminal Procedure Act 2004, which doubles up on section 75(4)(c) of the Criminal Procedure Act. New clause 21 amends section 75 so that it refers to sections 139 and 155 of the Criminal Procedure Act, as section 55(3) does. The new clause also amends section 75 by specifically referring to a summons, court hearing notice or approved notice, and the amendment inserts section 75(10) into the Criminal Procedure Act.

New clause put and passed.**New clause 42 —****Hon SUE ELLERY:** I move —

Page 21, after line 28 — To insert —

42. Section 51 inserted

After section 50 the following section is inserted —

“

51. Certain amendments to be reviewed(1) The Minister must carry out a review of the operation of the amendments made to this Act by the *Criminal Law and Evidence Amendment Act 2006* Part 4 as soon as practicable after the expiration of 5 years from the commencement of the amendments.

(2) The Minister must prepare a report based on the review and, as soon as practicable after the report is prepared, cause it to be laid before each House of Parliament.

”.

The committee noted that there is no provision for a review of the bill or the Criminal Appeals Act 2004, and considered that the significant nature and scope of the changes being proposed in part 4 of the bill do in fact warrant a review. The committee recommended at recommendation 6 that the proposed amendments in part 4 be reviewed within five years. The government supports this recommendation for a review of the proposed provisions contained in part 4 that go to the state’s right of appeal against acquittals by a judge and jury, and the new clause achieves that purpose.

Hon DONNA FARAGHER: As has been noted by the minister, this relates to a committee recommendation. It is an important addition and takes account of the fact that this is a significant change, albeit not to the level of double jeopardy reform per se, and we will not go through that again. However, it will show whether the part is being used in excess. It is, therefore, an important addition, and we support its inclusion.

New clause put and passed.

Title put and passed.

Bill reported, with amendments.

TERRORISM (PREVENTATIVE DETENTION) AMENDMENT BILL 2007

Second Reading

Resumed from 5 September 2007.

HON PETER COLLIER (North Metropolitan) [9.44 pm]: I will talk for a couple of minutes on this amendment bill. It is a minor bill. It is purely an administrative bill that contains a necessary amendment to the main act; that is, the Terrorism (Preventative Detention) Act 2006. The Terrorism (Preventative Detention) Act was enacted in response to a September 2005 agreement of the Council of Australian Governments. As a result of the agreement, all states individually passed legislation to deal with the threat of terrorism. The necessity of this legislation is that the main act referred to sections of the federal Australian Security Intelligence Organisation Act that have since been amended. As a result of that, this legislation simply alters the main act to reflect the changes to the ASIO act. The intention is therefore simply that the act remain unaltered, and as a consequence of that the opposition will be supporting this bill.

HON GIZ WATSON (North Metropolitan) [9.46 pm]: It is not the intention of the Greens (WA) to support this bill. We opposed the original bill. As much as we understand that this is a relatively small amendment to reflect the changes at the commonwealth level, nevertheless we cannot support it. It would be a nonsense in our view to have so vigorously opposed the initial bill and to not have a similar attitude to an amendment to the bill. It is interesting to note that the operation of legislation that purports to respond to threats and allegations of terrorist activities is now being tested in various jurisdictions in Australia, and in fact the legislation has been shown to be wanting in that it has resulted in false accusations; I am thinking of the Haneef case in particular. In effect we are seeing those kinds of difficulties in attempts to deal with this complex area of people's rights and the role and powers the state should have to address the perceived, if not real, threats of terrorism activities in Australia.

The Greens fought vigorously against the last two terrorism bills passed by this house, and again we will not support this bill. The argument for the bill is that it is just a housekeeping matter and follows the commonwealth legislative changes. The bill further entrenches the notion of valuing security higher than human rights and that the common law principles that have guided our country for a long time are perfectly adequate. The approach of allowing the Terrorism (Preventative Detention) Act to override the human rights of a person deemed to be considered innocent of terrorism allegations until enough evidence is gathered to lay charges and the charges are upheld by a court is an approach that we find fundamentally offensive. I mentioned the case of Dr Haneef, which I think is worth raising again while this bill is up for discussion this evening.

I remind members that when we originally debated the primary legislation on terrorism preventative detention, the point was made that there was no suggestion of any threat to the people of Western Australia, and the Australian government had received no information that would result in an increase in the threat. In fact, the national terror alert remains at medium, as it has done since 2001, and that has never changed. Doubts about the usefulness of terrorism laws have been raised by numerous people, particularly since the Haneef affair. I share the concerns of Dr Ben Saul, the director of the Sydney Centre for International Law, who summarised this as follows —

Most democratic governments would be deeply worried that the maladministration of bad laws would corrode the rule of law and threaten the freedoms of their people. It might be expected that the treatment of Dr Haneef in recent weeks would give Australian governments reason to pause before rushing headlong into passing yet more anti-terrorism laws, when they seem unable properly to administer the existing ones.

That quote was from an article titled "More bad laws on terrorism" that was published by the Centre of International Law on 16 August 2007. In Dr Saul's view —

Extreme views should be exposed to public scrutiny rather than hidden away by federal government censors . . .

He further writes —

Every democracy has the highest duty to protect its citizens and institutions from political violence that seeks to destroy it. Human rights and public safety cannot exist without the protective authority

provided by strong democratic institutions. But there is always a risk that measures taken in the name of democracy will undermine the values that sustain democracy itself.

He also reminded us that —

Terrorism is defined in Australian law to include political violence not only against civilians, but against authoritarian governments and democracies alike, so that those who forcibly resist oppression or human rights violations in Burma or Zimbabwe or Sudan are branded as terrorists no different from al Qaeda.

He ended his article with —

Australia already has some of the strongest anti-terrorism laws in the world, with around 40 anti-terrorism statutes passed since 9/11, despite facing a lesser threat of terrorism than Britain and the United States.

The case of Dr Haneef has been addressed in many articles, and I would like to share with members extracts from an essay by Andrew Lynch, project director at the Gilbert and Tobin Centre of Public Law, University of New South Wales. He interprets the Federal Court decision of Justice Spender to quash the revocation of the visa of Dr Haneef as follows —

... the decision show that Immigration Minister Kevin Andrews mishandled his intervention in the case, it also highlights the perils of politicians embroiling themselves in continuing criminal investigations, and the importance of judicial review.

...

... Spender was emphatic that the rule of law requires that ministers, even when acting to protect national security, do not use the powers conferred on them by Parliament erroneously. It is the role of the courts to ensure that limits on executive power are respected.

It is the role of Parliament to make laws that do not breach human rights and fundamental principles of common law in the first place, especially not providing such wide-ranging discretionary powers that allow the minister or any public servant to make a decision such as withdrawing a visa for reasons that are outside the intention of the act. A more recent article published on 29 January 2008, written at the same institution, is titled “The deficiencies of our anti-terrorism laws have already been spelt out . . . Now the government needs to act”.

What has happened to anti-terrorism laws in Western Australia since this law was passed last year? I would be interested to know from the government how many cases have been investigated, how many suspects have been prosecuted under state law and how the interplay between the commonwealth and state authorities is operating. It is interesting that this particular amendment bill is a minimalist bill and that there is no comment as to the broader operations of the primary act. I would be interested to know whether the minister has any comment in that regard. I simply reiterate that the Greens will not support this amendment bill. We look forward to the day when, ultimately, we will end up repealing some of these offensive pieces of legislation that have been introduced at both a federal and state level, and I hope that day comes soon.

HON KIM CHANCE (Agricultural — Leader of the House) [9.55 pm] — in reply: Hon Peter Collier has very accurately summed up the effect of the bill, which will put in place the changes required to identify the correct section—that is, section 34D—of the ASIO Legislation Amendment Act to which the Terrorism (Preventative Detention) Act 2006 refers. This is as a consequence of changes made to the Australian Security Intelligence Organisation Act 1979 that came into effect late in 2006. Hon Giz Watson has reiterated her opposition to the whole act and, in order to maintain consistency with that position, has indicated her opposition to the changes made by this amendment bill. Her speech addressed matters relevant to antiterrorism laws more generally and not to this minor machinery legislation. I welcome the support of the opposition in this matter, and I acknowledge Hon Giz Watson’s comments.

Question put and a division taken with the following result —

Ayes (26)

Hon Shelley Archer	Hon Bruce Donaldson	Hon Nigel Hallett	Hon Simon O’Brien
Hon Ken Baston	Hon Sue Ellery	Hon Ray Halligan	Hon Ljiljana Ravlich
Hon Matt Benson-Lidholm	Hon Brian Ellis	Hon Barry House	Hon Sally Talbot
Hon George Cash	Hon Donna Faragher	Hon Robyn McSweeney	Hon Ken Travers
Hon Vincent Catania	Hon Adele Farina	Hon Sheila Mills	Hon Ed Dermer (<i>Teller</i>)
Hon Kim Chance	Hon Anthony Fels	Hon Norman Moore	
Hon Peter Collier	Hon Graham Giffard	Hon Helen Morton	

Noes (2)

Hon Paul Llewellyn	Hon Giz Watson (<i>Teller</i>)
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Question thus passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Kim Chance (Leader of the House)**, and passed.

ADJOURNMENT OF THE HOUSE

HON KIM CHANCE (Agricultural — Leader of the House) [10.01 pm]: I move —

That the house do now adjourn.

Assault against Public Officer — Adjournment Debate

HON HELEN MORTON (East Metropolitan) [10.01 pm]: Unfortunately, I want to talk about a case of how this government has dealt with an alleged assault on a public officer, which of course is what we were talking about earlier this evening. The public officer is a mental health nurse by the name of Christine. It is alleged that Christine was stabbed with a screwdriver 23 times in the head, the shoulder, the abdomen and the limbs by a patient who was known to her. It happened one morning as she walked from her car to the forensic mental health clinic in Wellington Street where she worked. This occurred in September last year, six months ago. Christine was hospitalised for a significant length of time and she has been off work since then. I have met and talked with Christine a number of times. I have also met and talked with her daughter. I have met and talked with some of her work colleagues. The aspect of this situation that I wish to discuss is the low priority that the Minister for Health gave to this issue. He gave a low priority to the legislation that we heard about earlier today until he was forced to bring it on as a result of an unfortunate incident with a police officer. He gave it low priority in practice as well.

Christine has worked as a mental health nurse for 30 years, mostly in the forensic mental health area. This is a most difficult area, and she is truly committed to the work that she has done in those years. In the six months until my last contact with Christine, the Minister for Health, whom I consider to be heartless and uncaring, had made no contact with her. There was no phone call, no letter, no get well card and no bunch of flowers sent to the hospital—nothing! This is despite Christine's daughter writing to him in October and Christine herself writing to him on 2 January. Christine was not contacted by either the Director General of Health or the executive director, mental health, Steve Patchett, who used to be a colleague of Christine's and used to work in forensic mental health before he became executive director, mental health.

Christine and the staff at the clinic have said that they feel more traumatised by the way that Christine has been mistreated by the system than the actual incident itself. Christine feels abandoned, unsupported and totally ignored. When the review into the incident took place, neither Christine nor her work colleagues were interviewed. The report was described by the senior psychiatrist at the outpatient clinic as an "embarrassment", and it was obvious that the review had not been taken seriously and should be rejected. Why on earth could Minister McGinty not pick up the telephone, write a letter or make contact with Christine? Why on earth could the Department of Health not give her some personal support to help her work through how she can manage these difficult times, what will happen next and what the options are for finance etc that she is grappling with? Christine deserves a medal, not the heartless and uncaring treatment she has received to date.

I think the answer to why the minister could not make any contact with Christine lies in the conflicts of interest around his roles. The minister is her employer; he is the head of the Metropolitan Health Service Board. As her employer, he may well be negligent: requests for security upgrades were ignored. The executive director was alerted about this possible circumstance a week before it occurred—by email. A business case, almost two years ago, for improved services in forensic mental health has been ignored, and the recommendation in a WorkSafe audit for personal duress alarms, which were meant to have been installed by July last year, is still outstanding. This issue obviously has low priority for this government.

The WorkSafe audit took place immediately after Debbie Freeman's bashing, which was four years ago. The need for duress alarms was identified then. When I asked questions about this early last year, I was told that they would definitely be finished and installed by the end of July 2007. Here we are, in March 2008, four years after the WorkSafe audit was undertaken, and they have not been installed. These alarms are low priority to this government, but at the same time it can build a whole Subiaco office for the former Director General of the Department of Health and it can commence and put in place enormous amounts of money for the Office of Shared Services, but it cannot put in duress alarms for mental health nurses.

