APPROPRIATION (CONSOLIDATED ACCOUNT) RECURRENT 2007-08 AND 2008-09 (SUPPLEMENTARY) BILL 2009
APPROPRIATION (CONSOLIDATED ACCOUNT) CAPITAL 2007-08 AND 2008-09 (SUPPLEMENTARY) BILL 2009

Cognate Debate

MR T.R. BUSWELL (Vasse — Treasurer) [4.50 pm]: Mr Deputy Speaker —

Mr T.G. Stephens: You would be closing the debate, wouldn't you?

Mr T.R. BUSWELL: The member for Pilbara might want to close his mouth and hear what I have to say.

In accordance with standing order 169, I seek leave for the Appropriation (Consolidated Account) Recurrent 2007-08 and 2008-09 (Supplementary) Bill 2009 and the Appropriation (Consolidated Account) Capital 2007-08 and 2008-09 (Supplementary) Bill 2009 to be considered cognately, and for the Appropriation (Consolidated Account) Recurrent 2007-08 and 2008-09 (Supplementary) Bill 2009 to be the principal bill.

Leave granted.

Second Reading — Cognate Debate

Resumed from 15 October.

MR J.R. QUIGLEY (Mindarie) [4.51 pm]: This debate, being a debate on appropriation bills, is one that invites a general debate. One thing that is of grave concern to all the residents of Western Australia —

Mr B.S. Wyatt: You are not the lead speaker, are you? I am!

Mr J.R. QUIGLEY: Mr Deputy Speaker, I am not the lead speaker on this bill.

The DEPUTY SPEAKER: Noted.

Mr J.R. QUIGLEY: But I have been asked to go first.

One of the things that is of great concern to all Western Australians approaching the holiday season is the standard of accommodation on Rottnest Island. Many Western Australian families visit Rottnest Island. I want to refer in particular to the very tragic death of the very young Thomas Brasier, deceased, who passed from this world on 27 October 2009 at Rottnest Island. We know from media reports and other reports that we have observed that a brick pillar on a bungalow, to which one end of a hammock was anchored, collapsed, crushing young Thomas Brasier. It would appear—the coroner has made no finding—that as a result of this mishap, this young infant's life was tragically taken from him.

We know from the Minister for Tourism, Hon Liz Constable, the member for Churchlands, who has responsibility for Rottnest Island, that the Rottnest Island Authority has commissioned a report on the integrity of infrastructure on Rottnest Island. The contents and outcome of that report are of critical concern to all Western Australian families and tourists who have in mind the possibility of visiting Rottnest Island over the coming summer. Of course, one would not have to be a tenant of the Rottnest Island Authority and inside one of these establishments to die as a result of the collapse of any part of the structure of an establishment at Rottnest Island. It could just as easily be the case that the structure of an establishment at Rottnest Island could fall into a public area and crush a member of the public who happened to be walking by.

There has been a call by the opposition for the minister to table in this Parliament, or, in the alternative, to make public generally, for the information of all Western Australians, the report on the integrity of the infrastructure at Rottnest Island. The minister has in the Parliament today said that that is a call that she cannot accede to, by reason of the fact that coroner's proceedings are on foot and the matter is sub judice. I turn now to the Coroners Act 1996 to test that proposition. The Coroners Act 1996 is divided into parts. Part 1 is preliminary. Part 2 deals with the establishment of the court and the officers of the coroner. Part 3 deals with the requirement to report all deaths to the coroner. This death has been reported to the coroner. Part 4 deals with, importantly, the investigation of deaths—most particularly in sections 19 to 38—and with the power of investigation and the power to access areas et cetera. At the end of an investigation, which may be done by the office of the State Coroner alone, but is usually done by the office of the coroner together with WA Police, the coroner makes a determination on whether to hold an inquest into the death. I will refer to that section in a moment. It is section 22. Inquests are regulated by part 5 of the act.

Section 22 of the act is headed "Jurisdiction of coroner to hold inquest into a death". It states —

> (1) A coroner who has jurisdiction to investigate a death must hold an inquest if the death appears to be a Western Australian death and —

(a) the deceased was immediately before death a person held in care;

(b) it appears that the death was caused, or contributed to, by any action of a member of the Police Force;

(c) it appears that the death was caused, or contributed to, while the deceased was a person held in care;

(d) the Attorney General so directs; —

That has not happened yet, as I understand it. The Attorney is indicating that that has not happened, which only confirms my advice. It continues —

(e) the State Coroner so directs;

(f) the death occurred in prescribed circumstances.

That is to do with deaths in custody. It continues —

(2) A coroner who has jurisdiction to investigate a death may hold an inquest if the coroner believes it is desirable.

At the moment, the tragic death and passing from this world of the late and very young and much loved Thomas Brasier on 27 October 2009 is the subject of an investigation by the police. At this stage, the coroner has not made a determination to hold an inquest. I have made an inquiry at the coroner's office about the status of the matter at the coroner's office, and I have been advised as follows —

Dear Mr Quigley

Further to our discussion earlier today. I confirm the death of Thomas Brasier who died on Rottnest Island on 27/10/09 has been reported to the State Coroner.

The death is actively under investigation by the Western Australian Police Service who will provide a report to the Coroner in due course.

Mr C.C. Porter: Do you take that to mean that the police are investigating on behalf of the coroner, so it is one of those police coronial investigations that you mentioned under the Coroners Act?

Mr J.R. QUIGLEY: No. I take it that it is under investigation by the police.

Mr C.C. Porter: But read the last part of that sentence in the letter.

Mr J.R. QUIGLEY: Mr Deputy Speaker, may I lay on the table, for the information of the Attorney General, a copy of the letter?

The DEPUTY SPEAKER: Permission granted.

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

Mr J.R. QUIGLEY: Thank you, Mr Deputy Speaker. The letter continues —

It is not until the police report is received that the Coroner will be in a position to make any decision regarding the death or whether to hold an inquest.

It is not known at this time when the police report will be completed.

I trust this information is of assistance to you.

The letter is signed Gary Cooper, Office of the State Coroner, level 10, Central Law Courts, Perth.

What we know about the investigation into the death of the late Thomas Brasier is that it is not yet the subject of any proceeding at the coroner's office. There is no coronial inquest on foot at this stage. Investigation are being conducted by the police, who I am advised by the coroner's office will report to the coroner in due course, and the coroner will then be in a position to make a decision regarding the death.

The first thing that the coroner must do is make a decision on the cause of death. I do not want to be distressing to the infant's parents, because I am a parent, and it is unimaginable that Ruby, my two-and-a-half-year-old child, could be taken like this, so when I speak of this, I speak with the utmost sensitivity for the grieving parents. However, the first thing the coroner must do as a matter of law is determine the cause of death. Was the child's death occasioned by injuries sustained by the falling pier, or did the child die in some other way? To us, that would be an obvious conclusion, I would have thought, but that is a formal process the coroner must go through. When he has made a determination, or satisfied himself from the autopsy report about the cause of death, he would then look at the police investigation, and at that point turn his mind to the provisions of section 22 of the legislation to decide whether this is a death in respect of which he will convene an inquest. If the

coroner at that point decides to hold an inquest—I would expect the late Thomas Brasier's parents to want an inquest to find out the full circumstances that led to the tragic death of their son—at that stage an inquest can be convened.

Only once the coroner has made an order and a determination that there will be an inquest does part 5 of the legislation come into play. Part 5 of the legislation starts with an advertisement of the inquest and then deals with the rules of evidence; the rights of parties to appear, including the Attorney General's right to appear; other people's rights to appear; exclusions from the inquest; the powers of the coroner at an inquest; matters covering the recording of evidence and access to evidence; and the restriction on publication of reports—all the matters that happen in a judicial proceeding. Of course, a Coroner's Court is not a judicial proceeding as such; it is a quasi-judicial proceeding, according to the authorities, because the coroner is actually performing a function for and on behalf of the executive government. Nonetheless, there will be no dispute from me that, once convened, a proceeding is on foot. At that point, the rules of sub judice ought to apply.