Mr McGinty may well have a conflict as her employer, because he is the board—namely, the legal entity by which she is employed. She could not go to him as her minister to complain about her employer, nor could he respond to her as the minister, because, as the minister and the board, he is not at arm's length. As the Attorney General, who would the employer—or the minister—get advice from about whether to accept negligence or consider some form of compensation, as was necessary in the Debbie Freeman case?

When Debbie Freeman was bashed unconscious, the Attorney General made a \$107 000 payment, saying it was an ex gratia payout. This was reported as follows —

WA Attorney-General Jim McGinty said the ex-gratia payment would not create a precedent for others.

“This payment was approved because of the extraordinary circumstances faced by Ms Freeman, who was horrifically bashed while doing the job she loved,” . . .

That was in October 2004. It is no wonder that the minister, or the employer, or the Attorney General—I do not know which hat he should wear when he does pick up the phone, if ever he does—could not make contact with this nurse, because in every one of those circumstances I think he would find himself very deficient if he did make the call.

On 7 February I visited the East Perth clinic of the State Forensic Mental Health Service. The staff told me that before I arrived they were told that if they spoke to me they would face dismissal. When I raised this matter, in the presence of the staff, with the person who I was told had actually said that, she did not deny it; she actually justified it. This is happening in an environment in which State Forensic Mental Health Service outpatient numbers have doubled over the past year, with no attendant increase in resources. It is happening in a situation in which it is extremely difficult to get a person into the Frankland Centre for assessment. At the same time as I was being informed about how bad this is, I was told about a situation involving a mentally ill gentleman with a young pregnant wife and small children. He was convinced that their house had been bugged and had forbidden his wife from speaking aloud. She spoke aloud and he assaulted her in an attempt to keep her quiet. She called the police for protection. When the police arrived, they immediately saw that this chap was ill, but they could not get him into the Frankland Centre; they had to charge him and put him in the lockup for the night. That is where he stayed until he could be transferred to the Frankland Centre the following day. This is the situation of the State Forensic Mental Health Service. Police have to charge mentally ill people in order to get them some treatment. It is absolutely ridiculous. This is the same government that talks about giving priority to this legislation, but in practice the behaviour of the minister demonstrates that it will never be a priority because it is too difficult for him; he wears too many hats.

One Mile Jetty, Carnarvon — Adjournment Debate

HON VINCENT CATANIA (Mining and Pastoral) [10.12 pm]: Members may know that on 27 October 2007, a fire destroyed 66 metres of the One Mile Jetty at Carnarvon. The jetty has been closed off ever since. Many locals fear that the closure will devastate local businesses and tourist numbers. Many businesses have reported a drop in tourist numbers since the fire. The closure has had a devastating effect on the Carnarvon Heritage Group, which is made up mostly of volunteers, but it also employed staff who have since been laid off. With persistence, the heritage group has raised funds and private donations from local businesses to keep the dream alive and to restore the jetty to its original condition. To date, the heritage group has raised \$50 000 to keep some of its staff employed in running the jetty train to the section that has been damaged. Last Saturday night the heritage group held a fundraiser at the Carnarvon Woolshed. It managed to get 350 people through the door and raised \$10 000. It was a very successful night, helped along by a local Carnarvon band, Oddsox, which is made up of schoolteachers and some of the ordinary folk of Carnarvon. The event, “Rock the Woolshed”, managed to get people involved in efforts to raise funds for the jetty. It was great to see such a wide cross-section of the community come together for a common cause and enjoy themselves. Not only was the night a great success with people coming through the doors and contributing funds across the bar, but also I had the pleasure of representing Hon Michelle Roberts, the Minister for Heritage. On behalf of the minister and the National Trust, I was able to announce funding of \$100 000 towards securing and transporting materials such as timber that are needed to start the process of restoring such an important social, economic and historical piece of infrastructure in the Gascoyne.

This has brought to an end a period of uncertainty for the community and will ensure the conservation of one of Carnarvon’s great heritage assets. Not only was it received very enthusiastically by the people who attended on Saturday night, but also it gives hope to the volunteers who are passionate about the One Mile Jetty and who every day work to the best of their ability to ensure that it is maintained and that the tram can continue to operate and take people out to the end of the jetty. That funding is a start. I am hopeful that more funds will be provided in the future to ensure that the jetty is restored to its original condition and continues to help tourism in the Gascoyne to thrive.

Question put and passed.

House adjourned at 10.16 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

DISRUPTIVE SCHOOL STUDENTS — TRIAL BEHAVIOUR CENTRES

5587. Hon Peter Collier to the Minister for Local Government representing the Minister for Education and Training

I refer the Minister to his announcement on 16 June 2007, to establish three trial behaviour centres, and ask —

- (1) What is the precise location of each of the centres, due to open in several weeks?
- (2) How many staff will be located at each of the three centres?
- (3) How many students will each centre cater for once established?
- (4) What criteria will exist for disruptive students?
- (5) Who will make the determination for the students to be placed at each of the three centres?
- (6) What is the anticipated cost of operation for each of the three centres?

Hon LJILJANNA RAVLICH replied:

1. The centres will be located in Belmont, Hilton and Kalgoorlie-Boulder.
2. The Canning and Fremantle-Peel centres each have a staffing allocation of 7.6FTE. The Goldfields centre has a staffing allocation of 4.0FTE.
3. Metropolitan centres will have capacity and staffing for 25 to 30 at any one time. The Goldfields centre will have capacity for 15 to 20 students at any one time. Each centre will work with 2 to 3 groups of students per year.
4. Eligibility criteria for the centres will be consistent across all centres. Students, aged 12 to 17 years of age, with the some or all of the following characteristics will be eligible:
 - · Poor attendance;
 - · Poor academic record;
 - · History of literacy/numeracy difficulties;
 - · Behaviours which severely disrupt the learning environment;
 - · Mental health concern(s);
 - · Family conflict;
 - · Strong negative peer influences; and
 - · Involvement with agencies.
5. Each centre will have an intake committee which will determine student placement. Intake committees will include centre, school, and district based staff. Staff from other agencies may also be invited to join intake committees.
6. The overall costs of the Canning and Fremantle-Peel centres will be \$510K each per annum. The overall costs of the Goldfields centre will be \$270K per annum..

TEACHERS — RECRUITMENT

5590. Hon Brian Ellis to the Minister for Local Government representing the Minister for Education and Training

- (1) What is the total cost to the Government for the Minister and entourage for —
 - (a) interstate; and
 - (b) international trips to recruit teachers?
- (2) What is the current and budgeted cost of advertising to recruit —
 - (a) interstate; and
 - (b) internationally?
- (3) What incentives and relocation packages are being offered to teachers recruited —
 - (a) interstate; and
 - (b) internationally?

- (4) What amount has been budgeted to cover the incentives and relocation packages —
- (a) interstate; and
 - (b) internationally?

Hon LJILJANNA RAVLICH replied:

- (1) This information is available from Parliament via the tabling of quarterly Travel by Ministers and Government Officers on Official Business Returns.
- (2)
 - (a) \$65,129.50. Further interstate advertising has not yet been confirmed.
 - (b) \$93,259.26. At this stage no further international advertising has been planned.
- (3) The incentive for (a) interstate and (b) internationally recruited teachers is the same as that offered to teachers recruited in Western Australian (i.e. permanency, district allowances, Country Teacher Program and Remote Teacher Program). The relocation package offered to teachers recruited from (a) interstate includes personal, furniture and chattel transport costs to Perth. Once in Perth (a) interstate and (b) international teachers access the same support as Western Australian teachers (i.e. personal, furniture and chattel transport costs) to the town to which they are appointed.
- (4) The relocation costs for both (a) interstate and (b) international teachers are currently absorbed within the Department's Housing and Transport Unit's budget.

CLEARING OF NATIVE VEGETATION

5605. Hon Paul Llewellyn to the Parliamentary Secretary representing the Minister for the Environment

Regarding the clearing of native vegetation, I ask —

- (1) Is the Minister aware that between 28 August 2006 and 11 June 2007 the Department of Environment and Conservation (DEC) granted 59 native vegetation purpose clearing permits to Shires allowing them to undertake road maintenance, widening and related road work activities, and that these permits covered an area totalling over 1195 hectares of which over 525 hectares are located within the Southwest Australia Biodiversity Hotspot as defined by Conservation International?
- (2) If no to (1), why not?
- (3) Is the Minister aware that DEC assesses clearing proposals against ten clearing principles laid out in its Clearing Permit Decision Reports, and that in respect of all the Shires located in the Southwest Australia Biodiversity Hotspot, the permitted clearing was noted at being at variance with at least one and up to nine of these principles?
- (4) If no to (3), why not?
- (5) If yes to (3), can the Minister please provide the following information —
 - (a) how many permit applications that contained variances to the principles were approved;
 - (b) how many permit applications that contained variances to the principles were refused; and
 - (c) how many permit applications were subject to appeals by members of the public or organisations that represent them?
- (6) Of those permits in (5)(a), how many variances were contained in each?
- (7) Of those permits in (5)(c), —
 - (a) how many were upheld by the Minister or his predecessors; and
 - (b) against which Shire or Shires were the appeals upheld?
- (8) Of the permits referred to in (5)(c), how many had the area of clearing reduced as a consequence of an appeal?
- (9) Of the permits referred to in (1) how many contain conditions that require permit holders to provide the Chief Executive Officer (CEO) of DEC with a proposal for the re-vegetation and management of land to offset the loss of significant remnant native vegetation?
- (10) Of the permits referred to in (9), —
 - (a) how many total hectares are scheduled for re-vegetation under the offset conditions;
 - (b) how many permits have had these re-vegetations offset conditions fully met and have been inspected and approved by the DEC; and
 - (c) how many permits have not yet met their re-vegetation offset conditions and when are these conditions expected to be met?

- (11) Can the Minister explain why the clearing offset conditions referred to in (9), are not subject to public scrutiny and appeal?
- (12) The Auditor General's recent report on the Management of Native Vegetation Clearing states that the DEC has not been ensuring compliance re native vegetation clearing is being met. What steps has the DEC taken to ensure future compliance?
- (13) What is the DEC doing to ensure complaints about illegal clearing are promptly investigated?
- (14) The Auditor General's report also noted that the DEC was failing to investigate clearing that required a permit being undertaken illegally without one, as for example in the case of the Shire of Toodyay. What steps have been taken by the DEC to rectify this situation?
- (15) Since the publication of the Auditor General's report, has the DEC initiated any prosecutions for illegal clearing?
- (16) If no to (15), why not?
- (17) If yes to (15), —
 - (a) who are these prosecutions against; and
 - (b) for what are they being prosecuted?

Hon SALLY TALBOT replied:

- (1) Between 28 August 2006 and 11 June 2007, DEC advertised a total of 75 clearing permits which were granted to local governments to undertake clearing related to road works. The total maximum area that can be cleared under these permits is 1,229.5 hectares. Applications were received for 1,606 hectares of clearing and the area permitted was therefore reduced by 376.5 hectares. The duration of the permits granted to local government ranged from one year to 10 years.
 Of the 75 permits granted, 62 were purpose permits for a specified purpose, for example, road widening, for an area of 1,204.5 hectares, and 13 were area permits for a defined area of 25 hectares.
 Sixty two clearing permits were granted for an area of 620 hectares within the Southwest Australia Biodiversity Hotspot as defined by Conservation International. Of these, 50 were purpose permits for an area of 595.3 hectares and 12 were area permits for an area of 25 hectares.
- (2) Not applicable.
- (3) Applications for a clearing permit are assessed against a set of principles for clearing native vegetation which are listed in Schedule 5 of the Environmental Protection Act 1986. Assessments against each of the principles indicate whether the proposed clearing is either not at variance, not likely to be at variance, may be at variance, is at variance or is seriously at variance to the principle.
 Of the 62 permits granted for areas within the Southwest Australia Biodiversity Hotspot which were advertised by DEC between 28 August 2006 and 11 June 2007, 16 permits were assessed as being at variance to one or more of the clearing principles.
- (4) Not applicable.
- (5)
 - (a) Sixteen permits were granted where the clearing was assessed as at variance with one or more principles.
 - (b) None.
 - (c) Of the 62 permits granted for areas within the Southwest Australia Biodiversity Hotspot, 22 were subject to appeals by members of the public or organisations that represent these. Twenty one of these appeals were for purpose permits and one appeal was for an area permit.
- (6) Of the 16 permits assessed as being at variance to one or more of the clearing principles, eight were at variance to one principle, four were at variance to two principles, three were at variance to three principles and one was at variance to five principles.
- (7)
 - (a) Of the 22 appeals against granted permits within the Southwest Australia Biodiversity Hotspot, seven were allowed in part and 15 were dismissed. No appeals were upheld.
 - (b) No appeals were upheld. The seven appeals that were allowed in part involved the following local governments:

Shire of Brookton	Shire of Toodyay
Shire of Nannup	Shire of Wagin
Shire of Narrogin	Shire of York
Shire of Tambellup	

- (8) None.
- (9) For clearing permits granted to local governments and advertised between 28 August 2006 and 11 June 2007 inclusive, a total of 21 require the approval and implementation of an offset proposal where the permitted clearing is, or may be, at variance to one or more of the clearing principles contained in Schedule 5 of the Environmental Protection Act 1986. An additional 11 clearing permits include a condition that requires revegetation of an area other than land cleared under the permit.
- (10) (a) The offset condition requires the permit holder to develop an appropriate offset proposal having regard to 12 offset principles. The implementation of an approved offset proposal is required where the approved clearing is, or may be, at variance to one or more of the clearing principles in Schedule 5. Not all of the area approved to be cleared under a clearing permit would be at variance to the clearing principles. It is therefore not possible to determine the exact area of revegetation for offsets until the offset proposal is approved and implemented. DEC requires that the permit holder report offset activities annually for the life of the permit.
- (b) To 19 December 2007 offset proposals have been received for four of the 21 permits for which an offset condition was imposed. Of these, three have been approved.
- (c) Three offset proposals have been approved for the 21 permits for which an offset condition has been imposed. The timing for the submission of an offset proposal is dependent on the permit holder. Permits to which the offset condition applies require the approval of an offset proposal prior to the commencement of clearing. Conditions for revegetation do not require completion prior to the commencement of clearing, however, revegetation undertaken must be reported to the CEO annually.
- (11) Offset proposals do not form part of the condition of a clearing permit, rather they constitute what is produced in compliance with the condition. For this reason, the CEO does not have an obligation to publish the offset proposals in the manner prescribed in regulation 8 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.
- Conditions on clearing permits are subject to the appeal provisions under section 101A of the Environmental Protection Act 1986.
- The offset condition provides an incentive for the permit holder to minimise the impact of clearing in order to minimise the requirement for offsets, which are a direct cost to the permit holder. The offset condition as it is imposed is a policy instrument to reduce the impact of clearing on native vegetation with significant environmental values.
- Offset proposals may contain confidential material. DEC will provide third parties with approved offset proposals that would be available if an application under the Freedom of Information Act 1992 were made.
- (12) DEC is implementing a Compliance and Audit Strategy which aims to increase compliance, monitor compliance through regular inspections, identify contraventions, take appropriate enforcement action and create an effective deterrent to unlawful clearing. The two major aspects of this strategy that are being implemented initially are analysis of vegetation change in Western Australia using Landsat satellite imagery and subsequent follow-up inspections where appropriate, and compliance inspection program, including decisions and conditions of clearing permit applications.
- (13) DEC has recently employed two full-time native vegetation investigators and has reassigned some of the duties of existing officers to undertake additional investigations into complaints of unlawful clearing. In addition, DEC has developed a set of criteria to prioritise complaints of unlawful clearing.
- (14) DEC is currently undertaking a number of investigations into unlawful clearing. Inspectors authorised under the Environmental Protection Act 1986 are focussing on completing these investigations.
- These investigations relate to complaints identified through DEC's monitoring program which analyses vegetation change in Western Australia using Landsat satellite imagery, from public complaints and from potential breaches of application decisions.
- In addition to these investigations, DEC is developing a targeted inspection program based on information obtained through the satellite monitoring program and spatial density mapping of public complaints. The program will focus compliance resources on selected geographic areas or particular business sectors.
- (15) Yes.
- (16) Not applicable.

- (17) (a)-(b) Ms Helen Ruth Sampson of Neergabby pleaded guilty to a charge of unlawful clearing of 24 hectares of native vegetation in Midland Magistrates Court on 22 November 2007 and was fined \$5000 and ordered to pay costs of \$300.

Mr Robert Klaasen is alleged to have cleared 477 hectares of native vegetation to implement a proposal that he was notified may not be implemented. The case is due to go to trial in March 2008.

140 WILLIAM STREET — TENDER EVALUATION REPORT

5623. Hon Norman Moore to the Parliamentary Secretary representing the Minister for Planning and Infrastructure

I refer the Minister to answer to question on notice No. 5014, and ask —

- (1) Why will the Minister not accede to a Parliamentary request to table the tender evaluation report concerning the sale of land at 140 William Street, even if information concerning the bidders' intellectual property was removed from the report?
- (2) Why is the Minister refusing to table a copy of the Government's office rental agreement with the successful bidder?
- (3) Is the Minister aware that the *Freedom of Information Act* makes it clear that documents are not exempt from freedom of information merely because they are submitted to Cabinet?
- (4) If yes to (3), why is the Minister relying on Cabinet confidentiality to refuse to table the business case supporting the Government's decision to enter into an office rental agreement for the 140 William St development?

Hon ADELE FARINA replied:

It is presumed that the member is referring to his own request for the document.

- 1 The suggested removal of the Intellectual property from the Request for Proposal evaluation report for 140 William Street would render the document incoherent and potentially lead to misunderstanding of how the process was undertaken and the recommendation was arrived at. Therefore, again it would not be fair or appropriate for the details to be made public.
- 2 The assertion embedded in this question is incorrect. In question 5014 the member requested that the details of the rental agreement be tabled. Those details were tabled in the answer given.
To recap the Commercial Property Branch of Department of Housing and Works will be paying \$345 per square metre per annum in rent (on behalf of the government) exclusive of GST and escalating by 3.5% per year. In addition it will pay outgoings capped at \$144.10 per square metre from 2009/10. These are excellent rates and represent great value for the taxpayers of Western Australia.
- 3 & 4 Schedule 1 of the Freedom of Information Act 1992 details the exemptions that can be applied to matters that would reveal the deliberations or decisions of an Executive body. Clearly, exemptions can be applied to documents that would reveal the deliberations or decisions of Cabinet.
In addition Schedule one of the Freedom of Information Act 1992 allows information to be excluded on the grounds that disclosure would reasonably be affected to have an adverse effect on business, professional, commercial or financial affairs or could prejudice the future supply of information of that kind to government. Disclosure of the business case supporting the Government's decision to enter into an office rental agreement for the 140 William St development could well have these effects.

NEVILLE VAN HAEFTEN — FREMANTLE SENIORS MENTAL HEALTH SERVICE

5624. Hon Helen Morton to the Minister for Child Protection representing the Minister for Health

Further to answer No.5574, provided on 18 October 2007, —

- (1) When Mr Neville Van Haeften was admitted as a voluntary patient to Fremantle Seniors Mental Health Service in October 2005, was medical and health care part of his guardianship order?
- (2) If yes to (1), who gave consent for Department of Health staff to transfer Neville from the Whitby Falls Hostel to Fremantle Hospital?
- (3) If no to (1), can you please confirm that Neville gave consent to the transfer?
- (4) When Department of Health staff decided to undertake a thorough physical and psychiatric assessment at Fremantle Hospital in October 2005, was medical and health care part of his guardianship order?

- (5) If yes to (4), who gave consent for staff to undertake the thorough physical and psychiatric assessment?
 (6) If no to (4), can you please confirm that Neville gave consent to the assessment?

Hon SUE ELLERY replied:

- (1)-(6) For patient confidentiality reasons, it is inappropriate to provide the detailed personal patient information requested.

WORKSAFE NOTICES — MENTAL HEALTH FACILITIES

5633. Hon Helen Morton to the Minister for Child Protection representing the Minister for Health

Further to answer No. 995, provided on 6 April 2006, regarding outstanding WorkSafe notice in mental health facilities, —

- (1) Can you please confirm that all outstanding notices were resolved by July 2007?
 (2) If no to (1), which notices are still outstanding, and when will they be resolved?
 (3) Since 4 April 2006, have additional WorkSafe notices been issued?
 (4) If yes to (3), please table an attachment listing the name of the facility which received the notice, the date it was received and the nature of the problem?
 (5) Please provide a status report of each notice and when all outstanding notices will be resolved?

Hon SUE ELLERY replied:

- (1) The following WorkSafe Notices have been completed:
- North Metropolitan Area Health Service, Osborne Adult Community Health, Joondalup Community Health, Subiaco Adult Community Health and Mirrabooka Community Health — WorkSafe Notice 170008959 relates to the installation of reception barriers in community mental health clinics. STATUS: Complete. Resolved prior to July 2007.
 - North Metropolitan Area Health Service, Swan Adult Mental Health Service — WorkSafe Notice 170008170 relates to the installation of duress alarms. STATUS: Completed. Resolved prior to July 2007.
 - North Metropolitan Area Health Service, Swan Adult Mental Health Service — WorkSafe Notice 170008164 relates to a safe system of work. STATUS: Completed. Resolved prior to July 2007.
- (2) The following WorkSafe Notices are currently outstanding largely due to delays in the contractors completing their obligations in a timely manner. (Note: WorkSafe is kept informed of progress).
- North Metropolitan Area Health Service, Graylands, Frankland Centre and Osborne Older Adult Mental Health Service — relates to the following WorkSafe Notices for the installation of personal duress alarms:
 - WorkSafe Notice 170008221.
 - WorkSafe Notice 170008956.
 - WorkSafe Notice 170008969.

STATUS: North Metropolitan Area Health Service is implementing these orders in a staged manner according to the risk assessment, with an anticipated completion date of end January 2008. There are already fixed duress systems in place, these new systems are supplementary. Staff in high risk areas also carry audible personal alarms (screamers).
 - South Metropolitan Area Health Service, Armadale, Bentley and Fremantle Mental Health Services — relates to the following WorkSafe Notices for the installation of personal duress alarms:
 - WorkSafe Notice 80000536.
 - WorkSafe Notice 7008115.
 - STATUS: South Metropolitan Area Health Service is implementing these orders in a staged process. The scope of work has been determined and a contractor appointed to implement a duress system at Bentley Mental Health Service. Following final testing, duress systems will be implemented at Armadale and Fremantle Mental Health Services. Anticipated resolution: Bentley, June 2008; Armadale and Fremantle, September 2008. Patient and staff safety is currently managed /addressed through use of existing hardwired security alarms, and systems of safe work practice.

- (3) No additional WorkSafe notices have been issued to public mental health facilities.
- (4) Not applicable.
- (5) See question 2.

SCHOOLS — AMALGAMATIONS

5634. Hon Ray Halligan to the Minister for Local Government representing the Minister for Education and Training

I refer to proposals to amalgamate the East Greenwood and Allenswood primary schools into a new school, and ask —

- (1) Are concerned residents able to express dissatisfaction with the Government proposals?
- (2) Will expressing dissatisfaction, —
 - (a) deny them a new school; or
 - (b) delay provision of a new school?

Hon LJILJANNA RAVLICH replied:

1. Yes. A school community meeting was held on 7 November 2007 giving opportunity for parents to express any concerns. A further public meeting was held on 20 November 2007 to discuss the amalgamation of the schools.
2.
 - (a) No.
 - (b) No.

FERNDALE PRIMARY SCHOOL — CLOSURE

5635. Hon Simon O'Brien to the Minister for Local Government representing the Minister for Education and Training

I refer to the ministerial statement of 23 August 2007, regarding the closure and sale of Ferndale Primary School, and ask —

- (1) Can the Minister confirm that he has received a petition signed by more than 60 residents of Ferndale relating to the preservation of bushland at the Ferndale Primary School site?
- (2) Has the Minister responded to this petition?
- (3) If yes to (2), what is the substance of the reply?
- (4) If not to (2), why not?

Hon LJILJANNA RAVLICH replied:

1. Yes.
2. Yes.
3. A copy of the response is attached. [See paper 3645.]
4. Not applicable.

SCHOOLS — AMALGAMATIONS

5636. Hon Ray Halligan to the Minister for Local Government representing the Minister for Education and Training

I refer to proposals to amalgamate the East Greenwood and Allenswood primary schools into a new school, and ask, in considering the amalgamation of the two schools, what studies have been carried out to try and ascertain the likely medium and long-term demographics of the area?