Mr C.C. Porter: I have confirmed that the State Solicitor's Office did provide advice to the effect that the Minister for Tourism stated in this chamber, which was that to release the report would constitute sub judice contempt. I have not yet read that advice, but the reason that advice would have been given, and one of the errors the member has made, is that sub judice literally means "under judge", but traditionally—there is strong authority for this point—the court does not yet need to have been constituted or the matter even charged for a publication of some type or another to constitute sub judice. The points that you make about the idea that the Coroner's Court is not presently investigating this matter because it has not yet been convened as the Coroner's Court is not actually the point. The fact that the matter is under investigation by police, even with the potentiality of it becoming the subject of a coronial inquiry, is, on my understanding, enough to mean that any comments along the lines that may be contained in the report would be sub judice. The point I would make is that, even with a court hearing the matter does not have to have reached the stage of "charge" for a document or a statement to constitute sub judice. I think the Dante Arthurs matter provides recent authority for this proposition.

Mr J.R. QUIGLEY: In the matter of a murder, as in the case of Dante Arthurs, the matter, by reason of the death in circumstances that constitute murder, is going to end up in court.

Mr C.C. Porter: At the point of investigation, they do not even know whether it is a murder.

Mr J.R. QUIGLEY: In this particular case, we do not even know at this stage what the cause of death is, and that is the very point I am making. We do not even know whether this is a matter for the coroner. The death has been reported to the coroner, but we do not even know whether it is a matter bound for the Coroner's Court. What is being said is that the report on the integrity of infrastructure generally on Rottnest Island—not the specific unit—is to be regarded as sub judice in respect of a matter in which we do not know whether the coroner will have jurisdiction or not. It is not known whether the coroner will even have jurisdiction.

Mr C.C. Porter: It may be the Supreme Court. It may be manslaughter.

Mr J.R. QUIGLEY: We do not know whether the matter will have jurisdiction or not. A report on the integrity of infrastructure at Rottnest Island cannot be regarded as sub judice vis-a-vis the death of Thomas Brasier. This is nothing more than trying to stretch the bow to breaking point to cover up the report, so that the people of Western Australia will not know before they visit Rottnest Island at Christmas what the state of the general infrastructure is. No-one wants to know that part of the report that relates to the particular pillar that fell, and we do not mind if that part of the report is excluded—that is not the issue. I am sure that the particular pillar that fell and crushed to death young Thomas Brasier has been rebuilt, and I would bet my practice certificate that it has been rebuilt in a very strong and stable manner. We are not interested in that pillar. The public and the media of Western Australia should be vitally interested in the state of infrastructure generally on Rottnest Island, in view of this tragedy. To use the sub judice rule to plead sub judice in this manner when it is not available is nothing short of misleading this chamber. It is nothing more than dishonestly using a legal maxim to cover up the state of infrastructure on that island generally.

I will be taking my young family to Rottnest over Christmas. When I visit Rottnest at Christmas with Lily and Ruby, and when I am pushing a pram down to The Basin, I want to be sure that none of the pillar on hut H or Lighthouse Hut will fall onto the pram in which I am pushing my loved ones. This is an illegitimate contrivance.

[Member's time extended.]

Mr J.R. QUIGLEY: To use the sub judice rule in this way, and to liken it, as the Attorney General has done, to comments preceding the Dante Arthurs murder trial is in itself trying to stretch the rubber band beyond breaking point—to the point of incredulity. The public is entitled to see a report prepared by the Rottnest Island Authority on the infrastructure. Even if the Attorney General can come back here with his intellect and try to pin this report to the Dante Arthurs murder case, as he has attempted to do so far, that would exclude only the report on the pillar that fell. The coroner is not determining the state of infrastructure generally on Rottnest Island. All the

coroner is being asked to determine in his proceedings is why the pillar fell onto the much loved but late Thomas Brasier.

That is the issue before the coroner. In the Dante Arthurs murder trial, it was not just that someone died, but the manner in which the young girl met her vicious death. If the State Coroner assumes jurisdiction over the death on Rottnest Island and decides to hold an inquest, he would be holding an inquest into a particular pillar that fell, not the infrastructure generally. The public of Western Australia are entitled to know before they take up their accommodation and start walking around Rottnest this summer whether anything will fall on them. That is the issue. The taxpayers of Western Australia have paid for this report. The report has been prepared by public servants. The taxpayers of Western Australia have shelled out their taxes and the report has been prepared. Someone in the bureaucracy knows what state the infrastructure on Rottnest Island is in, but we, the mug taxpayers, are not to be told. The people who buy their ferry tickets to go to Rottnest Island are not to be made privy to what the bureaucrats know. I suppose we could go down to Fremantle wharf and have a look around and if there are no public servants catching the ferry to Rottnest, that will be a pretty big warning not to go, because they obviously know something that we do not know. If people see the public servants cashing in their accommodation payments, they should cash in theirs as well and not go near the joint.

Mr T.R. Buswell: What about tentland?

Mr J.R. QUIGLEY: The Treasurer takes me back to the 1960s. I will not go back there. That has brought a smile to the Premier's face.

Several members interjected.

Mr J.R. QUIGLEY: It was not the tents that fell over in tentland, as I recall. The only injury I was likely to get was from falling over in tentland back in the 1960s when the Kitcheners ran the cat ferry, and the Premier will remember all that.

I return to the very serious point at hand. The state of Western Australia, through the Rottnest Island Authority, has commissioned and used our taxes to prepare a very detailed report on the infrastructure on Rottnest Island generally, not just the pillar that fell on the late Thomas Brasier. There is an overriding and pressing public interest that the public have access to this report. The government can black out what happened at Mr and Mrs Brasier's unit. For the minister to claim in this chamber that the report is sub judice and that it cannot be shown to us because the coroner will look at it is an insult to this chamber. It is misleading this chamber, and the minister should not have done it. It is similar to lawyers not answering a question by claiming legal professional privilege. When we examine the High Court's recent rulings on legal professional privilege, we can see that legal professional privilege is not as wide as the taxation lawyers would have us believe. It is not even as wide as some criminal lawyers would have us believe. There are specific rules, and the High Court is tightening the claim of legal professional privilege. I note that in the upper house this afternoon, the minister, in an answer provided to a question without notice, also claimed that the report on all the infrastructure on Rottnest Island is subject to legal professional privilege. There are no proceedings afoot.

Ms M.M. Quirk: That's rubbish, isn't it, member?

Mr J.R. QUIGLEY: It is a misleading answer given to Parliament, because there are no legal proceedings afoot in relation to the rest of the infrastructure on Rottnest Island.

Mr T.R. Buswell: What electorate is Rottnest in?

Mr J.R. QUIGLEY: It is in the Fremantle electorate.

Mr C.J. Barnett: I thought it was in Cottesloe when I first became a member, and I wrote to the board offering it my full support as its local member. It wrote back and said that it appreciated it, but I was not its member.

Mr J.R. QUIGLEY: Did the Premier get cottage K? I note that the Premier's former parliamentary colleague for Melville, Mr Shave, stayed at cottage K every summer.

Mr C.J. Barnett: We're talking about the old board cottage.

Mr J.R. QUIGLEY: Yes.

Mr C.J. Barnett: Yes, I did stay in the board cottage twice, I think. It was very expensive too, I have to say.

Mr J.R. QUIGLEY: I bet it was, Mr Premier! It would have been expensive for the public, not for the guests of the board.

Mr C.J. Barnett: No. Under the Court government, unlike the previous Labor government, we paid full commercial rates if we used accommodation.

Mr T.R. Buswell: Of $7.50 a night!

Mr J.R. QUIGLEY: I thank the Treasurer.

Mr C.J. Barnett: It was about a thousand bucks a week.

Mr J.R. QUIGLEY: Whenever we collectively start to talk about Rottnest Island, a lot of our memories come to mind because it is a wonderful holiday destination. Many people in the chamber will reminisce about what happened during their time on Rottnest. That is the very point I am making. Because it is a well-used and favoured destination, the families of Western Australia deserve to know the state of the infrastructure on the island. It is preposterous and totally misleading to say in an answer given in Parliament that one of the branches under which this report will not be released is legal professional privilege and that it does not involve any other pillar on the island. That is just poppycock. The same thing applies to the minister waving around in Parliament the phrase "sub judice" in a totally illegitimate way in relation to a report on the entire infrastructure on Rottnest Island. It is an illegitimate and misleading answer to give to Parliament.

Once again I go back to where I started. The coroner has not been informed. All the coroner knows is that a child died on Rottnest. The coroner does not know the cause of death of that child. For the minister to say in this place that this matter will end up before the Coroner's Court and therefore is sub judice is not only premature, but also known to be false. It must be known to be false by the minister, and it must be a misleading answer. There is no other way around it. If the minister does not bother to read the act or to make an inquiry at the Coroner's Court, as I have done, to find out the status of the investigation, and then comes into this place and mouths off legal maxims, it is meant to intimidate this chamber and to indicate that there is nothing that the government can do about it and that we all have to suffer this. Members of the public, not Quigley in this instance, will be gagged because they will not be able to speak out and express concerns, or even be warned.

We see signs along the metropolitan coastline warning the public of dangerous rock-fall areas because of what happened at Gracetown. It took the death of a person under the Gracetown cliff before the local authorities started warning people of the dangers. Those signs can be seen at Trigg, Scarborough and Mindarie. The collapsing infrastructure on Rottnest are hidden dangers. A person who walked under a rock overhang like those that could be found at Gracetown would have to think, "This could fall, perhaps this year or next year, but one day it will fall." The contractors have got away with not putting reinforcing rods in the pillars of the infrastructure on Rottnest Island, but members of the public do not know which pillars have reinforcing rods and which pillars do not. For the minister to come into this place and throw a blanket claim of sub judice over the whole report is intellectually and legally dishonest, false and misleading. The taxpayers of Western Australia are entitled to know the contents of that report. The minister should not use this piffling, hollow, dishonest excuse of sub judice. I call on the minister to, firstly, make the report available through the media tomorrow and, secondly, offer an apology that the report is not sub judice and that it must be released. There will be no complaint from me or the opposition if she takes the added step of deleting the bit about one pillar, because we are not concerned about that one pillar now that it has fallen and has been properly rebuilt. It is the rest of the infrastructure on Rottnest that we are concerned about. Members of the public have paid for the report and are entitled to look at the report that they have paid for. The minister should not hide behind this false and constructed excuse of sub judice or legal professional privilege.

MS M.M. QUIRK (Girrawheen) [5.20 pm]: I concur 100 per cent with the shadow Attorney General. I was absolutely amazed yesterday when I heard the Minister for Tourism making the claim of sub judice. I have researched in some detail another matter in which a similar claim was made. The member for Mindarie has spoken at length about the general legal principles surrounding sub judice. I will specifically talk about how it applies in this chamber, with reference to Erskine May's *Parliamentary Practice*, although I am not sure, after the Speaker's ruling, how much currency Erskine May has. I will refer particularly to the parliamentary tradition surrounding the claiming of sub judice.

The sub judice convention is set out in standing order 91, which states —

> Subject always to the discretion of the Speaker —

I appreciate, Mr Speaker, that you were not required to rule on that —

> and to the right of the Assembly to legislate on any matter, matters awaiting or under adjudication in any court of record —
>
> (a) in criminal matters from the time a person is charged, until sentence; and
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> (b) in civil matters from the time that the case has been set down for trial or otherwise brought before the court,

> may not be referred to in any motion, debate or question if it appears to the Speaker that there is a real and substantial danger of prejudice to the trial of the case.

That is the underlying issue: is there prejudice to the trial of the case? As we heard from the member for Mindarie —

The SPEAKER: The member for Girrawheen has the call. I know that she would like to be able to present this response in an effective manner, but I know that quite a few conversations are distracting the member. I ask members to keep their conversations to a minimum.

Ms M.M. QUIRK: As we heard from the member for Mindarie, no decision has yet been made about whether a coronial inquest will even be heard, let alone a date being set. If this matter falls anywhere, it falls under standing order 91(b) as a civil matter, from the time that the case has been set down for trial or otherwise. All the opposition asked for was the tabling of the inquiry; we did not ask to canvass the issues in this place in a public manner. As a rationale for not producing the document, the minister's argument is flawed. I am particularly concerned that the notion of sub judice was raised by the Minister for Tourism. Since I have been in Parliament—and, I understand, before that—the minister has been a champion of openness and accountability, yet she is using the thin, tenuous idea that a matter not yet determined as being appropriate for hearing and has not yet been set down for hearing somehow falls under the sub judice rule.

I will briefly refer to Erskine May. The practice espoused in Erskine May is to prevent Parliament from being seen as usurping the role of the courts and their capacity to independently adjudicate on an issue. This is a matter that has not yet been set down for an inquest. The twenty-first edition of Erskine May's *Parliamentary Practice* at page 377 refers to a resolution of 1963 that set out the sub judice rule. The resolution guides reference in debate as well as in motions for leave to bring in bills and questions, including supplementary questions, to matters awaiting or under adjudication in all courts exercising criminal jurisdiction from the moment the law is set in motion by a charge being made, to the time when a verdict and sentence have been announced, and again when formal notice of appeal is lodged until the appeal has decided. In other words, the first resolution in the House of Commons was in 1963. That was criminal jurisdiction extending to martial law. It was later extended to civil courts from the time the case had been set down for trial, in similar wording to standing order 91. There has to be a real and substantial danger of prejudice to the trial of the case. Frankly, I do not think there is any evidence that that is the case here. As an added protection, section 46(1)(e) of the Coroners Act 1996 provides that the coroner may make certain directions or do anything else that the coroner believes is necessary. In the case of the inquest into the Boorabbin National Park fire of December 2007, the inquest was heard in the middle of this year—I think it was in July. The inquest was ordered by the coroner in relation to the publication of certain reports. In that case, it only occurred some months prior to the actual inquest taking place, so for all of 2008 and for a portion of 2009, prior to the inquest, there was no restriction on publication. However, that power exists, so if there is any major prejudice to a coronial inquest, the coroner has an overriding right to give orders and directions as to the publication of matters of evidence before him or her.

At the end of the day, as the member for Mindarie said, the claim of sub judice is premature and ill-conceived and does not look to the purpose of that rule. The purpose of the rule is to avoid prejudicing a judicial determination, and I have not even gone into the question of whether the Coroner's Court is strictly judicial in that context. On all those measures, the claim made by the Minister for Tourism is extremely flawed. It is my contention and that of the member for Mindarie that this claim of sub judice is simply a device to obscure the truth, to avoid accountability and to prevent matters of great public interest from being canvassed in a timely way, and in such a way that people thinking of holidaying at Rottnest can at least inform themselves of the potential risks or whether they need to take any remedial action to satisfy themselves that their children will not be at risk.

MR J.N. HYDE (Perth) [5.28 pm]: I am delighted to be speaking on the appropriation bills. I want to touch on a very important part of what this government is paying for; I refer to the One Movement For Music festival. During question time today, the answers given by the Minister for Tourism were of grave concern to the opposition and to many people in the Western Australian community. I have been trying for months to get information from the Minister for Tourism but she has not been forthcoming. She has delayed questions on notice, in contrast with the Minister for Sport and Recreation who, after I asked him a question during question time, came to see me in my office within an hour. He confirmed that he had answered the question on notice but had not recalled doing so, and that the facts I had articulated were correct.

Ms M.M. Quirk interjected.

Mr J.N. HYDE: Yes, I will come to that.

I want to concentrate on the issues raised by the Minister for Tourism. Our previous advice was that the financial commitment to the One Movement For Music festival was $2.7 million over three years; it is now $2.95 million.

That is what the minister said during question time today. She also raised the issue that the tourism board apparently signed off on an agreement in principle on 8 September, two days after the election. The Premier is always crowing that the world changed on 6 September; apparently, it did not change for Minister Constable. I have just spent 20 minutes on 6PR with the minister and Howard Sattler.

Howard Sattler put this question directly to the minister, "So you are saying that Minister Sheila McHale signed off on this agreement on 8 September." Minister Constable responded, "No, I am not saying that; she couldn't. We were in caretaker mode." The minister, at least under grilling from the media, clearly does understand what caretaker mode means. I have now independently confirmed that all Labor ministers, once they were in caretaker mode, made no decisions on financial matters and no decisions on policy changes. We need to get to the bottom of this. Minister Constable needs to get to the bottom of it. Surely the first thing that any minister in an incoming government would ask on day one is: what were the bureaucrats doing during the caretaker period when they were running the show without ministerial oversight and approval? The minister should have had a list of decisions and a list of important minutes. Surely, if one were the Minister for Tourism, the most important oversight requirement would be to look at the minutes and have consultations with the Tourism WA board.