Hon LJILJANNA RAVLICH replied:

Studies have been undertaken regarding the proposed amalgamation of Allenswood and East Greenwood Primary Schools that indicated:

- Both primary schools have had declining enrolments from about 1985/6 to 2007.
- The public primary school student per house ratio in the locality of Greenwood declined from 1996 to 2001, and is expected to continue to decline in future years.

- Western Australian Planning Commission population projections for the City of Joondalup from 2006 to 2021 have indicated that the number of children of primary school age in the City will decline over this period.

CONNECT SOUTH WEST

5638. Hon Nigel Hallett to the Leader of the House representing the Minister for South West

- (1) For each of Connect South West's 19 'My Town' sites, can the Minister please detail, —
- the funding source;
 - the set-up costs; and
 - ongoing costs?
- (2) Can the Minister please provide specific details on the, '\$50 000 provided to assist business with advanced IT training', as per his response to question without notice No.950?
- (3) Can the Minister please advise the amount of paid content that appears on the Connect South West 'My South West' website?

Hon KIM CHANCE replied:

- (1) (a) Funded by Connect South West from a combination of Government grant funds and private contributions.
- (b) Not identified in funding allocations or acquittals as this was an internal strategy developed by Connect South West to establish local content and provide a service to the region.
- (c) Not specifically identified by Connect South West; part of general operational expenditure.
- (2) I am advised \$50,000 was allocated under Connect South West's E Commerce Business Development Grant Program which provided \$250 training vouchers to businesses throughout the South West Region to undertake advanced IT training. The purpose of the allocation was to address identified skills gaps and encourage skills development within the business community of the South West. These funds were fully expended and acquitted in 2004.
- (3) The Government is not paying for content. Content is a combination of free listings and paid content by private organisations. The amount of paid content by private organisations is not public information.

ESPERANCE LEAD POLLUTION

5639. Hon Anthony Fels to the Minister for Child Protection representing the Minister for Health

I refer to the 81 Esperance children with blood lead levels over 5mcg/dL following lead pollution in Esperance, —

- How many children have been retested for blood lead levels of the original 81 Children?
- What percentage of children have had reduced lead level on retesting?
- Of those children (that had a reduction in blood lead levels) what percentage has had a 50 percent or more reduction in their levels?
- How many children have had an increase in their original blood lead levels?
- How many children have had no change in their blood lead levels?
- What is to be proposed for the children who have increased blood lead levels or levels that have not fallen as expected in a lead-free environment?

Hon SUE ELLERY replied:

- 67 of the original 83 children have been retested for blood lead levels.
- Between the first and second test, the percentage of children who had a reduced blood lead level (BLL) was 92.5% (62/67).
- 32 of 67 children (47.7%) have had a 50% or more reduction in their BLLs.
- 3 children (4.5%) have had an increase in their BLLs over the three tests.
- 2 children (3%) have had no change in their BLLs over the three tests.
- The homes of all children, who have increased BLL or where BLL have not fallen as expected, are being case-managed, where requested, by a senior public health physician from the Goldfields Public Health Unit. This physician is working with the parents and family physicians to identify possible

sources of lead around the home. In addition, a senior environmental health officer and Chemist from the Chemistry Centre WA visited each home to identify potential exposure pathways. The independent lead expert from the University of Newcastle is assisting in the assessments.

Lead dust monitoring by the Department of Environment and Conservation and Esperance Port around the Esperance townsite confirm that lead dust levels are continuing to decline.

FOETAL ALCOHOL SPECTRUM DISORDER

5641. Hon Ray Halligan to the Minister for Child Protection representing the Minister for Health

- (1) Have any studies been carried out in Western Australia regarding the impact of alcohol on unborn babies, known as foetal alcohol spectrum disorder (FASD)?
- (2) If yes to (1), with what results?
- (3) If no to (1), why not?
- (4) Is the Minister aware of any interstate or overseas studies that have been carried out on this issue?
- (5) If yes to (4), what are the results of those studies?
- (6) If no to (4), will the Minister take steps to ascertain the importance of this issue in Western Australia?
- (7) If no to (6), why not?
- (8) Has the Government given any consideration to funding research in Western Australia?
- (9) If yes to (8), when will this be implemented?
- (10) If no to (8), why not?
- (11) Has the Government given any consideration to establishing appropriate diagnostic and support services for people with FASD?
- (12) If yes to (11), when will this be done?
- (13) If no to (11), why not?

Hon SUE ELLERY replied:

(1)-(2) The following studies have been or are currently being conducted:

Telethon Institute for Child Health (TICHR) current projects:

- Impact of low to moderate prenatal alcohol exposure on Foetal Alcohol Spectrum Disorder (FASD).
- Research into the health and social outcomes of children of mothers with an alcohol-related diagnosis during pregnancy.
- Women's knowledge of alcohol and pregnancy.
- Survey of health professionals to assess the impact of FASD resources.

Results relating to the above are:

- Alcohol during pregnancy at moderate to high levels impacts on pregnancy outcome. This research is continuing.
- Data is currently being linked for the analysis of children with FASD.

Previous WA research:

- Prevalence of Foetal Alcohol Syndrome (FAS) in WA.
- Health professionals' knowledge of FAS.
- Study on neonatal outcomes.

Results relating to the above are:

- Total prevalence of FAS is 0.18 per 1,000 children.
- Health professionals have limited knowledge of FAS.

(3) Not applicable.

(4) Interstate studies include:

- A surveillance study of FAS conducted by the Australian Paediatric Surveillance Unit in Sydney; and
- A diagnostic research study is in progress in Townsville, Queensland in collaboration with the University of Washington, United States of America to develop methods for better diagnosis of FAS.

Overseas studies have been conducted over the past 20 years on FAS and FASD in the United States of America, Canada, Sweden, France, Northern Ireland and the United Kingdom.

- (5) The results confirm that people exposed to alcohol during pregnancy are at risk of a range of physical effects and developmental disturbances. The greater the alcohol consumption, the greater the risk of adverse effects.
- (6) Not applicable.
- (7) Not applicable.
- (8) Yes. Healthway has provided funding for the "Women's knowledge of alcohol and pregnancy survey" (2007-2008) and "Health professionals' knowledge of FAS survey" (2004) as listed in question 1. Related research projects are also funded through TICHHR's National Health and Medical Research Program (NHMRC) grant. The NHMRC is a statutory agency funded through the Commonwealth Department of Health and Ageing.
- (9) This is ongoing research.
- (10) Not applicable.
- (11-12) Children with FASD can receive treatment/therapy for related delays and disorders from WA Health child development services in metropolitan and regional areas. The national Inter-governmental Committee on Drugs has established a sub committee to examine the issues relating to FAS. Their deliberations are expected to inform further consideration of this matter within each jurisdiction.
- (13) Not applicable.

EAST GREENWOOD AND ALLENSWOOD PRIMARY SCHOOLS — AMALGAMATIONS

5643. Hon Ray Halligan to the Minister for Local Government representing the Minister for Education and Training

I refer to proposals to amalgamate the East Greenwood and Allenswood Primary Schools into a new school, and ask —

- (1) Why is it considered necessary to reduce the size of the Allenswood PS site for the new school?
- (2) Has the retention of all the current Allenswood PS site been considered?
- (3) If no to (2), why not?

Hon LJILJANNA RAVLICH replied:

- (1)-(3) Revenue from the sale of surplus land at Allenswood and East Greenwood will help fund the new Girrawheen Primary School. As the new school abuts Penistone Reserve which is 11.4ha in area, this provides an opportunity for a shared use arrangement with the City of Joondalup without compromising the needs of the new school. The proposed 3.01ha site will accommodate the current student enrolments at both schools and any increased student enrolment in the future. Up to 650 students could fit comfortably on this site without impacting on major play spaces.

MULTIPURPOSE TAXIS

5646. Hon Simon O'Brien to the Parliamentary Secretary representing the Minister for Planning and Infrastructure

My question relates to multi purpose taxis (MPTs) operating in the Perth metropolitan area, and I ask —

- (1) How many MPTs are currently operating?
- (2) What was the number of services provided to wheelchair passengers by month in the year 2007 to date?
- (3) What are the standard performance indicators for MPTs in relation to waiting times?
- (4) What level of performance is being achieved against these performance indicators?

Hon ADELE FARINA replied:

1. 89 as at November 27, 2007
2.

Travel Date	Trip Count
Jan 2007	9,509
Feb 2007	10,624
Mar 2007	11,576
Apr 2007	10,441
May 2007	12,473
Jun 2007	11,041
Jul 2007	11,197
Aug 2007	11,911
Sep 2007	10,643
Oct 2007	10,977

It should be noted that the results for November are still being processed

3. For "booked" trips undertaken during 'peak' and 'off-peak' times, where the customer has rung at least 30 minutes prior to when the trip is due, 85% of customers should be picked up inside 5 minutes of the booked time.
 For ASAP trips undertaken during the 'peak' and 'off-peak' times, where the customer has rung less than 30 minutes prior to when the trip is due, 90% of customers should be picked up inside 20 minutes.
4. Details of MPT performance against indicators are provided in the attachment. [See paper 3648.]

MENTAL HEALTH FACILITIES — SECURITY MEASURES TO PROTECT STAFF

5647. Hon Helen Morton to the Minister for Child Protection representing the Minister for Health

I refer to the attack on a mental health nurse on 17 September 2007, while walking from her car to her East Perth office, and ask —

- (1) Please provide a description of specific strategies, policies and/or security measures that have been put in place at the East Perth Mental Health Facility and other mental health facilities, following the incident?
- (2) Where strategies, policies and/or security measures are still being put in place, could you please provide details as to what these measures are and when these measures are expected to be in place?

Hon SUE ELLERY replied:

1. The following measures were put in place at the Wellington St Clinic:
 - A full time security officer to escort staff to and from the clinic to the car park; and
 - An Occupational Health and Safety review of the building with recommendations being made and implemented.

This security officer had a week of orientation at the Frankland Centre and began working full-time at the Wellington Street Clinic on 31 December 2007.
2. Strategies still in the process of being put in place include the following.
 - Relocation of the service to a new facility, which will include a secure car park for staff. The Vic Smith Association (VSA), on behalf of the North Metropolitan Area Health Service (NMAHS), has put in offers on two different sites but neither offer was accepted by the owners. VSA continues to search for properties which meet the requirements of the Wellington Street Clinic.
 - Dr David Russell-Weisz, Chief Executive of the NMAHS, Dr Ann Hodge, A/Area Executive Director NMAHS Mental Health and Dr Viki Pascu, A/Director of the State Forensic Mental Health Service (SFMHS), visited the staff at the Wellington Street Clinic on 28 December 2007 and re-affirmed with the staff that efforts to locate suitable property is a priority.
 - The report from the Root Cause Analysis (RCA) will be tabled at the next Executive Governance meeting of the State Forensic Mental Health Service on 15 January 2008. The RCA will then be reviewed by the Community Forensic Mental Health Program Clinical Governance Committee which will respond to the recommendations in the RCA. This response will also be reviewed by the Executive Governance Committee of the SFMHS for final approval of the implementation plan

- The NMAHS Mental Health is liaising with Prof Mullen and Mr M Burt from Forensicare (Victoria) to establish a date for the commencement of the external clinical review of the SFMHS.

CONNECT SOUTH WEST

5650. Hon Nigel Hallett to the Leader of the House representing the Minister for South West

- (1) In relation to question without notice No. 958, can the Minister make available to the Parliament and public, details of the briefing he received regarding the ongoing sustainability of Connect South West?
- (2) Can the Minister assure the Parliament that the South West Development Commission has adequately overseen and accounted for all funds directed to Connect South West?
- (3) Can the Minister advise the Parliament of the currency or how up to date the listings contained within the My South West Directories are?

Hon KIM CHANCE replied:

- (1) I am advised formal briefings covering the sustainability of Connect South West were received from the South West Development Commission in May 2005 and as part of the Commission's 2006/07 and 2007/08 budget information. The My South West portal is expected to become self-funding in 2008.
- (2) The South West Development Commission has satisfactorily overseen and accounted for grant funds it has directed to Connect South West. Terms and conditions of a Commission grant agreement require payment according to milestones and an annual audit of financial statements to acquit the grant.
- (3) With a database of over 11,000 listings in the My South West directories, it is not possible to provide an accurate comment on how up-to-date the listings are at any point in time. Community organisations and businesses are largely responsible for maintaining their information; however, Connect South West staff undertake rolling information checking as part of their daily operational activities.

KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD — EXPANSION OF FIMISTON MINE

5652. Hon Giz Watson to the Leader of the House representing the Minister for Water Resources

I refer to written comments from the Department of Water concerning tailings storage facility seepage for the Kalgoorlie Consolidated Gold Mines (KCGM) Fimiston gold mine expansion, which were submitted to the Environmental Protection Authority, and ask —

- (1) Can the Minister quote the full text of the written comments made by the Department of Water concerning tailings storage facility seepage for the KCGM gold mine expansion?
- (2) If no to (1), why not?
- (3) Will the Minister table a copy of all the written comments from the Department of Water concerning tailings storage facility seepage for the KCGM Fimiston gold mine expansion which were submitted to the Environmental Protection Authority?
- (4) If no to (4), why not?

Hon KIM CHANCE replied:

- (1) See (3) below.
- (2) Not applicable.
- (3) Yes. The Department of Water (DoW) did not provide a formal submission or comment to the Environmental Protection Authority (EPA) on KCGM's Fimiston gold mine. Comments were made, at officer level, to the EPA Services Unit at a time when at regional level the Department of Environment and Conservation and DoW were operating in a combined capacity.
- (4) Not applicable.

KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD — EXPANSION OF FIMISTON MINE

5653. Hon Giz Watson to the Minister for Child Protection representing the Minister for Employment Protection

I refer to question on notice No. 4924 on 29 May 2007 and written comments from the Department of Employment and Consumer Protection (DoCEP) concerning the blast clearance area and tailings storage facility options for the Kalgoorlie Consolidated Gold Mines (KCGM) Fimiston gold mine expansion which were submitted to the Environmental Protection Authority, and ask —

- (1) Can the Minister quote the full text of the written comments made by DoCEP concerning the blast clearance area and tailings storage facility for the KCGM gold mine expansion?
- (2) If no to (1), why not?
- (3) Will the Minister table a copy of all the written comments from DoCEP concerning the blast clearance area and tailings storage facility options for the KCGM Fimiston gold mine expansion which were submitted to the Environmental Protection Authority?
- (4) If no to (4), why not?

Hon SUE ELLERY replied:

I am advised that the written comments from the Department of Consumer and Employment Protection (DOCEP) referred to in the Hon. Member's question relate to a letter dated 28 March 2006 from the State Mining Engineer, Mr M.J. Knee, addressed to Mr K.J. Taylor of the Environmental Protection Authority. An e-mail exchange may also be relevant and is included in the documents to be tabled.

- (1)-(4) [See paper 3646.] I draw the Hon. Member's attention to the fact that the Department of Consumer and Employment Protection assumed responsibility for mining safety legislation on 1 July 2005 from the Department of Industry and Resources.

TRANSFER OF MATERNITY SERVICES FROM WOODSIDE TO KALEEYA HOSPITAL

5657. Hon Helen Morton to the Minister for Child Protection representing the Minister for Health

- (1) Have the planned savings been achieved as a result of the move of maternity services from Woodside Hospital to Kaleeya Hospital?
- (2) What were the overall savings in, —
 - (a) the first 12 months ending 1 April 2007; and
 - (b) in the 12 months ending 30 June 2007?
- (3) I refer to the answers to (2)(a) and (2)(b), and ask, —
 - (a) in what budget items and areas were the savings achieved; and
 - (b) in what budget items and areas were additional costs incurred?
- (4) What deficiencies, if any, were there in the feasibility study upon which the move was based?

Hon SUE ELLERY replied:

- (1)-(4) The decision to move maternity services from Woodside to Kaleeya Hospital was based on a feasibility study that clearly identified the cost savings Kaleeya Hospital would provide. There were no deficiencies identified in this feasibility study and the planned savings have been achieved. As a result of moving maternity services from Woodside Hospital to Kaleeya Hospital, the overall savings for the first 12 months ending 1 April 2007 was \$855,437. In addition, the overall savings for the 12 months ending 30 June 2007 was \$635,905.

Other non-financial benefits of the transfer include:

- Increased obstetric services at the Maternity Unit during the day with the appointment of an Obstetric Registrar to provide on site cover and commencement of an Antenatal Clinic providing Obstetric Consultant services;
- Increased paediatric services at the Maternity Unit with Paediatric Registrars from Fremantle Hospital providing a daily ward round and paediatric cover during the day, appointment of a sessional Paediatric Consultant and recruitment of additional Consultants to participate in the after hours on-call roster;
- Improving the skills of midwives and doctors with additional education and training in neonatal resuscitation and CTG monitoring;
- Providing greater opportunities for midwives to access training with the appointment of a dedicated staff development nurse for the Maternity Unit;
- Strengthened clinical and corporate governance of the Maternity Unit through incorporation into existing Kaleeya Hospital management structures;
- Better access for maternity patients to a range of support services such as pharmacy, phlebotomy, radiology and infection control, which are provided on-site at Kaleeya;

- Ability to support post-natal patients and their families in the community with the expansion of the visiting home midwifery service; and
- Improved security with the installation of CCTV on the surgical ward for maternity patients who are occasionally accommodated in this ward.

(a) Savings were achieved in a number of areas.

For the first 12 months ending 1 April 2007, savings were achieved in:

- operating costs;
- staff redeployment/resignation;
- medical salaries;
- other staffing costs;
- drug supplies; and
- revenue.

For the 12 months ending 30 June 2007, savings were achieved in:

- nursing salaries;
- administration salaries;
- medical salaries;
- other staffing costs;
- superannuation;
- food supplies;
- drug supplies;
- domestic charges; and
- revenue.

(b) Additional costs were incurred in some areas.

For the first 12 months ending 1 April 2007, additional costs were incurred in:

- nursing salaries;
- administration salaries;
- hotel services salaries;
- superannuation;
- food supplies;
- domestic charges;
- medical, surgical and diagnostic supplies;
- purchase of services;
- equipment (non capital);
- repairs and maintenance;
- other expenses;
- depreciation and amortisation expenses;
- energy and water; and
- laundry.

For the 12 months ending 30 June 2007, additional costs were incurred in:

- hotel services salaries;
- medical, surgical and diagnostic supplies;
- purchase of services;
- equipment (non capital);
- repairs and maintenance;
- other expenses ;
- depreciation and amortisation expenses;
- energy and water; and
- laundry.

FIRE AND EMERGENCY SERVICES AUTHORITY OF WA

5658. Hon Murray Criddle to the Minister for Regional Development representing the Minister for Police and Emergency Services

I refer the Minister to the fact that there have been a number of FESA staff (some senior officers) leave the organisation over the last 12 months, and I ask —

(1) How many staff, at what level and in which branch/division have left the organisation over the last 12 months?

- (2) How does this compare to other years?
- (3) Does FESA track these departures, and if so, can the Minister provide me with the data over the last 12 months of the staff that have retired as compared to those who have left to move to other organisations?
- (4) What efforts has FESA taken to determine the cause of these departures?
- (5) How does FESA plan to ensure staff departures will not impact adversely on the effectiveness of operations across the rural and metropolitan regions?
- (6) Do the departures impact more on regional operations as distinct from metropolitan operations?
- (7) If yes to (6), in what areas?

Hon JON FORD replied:

- (1)-(2) A total of 64 staff have separated from FESA over the past 12 months which represents around 5% turnover which is acceptable. Due to a major organisational restructure FESA can not provide a breakdown by divisions/branches.

FESA Terminations by Year (December 1st to November 30th)					
Level	02/03	03/04	04/05	05/06	06/07
Level 1-6	20	16	15	27	31
Level 7		1		2	1
Level 8	1		5	5	1
Level 9	1			2	1
Class 1	1				
Class 2			1		
SAT				1	
Operational Staff	21	23	21	21	25
Other Staff	4	3	7	2	5
	48	43	49	60	64

FESA Terminations by Reason					
Reason	02/03	03/04	04/05	05/06	06/07
Resigned	25	21	25	32	44
Retired	6	9	9	11	12
Retired Medical	14	10	13	12	7
Other	3	3	2	5	1
	48	43	49	60	64

- (3) FESA conducts exit interviews however, some employees choose not to participate and therefore information regarding the exact reasons for separations are limited.
- (4) Earlier this year FESA introduced Organisation Performance Reporting which now includes information regarding staffing levels, awards and separations.
- (5) Through the development of FESA's Futures Strategy which includes environmental scanning, long term planning and participation in the Public Sector Retirement Intention Surveys, the staffing requirements of both operational and non-operational areas are monitored and recruited against to ensure appropriate resourcing.
- (6) No.
- (7) Not applicable.

FREMANTLE HOSPITAL

5659. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

How many registered nurse FTEs are required to fully staff the emergency department at Fremantle Hospital?

Hon SUE ELLERY replied:

Staffing of the Fremantle Hospital Emergency Department (ED) can vary on a day to day or shift to shift basis. The Fremantle Hospital ED, as at 17 January 2008, is funded for 103 Full Time Equivalent (FTE) nursing positions. Where vacant positions occur on a day to day or shift to shift basis, they are filled by casual or agency staff and/or overtime as determined by local management to ensure the ED is appropriately staffed.

FREMANTLE HOSPITAL

5660. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
How many equivalent registered nurse FTEs are currently employed in the emergency department at Fremantle Hospital?

Hon SUE ELLERY replied:

The Fremantle Hospital Emergency Department (ED) is staffed by a mix of registered and enrolled nurses. As at 17 January 2008, there are 92 Full Time Equivalent (FTE) nurses employed in the Fremantle Hospital ED.

FREMANTLE HOSPITAL

5661. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
How many registered nurses left the emergency department at Fremantle Hospital during the year ending 30 June 2007?

Hon SUE ELLERY replied:

For the year ending 30 June 2007, 15.6 Full Time Equivalent (FTE) registered nurses left the Fremantle Hospital Emergency Department (ED) and 12.7 FTE were recruited to the ED.

ROYAL PERTH HOSPITAL

5662. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
How many registered nurse FTEs are required to fully staff the emergency department at Royal Perth Hospital?

Hon SUE ELLERY replied:

Staffing of the Royal Perth Hospital (RPH) Emergency Department (ED) can vary on a day to day or shift to shift basis. The RPH ED, as at 17 January 2008, is funded for 122 Full Time Equivalent (FTE) nursing positions. Where vacant positions occur on a day to day or shift to shift basis, they are filled by casual or agency staff and/or overtime as determined by local management to ensure the ED is appropriately staffed.

ROYAL PERTH HOSPITAL

5663. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
How many equivalent registered nurse FTEs are currently employed in the emergency department at Royal Perth Hospital?

Hon SUE ELLERY replied:

The Royal Perth Hospital (RPH) Emergency Department (ED) is staffed by a mix of registered and enrolled nurses.

As at 17 January 2008, there are 94 Full Time Equivalent (FTE) nurses employed in the RPH ED.

ROYAL PERTH HOSPITAL

5664. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
How many registered nurses left the emergency department at Royal Perth Hospital during the year ending 30 June 2007?

Hon SUE ELLERY replied:

15 Full Time Equivalent (FTE) registered nurses left the Emergency Department (ED) of Royal Perth Hospital (RPH) during the year ending 30 June 2007.

22 FTE registered nurses were recruited to the RPH ED during the year ending 30 June 2007.

KALEEYA HOSPITAL

5665. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for nursing salaries?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services nursing salaries in 2006/07 financial year to be \$2,500,000.

As at 30 June 2007, \$2,270,300 was expended.

KALEEYA HOSPITAL

5666. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for nursing salaries?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5665.

KALEEYA HOSPITAL

5667. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for medical salaries?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services medical salaries in 2006/07 financial year to be \$1,815,027.

As at 30 June 2007, \$1,731,420 was expended.

KALEEYA HOSPITAL

5668. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for medical salaries?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5667.

KALEEYA HOSPITAL

5669. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for ancillary salaries?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services ancillary services in 2006/07 financial year to be \$273,204.

As at 30 June 2007, \$334,930 was expended.

KALEEYA HOSPITAL

5670. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for ancillary salaries?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5669.

KALEEYA HOSPITAL

5671. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for Weststate salaries?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services West State Super salaries in 2006/07 financial year to be \$211,006.

As at 30 June 2007, \$191,629 was expended.

KALEEYA HOSPITAL

5672. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for Westate salaries?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5671.

KALEEYA HOSPITAL

5673. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for food services?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for food for maternity services in 2006/07 financial year to be \$47,377.

As at 30 June 2007, \$40,480 was expended.