The other very concerning matter was that the minister stated that the Tourism WA board decision on 8 September 2008 was to agree to fund $2.95 million to Sunset Events, which is WA's biggest private promoter. In all the answers to questions on notice to the minister regarding who the money had been paid to, it was to One Movement Pty Ltd. A company search established that it is the legal entity behind the One Movement festival; it is a set-up company that involves three groups, one of them, as I explained in the MPI yesterday, is Sunset Events, but Sunset Events and One Movement are not the same legal entity. The minister was telling us today that the Tourism WA board on 8 September agreed to give a commitment of $2.95 million to Sunset Events. But when it comes time to sign the cheques—there is no doubt that no money was handed over until this minister was in place—nearly $800 000 has been given to One Movement Pty Ltd. We need to know at what time an agreement was executed—that is a key question—and to which party. Which party is the Barnett government, this minister and the Tourism Commission—it was under their watch—dealing with? This is a three-year commitment.

Further on in the interview with Howard Sattler, the minister was given the chance to justify the 50 000 participation figure. Of course, she agreed, as I had said, that there was self-declaration and that any promoter would have some free tickets. If one goes to the Hopman Cup, which is promoted by EventsCorp and Tennis West, as the member for Kingsley and others would know, there would be a couple of freebies. But we are talking about thousands of free tickets that went to Murdoch University, which was one of the sponsors. What interestingly came out of what the minister said was that in that figure of 50 000 there were 35 000 or 40 000 people who attended the free events in the City of Perth. That was sponsored independently by Healthway. I was in town on that Friday night, and as anybody who goes into the CBD on a Friday night knows, with passing traffic it is one of the busiest times in the city. Right along Murray Street, near the new Wolf Lane and all these wonderful laneways that Lisa Scaffidi and the City of Perth have got going, were a couple of people in One Movement blue T-shirts. People walking through the city were able to walk through or past some of these free music events. No-one can tell me that just because somebody is walking home from work to the train, to the bus or to the restaurant and who walks past a free gig —

Ms M.M. Quirk: Casual bystanders.

Mr J.N. HYDE: They were not paying any of the WA musicians, so there was not even a hat where one could chuck a $2 coin, because the agreement was that this government would be signing the cheques and paying over. The minister cannot include in an audited figure somebody walking home from work past a musical event and who may happen to hear that event. Fortunately, the minister mumbled at the end of the interview that perhaps she would consider, if needed, an independent audit. I thought that by now the Premier would have demanded an independent audit of this whole One Movement fiasco. This reeks of the Global Dance fiasco. We know the trouble that caused the previous Liberal government, and the same alarm bells should be tolling for new members here. Members opposite should read the history in this house about Global Dance and remember that it was one of this government's National Party's coalition partners who chaired the Public Accounts Committee inquiry. The opposition will certainly be pursuing this all summer, every day, until we get all the answers on this.

I want to raise some other issues. The minister mentioned a decision on 29 August 2008 by the Tourism WA board. Again, this is during the caretaker mode of an agreement in principle "subject to conditions". We need to know what those conditions were because clearly this was a hurriedly arranged extraordinary meeting immediately after a state election, when it was obvious WA would no longer have a majority Labor government in place and the minister of the day, Hon Sheila McHale, did not make any decision and was not consulted about her views on anything because a minister in caretaker mode cannot make decisions or have input into any decisions. Of course, the practice is that agencies in caretaker mode do not present a change of policy or a

funding commitment to an incoming government. It was very clear on the night of 6 September, let alone 8 September, that we were not going to have a majority Labor government or a majority Liberal government. The options were very, very different to those available to the current government or to a stand-alone Liberal government. One would have hoped that no agency in this state would have been making massive decisions. For example, we did not have GM canola approved under caretaker mode and we did not have uranium mining approved under caretaker mode. Those decisions were rightly left until there was a new government in place.

We need to know from the minister where, under this new agreement, this $2.97 million is now coming from, and who exactly is the money going to. Did the minuted meeting of 8 September, when the government was in caretaker mode, make a decision to go to the one private company, Sunset Events, or was it to this new conglomeration with US and eastern states involvement? Was that known and agreed to at that time?

I also raised the issue of a conflict of interest, and the minister referred to Saskia Doherty in question time. This severely worries me. If members read my speech, they will see that I have made no allegations against any person. What I have asked for is the conflict of interest policy. Can I suggest to members here that if a Labor government were in place now and a retiring Labor government minister had allocated $2.95 million to a private company, and then two months after that minister or his staffer had left the Labor government he went to work for the company that had been funded by the agency involved, members opposite would be asking the agency about its conflict of interest policy and whether it could guarantee that the former minister or staffer had no input down the chain. Everybody here knows that a CEO does not dream something and take it to a board to sign off on $2.95 million—one would hope! Saskia Doherty was the events director at EventsCorp and it would be expected that all the top people would have had input. In answer to the direct question: were there any conflicts of interest declared over funding for the One Movement For Music festival, this minister advised this house that there were no conflicts of interest.

We raised this matter during the debate yesterday and the minister is still sticking by her answer that there are no conflicts. Surely the agency and the chief executive officer must have given a guarantee that any person who either is working for or who has worked for One Movement For Music or Sunset Events or any of the bodies funded under this scheme had no input into the decision making. More importantly, I raised the issue of having a modern conflict of interest policy. The people who work for an agency should not lobby the agency that has funded them, or lobby their previous co-employees or the people they might have promoted. Integral to this matter and the question that I put on notice are the eight different triggers. It is not about One Movement For Music getting a cheque on day one. That did not happen. It did not get its money until well into the term of this government and it still has not received the final payment. Members who have been ministers or parliamentary secretaries know that advice would come from a variety of layers of bureaucracy that the key performance indicators and agreements in the contract had been met. A number of people along the chain would have signed off on it. The people who were getting the money would have told the bureaucrats that because 3 200 people attended the event it triggered the payment of $50 000. One Music was eligible to receive $100 000 when 75 international delegates attended and an extra payment of $25 000 if 100 delegates attended. In total, 103 international delegates attended. One would have to ask whether Saskia Doherty, who is the event director of One Movement, was involved in going to events for her former employer and whether her former co-employees were some of the 103 delegates who had attended. We would have to ask: what is the conflict of interest policy? I imagine and hope that absolutely nothing untoward has happened. However, that is not the issue. The issue is that there must be proof that nothing untoward has happened.

It is unbelievable that the Minister for Education and for Tourism is not in the chamber. Three members have talked about serious financial issues in the minister's portfolios yet she is not in the chamber. That is the same disregard that she has shown for the more than dozen questions on notice that I have put to the minister and that she showed during the matter of public interest yesterday. By contrast, I raised with the Minister for Sport and Recreation the issue of $18 000 being spent on lunch for 30 delegates. That was 600 bucks a pop for a nosh-up for 30 delegates. Even when the former electorate office of the member for Curtin's office was a famous restaurant in the 1980s, they would not have had $600-a-head lunches.

Ms M.M. Quirk: Did the Minister for Sport and Recreation give the member more details about that this afternoon?

Mr J.N. HYDE: He did. I had hoped that he would come into the house to make a personal explanation. The Minister for Sport and Recreation and I go back a long way. We have attended a number of the same events in the wheatbelt. The minister explained—I will go into it further when he tables information on the matter—that the people were taken to Joondalup and to Challenge Stadium. If someone gave me a $600 lunch I would feel obliged to get on the bus tour. We might be getting Status Quo and a couple of other groups as a result. The Minister for Sport and Recreation has at least asked his officers the question. If he can provide proof that the $18 000 lunch was solely responsible for bringing to Perth the 30-year-old rock group—I would hate to use the

word "has-been" in case some members are Status Quo fans!—that is justifiable and transparent, or it could be justified. At least that minister is making the effort. However, Minister Constable has not made the effort. We are giving her a chance to be responsible to the Parliament in a transparent and accountable way. Ministers are supposed to be responsible to the Parliament. She could have killed off this issue but, because she has not, we will run with it every week during the summer recess until we resume Parliament next year. I urge the six stoic members of the government who are left on the government benches—they are the stayers and the members of quality—to have a long, hard chat to their ministers during the recess and tell them that they must lift their game and be transparent to the people. If ministers are not transparent, they will make mistake after mistake. I believe that the One Movement For Music fiasco will rival, if nor surpass, the Global Dance Foundation fiasco.