KALEEYA HOSPITAL

5674. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for food services?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5673.

KALEEYA HOSPITAL

5675. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for drugs?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services drug expenditure in 2006/07 financial year to be \$87,579.

As at 30 June 2007, \$66,107 was expended.

KALEEYA HOSPITAL

5676. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for drugs?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5675.

KALEEYA HOSPITAL

5677. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for medical supplies?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services medical supplies in 2006/07 financial year to be \$57,130.

As at 30 June 2007, \$102,283 was expended.

KALEEYA HOSPITAL

5678. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for medical supplies?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5677.

KALEEYA HOSPITAL

5679. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for medical equipment?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated that there would be no expenditure for maternity services medical equipment in 2006/07 financial year.

However, as at 30 June 2007, \$89,292 was expended.

KALEEYA HOSPITAL

5680. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for medical equipment?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5679.

KALEEYA HOSPITAL

5681. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for cleaning and supplies?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services cleaning and supplies in 2006/07 financial year to be \$22,507.

As at 30 June 2007, \$20,672 was expended.

KALEEYA HOSPITAL

5682. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for cleaning and supplies?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5681.

KALEEYA HOSPITAL

5683. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for laundry?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services laundry in 2006/07 financial year to be \$21,435.

As at 30 June 2007, \$34,868 was expended.

KALEEYA HOSPITAL

5684. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for laundry?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5683.

KALEEYA HOSPITAL

5685. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for utilities?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services utilities for the financial year of 2006/2007 to be \$45,477.

As at 30 June 2007, \$52,749 was expended.

KALEEYA HOSPITAL

5686. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for utilities?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5685.

KALEEYA HOSPITAL

5687. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget estimate for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for depreciation?

Hon SUE ELLERY replied:

In June/July 2006, the Department of Health estimated the expenditure for maternity services depreciation for the financial year of 2006/2007 to be \$22,433.

As at 30 June 2007, \$23,140 was expended.

KALEEYA HOSPITAL

5688. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the budget expenditure for maternity services at Kaleeya Hospital for the year ending the 30 June 2007 for depreciation?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5687.

TRANSFER OF MATERNITY SERVICES FROM WOODSIDE TO KALEEYA HOSPITAL

5689. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What was the total recurrent saving in the year ending 30 June 2007 resulting in the closure of Woodside Hospital and the relocation of maternity services to Kaleeya?

Hon SUE ELLERY replied:

The Department of Health have advised that the cash savings realised were \$635,905.

These savings were as a result of:

- staff redeployment or resignation (7.61 FTEs \$456,641); and
- a reduction in operating costs (\$179,264).

Savings have been reinvested to improve the maternity services, including:

- appointment of an Obstetric Registrar to provide onsite cover to the Maternity Unit during the day;
- appointment of a sessional Paediatric Consultant and recruitment of additional Consultants to participate in the after hours roster;
- appointment of a part time Consultant Obstetrician and commencement of an Antenatal Clinic;
- support the Paediatric Registrars from Fremantle Hospital who now provide a daily ward round and cover during the day to Kaleeya;
- additional education and training of midwives and doctors in neonatal resuscitation, CTG monitoring;

- continuation and expansion of the visiting home midwifery service;
- appointment of a dedicated staff development nurse for the Maternity Unit; and,
- improved security with installation of CCTV on Endeavour Ward for maternity patients who are occasionally accommodated in this ward.

KALEEYA HOSPITAL

5690. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What were the total recurrent costs in the year ending 30 June 2007 for maternity services to Kaleeya Hospital?

Hon SUE ELLERY replied:

The estimated total recurrent costs in the year ending 30 June 2007 for maternity services to Kaleeya Hospital, as determined in June/July 2006, was \$5,120,227.

The actual expenditure for the year ending 30 June 2007 was \$4,940,963.

KALEEYA HOSPITAL

5691. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

By how much was the recurrent budget for maternity services exceeded or underspent in the year ending 30 June 2007 at Kaleeya Hospital?

Hon SUE ELLERY replied:

Refer to answer provided to PQ 5690.

OBSTETRICIANS

5692. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

(1) How many obstetricians completed their training in Western Australia in, —

- (a) 2004;
- (b) 2005;
- (c) 2006; and
- (d) 2007?

(2) How many obstetricians are currently in training in Western Australia and where are they being trained?

(3) Has the Minister for Health written to the Royal Australian College of Obstetricians asking them to train more obstetricians?

(4) If yes to (3), will the Minister provide a copy of the correspondence?

(5) What other action has the Minister undertaken to ensure more obstetricians are trained in Western Australia?

Hon SUE ELLERY replied:

(1)-(5) There are currently 22 obstetricians being trained in Western Australia at King Edward Memorial Hospital, Osborne Park Hospital, Joondalup Hospital and Bunbury Regional Hospital. All 5 training places have been filled for 2008 and additional places are currently being negotiated.

During the period of 2004-2007, ten obstetricians completed their training in Western Australia with two finishing in 2004, two in 2005, five in 2006 and one in 2007.

Planning is underway to increase training opportunities in obstetrics within existing training centres, and on rotation in outer metropolitan centres and rural settings.

The Minister for Health has not written to the Royal Australian and New Zealand College of Obstetricians and Gynaecologists.

NEONATOLOGISTS

5693. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

(1) How many neonatologists completed their training in Western Australia in, —

- (a) 2004;
- (b) 2005;

- (c) 2006; and
 - (d) 2007?
- (2) How many neonatologists are currently in training in Western Australia and where are they being trained?
 - (3) Has the Minister for Health written to the Royal Australian College of Neonatology or Paediatrics asking them to train more neonatologists?
 - (4) If yes to (3), will the Minister provide a copy of the correspondence?
 - (5) What other action has the Minister undertaken to ensure more neonatologists are trained in Western Australia?

Hon SUE ELLERY replied:

- (1)-(5) There are currently four training neonatologists in Western Australia. Three are training in King Edward Memorial Hospital and one in Princess Margaret Hospital.

During the period 2004-2007, two neonatologists completed their training in Western Australia, one in 2005 and one in 2007.

Planning is underway to increase the training opportunities in neonatology within existing training centres and on rotation in outer metropolitan centres and rural settings.

The Minister for Health has not written to the Royal Australian College of Physicians.

CAESAREAN SECTIONS

5694. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What action has the Minister taken to reduce the number of caesarean sections in public hospitals?

Hon SUE ELLERY replied:

The Department of Health (DOH) has developed the maternity policy framework titled "Improving Maternity Service: Working Together Across WA", released 16 January 2008, which outlines key strategies to assist in reducing the number of caesarean sections in public hospitals.

Such strategies will include:

- the development of an elective caesarean sections clinical guideline which will aim to reduce elective caesarean sections performed prior to 39 weeks gestation;
- the development of a Vaginal Births After Caesareans (VBAC) clinical guideline;
- information packages for women and their families to enable informed decision-making relating to caesarean section and VBAC.

The above information is due to be available for dissemination by August 2008.

The DOH is also implementing a number of strategies to reduce caesarean sections including:

- the commencement of a Specialist VBAC clinic at King Edward Memorial Hospital (KEMH) by March 2008; and,
- establishing more safe VBAC sites for women where appropriate.

VBAC is currently practiced at the following sites: KEMH, Osborne Park Hospital, Esperance Hospital, Armadale-Kelmscott Memorial Hospital, Geraldton Hospital, Kaleeya Hospital, Swan District Hospital, Bunbury Hospital, Busselton Hospital, Kalgoorlie Hospital, Narrogin Hospital, and Derby Hospital.

CAESAREAN SECTIONS

5695. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What action has the Minister taken to reduce the number of caesarean sections in private hospitals?

Hon SUE ELLERY replied:

The Minister for Health is not in a position to affect operational practices within a private hospital in Western Australia. However, the Minister has expressed the view that by informing women of the risks associated with elective caesarean sections and improving circumstances around natural childbirth, women will consider vaginal delivery as the first option. The new State Maternity Services policy will provide women with greater choice for natural and safe child birth.

CAESAREAN SECTIONS

5696. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What number and percentage of births in Western Australia were by caesarean section in the year ending —

- (a) 30 June 2005;
- (b) 30 June 2006; and
- (c) 30 June 2007?

Hon SUE ELLERY replied:

(a)-(c) 34% of births in WA were delivered by caesarean section for the years ending 30 June 2005 and 2006 (8,738 and 9,413 births, respectively). In the year ending 30 June 2007, the percentage of births delivered by caesarean section decreased slightly to 33% (9,376 births).

The proportion of caesarean births in the public hospital sector (28%) remains much lower than that of the private hospital sector (43%).

The new 'Improving Maternity Services: Working Together Across WA' policy outlines the direction WA Health will take in the development of maternity services over the coming years. A key initiative of the policy will be to develop guidelines for the appropriate use of elective caesarean sections. Consequently, unless there is clinical need, caesarean sections will not be performed in WA public hospitals prior to 39 weeks gestation to reduce the risk of complications for babies.

CAESAREAN SECTIONS

5697. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What number and percentage of births in Western Australia were by caesarean section in public hospitals in the year ending, —

- (a) 30 June 2005;
- (b) 30 June 2006; and
- (c) 30 June 2007?

Hon SUE ELLERY replied:

(a)-(c) In the year ending 30 June 2005, 4,111 (26.8%) births in WA public hospitals were delivered by caesarean section, compared to 4,626 (44.3%) births in WA private hospitals for the same year.

In the year ending 30 June 2006, 4,500 (27.3%) births in WA public hospitals were delivered by caesarean section, compared to 4,913 (45.1%) births in WA private hospitals for the same year.

In the year ending 30 June 2007, 4,759 (27.7%) births in WA public hospitals were delivered by caesarean section, compared to 4,617 (43.3%) births in WA private hospitals for the same year.

More than half of the caesarean sections performed in WA public hospitals for the years ending 30 June 2005 to 30 June 2007 were emergency caesarean sections.

The new 'Improving Maternity Services: Working Together Across WA' policy outlines the direction WA Health will take in the development of maternity services over the coming years. A key initiative of the policy will be to develop guidelines for the appropriate use of elective caesarean sections. Consequently, unless there is clinical need, caesarean sections will not be performed in WA public hospitals prior to 39 weeks gestation to reduce the risk of complications for babies.

CAESAREAN SECTIONS

5698. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What number and percentage of births in Western Australia were by caesarean section in private hospitals in the year ending,

- (a) 30 June 2005;
- (b) 30 June 2006; and
- (c) 30 June 2007?

Hon SUE ELLERY replied:

(a)-(c) Refer to answer provided for PQ 5698.

PREMATURE BIRTHS

5699. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What number and percentage of births in Western Australia were premature in the year ending,

- (a) 30 June 2005;
- (b) 30 June 2006; and
- (c) 30 June 2007?

Hon SUE ELLERY replied:

- (a)-(c) The percentage of premature births (that is births with a gestation period of less than 37 weeks) was 8.8% for the years ending 30 June 2005 and 2006 (2,300 and 2,442 births respectively). The percentage of premature births decreased slightly to 8.6% in the year ending 30 June 2007 (2,406 births).

The new 'Improving Maternity Services: Working Together Across WA' policy outlines the direction WA Health will take in the development of maternity services over the coming years. A key initiative of the policy is to expand community based antenatal services and to provide women with better information — both before conception and during pregnancy, to ensure a healthy pregnancy and delivery.

HOME BIRTHS

5700. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
What number and percentage of births in Western Australia were home births in the year ending,

- (a) 30 June 2005;
- (b) 30 June 2006; and
- (c) 30 June 2006?

Hon SUE ELLERY replied:

- (a)-(c) Most births in WA occur in hospitals or birthing centres, however, a small proportion of women choose to deliver their baby at home.

In the year ending 30 June 2005 the percentage of home births in WA was 0.6% (147 births).

In the year ending 30 June 2006 the percentage of home births in WA was 0.5% (147 births).

In the year ending 30 June 2007 the percentage of home births in WA was 0.7% (205 births).

The new 'Improving Maternity Services: Working Together Across WA' policy, released 16 January 2008, outlines the direction WA Health will take in the development of maternity services over the coming years. A key initiative of this policy is to expand the number of State Government funded places available each year in the Community Midwife home birth program, pending the results of an independent professional review of home births commissioned by the Department of Health.

KALEEYA HOSPITAL

5701. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
How many administration FTEs were there at Kaleeya Hospital as at 30 March 2007?