MS L.L. BAKER (Maylands) [5.47 pm]: I will talk about two subjects that concern me regarding the appropriations bills we are debating. The subjects are interlinked so I ask members to forgive me if I weave in and out of both issues. Mental health and drug and alcohol issues are interlinked. It is hard to refer to mental health conditions without referring to drug and alcohol problems. I will begin by telling the house that the Mental Health Council of Australia has estimated that 75 per cent of people with drug and alcohol problems also have mental health issues. A staggering 85 per cent of those people are homeless. Unchecked and without access to the appropriate support and treatment, the impact of living with a mental health illness can be devastating. Most members are probably well aware of that. Recently we have seen governments of all persuasions shift the treatments for mental illness towards a community-based model, which is not necessarily a good thing. The problem is that the community agencies in the non-government sector that are providing these services under a range of different contracts and agreements are providing 88.5 per cent of services for community-based treatment to people with a mental illness yet only 5.8 per cent of the mental health spend goes to those services. That is not a very good balancing act by anyone's calculations. I repeat—they provide 88.5 per cent of the services and receive just 5.8 per cent of the funding.

I will look closely at the types of agencies in our community and the roles that they play. We rely on them to help the most vulnerable members of our community who suffer from either a drug or alcohol addiction and the associated co-morbidity issues if we include mental health. The alcohol and drug sector provides a diverse range of services that are located all over the state. People go to the centres for help and support. Members might have imagined that the centres deal with young fellows who are caught up in bad behaviour or who have a bad peer group and go to the service for support, or who have been mandated to receive that support. However, these agencies are seeing children, young adults, adults and even seniors. Alcohol and drug addiction and mental health issues affect the whole community.

A number of services target groups in the community that deal with drug and alcohol problems. These services are targeted specifically at women, women with children, and young people. There is also a range of services for Aboriginal Western Australians.

There are outpatient and residential services in the community. They look at the needs of individuals and try to match services to them. That could just mean finding stable accommodation or good support networks. It could also mean finding ways of linking into the best or most appropriate treatment service if someone's needs are not met at the service they have gone to.

The majority of clients who use the alcohol and drug services in the communities have highly complex needs. There is the co-morbidity issue of mental health. The high prevalence of people suffering mental health issues such as depression and anxiety do not typically come into contact with the mental health service; we are more likely to see those people when they are involved with drugs and alcohol. We should think about that. People with mental health issues such as depression and anxiety often present at a drug clinic or an alcohol and drug clinic rather than at a specific mental health agency.

The majority of alcohol and drug services also provide allied services to family members. All of us who have had constituents walk into our office and describe the dreadful grief that they have experienced through a loved one who has suffered from a mental health or drug and alcohol problem will understand and relate to their pleas and the desperation in their voices when they say, "Isn't there anything you can do to help? Isn't there anyone anywhere who can help me?" Despite the fact that 88.5 per cent of the services offered are provided by the community sector, it receives only 5.8 per cent of the funding. Members should remember that figure; it is an important one.

The majority of people who access services from the drug and alcohol community services sector indicate that their primary drug of concern is alcohol, followed by amphetamines. The services that are necessarily responsive to drugs and drug use quite often cannot be found specifically within a region. There are not enough services in certain regions. I want to talk a little about the various ways that these addictions are played out. I will deal with amphetamines first. People who have amphetamine problems often present for help with significant and highly

complex needs. Many of them experience pretty rapid declines in their normal functioning. They fall away quite quickly. They might be having big problems sleeping or eating. They certainly would be having problems relating to other people. They may suffer from psychosis, cognitive impairment and other physical health issues. There are also concerns relating to the injecting practices of people who take amphetamines. There is a tendency towards violence and aggression. People who present with amphetamine issues often suffer from reduced impulse control.

I turn to alcohol use. It often presents as relationship breakdowns, unemployment and homelessness. There are also the physiological symptoms such as psychosis, cognitive impairment and a lot of mental health and other physical health issues that go along with alcohol abuse. The primary task of the majority of these services is to provide counselling and support to people with these very complex issues and find ways of also helping their family members. Most of the services in the community sector have waiting lists. It can take six to eight weeks for someone to see a counsellor. With the crisis that presents itself from these awful co-morbidity situations, sometimes that is too long. Sometimes people take another way out.

Earlier this year the new Minister for Mental Health released a suicide prevention strategy. I am not sure where that is up to at the moment, but I am damn sure that in the 12 to 14 months that I have been sitting in this place listening to this new government promise all sorts of remarkable innovations in mental health, I have seen nothing on the ground to date. The community services sector has received no additional funding to respond to the increasing problems of alcohol and drug abuse.

Mr P. Abetz: George O'Neil got an extra half a million.

Ms L.L. BAKER: I am happy for George; that is great. We have not seen any more funding delivered to the 88.5 per cent of services in the community sector that deliver services. I am afraid the member's argument is highly specific; it does not relate to the majority of people in our community who need preventive help and long-term support.

I want to talk about alcohol and drug use. The Cannabis Law Reform Bill 2009 has been introduced to this house. It will be discussed further during the next sitting of Parliament, not this year. Next year I will certainly be keen to talk about it. There is enormous concern in the drug and alcohol sector, although the reforms that have been proposed in this piece of legislation might be welcomed. Things like one-to-one counselling services and a mandated requirement for first-time offenders to go to a counselling service are really positive, and the Labor Party is certainly supportive of these reforms. The huge concern in the alcohol and drug sector—these are the people who will be providing these services—is that no additional funding will be provided to these services to help them deliver on the Cannabis Law Reform Bill.

The Western Australian Network of Alcohol and other Drug Agencies has given me some information on its calculations as it tries to work through the impact of what might happen if the sector is not given sufficient funding. It recognises that cannabis law reform was certainly a key election platform of the new government. It says that to achieve the reforms, the alcohol and drug sector needs resources to meet the inevitable increase in referrals. I will read out the figures that it has worked out so far. I think they are the same figures that the government has been working on. The "Statutory Review Cannabis Control Act 2003 Executive Summary" estimates that a minimum of 1 000 juveniles and 2 000 adults are likely to require a one-to-one counselling session. The government has assured us that these are likely to be delivered by the community services network via an outsourced arrangement, which means that more than 3 000 people in the community will need the services. At the moment a total of 14 services across the state have some capacity to deliver on this. Seven community drug service teams in the country health regions, four integrated community drug services in the metropolitan corridor and a number of specialist services in the metropolitan region have historically provided these kinds of education sessions. WANADA's calculations indicate that it will need a new staff member in each of these 14 services to provide the education/intervention sessions, ongoing liaison with police and the referring organisations and case management and to ensure the appropriate through care that meets the mandated requirements of the individuals. There is also a need for some initial capacity building in the community services that will be delivering this to ensure that they are ready to take on this big client load. WANADA estimates that about $1.4 million will be needed immediately to start to do this work in conjunction with the government's Cannabis Law Reform Bill. That is pretty serious food for thought.

I have also been talking to the community sector about some what-ifs. I know that it is not all that wise to talk about what-ifs, but it is essential in this case. What if the government does not give the sector any money? What if it makes the sector use the funding that is already in mental health or the Drug and Alcohol Office budget? The Drug and Alcohol Office might get about $52 million a year in its budget, and about half of that might go to non-government organisations. What if this government brings in this new law and asks the community sector to fund it out of its existing budget or, worse still, de-funds some agencies? As we know, some of these services in the community are already hugely underfunded.

I have tried to do some estimates of what would happen if that $1.4 million was drawn from existing funding. It would equate to one large alcohol and drug specialist outpatient service losing its funding; or two medium-size community drug services teams losing their funding; or one medium-size residential service that meets the needs of people with extreme and highly complex needs losing its funding. If that money was drawn from across the sector—that is, if the government decided to chop out just one or two services and not fund them any more because it needs the money, and if there was some sort of amortisation, if that is a word —

Mr M.P. Whitely: Yes, it is.

Ms L.L. BAKER: I thank the member. It is late.

If that funding was taken from across the entire alcohol and drug sector, the thousands of care and support and counselling sessions that are currently provided to voluntary clients will no longer be available. The waiting lists will be seriously extended. I have said that the waiting list has already been extended to eight weeks. The waiting list will be at least double that. It will also have an impact on prevention. Early intervention will be a thing of the past, effectively. In turn, there will be an increase in people potentially getting involved in the things that happen when people are further excluded from society, such as criminal activity, and that will put more pressure on police, courts and prisons et cetera. Another likely result of this cut in funding is that cannabis users will be given priority over people with alcohol and amphetamine issues. Cannabis users are mandated by the government. They have to be seen. It will effectively mean that the users of cannabis—which is a drug that has not had much of an increase in use, according to my research, anyway—will take priority over alcohol and amphetamine users. Alcohol is the worst drug in our society. This simply cannot be a sensible solution. A significant number of people who have mental health conditions will have reduced access to services. Regional services in particular, which at the moment are experiencing higher than average problems with recruitment and retention of staff, will have the capacity to see only mandated clients. Everyone else will be turned away. There will be no regional services for those people.

The capacity for partnership development with other sectors will be reduced. That will mean that the overall quality of the agencies—how they work, how they keep staff, how they keep strong, how they keep sustainable, and how they survive to deliver the services—will be eroded. The focus of the alcohol and drug sector will change to become more of an arm of the police or more of an arm of Corrective Services. That will result in a fundamental change in the things that we value about the community sector, and the things that we invest in the community sector for—the caring and supportive relationships that the community sector develops, and the voluntary labour that it calls upon to help it do its work.

I have spoken about mental health and drug and alcohol as issues that are intertwined. Mr Speaker, may I please have an extension?

The SPEAKER: Extension granted.

[Member's time extended.]

Ms L.L. BAKER: Thank you, Mr Speaker. We might have to have a Christmas tree at this rate, too!

The Minister for Mental Health has made promises to this house. He has promised to appoint a Commissioner for Mental Health. It has now been 14 months since that promise was made, and there is no Commissioner for Mental Health—or, if there is, the government has hidden that person very well, because we have never seen him or her!

Ms J.M. Freeman: All rhetoric and no action!

Ms L.L. BAKER: Yes.

Mr R.H. Cook: And that was a 100-day promise, that one!

Ms L.L. BAKER: I suspect that the government went crazy waiting for the appointment.

The Minister for Mental Health has also made promises about implementing a mental health strategy for Western Australia. We knew what was needed when this government came in. The government needs to be delivering on it. The government has not delivered on it. There has been no added investment. As we sit here today, facing the end of our parliamentary year, facing Christmas, there are people in the community who have no services and who are not getting any support from this government. Indeed, the community sector is being de-funded at a rapid rate. We know that $65 million has come out of the sector this year, and we are looking at a loss of funding of $200 million over the out years. Those are some of the issues that I wanted to focus on.

There is another issue around these appropriation bills that also bears mentioning. I was at a function a couple of weeks ago in the Midland area, and the president of the Shire of Mundaring came to see me. The reason I want to have this conversation now is because some of the members of this chamber are directly relevant to this issue.

Again, longer than 12 months ago, I brought an issue to this house around what was happening with the state trail bike strategy. About 100 recommendations were put together out of good-faith consultations with the sporting groups involved and the shires involved. The president of the Shire of Mundaring said to me at that function, "What's happening? There's nothing. I keep ringing. I keep trying to contact them". They've all got on their bikes and buggered off! Clearly, no-one is doing anything about trail bike management in the Mundaring water catchment. We sit in this house time and again and listen to stories about pollution and environmental degradation and argue and debate about how to stop it from happening, and I still look out the window and see trail bikers and four-wheel-drivers screaming through the water catchment. Members may remember that this time last year, I had actually come into this house and made the comment about how I had been assaulted—I did not use the word "assaulted" at the time, but I understand now that it was an assault—by a trail bike rider while I was walking in the bush. This is not an issue that I take lightly. It is certainly not an issue that the Shire of Mundaring takes lightly, and nor does its allied groups and the community.

The member for Darling Range and the member for Swan Hills made huge election promises. They campaigned strongly on the need to deal with trail bikes. I understand that our new Attorney General also came up to the hills area and spoke to the gathered residents about the fact that he and the members whom I have mentioned were going to bring forward some amazing responses to deal with this issue. When I inquired about what was happening, I was told by the member for Darling Range that $20 000 had been put in the budget in May for an implementation plan to deal with this issue. That is not really a princely amount, I must admit, to deal with a problem of this extent and with the thousands of kids who want to be able to ride their trail bikes somewhere. It has now been 14 months, and I have heard nothing. I have written to the Minister for Sport and Recreation about this matter. I hope that this will be passed on to the member for Darling Range. Some money must be put into the budget to implement this strategy. There have been more and more accidents and there have been more and more people killed this year since members opposite sat on the government side of this house and assured me that they were looking into this issue. I am fed up. The Shire of Mundaring is fed up. I think it is time members opposite got off their Christmas decorations and did something about this matter.

MR M.P. WHITELY (Bassendean) [6.08 pm]: In speaking on these appropriation bills, I am going to take the opportunity to speak on my pet topic. This is the last speech that I will be making before Christmas, and I do not want it to be on windscreen stickers. I want it to be on my favourite issue. I will get on to that in a moment. But, before I do, I want to help the member for Nollamara, who has asked me to make sure that two Mirrabooka Senior High School award winners, whom she did not have time to acknowledge in her 90-second statement, are acknowledged. On behalf of the member for Nollamara, I acknowledge Haylee Richards, who won the Peter Hodgson Award for Participation, and Phinehas Murza, who won the Graham Leader Community Award.

Having done that on behalf of the member for Nollamara, I am now going to go on to my favourite topic, which of course we all know —

Mr R.F. Johnson: It is ADHD!

Mr M.P. WHITELY: Yes. It is attention deficit hyperactivity disorder. It has been an incredible week, but I am sure the chamber is about to be filled, because members are about to rush into the clamber to hear my Christmas contribution to the debate. This is about my 500th contribution in this place on ADHD. I used to be somewhat embarrassed about that, but, frankly, I am not embarrassed any more. I actually realise something about politics and about the nature of changing the world. If we are going to have any success, there is one thing we have to do. We have to be completely and utterly persistent; and I will be taking the full half hour, Leader of the House.

This is an important issue, because in 2007 in Australia there were some 60 000 people on ADHD medications, 47 000 of whom were children. Prescription rates have grown by 30 per cent since then, so we can expect that the figure is probably closer to 80 000, with 60 000 of those being children. It is a mainstream issue, and it needs to be addressed properly. We have a very good news story in Western Australia that has been adopted in a bipartisan way, and I give credit to the Minister for Mental Health for following through on a Labor initiative yesterday and continuing to fund two new clinics, one of which opened in Joondalup yesterday, with the other to be opened in Murdoch next year. That is a very good innovation, and I give due credit to the minister for saving them from the three per cent budget cuts.

I do not want to talk about that today, because although it was a very proud moment and one that I took enormous pleasure in attending—I acknowledge the minister's graciousness in allowing me to speak at the occasion—I want to talk about my concern, absolute frustration and unbridled anger at the Rudd government Minister for Health and Ageing, Nicola Roxon, for her absolute failure to adequately handle this issue. I do so against a background of having done everything I possibly can to raise this issue with her through appropriate channels. I am a loyal member of the Labor Party, and I have worked in every possible way to raise my concerns and frustrations with her but, frankly, I am at the end of my tether and I will take this opportunity to give her the

criticism she so roundly deserves. On Monday, 23 November an article appeared in the *Daily Telegraph* entitled "ADHD plan rort claim — Drug scandal forces rethink". It was written by Kate Sikora, and it begins —

> CONTROVERSIAL guidelines on ADHD have been pulled by the Federal Government following claims drug company payments to a doctor have tainted the work.
>
> The Government has been forced to stop the release of the draft guidelines and may have to rewrite them following the embarrassing scandal.