Hon SUE ELLERY replied:

As at 30 March 2007 17.23 Full Time Equivalent (FTE) staff were employed in administration at Kaleeya Hospital.

As at December 2007, there were no administration FTE vacancies.

19.23 administration FTE are funded for the financial year of 2007/08.

KALEEYA HOSPITAL

5702. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

- (1) Has the theatre air-conditioning unit at Kaleeya Hospital been replaced?
- (2) If yes to (1), when was it replaced and what was the cost of replacement?

Hon SUE ELLERY replied:

- (1) Yes.

- (2) The theatre air-conditioning unit was replaced on the weekend of 24 and 25 November 2007 at a cost of \$136,208.

KALEEYA HOSPITAL

5703. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

- (1) On what dates in 2007 has Kaleeya Hospital not had a medical practitioner on site for the 24 hours?
(2) By whom, or under what employment contract are these medical officers employed?

Hon SUE ELLERY replied:

- (1) & (2)

The on site medical officers at Kaleeya Hospital are employed by the Fremantle Hospital and Health Service under the Department of Health Medical Practitioners (Metropolitan Health Services) Australian Medical Association (AMA) Industrial Agreement 2004.

At least one medical practitioner was on site at all times during 2007.

KALEEYA HOSPITAL

5704. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

- (1) Does Kaleeya Hospital have a sleeping area for medical staff?
(2) If yes to (1), where is this sleeping area located?

Hon SUE ELLERY replied:

- (1) Yes.
(2) The sleeping area is located within the hospital complex at the rear of the facility.

KALEEYA HOSPITAL

5705. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

- (1) When was Kaleeya Hospital last accredited?
(2) Was the accreditation done by ACHC Services?
(3) Did Kaleeya Hospital pass the accreditation process?
(4) What recommendations were made following the accreditation process?
(5) Will the Minister table the report that followed the accreditation process?

Hon SUE ELLERY replied:

- (1)-(5) The accreditation of Kaleeya Hospital was undertaken by the Australian Council on Healthcare Standards (ACHS) as part of the accreditation of the Fremantle Hospital and Health Service, in February 2007. Kaleeya Hospital, as part of the Fremantle Hospital and Health Service, passed the accreditation process.

The ACHS surveyors made 2 'non-high priority' recommendations in relation to Kaleeya Hospital.

Firstly, 'Implement procedures to reduce the occurrence of patients arriving at operating theatres without a complete consent form and monitor the outcome of such procedures; and staff be familiar with privacy and consent policies regarding photography of patients in operating theatres'.

These procedures have now been implemented and are being monitored on a regular basis to ensure compliance.

The second recommendation made by the ACHS in relation to Kaleeya Hospital was that 'the Occupational Health and Safety and Infection Control representatives review the environment and cleaning processes following the installation of the extractor fan within the Endoscopic Unit at Kaleeya Hospital to ensure that staff concerns have been addressed'.

Representatives of Fremantle Hospital and Health Service Occupational Health and Safety and Infection Control committees have reviewed the environment and cleaning processes in the Endoscopy Unit. Staff concerns have been addressed with the installation of an extractor fan and the purchase of improved cleaning equipment. Staff have also been encouraged to wear appropriate personal protective equipment when required. The unit has undergone regular air and surface testing by an external company to confirm that the area meets occupational safety and health requirements.

The Minister for Health will not be tabling the accreditation report in Parliament. If the Member would like a copy of the relevant sections of the report relating to Kaleeya Hospital, the Chief Executive of the South Metropolitan Area Health Service can provide a copy to your office.

ELECTIVE SURGERY

5706. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

How many elective surgery waiting list operations were done at each of the metropolitan teaching hospitals in the year ending,

- (a) 30 June 2006; and
- (b) 30 June 2007?

Hon SUE ELLERY replied:

(a) and (b)

The Metropolitan Elective Surgery Waitlist has been significantly reduced from around 20,000 in 2001, to 16,361 on 30 June 2006 and 13,037 on 30 June 2007. The Elective Surgery Wait List has been further reduced to 11,940 as at 9 December 2007.

Please see attached document. The number of elective surgery operations performed at each metropolitan teaching hospital for 2005/06 and 2006/07. [See paper 3647.]

SIR CHARLES GAIRDNER HOSPITAL

5707. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

How many registered nurse FTEs are required to fully staff the emergency department at Sir Charles Gairdner Hospital?

Hon SUE ELLERY replied:

Staffing of the Sir Charles Gairdner Hospital (SCGH) Emergency Department (ED) can vary on a day to day or shift to shift basis. The SCGH ED, as at 17 January 2008, is funded for 114 Full Time Equivalent (FTE) nursing positions. Where vacant positions occur on a day to day or shift to shift basis, they are filled by casual or agency staff and/or overtime as determined by local management to ensure the ED is appropriately staffed.

SIR CHARLES GAIRDNER HOSPITAL

5708. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

How many equivalent registered nurse FTEs are currently employed in the emergency department at Sir Charles Gairdner Hospital?

Hon SUE ELLERY replied:

The Sir Charles Gairdner Hospital (SCGH) Emergency Department (ED) is staffed by a mix of registered and enrolled nurses.

As at 17 January 2008, there are 98 Full Time Equivalent (FTE) nurses employed in the SCGH ED.

SIR CHARLES GAIRDNER HOSPITAL

5709. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

How many registered nurses left the emergency department at Sir Charles Gairdner Hospital during the year ending 30 June 2007?

Hon SUE ELLERY replied:

During the year ending 30 June 2007, 22 Full Time Equivalent (FTE) registered nurses left the Sir Charles Gairdner Hospital (SCGH) Emergency Department (ED), with 3.4 FTE leaving due to retirement. During this same year, 24.7 FTE registered nurses were recruited to SCGH ED.

FIONA STANLEY HOSPITAL

5710. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

- (1) Will the Minister advise what major changes have been made to the building program at Fiona Stanley Hospital since it was announced?
- (2) What major changes have been made to the planned work in each stage?
- (3) What changes have been made to the bed numbers in each major change or announcement?
- (4) What changes have been made to the costs in each major change or announcement?

(5) What changes has been made to the completion date in each major change or announcement?

Hon SUE ELLERY replied:

(1)-(5)

The building program for the Fiona Stanley Hospital has been expanded and extended to accommodate significant additions to the scope of work — the development of a larger hospital that better meets the needs of Western Australians. Western Australians will benefit from a far superior hospital that will better meet the increasing health care demands of a growing southern community and the wider public of Western Australia.

As the most significant health infrastructure project ever undertaken in this State, it is critical that we not only get this important tertiary facility built — but that we build it right. As a result, it was always anticipated that the hospital's program would be refined and adjusted as more detailed site planning, consultation and work was undertaken.

There is also no doubt that the building program for the Fiona Stanley Hospital — like all other major capital works projects currently being undertaken — has been impacted by the overheated local construction market.

Planning for the Fiona Stanley Hospital has always included the provision of a full range of acute medical and surgical services expected of a world class tertiary facility including:

- a 24-hour emergency department, including major trauma capabilities;
- cardiothoracic services;
- cancer treatments and radiation therapy;
- renal transplantation and dialysis;
- obstetrics and gynaecology;
- paediatrics;
- radiology services including CT and MRI scanning; and
- clinical research.

In September 2005, an additional \$320 million was invested in the hospital to house the State Burns and Trauma Centre and heart/lung transplantation services.

As detailed planning has progressed, input has been sought from clinicians and hospital staff, health partners, private organisations and members of the public. Detailed research, international benchmarking and collaboration with a range of health planners and other specialists have also been ongoing. All of this work has led to the inclusion of additional services and design features — resulting in a bigger and better hospital.

In December 2006, additional funding was provided to:

- provide an additional 10,000m² of floor space;
- increase the proportion of single rooms to 50 per cent;
- increase the number of Intensive Care and High Dependency Unit beds from 40 to 60;
- improve facilities for pathology, theatres, bio-medical engineering and cell tissue manufacturing;
- ensure the hospital is fitted with the latest furniture, fittings and medical equipment;
- construct an additional 700 bays in a multi-storey car park, bringing the total multi-storey parking provided at the site to 1,300 spaces; and
- provide better site infrastructure and access roads within the hospital grounds.

In December 2007, the Fiona Stanley Hospital plans were further enhanced to include:

- 8000m² in additional gross floor area;
- increase the proportion of single rooms to 83 per cent;
- additional interventional procedure rooms (up from 7 to 14);
- additional endoscopy rooms (up from four to five);
- additional imaging rooms (up from 21 to 29) with 400m² of additional floor space;
- additional theatres (up from 14 to 16, plus two additional shells);
- 4000m² of additional floor space for ambulatory care, primarily due to the special needs of the Cancer Centre;
- additional area for mental health of 600m² to accommodate clinical requirements;

- provide 700 parking spaces under the hospital for visitors;
- improved disaster planning (dual electrical feeds, increase in on-site water storage);
- a contemporary, environmentally sustainable design, with the potential for cogeneration, displacement air conditioning, building design and power saving initiatives; and
- the potential for improved architectural outcomes (including larger floor areas, more natural light, highly consolidated form).

The Fiona Stanley Hospital will provide 643 beds at the completion of Stage One — an increase of 43 beds since the project was first announced in early 2005.

The Fiona Stanley Hospital project has been a Government priority and has grown enormously in terms of scope and service delivery capacity since early 2005 when it was first announced.

Since this time, more than \$1.34 billion in additional funding has been invested into the hospital design and services — resulting in a bigger and better hospital that will rank among the best in Australia.

The additional funding has also covered the unprecedented cost increases in the construction industry, where escalation rates have been running in excess of 10 per cent per annum in recent years.

Now, after significantly more detailed planning and an expansion of the requirements, site works will commence in mid 2008 and completion of Stage One is now expected in 2013.

I note with some disappointment that the Liberal Party has now declared it is opposed to Stage Two of Fiona Stanley Hospital which will take its bed capacity to 1000.

KALEEYA HOSPITAL

5711. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What facilities have been provided at Kaleeya Hospital for labouring women to walk to establish labour,

- (a) before 8.00pm; and
- (b) after 8.00pm?

Hon SUE ELLERY replied:

- (a) Before 8pm, labouring women can walk throughout the hospital although this is dependent on the degree of progress of the labour. The areas available to them include the delivery suite, the public corridors, the visitors' areas including the reception area.

Patients can also walk in the grounds of Kaleeya if they are accompanied by a spouse or other support person.

- (b) Labouring women can walk within the delivery suite and maternity ward area and throughout the public areas of the first floor of the hospital. The after 8pm restriction on 'out of area' walking is to ensure patient and staff safety after-hours.

KALEEYA HOSPITAL

5712. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

What facilities have been provided at Kaleeya Hospital for visiting adults and children?

Hon SUE ELLERY replied:

There is a waiting area for visitors on the ground floor of Kaleeya Hospital near the main reception where visitors can access refreshments from vending machines. Visitors can also purchase meals if required by purchasing a meal ticket at the front reception of the Hospital.

KALEEYA SURGICENTRE

5713. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health

- (1) How many elective surgery patients have been operated on at Kaleeya Surgicentre since it commenced in September 2006?
- (2) How many elective gynaecology patients have been operated for on at Kaleeya Surgicentre since it commenced in September 2006?
- (3) How many elective obstetrics patients have been operated for on at Kaleeya Surgicentre since it commenced in September 2006 and are they included in (1)?
- (4) How many elective surgery patients have been operated on at Kaleeya Surgicentre in its first 12 months of operation?

- (5) What is the breakdown of elective surgery operations at Kaleeya Surgicentre since it commenced in September 2006 in,
- (a) orthopaedics;
 - (b) urology;
 - (c) plastic surgery;
 - (d) general surgery; and
 - (e) other areas?

Hon SUE ELLERY replied:

(1)-(5)

The Kaleeya SurgiCentre commenced on 2 August 2006. Since September 2006, 4,675 operations have been performed, including 188 gynaecology cases and 218 obstetric cases. During the first 12 months of operation, 3,129 elective surgery operations were performed in the SurgiCentre.

The breakdown of elective surgery operations at Kaleeya SurgiCentre since September 2006 is as follows:

(a)	Orthopaedics	1,495
(b)	Urology	1,555
	(includes 1,183 Australian Institute of Health and Welfare (AIHW) reportable cases undertaken under the Ambulatory Surgery Initiative (ASI))	
(c)	Plastic Surgery	271
(d)	General Surgery	669
(e)	Ear Nose and Throat (ENT)	279
	Gynaecology	188

FIONA STANLEY HOSPITAL

5714. Hon Barbara Scott to the Minister for Child Protection representing the Minister for Health
- (1) What contracts have been let to prepare the business case study for Fiona Stanley Hospital?
 - (2) Who has been in charge of preparing the business case study for Fiona Stanley Hospital?
 - (3) What has been the total cost of preparing the business case study for Fiona Stanley Hospital?
 - (4) Which other contractor have been employed to prepare elements of the business case study Fiona Stanley Hospital and how much have they been paid in each financial year?

Hon SUE ELLERY replied:

(1)-(4)

The business case for the future Fiona Stanley Hospital has been based on extensive planning exercises conducted over several years and has involved intensive data analysis, modelling and clinical and community consultation. The South Metropolitan Area Health Service is responsible for preparing the business case.

There have been two versions of the business case for the Fiona Stanley Hospital developed; an original business case and an updated business case.

The original business case was produced by Cary Consulting as part of their contract for the 'Provision of Business Case and Associated Coordination for Fiona Stanley Hospital'.

A proportion of the total Cary Consulting contract valued at \$2,409,092 was expended on preparation of the original business case. In addition, Snap Printing was paid a total of \$2,997(excluding GST) to print copies of the business case.

The updated business case was developed by staff of the Department of Health and the Department of Housing and Works as part of their job responsibilities.

Aside from Cary Consulting no other consultants have been engaged to prepare the business case. However, various other contractors have prepared reports for the Fiona Stanley Hospital Project. These reports were required for progress reports relating to the Fiona Stanley Hospital Project. Elements of these reports have been included as attachments to the business case as a point of reference for readers.

ROAD RULES — KEEPING TO THE LEFT

5716. Hon Nigel Hallett to the Minister for Regional Development representing the Minister for Police and Emergency Services

- (1) Under what circumstances is it an offence for a motorist to remain in the right hand lane in a dual carriageway?
- (2) What Act and regulation apply?
- (3) What is the penalty?
- (4) How many motorists have been charged successfully with this offence in,
 - (a) 2005;
 - (b) 2006; and
 - (c) so far in 2007?
- (5) How many warnings have been handed out by Police for this offence in each of these periods?

Hon JON FORD replied:

- (1) Where there are 2 or more marked lanes that are available exclusively for vehicles travelling in the same direction and the speed limit is 90 km/h and above; or there is a "keep left unless overtaking" sign that applies to that part of the carriageway, or both.
- (2) Regulation 113 of the Road Traffic Code 2000.
- (3) 1 Penalty Unit (\$50.00) and 2 demerit points.
- (4) (a)-(b) Due to a change in recording systems this data is not available.
(c) As of 7 December 2007 there have been 7461 infringements and 9 court briefs issued.
- (5) Cautions are not recorded.

ROAD RULES — LANE SPLITTING BY MOTORCYCLISTS

5717. Hon Nigel Hallett to the Minister for Regional Development representing the Minister for Police and Emergency Services

- (1) Under what circumstances is lane splitting by motorcycles illegal?
- (2) Which Act and regulation apply?
- (3) What is the penalty?
- (4) How many motorcyclists have been charged successfully with this offence in,
 - (a) 2005;
 - (b) 2006; and
 - (c) so far in 2007?
- (5) How many warnings have been handed out by Police for this offence in each of these periods?

Hon JON FORD replied:

- (1) Lane splitting by motorcycles is not illegal within the state of Western Australia. The Australian Road Rules Management Group is currently reviewing this matter.
Police usually detect motorcyclists committing other offences when performing lane splitting activities. These offences include failing to indicate and crossing the continuous white line on approach to intersections, however data specific to motorcycles is unavailable for these offences.
- (2)-(5) Not applicable

MOTORCYCLE ADVANCED TRAINING FACILITY — CLOSURE

5718. Hon Nigel Hallett to the Minister for Regional Development representing the Minister for Police and Emergency Services

- (1) When was the motorcycle advanced training facility in the metropolitan area, which was sponsored by Honda and run by the Police, closed?
- (2) Why did it close?
- (3) How much did the State Government contribute financially to the operations of that facility annually while it was in operation?

- (4) What effort has been made to re-open an advanced motorcycle training facility since then?

Hon JON FORD replied:

- (1) The Honda Advanced Rider Training program (HART) finished in approximately 2002. A similar program the Right To Ride, Ride Right program ran from approximately October 2004 to September 2006.
- (2) Due to frontline policing policies and the requirement to prioritise police trainers to train police members.
- (3) The HART program was provided with some equipment by Honda. The Road Safety Council through the Police Road Safety Section provided funding of \$50 000 that was primarily used for funding trained staff to run the event. The Right To Ride, Ride Right program was funded by a one-off grant of \$16 000 from the Local Government Road Safety Grants Program that is administered by RoadWise on behalf of the Western Australian Local Government Association.
- (4) Due to frontline policing policies the program has not been re-introduced.

OFFICE OF ROAD SAFETY — STAFFING AND USE OF MOTORCYCLES/SCOOTERS

5719. Hon Nigel Hallett to the Minister for Regional Development representing the Minister for Community Safety

- (1) How many officers of the Office of Road Safety use a motorcycle or scooter as their usual mode of transport and what is the total number of staff employed in this agency?
- (2) How many officers of the Office of Road Safety hold current Western Australian motorcycle riding licences?

Hon JON FORD replied:

- (1) One of the 24 staff employed in the Office of Road Safety uses a scooter as her usual mode of transport.
- (2) Only the officer who uses a scooter as her usual mode of transport holds a motorcycle licence.

CHESTER FOREST BLOCK — FLORA

5721. Hon Paul Llewellyn to the Parliamentary Secretary representing the Minister for the Environment

- (1) Did the Regional Forest Agreement find Chester forest block to have maximum flora species richness?
- (2) Have rare and/or priority flora been cited in Government vegetation mapping reports as occurring in Chester forest block?
- (3) If yes to (2), have conservation statements been prepared for these rare and/or priority flora, in accordance with the requirements of the Forest Management Plan 2004-2013 for the management of significant flora values (FMP p. 125)?
- (4) If no to (3), why not?
- (5) What protective responses have been determined for the rare and/or priority flora in Chester forest block?
- (6) Has logging been excluded?
- (7) If no to (6), why not?

Hon SALLY TALBOT replied:

- (1) Chester forest block is located within an area mapped in the Comprehensive Regional Assessment phase of the Regional Forest Agreement process as having high flora species richness.
- (2) Yes.
- (3) Yes, the requirements of the Forest Management Plan 2004-2013 (p. 125) have been met.
- (4) Not applicable.
- (5) Flora values are protected through a range of measures including the formal and informal reserve system, fauna habitat zones and management practices at the operational scale, such as understorey management requirements in silvicultural guidelines, soil protection measures and flora survey requirements.
- (6) Logging in Chester forest block is excluded for areas formally and informally reserved. This includes a 1,770 hectare nature reserve and additional informal reserves.
- (7) Not applicable.

EDUCATION AND TRAINING — TWOMEY TASKFORCE

5723. Hon Peter Collier to the Minister for Local Government representing the Minister for Education and Training

I refer the Minister to the Twomey Taskforce, established in February 2007 to address long-term supply and demand issues in the education and training workforce in Western Australia, and ask —

- (1) When will Professor Twomey present his final submission to the Minister?
- (2) When will the final submission be available to the public?
- (3) What is the total cost of the Twomey Taskforce?

Hon LJILJANNA RAVLICH replied:

1. The report was presented to me by Professor Twomey prior to Christmas 2007.
2. The report will be released after it has been fully considered by Cabinet.
3. The total cost of the Taskforce has not been finalised. A total of \$863,672 has been budgeted for the Taskforce.

PROSTITUTION LEGISLATION

5724. Hon Norman Moore to the Minister for Regional Development representing the Minister for Police and Emergency Services

I refer the Minister to the proposed new prostitution laws, and ask —

- (1) Did the Police conduct any analysis on basis of experience of other states such as Victoria, of the potential of new prostitution laws to lead to an increase in drug and other crimes as well as possible expansion of organized crime in Western Australia, and the consequent impact on demand for police services?
- (2) If no to (1), why not?
- (3) Did the Police provide the Minister with a report or briefing on such analysis?
- (4) If no to (3), why didn't the Minister request such work be undertaken?
- (5) If such work was done, will the Minister table a copy of relevant briefing?
- (6) If no to (5), will the Minister outline the broad findings of such work?

Hon JON FORD replied:

- (1) Police were members of the Prostitution Law Reform Working Group and were represented by Detective Superintendent Porter, of the WA Police Crime Portfolio. Police gathered information on other states legislative controls on prostitution, which having regard to the time frame set for the Working Group to complete its report, was provided verbally to the Working Group by Police.
- (2) Not applicable
- (3) No
- (4) Police were contributing directly to the Prostitution Law Reform Working Group established by the Government under the Minister for Health.
- (5)-(6) Not applicable.

KALGOORLIE REGIONAL HOSPITAL — EXPENDITURE ON UPGRADE

5727. Hon Giz Watson to the Minister for Child Protection representing the Minister for Health

I refer to the question on notice No. 4969 27 June 2007 and the promised \$40 million upgrade of the Kalgoorlie Regional Hospital — .

- (1) Will the Minister give an estimated end-date for the proposed \$40 million upgrade to the hospital?
- (2) Will the Minister provide a program of staged expenditure for the hospital upgrade, including approximate expenditures for each stage?
- (3) If no to (2), why not?
- (4) Is it correct that only \$2.8 million will be spent in the 2008— 2009 year?
- (5) If yes to (1), what will this amount be specifically spent on at the Kalgoorlie Regional Hospital?

- (6) Can the Minister state what amount of money and the relevant 'subsequent years' the remaining \$37.2 million dollars will be spent at the Kalgoorlie Regional Hospital?
- (7) If no to (5), why not?

Hon SUE ELLERY replied:

(1)-(7)

The current estimated end-date for the proposed upgrade of Kalgoorlie Regional Hospital is the financial year ending June 2012. However, due to the volume of construction work occurring in Western Australia, there may be some variation to this estimated end-date, which cannot be seen at this point in time.

The estimated cash flow for this project is as follows and is predicated on a completion date of June 2012:

- 2007-2008 - \$ 0.30 million;
- 2008-2009 - \$ 2.80 million;
- 2009-2010 - \$10.72 million;
- 2010-2011 - \$ 17.43 million;
- 2011-2012 - \$ 8.68 million; and
- 2012-2013 - \$ 0.07 million.

The project is subject to a comprehensive business case submission to the Department of Treasury and Finance. Detailed costings for each stage will form part of the documentation work within the final business case, which is yet to be approved. The preferred option in the business case includes building a new clinical block incorporating Emergency Department, High Dependency Unit, Medical Imaging and Medical Records, and enhancing the Day Surgery Ward, Theatres and sterilisation areas. In addition, a new palliative care unit will be constructed and the old Emergency Department will be partially refurbished for use by Allied Health.

A Forward Works Package of approximately \$2.8 million is proposed in 2008/09 and will include urgent work to address drainage issues near the Emergency Department, construction of a new lift between the Emergency Department and Medical Imaging; and replacement of the emergency generator.

DR NEALE FONG

5729. Hon Anthony Fels to the Minister for Child Protection representing the Minister for Health

With reference to the Director General for Health, Dr Neale Fong, as at 13 November 2007 please detail —

- (a) base salary excluding superannuation;
- (b) base salary including superannuation;
- (c) details of any salary add-ons, for example, clothing allowance;
- (d) whether a car is provided (make, model, year);
- (e) whether a credit card is provided (please state the credit limit);
- (f) whether communications devices are provided (please detail); and
- (g) whether IT equipment is provided (please detail for home and work)?

Hon SUE ELLERY replied:

Dr Fong is no longer Director General of Health.

MENTAL HEALTH FACILITIES — SECURITY MEASURES TO PROTECT STAFF

5731. Hon Anthony Fels to the Minister for Child Protection representing the Minister for Health

I refer to the attack on a mental health nurse on 17 September 2007, while walking from her car to her East Perth office, and ask —

- (1) Please provide a description of specific strategies, policies and/or security measures that have been put in place at the East Perth Mental Health Facility and other mental health facilities, following the incident?
- (2) Where strategies, policies and/or security measures are still being put in place, could you please provide details as to what these measures are and when these measures are expected to be in place?

Hon SUE ELLERY replied:

- (1) and (2) Please see response provided to PQ 5647.
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