This related to $US1.6 million in undisclosed funding that a Harvard University researcher, Joseph Biederman, had failed to inform his employer about. A major investigation of that is going on now in the United States. Biederman was cited in 70 times to support the new national ADHD guidelines that were outsourced to the Royal Australasian College of Physicians for development some two or three years ago. The fact that so many of the studies are tainted with undisclosed drug company funds has brought the validity of that process into question. It is not the only thing that has called the validity of that process into question. The most astonishing thing in that article, from my perspective, was this —

> "The College was not aware of the US investigation when drafting the guidelines," a spokesman said.

I am also aware of a press release from the RACP that stated that it became aware of that only a couple of months ago. That is because the college is either incompetent or dishonest. I say that with absolute certainty, because I wrote to the college during the draft guidelines process in June 2008, informing it of Dr Biederman's drug company connections and his undisclosed funding. For the RACP to completely ignore submissions—a lot of work went into those submissions by people who took the time to make this known to the college—is evidence of its incompetence or its inability to comprehend basic information. I became aware of the *Daily Telegraph* article because a journalist from *The Australian*, Nicola Berkovic, rang me on Tuesday morning and asked me if I knew anything about this issue. I told her that I knew all about Dr Biederman and, in fact, I had informed the RACP guidelines committee in July of last year about the investigations going on into his activities. I also informed Nicola Roxon's office. Ms Berkovic said that that was interesting, because the government had stated that it was not aware of it until a couple of months ago. The only comment made in the article on Tuesday that was attributable to Nicola Roxon was made by a spokesperson who said that the minister had asked her department to urgently work through the issues. There was a follow-up article on Wednesday, 25 November, in which Nicola Roxon was more vocal, insisting that the conflict-of-interest issues were being properly managed. The article reads —

> Ms Roxon yesterday brushed aside criticism of the panel as well as concerns that its draft ADHD guidelines had been tainted by drug company payments to a US expert.
>
> Instead, she said she expected new ADHD treatment guidelines would be released in the "very near future".
>
> …
>
> Ms Roxon said she shared the public concerns about the delay in the release of the guidelines.

A lot of people have made submissions—I will not go through a huge list, but there are a large number of voices expressing concern about these guidelines. I do not know what Nicola Roxon does not get about this. It is not that we are concerned about the delay in the release of the guidelines; we are concerned about the contents of the guidelines. The contents of the guidelines will be a disaster if implemented. The article continues —

> "The government is committed to development of clear evidence-based guidelines on the appropriate management of this condition."

That is the fundamental problem. The guidelines are not evidence based. These guidelines have been developed through a corrupted process and they have relied on the consensus of participants in the guidelines process—I will talk about the individual members of the guidelines process in a moment—rather than actually on evidence. Many very controversial recommendations are included in the guidelines, including the use of Ritalin in children under the age of six, which goes against the manufacturer's own recommendations because no drug trials have been carried out for children of that age. The prescriber's information warns against prescription of the drug to children under six, but one of the recommendations to come out of this guidelines process was that these drugs could be used for children under six. That recommendation was based on a consensus of the authors of the guidelines. They did not have any supporting evidence. There were four different ways in which they classified evidence in this process. Evidence level A was attributed to highly valid, double-blind, placebo trials of drugs that were supposed to be almost irrefutable scientific truths. Evidence level B was somewhat weaker, and evidence level C was somewhat questionable scientific evidence—studies that may have had significant methodological flaws. The next level of evidence below that was the consensus of authors involved, based on their clinical practice. Consensus is no substitute for science, and it cannot be claimed that because a bunch of

like-minded people get into a room and agree on something, it has a scientific basis. It cannot be claimed that that is evidence-based medicine. Throw these guidelines out and start again.

What I find most depressing about Nicola Roxon's approach is that her approach as a minister is completely in conflict with her approach to it when she was in opposition. In fact, I met with Nicola Roxon when she was in opposition and I was greatly encouraged by her approach to the issue. The guidelines committee, as I said, was instituted some two or three years ago. Some news broke in the *Daily Telegraph* on 30 June 2007, in which it was revealed that a Dr Efron, who was the initial chair of the committee, had ties to drug companies that were involved in the manufacture of ADHD drugs. After a fairly quick process, and on the advice of the then health minister, Tony Abbott, Dr Efron resigned as chair and was replaced by a paediatrician who had no connection to the ADHD drug companies. When that happened, Nicola Roxon said that these guidelines were incredibly important, and it was important that there was public confidence in them. Given the controversy surrounding ADHD, she said, releasing the names was a sensible option to help restore public confidence in the process. I could not have agreed with her more at the time. This was when she was opposition health spokesperson, but her attitude changed when she became federal health minister. In November 2008, there was some media coverage of a freedom of information process that revealed that seven of 10 original guidelines committee group members, including doctors, had commercial ties to ADHD drug manufacturers. In fact, that was somewhat misleading, because seven of the 10 panel members declared an interest, two declared no interest and another panel member refused to cooperate in the process. In all probability, I think we can assume that eight of the 10 members had ties to ADHD drug manufacturers.

Roxon refused at the time to provide details of the names, and she still refuses to provide details of the connections of the panel members. The minister representing her in the Senate was asked a question by Senator Nick Xenophon in November 2008 about the media coverage of the drug company connections of the ADHD guidelines group. The response on behalf of Minister Roxon was that the minister had been advised that the conflicts of interest declared by the working party members were consistent with the normal range associated with clinical review committees of this nature. That must ring alarm bells. If it is normal practice for guideline review panels that are reviewing the use of pharmaceuticals to be dominated by people with commercial ties to the pharmaceutical industry—in this case ADHD drug manufacturers—we need to be highly concerned. The public needs to have confidence in these processes and it needs to know that the processes are independent and at arm's length. As Dr Jon Jureidini has said—I do not have the details of when he made this statement—and as George Halasz and other people who are highly competent and respected in the field have said, it is really quite simple; we can access doctors who do not have conflicts of interest. Jon Jureidini also said that it is quite simple to avoid these conflicts of interest by simply not taking the money.

As I have said, while in opposition Nicola Roxon called for the names to be disclosed; she said that it was important for public confidence. But as soon as she got into government, she changed her tune entirely. While in opposition, she also called for an inquiry into ADHD. In an article in *The Daily Telegraph* of 27 April 2007, she is said to have called for an inquiry into ADHD drugs along the lines of the one into ADHD in Western Australia three years ago. I was a member of that inquiry. The Minister for Mental Health is in the chamber and he knows about the nature of that inquiry. He knows, as do others who have listened to me speak before, how mature the debate in Western Australia is, and that there are opportunities for lessons to be learnt. When Nicola Roxon was the federal opposition spokesperson, she seemed to be enthusiastic about those lessons being learnt, but as minister she has completely ignored the Western Australian experience and has gone back to the conflicted guidelines process that she criticised when she was the federal opposition's health spokesperson. She has defended that process and has refused to disclose the names that she called on to be disclosed when she was the federal opposition's spokesperson on health. Worse than that, when the information broke about Dr Biederman's connections, it should not have come as any surprise to her because I had informed her office about the issue on numerous occasions. She has now said that her office is managing these issues and that she will not stop the process. In fact, she has indicated that she will speed up the release of these guidelines because that is what the public is calling for. The public is not calling for that. People like Jureidini, Halasz and Brenton Prosser, who are significant academics and practitioners in this field, and Dr Joe Tucci from the Australian Childhood Foundation are saying that we should throw it out and start again, which is exactly what I am saying.

I can also reveal, having done a little more research today, that the validity of some of the studies that were used to support the guidelines should not be under question just because of Dr Biederman's involvement. It is not just Dr Biederman who is being examined. Dr Timothy Wilens and Dr Thomas Spencer are also being examined. Wilens was cited 26 times in the report and Spencer was cited 30 times in the report. Both those Harvard-based researchers are also under investigation for failing to disclose drug company connections. This is not some sort of half-baked disreputable source that I am using; all this information has come from *The New York Times*. Two other Texas-based researchers, Karen Wagner and Augustus Rush, are also under investigation and were cited, but they were not cited in many papers—only one each. The guidelines processes that have been put in place are being driven, if not by people who have conflicts of interest that are difficult to manage, then certainly by people

of the same mindset who have come to a consensus position on guidelines that are in conflict with manufacturers' guidelines. They have said that these drugs should be used in a way that the manufacturers do not recommend, and they have used research that is compromised. I do not know what it takes to say that we need to start this process again.

[Member's time extended.]

Mr M.P. WHITELY: What are the consequences? It is all right to highlight these conflict of interest concerns, but what will be the likely consequences of these guidelines if they are implemented? It will be a repeat of the 1997 ADHD guidelines, which were extremely influential and were developed under a similarly flawed process. In many ways they were responsible for justifying the almost indiscriminate use of ADHD amphetamines throughout the late 1990s and early 2000s. Some of the consequences of these guidelines, if implemented, will be to encourage the off-label prescribing of a range of psychotropic medications, not just ADHD medications. Other psychotropic medications are also not recommended for off-label uses—that is, outside the manufacturers' recommended use. I suggest that any doctor who follows the guidelines, the authors of the guidelines and the Royal Australasian College of Physicians may be subject to litigation.

Another really worrying point is that the guidelines recommend that schools get extra funding for children within the school system who are diagnosed with ADHD. That is exactly what happened in the United States, and it is one of the reasons that there was an enormous explosion in ADHD drugging rates in the United States. Schools came to rely on extra funding for ADHD children as a basis for funding their underfunded programs. It was untied funding; schools could spend the money on anything that they wanted, so, as spotters for ADHD, they used it as a source of funds that they could use for untied purposes. The US public school system, in comparison with the Australian school system, is completely starved of funds.

There is a whole bunch of other potential adverse outcomes of the implementation of these guidelines. I will quickly go over some of the other concerns I have with some of the other authors who were quoted frequently. Dr Laurence Greenhill was quoted frequently in the studies. He is a paid consultant for just about every major ADHD drug manufacturer. I attended a conference in Melbourne in 2006 at which Dr Greenhill was a guest speaker and what he said completely misrepresented the substance of a debate on the safety and efficacy of psychostimulant drugs that was underway in the US at that time. Only at the end of his presentation when I asked him about his conflicts of interest did he bother to reveal them to the assembled audience, so we cannot have confidence in his contribution either. Dr Greenhill is another heavily quoted researcher who has conflicts of interest. I have tried every possible way to work with Nicola Roxon on this issue. I met with her when she was in opposition, and I was encouraged by what she had to say. I provided her office with copies of the documentation I gave to the Royal Australasian College of Physicians. I sent emails to her staff to inform her of my concerns, and I encouraged her to engage with people like Dr Halasz in Victoria, Dr Jon Jureidini in South Australia and Professor Helen Milroy from Western Australia. Professor Milroy is the only Indigenous psychiatrist in Australia and sits on Nicola Roxon's own mental health advisory body. I went to school with Helen Milroy and she is an exceptionally intelligent woman. She appeared with me on the *Sunday* program, voicing her concerns about the overprescription of ADHD medication back in 2006. I encouraged Nicola Roxon to go to these people for a different source of advice, put them into the mix and come up with guidelines; she was only talking to one side of the argument. I also approached former Premier Geoff Gallop, because I knew that Geoff had worked with her in a health advisory committee. Geoff generously conveyed information, and I thought that that might have been taken seriously, but instead I got a fob-off letter. I actually met Julia Gillard at a function in my electorate, and as education minister, she has a role to play in this. I gave her a letter and very briefly explained my concerns to her. Again, it was passed down the chain and eventually I got a letter from Nicola Roxon's parliamentary secretary to say that everything was hunky-dory and that there were no problems. I have done everything I can to work within the system on my own side, and criticising it is not something that I am particularly pleased about.

A lot has been made of financial contributions to political parties. The Prime Minister has said some good things about the potential for people to face conflicted situations. I actually did some research on pharmaceutical company donations to political parties. I am concerned about the level of donations that are being made to my own party. In 2006-07, the Australian Labor Party got $65 700 from Medicines Australia, which is a general lobbying group on behalf of the pharmaceutical industry. Its main funding sources are pharmaceutical companies. The Liberal Party got nothing. In 2007-08, we got $14 000 and the Liberal Party got nothing. From GlaxoSmithKline we got $11 500 in 2008; the Liberal Party got $16 500. We got $6 000 from Novartis in 2007-08; the Liberal Party got nothing. I do not think that those figures are of any great consequence, but it is enough to create a veneer of dirtiness. There is so much evidence of improper influence by the pharmaceutical industry that we need to look at whether it is appropriate for political parties to accept donations from them. The bottom line for pharmaceutical industries is determined very much by decisions that are made in relation to the sponsorship of drugs via the Pharmaceutical Benefits Scheme. I was highly critical of the Howard government's

decision to put Strattera on the PBS at a cost of $101.2 million, and I remain critical of that decision. That was a full cabinet decision that was made in 2007.

Let us clear up the situation and acknowledge the funding of political parties by pharmaceutical companies as a problem and a situation that creates the potential for conflicts of interest. We should look at it in the same way as we would look at donations from the tobacco industry. I am not suggesting for a moment that the pharmaceutical industry markets inherently evil products. Every morning when I get up I take my blood pressure medication; I do so because I have high blood pressure. We need the pharmaceutical companies to carry out appropriate research, and we need to have arm's length processes. It would be a much cleaner and better system if we were to increase public funding of political parties and reduce the reliance on pharmaceutical company donations.

It would be easy to dismiss my concerns about ADHD as being the non-expert concerns of a grandstanding politician. However, I want to quote someone whose concerns are not so easily dismissed; somebody who made a contribution to the Australian Parliamentary Association conference when she addressed it on Friday 6 November. I refer to a former Australian of the Year, Western Australia's own Professor Fiona Stanley. She is a revered Western Australian, a paediatrician of great standing and a children's advocate of the highest order. I asked Professor Stanley a question about the medicalisation of behaviour and the fact that we need to be concerned about it. I also asked about the reluctance of the medical profession to criticise itself on occasions, and what government could do in response to that. In response to my comment that her professional colleagues were far too polite to one another, she replied, "It's the club," so she certainly seemed to agree with me there. I asked her about the medicalisation of behaviour in the context of child depression, bipolar disorder and ADHD, and the increase in drugging for those conditions. She had some interesting and powerful things to say—in some instances, more powerfully expressed than even I have expressed such things in the past. One of the more neutral things she said was —

> Seventy per cent of drugs prescribed to children and young people have no randomised control-trial evidence of effectiveness or harm.

She also said that there was —

> …an overprescription of drugs not just to children with ADHD, but, as you said, now children with bipolar disorder, at a time when their brain is still developing and the underlying effects of that have not been measured.

Later on she said —

> The vast majority of kids on ADHD drugs are on drugs unnecessarily. They are just naughty little boys and they would have been coped with before but they are now being medicalised.

I would not express those comments publicly. I am not in a position to say, "They are just naughty little boys and they would have been coped with before but they are now being medicalised." I guess I do not bring the credibility to the issue that someone like Dr Fiona Stanley does. However, we need to be concerned when we have people of the eminence of Dr Fiona Stanley saying that —

> The vast majority of kids on ADHD drugs are on drugs unnecessarily. They are just naughty little boys and they would have been coped with before but they are now being medicalised.

Again, we need to be concerned when Dr Fiona Stanley is saying —

> There is an overprescription of drugs not just to children with ADHD, but, as you said, now children with bipolar disorder, at a time when their brain is still developing and the underlying effects of that have not been measured.

We have done it well in Western Australia. We have a history that we can be proud of. We had an explosion in child drug rates that we have dealt with, but they are still too high.

Both colours of federal government—the previous Howard government and now the Rudd government—have been guilty of going back to the people who create the problem for advice. They have gone back to the ADHD industry, the people who created the problem, for advice. The advice that they have been given is to continue repeating the same behaviour. The Rudd government needs to pay attention to what we are doing in Western Australia. Canberra needs to pay attention to what has happened in Western Australia and learn from our mistakes and not repeat them.

Debated adjourned, on motion by **Mr R.F. Johnson (Leader of the House)**.